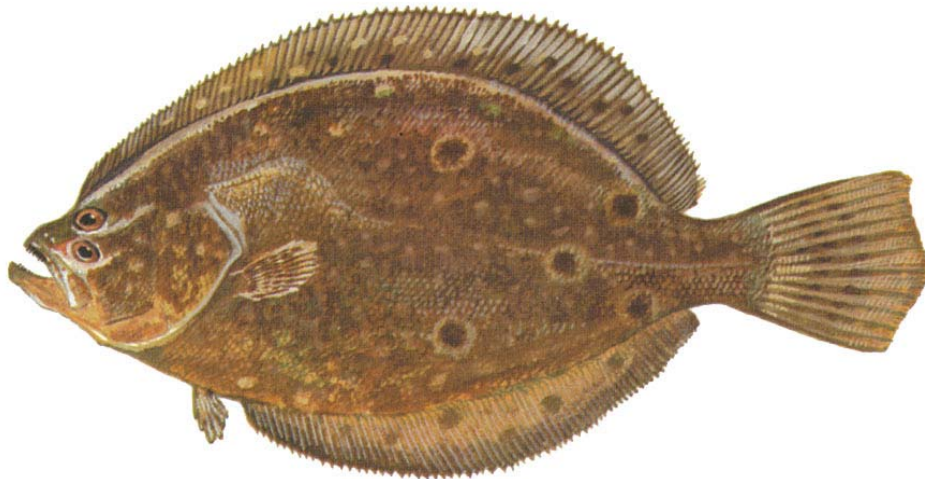

THE
HEINZ
CENTER

MANAGING SUMMER FLOUNDER:

A HEINZ CENTER DIALOGUE ON MARINE FISHERIES INITIATIVE



THE H. JOHN HEINZ III CENTER FOR SCIENCE, ECONOMICS AND THE ENVIRONMENT

The H. John Heinz III Center for Science, Economics and the Environment
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Managing Summer Flounder: A Heinz Center Dialogue on Marine Fisheries Initiative

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EXECUTIVE SUMMARY

As part of its ongoing *Dialogue on Marine Fisheries*, The H. John Heinz III Center for Science, Economics and the Environment (The Heinz Center), convened a multisector roundtable of fishery stakeholders to focus on summer flounder on May 16-19, 2001, in the Washington, D.C., area. Participants included representatives from Atlantic coastal states, the Atlantic States Marine Fisheries Commission (ASMFC), the Mid-Atlantic Fisheries Management Council (Mid-Atlantic Council), National Marine Fisheries Service (NMFS), environmental organizations, and recreational and commercial fisheries. Encouraged by the success of this first meeting, participants indicated a desire to continue the Summer Flounder Roundtable. To this end, on November 1, 2001, The Heinz Center convened a planning meeting for Phase 2 of the Summer Flounder Roundtable in Charleston, South Carolina.

The overall goals of the *Dialogue on Marine Fisheries* are to create and foster stakeholder collaboration, clarify issues, and develop policy options based on the best analyses available. Specific goals for the first meeting of the Summer Flounder Roundtable were to review the present status of the summer flounder fishery and analyze the process that produced that status. In particular, participants worked to arrive at a common understanding of how the process presently works, how it might be improved, and how differences might be resolved. The primary goal for the second meeting was to determine the necessity and utility of a second phase for the roundtable, and to plan a course of action. This report is a summary of the background papers and the discussions at the Summer Flounder Roundtable Phase 1 meeting and the Phase 2 planning meeting.

Summer Flounder Background

Summer flounder (*Paralichthys dentatus*) is a flatfish occurring along the Atlantic Coast of North America. They live for up to 12 years and can be as long as 32 inches. Seasonal water temperature fluctuations drive migrations both along the coast and in and out along the continental shelf and therefore different cohorts of summer flounder fall under different jurisdictions.

Summer flounder stock assessments have been an ongoing source of controversy. The 2000 Summer Flounder Advisory Report cites the fishery as being historically and presently overfished. (The report, regularly peer-reviewed, also notes that summer flounder stocks increased fivefold and then leveled off in the 1990s.) Fishermen contend that, based on their field observations, the report underestimates the population. Also, they point to recent projections that stock biomass will increase again during the period 2000-2002. The ASMFC has researched alternative methods of stock assessment and concluded that the biological reference points presently being employed are indeed the most appropriate.

Managing Summer Flounder

Management of the summer flounder fishery is affected by primarily two main federal laws: the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA). The Magnuson-Stevens Act now includes the Sustainable Fisheries Act (SFA) amendments which require, in part, that any overfished fishery be rebuilt to a level that will support the maximum sustainable yield. Furthermore, all fishery management plans (FMPs) approved by the Secretary of Commerce must comply with the ten national standards given in Magnuson-Stevens. The Magnuson-Stevens Act preserves state authority over fishing in state waters and, under certain circumstances, over vessels registered in the state when fishing outside state waters.

The ACFCMA establishes a cooperative management process for collaboration of the Atlantic coastal states, the ASMFC, NMFS, and the United States Fish and Wildlife Service, the latter two of which provide fishery support in the form of data collection, habitat conservation, fishery research, law enforcement, and funding. The Act encourages public participation and a multisectoral, cooperative approach to management.

There is a difference between the Magnuson-Stevens Act and the ACFCMA concerning the preparation of fishery management plans. This has the potential to lead to some confusion when it comes to implementation, but the Mid-Atlantic Council and the ASMFC have largely succeeded over the years in coordinating their management plans, even adopting identical language for the FMPs. Still, because there are separate state and federal fishing licenses, two vessels fishing side by side and landing their catch at the same port may be subject to different regulations.

Ultimately, the Secretary of Commerce has responsibility for the fishery and approved regulations are enforced by the Coast Guard, NMFS, and state authorities.

The present FMP for summer flounder, based on 1981-1989 fisheries data, allocates a 60-40 split of the Total Allowable Landings (TAL) to commercial and recreational fisheries, respectively. Both fishery sectors must abide by size and possession limits and both employ closed seasons. Additionally, the commercial fishery has regulations on minimum mesh size for otter trawl gear.

Management techniques differ between the commercial and recreational fisheries. Accurate landings data kept by vessels and dealers allow NMFS and the states to close the commercial fishery when the 60% quota has been reached. The 40% recreational fishery allocation is a harvest limit. The annual harvest is estimated by NMFS using the Marine Recreational Fisheries Statistics Survey and a harvest limit for the following year is targeted via changes in size and bag limits for the recreational fishery.

Litigation over the Summer Flounder Fishery Management Plan has shaped and continues to affect the management of the fishery. Most of the lawsuits contest unfairness in the setting of quotas, a lack of timeliness in the promulgation of regulations and quotas, and failures of the federal government to abide by the provisions of the Magnuson-Stevens Act.

While some cases are still pending (e.g., North Carolina Fisheries Association and George's Seafood, Inc., v. Evans), some significant rulings have already been handed down. The courts have ordered that NMFS analyses of quota adjustments must include whether the adjusted quota will have a significant impact on a number of small local entities. Furthermore, according to the court, NMFS must "fix each year's fishing quota including adjustments within a reasonable period of time." *National Resources Defense Council v. Daley* precipitated a Court of Appeals ruling that under Magnuson-Stevens conservation considerations had priority over potential adverse economic consequences and, specifically, that the TAL set by NMFS must have at least a 50% chance of achieving the target total fishing mortality (*F*).

Major Issues as Identified by Roundtable Phase 1 Participants

Priorities identified by roundtable participants fell into five overarching categories: 1) Goals; 2) Targets, data, science; 3) Allocation; 4) Management, compliance; and 5) Governance.

The Goals category was subdivided into interim and longer-term goals and focused on clarification of issues and adaptation to an evolving fishery. Targets, data, and science priorities revolved around improving the quality and quantity of data collection and scientific techniques, setting realistic targets, and streamlining the process by reducing regulations and increasing funding. Allocation issues centered on ensuring equitable division of TAL both between commercial and recreational sectors, and among the states and regions. Management and compliance priorities were wide ranging and included improving responses to monitoring committee recommendations, eliminating regulatory discards, dealing with bycatch and black market landings, creatively managing improving fisheries, and increasing timeliness of regulations, stability, and credibility. Participants identified conflict resolution, consistency among government agencies, and process efficiency and latitude as priority Governance issues.

Proposed Option Papers

During the May meeting, the group discussed continuing the Summer Flounder Roundtable through preparation of a series of “White Papers” (option papers). Out of the many issues discussed at the meeting, The Heinz Center identified those issues: 1) that were among the group’s priorities for this fishery and/or other Commission/Council managed fisheries, 2) that would benefit from further analysis and discussion, and 3) where some resolution may be possible. Since the May meeting, the Council and the Commission have decided to focus on some of the issues identified such as allocation.

Phase 2

Participants at the May meeting also indicated the great potential of the multisector roundtable process for making a continuing contribution to summer flounder fishery management. In response, The Heinz Center organized a planning meeting to assess the utility of a Phase 2 of the Summer Flounder Roundtable. The Phase 2 planning meeting was held in Charleston, South Carolina on November 1 and 2, 2001. The meeting was chaired by Preston Pate of the North Carolina Division of Marine Fisheries and participants were comprised of a representative subset of the Phase 1 meeting participants.

Numerous pressing issues presently facing the summer flounder fishery were identified by meeting participants. These included the following:

- How do we manage a biologically recovering stock to be economically successful?
- How can fairness and equity be assured?
- Can the distribution of management authority be improved?
- How can credibility, especially in fisheries science, be developed?

Though some concerns were raised by representatives from NMFS about overlaps with work being undertaken by the federal government and about the amount of work still required, the industry representatives, the environmental organizations, and the state representatives all communicated their willingness to continue and nurture the process.

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THE DIALOGUE ON MARINE FISHERIES

The H. John Heinz III Center for Science, Economics and the Environment (The Heinz Center) is conducting a *Dialogue on Marine Fisheries*—a series of multisectoral discussions aimed at identifying and defining U.S. marine fisheries issues and improving marine fisheries policy, both state and federal. The Dialogue brings together the many interested parties—commercial and recreational fishers, environmental groups, academicians, and government agencies at all levels—in a series of roundtables to discuss the present status of U.S. marine fisheries and to develop proactive approaches to problem resolution.

Through its fisheries roundtable series, The Heinz Center seeks to create and foster collaborations among the affected stakeholders, clarify issues, and develop policy options based on the best scientific and economic analyses available. However, it is stressed that the Heinz Center serves in no official advisory capacity to federal or state fisheries management organizations.

THE SUMMER FLOUNDER ROUNDTABLE

The first meeting of the Dialogue, a roundtable focusing on the summer flounder fishery, brought together 53 knowledgeable individuals representing Atlantic coastal states, the Atlantic States Marine Fishery Commission, the Mid-Atlantic Fishery Management Council, the National Marine Fisheries Service, environmental organizations, and recreational and commercial fisheries. Between May 16 and 19, roundtable participants reviewed the present status of the summer flounder fishery and examined the process that produced that status. The goals of the first meeting were a common understanding of how the process works now, possible improvements to the process, and strategies to understand and resolve differences.

A planning meeting for Phase 2 of the Summer Flounder Roundtable was held in Charleston, South Carolina on November 1 and 2, 2001. A representative subset of the Phase 1 participants were invited to attend. The goals of the meeting were to determine whether a second phase of The Heinz Center's Summer Flounder Roundtable was necessary and would be useful and, if so, to determine how we should proceed. A summary of the meeting is provided later in this report.

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This report of the Summer Flounder Roundtable documents the results to date. It includes four major sections:

- 1) A background paper on the nature of the fish and the fishery, and on the statutes, regulations, management regimes, and litigation that affect the management of the summer flounder fishery.
- 2) A listing of the major issues raised by participants either during the May meeting or in response to a pre-meeting e-mail survey.
- 3) Brief descriptions of possible “White Papers” (option papers) to identify solutions to several of the most pressing of these issues.
- 4) A summary of the Summer Flounder Roundtable Phase 2 planning meeting.

BACKGROUND

GENERAL DESCRIPTION AND STATUS OF THE STOCK

Summer flounder (*Paralichthys dentatus*) is a relatively active and fast-growing species that occurs along the Atlantic Coast, mainly from George's Bank to Cape Hatteras. Females grow faster and live longer than males; males attain a maximum age of about 7 years and a maximum length of 60 cm (24 inches), compared with 12 years and 82 cm (32 inches) for females. Most summer flounder are sexually mature by age two. Seasonal inshore/offshore migrations occur in response to changes in water temperature. During winter and early spring, summer flounder concentrate offshore at depths of 70–155 m along the outer edge of the continental shelf, but in late spring and early summer they move inshore and concentrate in shallow coastal waters and estuaries. An offshore migration begins in August or September. Spawning begins in September in southern New England and New Jersey waters coincident with offshore movement, progresses southward with cooling water temperature, and ends by February off Cape Hatteras. Coastal estuarine areas are nursery grounds for summer flounder (1). Thus, the same fish may spend different parts of their life cycle in state and federal waters and often in different state waters.

The summer flounder stock assessment has been an ongoing source of controversy. According to the 2000 Summer Flounder Advisory report, the summer flounder stock is overfished and overfishing is continuing—in other words, the mortality caused by fishing (referred to as the fishing mortality rate, or F) is too high (2). The assessment has confirmed that the summer flounder population (total biomass) increased fivefold during the 1990s from a historic low and was relatively stable during the late 1990s. The assessments have been regularly peer reviewed. The National Academy of Sciences (Academy) found the summer flounder stock assessment science acceptable, although it suggested improvements; it also found that the model used by the assessment gave the highest estimate of spawning stock biomass of the models the Academy panel tested (3). However, based on what they are seeing in the water, fishermen believe that the assessment is underestimating the summer flounder population. Recent projections have shown the possibility of further increases in the stock biomass during the period 2000–2002.

A technical committee of the Atlantic States Marine Fisheries Commission (ASMFC) recently explored alternative methods of estimating the biological reference points. The committee arrived at four alternative methods, but no consensus was reached on which of the four was best. The technical committee submitted all four methods to the Scientific and Statistical Committee of the Mid-Atlantic Fisheries Management Council (Mid-Atlantic Council) for peer review. The Scientific and Statistical Committee determined that the only method of estimating biological reference points that could be agreed upon, was the one presently in use. Thus, the method for estimating biological reference points has not changed, and no report on alternative methods was produced (4).

STATUTORY AUTHORITY

Until 1977, U.S. fishery management was largely conducted by state agencies, by interstate marine fisheries commissions, and through a number of international agreements. Management of the summer flounder fishery is now subject to two main federal laws: the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens), which applies mainly to the federal waters of the U.S. Exclusive Economic Zone (EEZ); and the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Fisheries Act), which applies to fisheries managed by the state. The Atlantic Coastal Fisheries Act covers only the Atlantic coast, while the Magnuson-Stevens Act applies to all U.S. marine coasts.

Other federal laws apply to fishery management—for example, the Interjurisdictional Fisheries Management Act, the Regulatory Enforcement Fairness Act, the Regulatory Flexibility Act, the Endangered Species Act, and the Marine Mammal Protection Act—but the Magnuson-Stevens Act and the Atlantic Coastal Fisheries Act are by far the most important.

The Magnuson-Stevens Fishery Conservation and Management Act

The Magnuson Fishery Conservation and Management Act, enacted in 1976 (Public Law 94-265) as the Fishery Conservation and Management Act (FCMA), went into effect on March 1, 1977, and ushered in a new era of fisheries management. The Act created a new Fishery Conservation Zone (to 200 miles offshore); put in place a new management system in the form of eight regional fishery management councils charged with the preparation of fisheries management plans for the fisheries in the region; promulgated new national standards for fisheries management; and eliminated foreign fishing unless permitted through Governing International Fishing Agreements (GIFAs) between the United States and a foreign government.

The regional fishery management councils have the responsibility, among other things, to prepare fishery management plans (FMPs) for review and approval by the Secretary of Commerce. The Mid-Atlantic Council has authority over the summer flounder fishery, even though four of the states involved in the fishery are not members of this Council (Maine, Massachusetts, Rhode Island, and Connecticut belong to the New England Fisheries Management Council).

The Act has been amended more than a dozen times, the most recent significant change occurring in 1996 with the passage of the Sustainable Fisheries Act (SFA); it is now known as the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The SFA amendments to the Magnuson-Stevens Act require that any overfished fishery must rebuild to a level that will support the maximum sustainable yield (MSY). SFA provisions also require science, management, and conservation actions by National Marine Fisheries Service (NMFS), including the establishment in each fishery management plan of a standardized reporting methodology capable of assessing the amount and type of bycatch occurring in the fishery.

All fishery management plans must comply with the ten national standards set out in the law (see Box 1). NMFS has also promulgated regulations implementing the summer flounder FMP.

Box 1: National Standards Set Out in the Magnuson-Stevens Act

All fishery management plans and regulations must be consistent with ten national standards set out in the Magnuson-Stevens Act. The standards as specified in the act are:

1. Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield (OY) from each fishery for the United States fishing industry.
2. Conservation and management measures shall be based upon the best scientific information available.
3. To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.
4. Conservation and management measures shall not discriminate between residents of different states. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.
5. Conservation and management measures shall, where practicable, consider efficiency in the utilization of the resources; except that no such measure shall have economic allocation as its sole purpose.
6. Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.
7. Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.
8. Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.
9. Conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.
10. Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

National standards 8, 9, and 10 were added in 1996 during the last reauthorization of the Magnuson-Stevens Act.

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The Magnuson-Stevens Act preserves state authority over fishing in state waters (generally within 3 miles of the coast with notable exceptions being Texas and the Florida Gulf Coast where state jurisdiction extends to 9 miles from the coast). The Act further extends state authority over vessels registered in the state and fishing outside state waters, but only in the event that there is no FMP in effect. (The Secretary of Commerce may play a role here, too—see below.) The states often coordinate their activities through the three interstate marine fisheries commissions (Atlantic, Gulf of Mexico, and Pacific) established by federal law.

The Atlantic Coastal Fisheries Cooperative Management Act

The Atlantic Coastal Fisheries Cooperative Management Act of 1993 establishes a cooperative management process involving the Atlantic coastal states, the ASMFC, NMFS, and the U.S. Fish and Wildlife Service. According to the Act [16 U.S.C. §5101(a)]:

(3) Because no single governmental entity has exclusive management authority for Atlantic coastal fishery resources, harvesting of such resources is frequently subject to disparate, inconsistent, and intermittent State and Federal regulation that has been detrimental to the conservation and sustainable use of such resources and to the interests of fishermen and the Nation as a whole.

(4) The responsibility for managing Atlantic coastal fisheries rests with the States, which carry out a cooperative program of fishery oversight and management through the Atlantic States Marine Fisheries Commission. It is the responsibility of the Federal Government to support such cooperative interstate management of coastal fishery resources.

Established in 1942, the ASMFC coordinates state management of more than 20 Atlantic coastal fisheries covering 25 species, including summer flounder. Under provisions of the Atlantic Coastal Fisheries Act and the earlier Striped Bass Conservation Act, all states are required to implement and enforce the provisions of ASFMC management plans to conserve coastal species. Before passage of this Act, state compliance with Commission FMPs was voluntary, except for the FMP for Atlantic Striped Bass.

Both the Department of Commerce, through NMFS, and the Department of the Interior, through the U.S. Fish and Wildlife Service, are responsible for supporting the Commission's interstate fisheries management program. This support takes the form of assistance in data collection, habitat conservation, fishery research, law enforcement, and funding.

The Atlantic Coastal Fisheries Act encourages public participation in the fishery management planning process through multisectoral advisory panels and public hearings.

The Act requires the Commission to consult with appropriate regional fishery management councils in preparing FMPs for fisheries, like the summer flounder fishery, that are located in both state and federal waters. The goal is complementary FMPs for both the coastal fishery and the EEZ fishery.

Interaction of the Magnuson-Stevens Act and the Atlantic Coastal Fisheries Act

The ASMFC has the primary authority for development of FMPs for state waters under the Atlantic Coastal Fisheries Act; under the Magnuson-Stevens Act, the eight regional fishery management councils have primary authority for developing federal FMPs. The ASMFC and the Mid-Atlantic Council meet jointly twice a year to plan management measures for the summer flounder fishery. State legislatures or state fishery departments implement FMPs under the Atlantic Coastal Fisheries Act; NMFS on behalf of NOAA/Department of Commerce issues rules to implement approved FMPs prepared by the Councils.

Role of the Secretary of Commerce

The Secretary of Commerce has the ultimate responsibility for the summer flounder fishery. For fisheries in federal waters, the Secretary is responsible for both approval and enforcement. The eight regional fishery management councils develop fishery management plans, recommend regulations, and provide a forum for the public to participate in decision making. The councils' proposed FMPs are submitted to the Secretary of Commerce for approval, which in most cases is delegated to NMFS. After approval of an FMP, NMFS, with the recommendation of the Council and the Commission, prepares specifications and implementing regulations for the next fishing year for the summer flounder fishery. NMFS publishes the proposed rules in the *Federal Register* for public comment. Once a plan is in force, the Secretary is charged with ensuring compliance with its provisions; if noncompliance is threatening the conservation of the fishery, the Secretary must move to bring the offender into compliance.

The Secretary of Commerce also has a role to play in the coastal fishery. Here, if the Commission finds noncompliance and is unable to put an end to it, the Commission will notify the Secretary. Within 30 days from receiving the Commission's notice, the Secretary must decide whether the state is not in compliance and, if so, whether the noncompliance compromises the conservation of the fishery. If it does, the Secretary will impose a moratorium on fishing in the noncompliant state's waters. The moratorium will be lifted only when both the Commission and the Secretary are satisfied that noncompliance has ceased.

In the absence of a Council plan, the Secretary may implement regulations for fishing in the EEZ that complement the Commission's plan. If there is a federal FMP, under the preemption provisions of Section 306 of the Magnuson-Stevens Act the Secretary could assume responsibility for regulating the fishery covered by an FMP in state waters.

Enforcement

Approved regulations are enforced through the cooperative action of the U.S. Coast Guard, NMFS, and state authorities.

SUMMER FLOUNDER MANAGEMENT REGIME

The summer flounder fishery is managed cooperatively by the states, through the ASMFC, and the federal government, through Mid-Atlantic Council and NMFS. The federal fishery in the EEZ is managed under the Summer Flounder, Black Sea Bass and Scup Fishery Management Plan developed by the Council and implemented by NMFS. The states implement management measures developed by the ASMFC under its Interstate Fishery Management Plan for Summer Flounder. State regulations apply to vessels fishing in state waters. Vessels with federal permits to fish in the EEZ are subject to state regulations when fishing in state waters but must also comply with the federal regulations.

Over the years, the Council and the Commission have largely succeeded in coordinating their management plans, including adopting identical language for the fishery management plans. State regulations apply to all vessels when they are fishing in state waters or landing fish in that state. Federal regulations apply to all vessels that hold federal permits, regardless of where they are fishing. If the state and federal regulations are not the same, a fisherman with both state and federal licenses must follow the more restrictive requirement. Thus, a fisherman with a federal license who is fishing in state waters may be more restricted than a fisherman who fishes only in state waters—two vessels fishing side by side and landing their catch at the same port may be subject to different regulations. (However, there have been reports of federally licensed fishermen letting their federal permits expire at the end of the year to fish in state waters under state regulations and then several months later renewing their federal permits.)

The FMP for summer flounder bases its allocation scheme on a 60–40 split for the commercial and recreational fisheries, based on 1981–1989 fisheries data. Historically, the commercial fishery has been primarily in federal waters (approximately 70% of landings) and recreational fishery landings have come primarily from state waters (80–90% of landings); the commercial fishery varies more than the recreational fishery in its split between federal and state waters.

In federal waters, an FMP and its implementing regulations always supersede any regional or state plan.

CHRONOLOGY OF THE DEVELOPMENT OF THE SUMMER FLOUNDER FISHERY MANAGEMENT PLAN

The Mid-Atlantic Fishery Management Council first considered the development of a fishery management plan for summer flounder in late 1977, the same year the FCMA was implemented. During the early discussions, the fact that a significant portion of the catch was taken from state waters was considered, and on March 17, 1978 a questionnaire was sent by the Council to East Coast state fishery administrators seeking comment on whether the plan should be prepared by the Council or by the states, acting through the ASMFC. It was decided that the Commission would prepare the initial plan, and NMFS approved the federal Summer Flounder FMP, based on the Commission's plan, on September 19, 1988.

The objectives of the FMP are to

1. Reduce fishing mortality in the summer flounder fishery to ensure that overfishing does not occur.
2. Reduce fishing mortality on immature summer flounder to increase spawning stock biomass.
3. Improve the yield from the fishery.
4. Promote compatible management regulations between state and federal jurisdictions.
5. Promote uniform and effective enforcement of regulations.
6. Minimize regulations to achieve these management objectives.

Over the years, the plan has been amended a dozen times; a thirteenth amendment is in preparation.

- **Amendment 1** to the FMP originally contained a minimum net mesh size and an overfishing definition. NMFS approved the overfishing definition and disapproved the minimum net mesh provision in Amendment 1 in February 1991.
- **Amendment 2** was approved by NMFS on August 6, 1992. This amendment, which was a complete rewrite of the FMP and is substantially the management program that is in force today, includes a moratorium on commercial fishing permits, state-by-state annual landing quotas, minimum size restrictions, and provisions for recreational limits.
- **Amendment 3**, approved by NMFS in 1993, revised the demarcation line for the small-mesh-exempted fishery to 72°30'0"W and increased the large mesh net threshold for the winter fishery (November 1 through April 30) to 200 pounds. Amendment 3 further stipulated that otter trawl vessels fishing from May 1 through October 31 could only retain up to 100 pounds of summer flounder before using the large mesh net.
- **Amendment 4**, approved in 1993, changed the baseline years for calculating Connecticut's annual percentage share of the allocation of the commercial fishery because of weak data for Connecticut for the baseline years used in Amendment 2.
- **Amendment 5**, approved in 1993, added a provision to the regulations that allows states to transfer portions of their commercial quota to other states.

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- **Amendment 6**, approved in 1994, added provisions to allow multiple net mesh sizes on board as long as unused nets are properly stowed. It also changed the deadline for the *Federal Register* publication of the proposed overall catch limits (quotas) and commercial fishery management measures to October 15, and for the proposed recreational fishery management measures to February 15.
- **Amendment 7**, approved in 1995, revised the fishing mortality rate reduction schedule for summer flounder by extending the time allowed for rebuilding the stock.
- **Amendment 8**, approved in 1996, added scup management to the FMP and also added various measures for that species' commercial and recreational fisheries north of Cape Hatteras, NC.
- **Amendment 9**, approved in 1996, added black sea bass management to the FMP and also added various measures for that species' commercial and recreational fisheries north of Cape Hatteras, NC.
- **Amendment 10**, approved in 1997, modified the minimum net mesh size regulations, continued the moratorium on entry of additional commercial vessels to the fishery, and prohibited transfer of summer flounder at sea.
- **Amendment 11**, approved in 1999, enabled management of the summer flounder fishery to achieve consistency with other Mid-Atlantic and New England Council FMPs in terms of fishing vessel requirements.
- **Amendment 12**, approved in 1999, contained measures to comply with the requirements of the Sustainable Fisheries Act, including identification and description of essential fish habitat, and a new overfishing definition for summer flounder with two components (fishing mortality rate and threshold and target biomass levels).
- **Amendment 13**, proposed in 2001, is specific to the black sea bass fishery. A draft public hearing document will be reviewed by the Mid-Atlantic Council at their October 2001 meeting.

CURRENT MANAGEMENT

Table 1 illustrates the annual specifications timeline for the Summer Flounder, Scup, and Black Bass Fishery Management Plan.

Table 1 - Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan Annual Specifications Timeline, 2000 and 2001 (one specifications package is submitted for the three species)

Dates ^a	FMP Process	2000 Specifications	2001 Specifications
Aug 15	Monitoring Committee meets to review information; recommend TAL and management measures necessary to assure that target F in the FMP will not be exceeded	July 28, 1999	August 8, 2000
August	Demersal Species Committee and Council review Monitoring Committee recommendations; Council makes its recommendation	August 12, 1999	August 14, 2000
	Council submits recommendation to Regional Administrator (RA) with analyses necessary to comply with all legal requirements	October 1, 1999	September 22, 2000
October 15	RA reviews Council submission to assure that the target in the FMP will not be exceeded and that the submission complies with all legal requirements; RA publishes a proposed rule by October 15, with a 15-30 day comment period	January 28, 2000	November 28, 2000
November 1-15	Comment period closes	February 28, 2000	December 19, 2000
December	Public comment is considered and final rule is published; under Administrative Procedures Act (APA), a 30-day delay in effectiveness may be required for management measures	May 24, 2000	March 1, 2001 (scup, black sea bass) March 23, 2001 summer flounder
February 15	RA reviews the Council submission to assure that the FMP target will not be exceeded and that the submission complies with all legal requirements; RA publishes a proposed rule by February 15, with a 15-30 day comment period	March 10, 2000 scup returned to Council August 16, 2000 summer flounder and black sea bass proposed measures published	May 25, 2001 summer flounder, scup, and black sea bass proposed measures published
March 1-15	Comment period closes	September 15, 2000	June 11, 2001
April	Public comment is considered and final rule is published; under APA, a 30-day delay in effectiveness may be required	Not published	July 30, 2001

^aDates in boldface are specified in FMP; others are past practice or implied

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Since 1993, the Mid-Atlantic Council and ASMFC have met jointly to develop annual fishing measures that are then implemented by NMFS and the states. These measures specify a Total Allowable Landings (TAL) level that is consistent with the fishing mortality rate specified in the FMP. The TAL is subdivided, with 60 percent allocated to a commercial landing quota and 40 percent allocated to a recreational harvest limit. In addition, the commercial fishery is regulated by measures that include minimum fish size, minimum mesh restrictions for otter trawl gear, and possession limits. The recreational fishery is regulated by setting minimum fish size, possession limits, and seasons. Although the Commission and the Council meet together to recommend regulations for the following year, there are separate processes for arriving at state and federal specifications; this raises the possibility that state and federal regulations will not be in sync with each other.

The commercial landing quota is allocated on a percentage basis to each of the states, with state shares based on historical landing data (states can transfer portions of their quotas to other states). When the quota allocated to any state has been filled, NMFS and the state take action to close the fishery in that state, and further landings are prohibited. If a state quota is exceeded in any given year, that quota overage is deducted from the state allocation in the following year. The FMP requires mandatory reporting by both federally licensed vessels and dealers, and this commercial information is used, along with data collected by the states, to monitor and manage the commercial fishery.

The recreational fishery is managed differently. Instead of a hard landing quota, the 40% of the fishery allocated to recreational fishing is established as a harvest limit. Each year, the Commission, the Council, NMFS, and the states establish fishing regulations (seasons, bag limits, and size limits) that are expected to constrain the recreational fishery to its target. In each of the past five years, the estimated landings in the recreational fishery have exceeded the target, with the 2000 recreational overage reaching 8 million pounds, more than double the target and the highest overage in the data set (5). Because of the very large number of recreational fishermen, it is virtually impossible to monitor the recreational fishery with enough precision to know when a specific harvest level is reached. The National Research Council (NRC) has recommended that recreational monitoring be made more timely to improve its effectiveness (3). The recreational fishery harvest is estimated by the annual NMFS Marine Recreational Fisheries Statistics Survey (MRFSS). If the total landings in one year exceed the target (because of overages in any sector of the overall fishery), the summer flounder biomass would be expected to be lower than if the target had been met. Thus, the following year's TAL, all else being equal, would be lower than if the fishery (in this case the recreational fishery) had adhered to the harvest limit.

In response to the Sustainable Fisheries Act, Amendment 12 made a significant change in the summer flounder management plan in 1999. The FMP had established a target fishing mortality rate, but Amendment 12 added both a target biomass for the recovery program and a threshold biomass below which the stock must never be allowed to fall. The

target biomass, 106,444 mt, relates to the MSY; the threshold biomass is half of the target biomass.

The current management plan, which was established in 1992, has reduced the fishing mortality rate and allowed the spawning stock biomass to increase. According to the 2000 Summer Flounder Advisory report, however, the summer flounder stock is overfished and overfishing is continuing—in other words, F is too high (2). Although the fishing mortality rate declined from 1.31 in 1994 to 0.32 in 1999, F in 1999 was still 23% above the overfishing threshold. Total biomass increased substantially between 1991 and 1994 and has been stable since 1994 at 41,000 mt. This is below the biomass threshold of 53,200 mt established by Amendment 12 as the threshold below which the biomass should never be allowed to fall but considerably above the 1989 low point of 16,000 mt. Landings for 2000 significantly exceed the TAL of 8,400 mt, raising questions whether the FMP target F was met last year. The analysis that estimates F for 2000 will be available in the summer of 2002.

SUMMER FLOUNDER LITIGATION HISTORY

A number of lawsuits concerning summer flounder management have been filed against the federal government. These cases, and others like them, affect the management of the summer flounder fishery.

The first lawsuit on summer flounder management occurred even before Amendment 2 to the Summer Flounder Fishery Management Plan was approved and implemented. East Coast Fisheries Federation filed suit on January 3, 1992, challenging the emergency interim rule that had been published on December 5, 1991. This emergency rule implemented certain measures of Amendment 2 prior to its approval. Specifically, the plaintiffs challenged the following measures as arbitrary and capricious, an excess of statutory authority, violative of the Equal Protection Clause of the Fourteenth Amendment and the Privileges and Immunities Clause of the Constitution of the United States. Furthermore, the plaintiffs charged the measures were inconsistent with the following national standards: the one mesh on board rule for vessels with more than 100 pounds of summer flounder on board; the 100 pound summer flounder possession limitation for vessels fishing with small mesh; the location of the exemption area; and the rules pertaining to the operation of the exemption program. After Amendment 2 was implemented, the plaintiffs amended their complaint to challenge its provisions. The suit was ultimately dismissed because the Mid-Atlantic Fishery Management Council undertook modifications to address the plaintiff's concerns in Amendments 3, 5, and 6.

The next lawsuit—the first Fishermen's Dock case—materialized during the first year that Amendment 2 to the Summer Flounder Fishery Management Plan was in effect. A challenge filed in the District of Columbia District Court asked the court to set aside the 1993 quota. The complaint cited eight violations of the Magnuson Fishery Conservation and

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Management Act and the Administrative Procedures Act. The principal allegation was that the 1993 quota was set too low and therefore did not achieve optimum yield (national standard 1); was not based on the best scientific information available (national standard 2); resulted in a waste of the resource (national standard 5); did not take into account variations and contingencies in the fishery (national standard 6); was duplicative of the 5½-inch minimum mesh requirement (national standard 7); limited access to the fishery without considering the factors in 303(b)(6); did not reflect a consideration of levels of noncompliance as required by the regulations; and did not meet the requirements of the Regulatory Flexibility Act (tailor the impact of regulations to account for small business entities) and Executive Order 12291 (consideration of economic impacts of regulations). In December 1993, the case was dismissed as moot. The plaintiffs appealed, but the District Court's decision was upheld, and a petition for rehearing by the plaintiffs was denied.

These early lawsuits were followed by many others, most of them claiming unfairness in the setting of quotas, a lack of timeliness in the promulgation of regulations and quotas, and a failure of the federal government to abide by the provisions of the Magnuson-Stevens Act.

North Carolina Fisheries Association et al. v. Daley

In *North Carolina Fisheries Association et al. v. Daley*, the U.S. District Court for the Eastern District of Virginia held on October 10, 1997, that NMFS had violated the Regulatory Flexibility Act and the national standard 8 of the Magnuson-Stevens Act in setting its 1997 quota for the summer flounder fishery. (The plaintiffs in this case included the state of North Carolina and Georges Seafood, Inc.) The court remanded the quota issue to the Department of Commerce with an order to “undertake enough analysis to determine whether the quota had a significant economic impact on the North Carolina Fishery and a level of analysis sufficient to comply with National standard 8” and to “include in [the] analysis whether the adjusted quota had a significant impact on a number of small entities in North Carolina.” The court also ordered NMFS to “fix each year’s fishing quota including adjustments within a reasonable period of time.” On September 28, 1998, Judge Doumar ordered NMFS to restore North Carolina’s overages during 1997 to its 1998 summer flounder quota.

North Carolina Fisheries Association and Georges Seafood, Inc., v. Evans

On March 8, 2001, the North Carolina Fisheries Association and Georges Seafood, Inc. filed the following motion with the same court to enforce the order of the U.S. District Court for the Eastern District of Virginia in the previous case:

- Declare the defendant’s delay in issuing a final rule for the 2001 quota arbitrary, capricious, and an abuse of discretion, and require that the defendant issue a final rule immediately;

- Require the final rule to equitably and fairly allocate any harvest restrictions among commercial and recreational fishermen by ceasing the double overage penalty against commercial fishermen when recreational fishermen only receive one overage penalty; or requiring the recreational fishing sector to face the same hard quota applicable to the commercial fishing sector;
- Require the final rule to include fair and equitable monitoring and management procedures for both the recreational fishing sector and commercial fishing sector;
- Require the final rule to cease calculations of the TAL based on F_{\max} and require a higher threshold consistent with biomass and stock information collected over the past several years;
- Require the final rule to apply an additional 2.59 million pounds to future quotas because defendants failed to rely upon the SAW [Stock Assessment Workshop] quota of 20.5 million pounds for 2001;
- Require the defendant to timely issue final rules so that plaintiffs may utilize quotas appropriately.

At a hearing on April 18, 2001, the judge indicated that NMFS's March 23 publication of an adjusted quota violated his 1997 order, and he told the Secretary not to make any additional adjustments to North Carolina's 2001 summer flounder quota before he rules on the plaintiffs' motion. On July 31, 2001, the court granted the plaintiffs' motion to enforce the court's order, and the Secretary was ordered not to make any further penalty adjustments in 2001 or any year thereafter to North Carolina's summer flounder quota based on fishing overages from 2000.

Natural Resources Defense Council v. Daley (NRDC I)

In January 1999, a group of environmental organizations filed a lawsuit challenging the 1999 summer flounder TAL. Although the government prevailed in the trial court, the Court of Appeals reversed the decision. The court found that, under the Magnuson-Stevens Act, conservation considerations had priority over potential adverse economic consequences and that the agency's TAL must have at least a 50% chance of achieving the target F . The Court of Appeals decision was handed down just before publication of the specifications for the 2000 fishery. In order to comply with the court order, the FMP was amended by an emergency rule in August 2000: for the 2001 fishing year, a biomass target rather than a fishing mortality rate target is the management goal, designed to achieve the same biomass that would have been achieved if the proper TAL had been specified.

NRDC II

Approximately one month after the Court of Appeals held in *NRDC I* that quotas had to have at least a 50% chance of achieving the F set forth in the FMP, NMFS issued a 2000 summer flounder TAL that had a 25% chance of achieving the target F . In response, in June 2000 the plaintiffs in *NRDC I* challenged the 2000 summer flounder quota as violating the Magnuson-Stevens Act and the appellate court order. The lawsuit (*NRDC II*) was stayed while NMFS worked on revising the 2000 quota to make it consistent with the court order.

A settlement agreement between the plaintiffs and defendants in this case was entered into on September 7, 2000, under which the TAL for 2001 was to be set at a level

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that would achieve, with at least a 50% probability, the biomass level that would have been achieved at the end of 2001 if the fishing mortality rate target had been met in 1999 and 2000 and would be met in 2001.

PRIORITIES IDENTIFIED BY ROUNDTABLE PHASE 1 PARTICIPANTS

The following issues were raised as priorities by roundtable participants either during the roundtable opening statements on May 16 or in response to the pre-meeting e-mail survey. The issues seemed to fall into five overarching categories: 1) Goals; 2) Targets, data, science; 3) Allocation; 4) Management, compliance; and 5) Governance.

1) Goals

a) Interim Goals

- “End overfishing, keep rebuilding on track”
- “Learn how to manage a fishery that is improving” (a new experience)
- “Refine or reassess our rebuilding goals”
- “Resolve the tension between rebuilding success that we have achieved and the recreational and commercial hardship”

b) Longer-Term Goals

- “Is goal to maintain population at maximum sustainable yield (MSY), greatest economic benefit, public access?”
- “Set realistic goals for conservation, equity, allocation”
- Magnuson definition of overfishing and MSY lead to public misunderstanding, overly restrictive management
- Better integrate “socioeconomic goals into the decision-making process”
- “Can we ever fish again like we used to?”

2) Targets, data, science

a) Adequacy of data/science

- Stock assessments: “too conservative,” “not timely,” “imprecise,” “impossibly onerous”
- MRFSS data not accurate enough unless better funded
- Need “more timely” landing data
- “Better science”
- “Better quantification”
- “Better understanding of rebuilding target”
- To many fishers, there is a “mismatch between what we see and what we hear” (from the scientists)
- Have we set maximum sustainable yield too high?
- Need “better estimates of bycatch”
- The “softer data” on recreational harvest “imposes inequities” on commercial fishers
- Data collection (and use of those data) is “behind the times”

b) Choice of targets

- Need “suite of measures to guide management”, not just total allowable catch
- No agreement on “appropriate biological targets”
- Annual specifications should be replaced with multi-year targets
- “Streamline / reduce complexity” of regulatory measures
- “Unrealistic targets”
- Regulatory targets such as size limits affect “who gets access” to the fishery (i.e., “raises equity issues”)
- Single-species “stock-by-stock targets” and analysis leads to “unrealistically high biological targets”
- There is a “disconnect between regulations” (e.g., recreational limits on number of fish caught) and targets (biomass harvested)

3) Allocation

a) Allocation among states and regions

- “Inequitable and unfair”
- Commercial state-by-state quota leads to “reduced efficiency, increased discards”

b) Allocation between recreational/commercial

- “Determined from a time when recreational fisheries were depressed”
- “Split in late 60s was 85/15” (recreational/commercial)
- Because recreational overage is subtracted from total harvest target, recreational fishers “end up with higher allocation”
- Allocation affects access “across the economic spectrum” as well as “access by the general public”

4) Management, compliance

- Recreational overages “out of control,” “jeopardizes management process”
- Recreational conservation equivalency “de facto reallocation”
- Improve “timeliness” of regulations
- Managers have not accepted recommendations of monitoring committee
- Need ways to “improve estimates of regulatory discards and eliminate discards”
- “Assess and reduce bycatch”
- “Black market landings and sales”
- Need to learn “how to deal with improvement on the way to success”
- Need stable and predictable, rather than “whipsaw,” regulation
- Council needs more freedom to “think outside the box”
- “Socioeconomic outcome has not been what we expected.” Can this be fixed?
- Management system “does not have credibility”

5) Governance

- “Management relegated to courts”
- “Unequal state representation” in management process
- Need “cooperative process to ensure that state limits complement, rather than undermine, federal”
- “Conflicts between Atlantic Coastal Act and Magnuson-Stevens”
- “Consistency and coordination among NMFS, ASFMC, and Mid-Atlantic Council”
- “Can we learn from our mistakes” and turn summer flounder into a model fishery for others?
- Process is “too formal and too cumbersome” to be effective
- Institutional “constraints hinder us from turning ideas into solutions”
- Many problems stem from “inadequacies of Magnuson Act, which was not designed to manage success”

PROPOSED WHITE PAPERS

During the May meeting, the group discussed continuing the Summer Flounder Roundtable both with a second phase, and through preparation of a series of “White Papers” (option papers). Out of the many issues discussed at the meeting, The Heinz Center identified those issues: 1) that were among the group’s priorities for this fishery and/or other Commission/Council managed fisheries, 2) that would benefit from further analysis and discussion, and 3) where some resolution may be possible.

A small planning meeting for Phase 2 of the Summer Flounder Roundtable was held in Charleston, South Carolina in November of 2001. To ensure balance, participants included commercial fishers, recreational fishers, environmental NGO representatives, and people from the Council, the Commission, and state and federal government. This subgroup of participants at the May meeting was charged with the overarching goal of determining whether a second phase of the Roundtable was necessary and would be useful. Specifically, participants focused on two issues, selected from the list of priorities identified at the first meeting, that met the above criteria. Those issues were “Procedures to Follow to Avoid Conflict Among the Council, the Commission, and NMFS” and “Timeliness of Regulations.” A summary of the work accomplished at this second meeting can be found in the next section of this report.

The list below reflects some of the many proposed solutions identified during the Phase 1 meeting, and it is organized in the same five overarching issue categories used to structure the roundtable discussion:

1) Goals

Managing an Improving Fishery. Many times during the roundtable participants questioned whether the management scheme under the Magnuson-Stevens Act—designed in response to fisheries in crisis—needs to be modified to be more responsive to fisheries that are now regaining their health. A White Paper on this issue would include consideration of the role of economics when setting regulatory targets, the balance among consumptive and non-consumptive uses, and similar broad goals.

2) Targets, data, science

Stock and harvest assessment. Many of the participants attached high priority to improving the accuracy and timeliness of stock assessments and estimates of annual harvests. At the roundtable, NMFS committed to address some of the key changes proposed by participants: 1) increase the intensity of the recreational survey (MRFSS) to at least 2.5 times historical intensity and 2) to pursue the industry/NMFS cooperative research on estimating stock size. Other changes were also proposed: 1) saltwater recreational licenses, to improve the accuracy of the recreational survey, 2) use of internet and other voluntary approaches to augment the recreational survey, and 3) enhanced observer programs for commercial fishing. A White Paper would examine the costs and benefits of these changes.

Modernizing NMFS. Many suggestions hinged on the ability of NMFS to incorporate 21st century technologies, such as use of the internet for recreational surveys and development of new science-based resource and assessment techniques. Suggestions for modernization also included better use of the capabilities of others. For example, a new vessel replacement plan could integrate government, university and industry vessel capabilities to provide the state-of-the-art facilities necessary for the advancement of the varied at-sea programs. NMFS might work jointly with industry and manufacturers to improve gear selectivity, design and field test new gear, and modify gear regulations.

3) Allocation

Reallocation of quotas. Many suggestions were offered for reallocating quotas to sectors, states, and individuals. These included: 1) separately considering each sector's overage when setting next year's commercial quotas and recreational targets, 2) creating a separate quota for "for-hire" recreational fishing, 3) options for revising state allocation shares as allowable harvests expand (e.g., increased shares to states with very small allocations today), 4) retiring latent permits to limit fishing capacity, and 5) use of public auctions to allocation allowable harvests. A White Paper would assemble and analyze the implications of each of these proposed changes to the current allocation scheme.

4) Management, compliance

Timeliness of regulations. Suggested improvements fell into two categories: 1) accelerate review procedures and other administrative steps so that regulations can be issued earlier in the year and 2) move to a system that employs multi-year regulations, accepting that time lags are inevitable. These and other potential solutions will be considered at the Phase 2 meeting.

New management regimes. Throughout the roundtable, participants pointed to experiments tried in other fisheries including, for example, the use of individual transferable quotas (ITQs) and a "days-at-sea" approach. Several participants complained of the very "blunt" nature of current management targets and tools. (For example, recreational fisheries must meet a quota with only the very indirect management tools of size, season, and creel limits.) This White Paper would assemble information on the most promising of new management approaches currently being tried in other fisheries and regions and discuss the strengths and weaknesses of each. It could also examine ways that regulatory experiments might be incorporated into the management system.

5) Governance

Procedures to avoid conflict among the Council, Commission, and NMFS. There was extensive discussion of the need for procedures to help the Council, the Commission, and NMFS avoid debilitating conflicts such as occurred while setting Total Allowable Landings for 2001.

SUMMER FLOUNDER PHASE 2 ROUNDTABLE PLANNING MEETING

On November 1-2, 2000, The Heinz Center held a planning meeting for Phase 2 of its Summer Flounder Roundtable in Charleston, South Carolina. The meeting was chaired by Preston Pate and convened at the NOAA Coastal Services Center. Participants included Jim Ruhle and Jim O'Malley from the commercial sector, Dan Furlong from the Mid-Atlantic Fishery Management Council, Jack Dunnigan and Mike Lewis from the Atlantic States Marine Fisheries Commission, Brad Sewell and Dan Whittle from Natural Resources Defense Council and Environmental Defense respectively, Pete Jensen, as an independent consultant, and Heinz Center staff including William Merrell and Mary Hope Katsouros. Patricia Kurkul and Laurie Allen, both representing the National Marine Fisheries Service, were present for the second day of the meeting.

The goals of the meeting were to determine whether a second phase of The Heinz Center's Summer Flounder Roundtable was necessary and would be useful and, if so, to determine how to proceed.

The meeting participants identified and discussed the following issues:

- How do we manage a biologically recovering stock to also be economically beneficial?
- How can fairness and equity be assured between the commercial and recreational sectors?
- What disincentives can be developed to avoid harvest overages?
- Can management authority, and in particular, interactions between the council the commission, and the federal government be improved? For example, can one body take over the management of the summer flounder fishery? What are the pros and cons?
- Can we avoid disenfranchising fishermen (both commercial and recreational) who feel subject to regulation without representation?
- Should the allocation system, both for the individual states and between commercial and recreational fishermen, be reevaluated?
- What are the benefits and costs of mutli-year specifications? What "triggers" for annual specifications need to be considered?
- How can credibility, especially in fisheries science, be developed? Have industry cooperation research initiatives been helpful?
- How can we deal with bycatch and better define discard mortality rates?

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The participants agreed that the dialogue process involving the multiple sectors was useful in understanding the different perspectives and developing new approaches. Participants agreed on the importance of the issues listed above, and the potential of a multisectoral approach to advance new ideas and policy options. The industry representatives, the environmental organizations representatives, and the state and federal representatives share the desire and willingness to continue and nurture the process. By working together, we will find a better future for the management of U.S. Fisheries.

The Heinz Center staff, working with its collaborators, will embark upon Phase 2 of the Summer Flounder Roundtable by researching two areas identified during the planning meeting: improving the credibility of fisheries science, and optimizing the distribution of fisheries management authority. Additional meetings and roundtables will provide the possible options for all those interested in fisheries.

APPENDIX I
LIST OF PHASE 1 PARTICIPANTS

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National Marine Fisheries Service

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APPENDIX II
LIST OF ACRONYMS AND ABBREVIATIONS

APA	Administrative Procedures Act
ASMFC	Atlantic States Marine Fisheries Commission
EEZ	Exclusive Economic Zone
<i>F</i>	Fishing mortality rate; $F \equiv \text{landed catch} + (\text{discarded catch} \times \text{percent discard mortality}) + \text{mortality of unlanded fish caused by gear}$
FCMA	Fishery Conservation and Management Act
FMP	Fishery Management Plan
GIFA	Governing International Fishing Agreement
ITQ	Individual Transferable Quota
MAFMC	Mid-Atlantic Fisheries Management Council
Mid-Atlantic Council	Mid-Atlantic Fisheries Management Council
MRFSS	Marine Recreational Fisheries Statistics Survey
MSY	Maximum Sustainable Yield
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NRC	National Research Council
NRDC	National Resources Defense Council
OY	Optimum Yield – maximum amount of fish that can be harvested
RA	Regional Administrator
SAW	Stock Assessment Workshop
SFA	Sustainable Fisheries Act
TAC	Total Allowable Catch
TAL	Total Allowable Landings

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THE H. JOHN HEINZ III CENTER FOR SCIENCE, ECONOMICS AND THE ENVIRONMENT

BACKGROUND AND MISSION

Established in December 1995 in honor of Senator John Heinz, The Heinz Center is a nonprofit institution dedicated to improving the scientific and economic foundation for environmental policy through multisectoral collaboration. Focusing on issues that are likely to confront policymakers within two to five years, the Center creates and fosters collaboration among industry, environmental organizations, academia, and government in each of its program areas and projects. The membership of the Center's Board of Trustees, its steering committees, and all its committees and working groups reflects its guiding philosophy: that all relevant parties must be involved if the complex issues surrounding environmental policymaking are to be resolved.

The Center's mission is to

- Identify emerging environmental issues
- Conduct related scientific research and economic analyses
- Create and disseminate nonpartisan policy options for solving environmental problems

APPROACH

The active involvement of the four sectors in all aspects of environmental policymaking—from identification of a problem through the crafting of recommendations to implementation of a policy—produces robust solutions to the environmental challenges that face the Nation. This philosophy, and its implementation in the Center's everyday operations, means that leading policymakers and practitioners from government, industry, environmental organizations, and universities are able to work together to identify pressing environmental challenges and to agree upon ways of meeting those challenges.

The Center's work currently focuses on three strategic areas:

- Environmental Reporting
- Global Change
- Sustainable Oceans, Coasts and Waterways

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