

**PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
WEAKFISH MANAGEMENT BOARD**

**Radisson Hotel Old Town  
Alexandria, Virginia  
February 1, 2007**

**Board Approved May 8, 2007**

## ATTENDANCE

### Board Members

Paul Diodati, MA DMF (AA)	Rob O'Reilly, VA MRC, proxy for Mr. Bowman (AA)
Najih Lazar, RI DFW, Proxy for Dr. Gibson, (AA)	Catherine Davenport, VA (GA)
Gil Pope, RI, proxy for Rep. Naughton (LA)	Kelly Place, VA, proxy for Sen. Chichester (LA)
Eric Smith, CT DEP (AA)	Dr. Louis Daniel, NC DMF (AA)
Dr. Lance Stewart, CT (GA)	Damon Tatem, NC (GA)
Gordon Colvin, NY DEC (AA)	Jimmy Johnson, NC, proxy for Rep. Wainwright (LA)
Pat Augustine, NY (GA), Chair	John Frampton, SC DNR (AA)
Brian Culhane, NY, proxy for Sen. Johnson (LA)	Dr. Malcolm Rhodes, SC (GA)
Tom McCoy, NJ DFW, proxy for Mr. Chanda (AA)	Robert Boyles, Jr., SC (LA)
Erling Berg, NJ (GA)	Patrick Geer, GA DNR, proxy for Ms. Shipman (AA)
Roy Miller, DE DFW, proxy for Mr. Emory (AA)	John Duren, GA (GA)
Bernard Pankowski, DE, proxy for Sen. Venables (LA)	April Price, FL (GA)
Howard King, MD DNR (AA)	Frank Montelione, FL, proxy for Rep. Needleman (LA)
Russell Dize, MD, proxy for Sen. Colburn (LA)	Steve Meyers, NOAA Fisheries
A.C. Carpenter, PRFC (AA)	Jaime Geiger, USFWS

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

### Ex-Officio Members

Russ Allen, Technical Committee Chair

### Staff

Vince O'Shea  
Robert Beal

Nichola Meserve  
Toni Kerns

### Guests

Arnold Leo, Div. of Com. Fisheries, East Hampton, NY  
Jim Gartland, Virginia Institute of Marine Science  
Chris Bonzak, Virginia Institute of Marine Science  
Bud Brown, Eco-Analysis, Inc.  
Dick Brame, Coastal Conservation Association

Wilson Laney, USFWS  
Fentress Munden, NC DMF  
Tom Fote, Jersey Coast Anglers Association  
Sean McKeon, NC Fisheries Association

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## INDEX OF MOTIONS

### **Move to approve de minimis status for South Carolina.**

Motion made by Mr. Smith; second by Mr. Frampton (p.8). Motion approved (p.10).

### **Move to approve the following management measures under Addendum II of the Weakfish Plan:**

1. For the recreational fishery:
  - a. Status quo for Florida, Georgia, and North Carolina
  - b. South Carolina to adopt a 12” size limit and 6 fish creel limit
  - c. All other jurisdictions maintain fishing size limits and adopt a 4 fish creel limit
  - d. No seasonal closures
2. For the commercial fishery:
  - a. Adopt a coastwide commercial cap based on the mean of the five-year period of 2000-2004 (3.75 m)
  - b. All other commercial regulation would remain as they are now

These recreational and commercial management measures will be re-evaluated when either the coastwide commercial landings equal or exceed 80% of the cap or any single state’s landings exceed their five-year mean by more than 25% in any single year.

Motion made by Mr. Carpenter; second by Mr. Colvin (p.18-20).

### **Move to amend the motion in Section 1 (a) to strike the words “and North Carolina”.**

Motion by Mr. Smith; second by Mr. Culhane (p.22). Motion carries (p.23).

### **Amended Motion: Move to approve the following management measures under Addendum II of the Weakfish Plan:**

1. For the recreational fishery:
  - a. Status quo for Florida and Georgia
  - b. South Carolina to adopt a 12” size limit and 6 fish creel limit
  - c. All other jurisdictions maintain fishing size limits and adopt a 4 fish creel limit
  - d. No seasonal closures
2. For the commercial fishery:
  - a. Adopt a coastwide commercial cap based on the mean of the five-year period of 2000-2004 (3.75 m)
  - b. All other commercial regulation would remain as they are now

These recreational and commercial management measures will be re-evaluated when either the coastwide commercial landings equal or exceed 80% of the cap or any single state’s landings exceed their five-year mean by more than 25% in any single year.

Motion made by Mr. Carpenter; second by Mr. Colvin.

### **Move to amend section 1 (c) to replace 4 fish creel limit with a “6 fish creel limit”.**

Motion made by Mr. McCloy; second by Dr. Daniel (p.24). Motion carries (p.26).

### **Amended Motion (for the second time): Move to approve the following management measures under Addendum II of the Weakfish Plan:**

1. For the recreational fishery:

- a. The de minimis Southeastern States (FL, GA, SC) will remain status quo with the understanding that South Carolina is pursuing creel and size limits in the legislature
  - b. All other jurisdictions maintain fishing size limits and adopt a 6 fish creel limit
  - c. No seasonal closures
2. For the commercial fishery:
  - a. Adopt a coastwide commercial cap based on the mean of the five-year period of 2000-2004 (3.75 m)
  - b. Reduce the commercial bycatch allowance to 150 pounds per trip
  - c. All other commercial regulation would remain as they are now

These recreational and commercial management measures will be re-evaluated when either the coastwide commercial landings equal or exceed 80% of the cap or any single state's landings exceed their five-year mean by more than 25% in any single year.

Motion made by Mr. Carpenter; second by Mr. Colvin (p.26-27). Motion carries (p.30).

**Move that states must submit plans to implement management measures on April 6, 2007. States must implement management measures by October 29, 2007.**

Motion made by Mr. Colvin; second by Mr. Berg (p.31). Motion carries (p.32).

**Move to approve Addendum II to Amendment 4 to the Weakfish FMP as modified today.**

Motion by Mr. Carpenter; second by Mr. Culhane. Motion carries (p.32).

**Move to select option 2: the complimentary management measure with the SAFMC as the ASMFC preferred option for public comment in Addendum III and approve the document for public comment.**

Motion by Dr. Daniel; second by Dr. Rhodes. Motion carries (p. 34).

**Move to approve nomination: Joe Cimino (VMRC) to the Weakfish Stock Assessment Subcommittee and the Weakfish Plan Review Team.**

Motion by Mr. Lazar; second by Dr. Rhodes. Motion carries (p.35).

**Move to nominate Roy Miller as vice-chair of the Weakfish Management Board.**

Motion by Mr. Pankowski. Motion carries (p.35).

## CALL TO ORDER

The meeting of the Weakfish Management Board of the Atlantic States Marine Fisheries Commission convened in the Washington Ballroom of the Radisson Hotel Old Town, Alexandria, Virginia, on Thursday, February 1, 2007, and was called to order at 8:45 o'clock, a.m., by Chairman Patrick Augustine.

CHAIRMAN PATRICK AUGUSTINE: Thank you all for coming today. Welcome to the Weakfish Management Board. We've got a lot of items to cover today. If you recall in Draft Addendum II we've got some activity there.

## APPROVAL OF AGENDA

We've got several options that we have to select from. Nichola did an outstanding job of presenting it. So, if you look at your agenda are there any additions? Any corrections? Are there any objections to the agenda as presented? Seeing none, **the agenda is approved without objection.**

## APPROVAL OF PROCEEDINGS

If you would review or have reviewed your proceedings from the October 25<sup>th</sup>, 2006 meeting, are there any additions? Any corrections? Are there any objections to the proceedings as they have been presented? Seeing none, **the proceedings are approved without objection.** At this point in time are there any comments from the public on any issues on the agenda? Come on up. Please announce yourself for the record.

## PUBLIC COMMENT

MR. SEAN McKEON: My name is Sean McKeon and I'm the president of North Carolina Fisheries Association. Thank you, Mr. Chairman, for the opportunity. I've said it before and I don't mean to sound like a broken record but I think if you all would consider having comments after some of the discussions go on I think that would be useful too.

We come in ready to talk about one topic or we think something is germane to the discussion and it turns out not to be, so that would be useful just to think about that and/or give us time later on if we could. I'd appreciate that also. I guess it was Yogi Berra who said, "Déjà vu all over again."

It seems like the last three or four times we've been

in this situation regarding weakfish we've had pretty much the same discussion. And I really don't have much to add from what our North Carolina folks have said the last few times we've discussed this topic.

But, I do remember the conversation or the discussion about dogfish either yesterday or the day before where several of the members of this commission including the, I believe the representatives from the National Marine Fisheries Service were urging caution because we are, our data was not as wonderful as they would like it to be.

And it seems sometimes that we're always eager to urge caution when it's an increase for the commercial folks but when there is questions about the data and there is a decrease or a reduction pending, nobody seems to or a lot of folks don't think that caution should be advised. So I would urge that until such time as we determine, until this group determines what is the problem that status quo would remain for the commercial industry.

As you know, North Carolina has far exceeded the expectations that we were asked to comply with. We exceeded that many times over. And I feel that we've done our part. And as far as our industry is concerned we think that it would be not a very good thing to have to incur any more reductions in that fishery. So, those are my comments.

They're pretty much outlined the same type of comments we've had. And I hope that as with dogfish the same individuals who are urging caution and saying let's wait until we have the right data would be consistent with those arguments and those pronouncements with respect to weakfish. Thank you.

CHAIRMAN AUGUSTINE: Thank you, Sean. Appreciate that and I'll do my best to remember that I should ask for public comment as we go through the process of approving the various options that we have. All right, I think right now we need to – no further comment from the public? Okay. Nichola, would you please take us through Number 4. We have review South Carolina de minimis status.

## REVIEW SOUTH CAROLINA DE MINIMIS STATUS

MS. NICHOLA MESERVE: Thank you, Mr. Chairman. This agenda item is a follow up from some business –

CHAIRMAN AUGUSTINE: Excuse me, Nichola. Mr. Frampton.

MR. JOHN E. FRAMPTON: Mr. Chairman, could I get you to delay this just a moment? My deputy director for marine resources is on the way down. We started a little bit early and he wasn't quite prepared for that.

CHAIRMAN AUGUSTINE: Are you suggesting the whole meeting or are you suggesting just this item?

MR. FRAMPTON: Just this item.

CHAIRMAN AUGUSTINE: Okay. Fine. With no objection we'll just move that further back into the – oh, there he comes. Welcome. It's tough when you don't get the word, Robert. Okay, we have just asked Nichola to present and review South Carolina's de minimis status so if you'll all bear with us she'll get on with it.

MS. MESERVE: Okay, thank you. This agenda item, as I was about to say, is the follow up from some business lingering from the last meeting where de minimis requests were considered. And as you will recall, the de minimis criteria for 2006 was set at 26,665 pounds or 1 percent of the coastwide 2004-2005 average landings.

South Carolina requested de minimis; however, the state's '04-'05 average landings were approximately 3.9 percent of the coastwide average. South Carolina has a non-existent commercial fishery for weakfish so the landings are coming completely from the recreational fishery as estimated by MRFSS.

For both 2004 and 2005 the recreational estimates were about 90,000 pounds; whereas, in 1999, 2000 and 2003 the recreational landings were closer to 5,000 pounds. This led South Carolina to ask where this increase was coming from. Had the fishery changed? That is, was there more effort or better navigational aids or tackle?

South Carolina responded, no, the fishery has remained the same. There are two weakfish fisheries existent at this time, a small directed boat fishery in a restricted area and a seasonal fishery on inshore artificial reefs or off piers in the northern part of the coast. There has been no significant change to these that can account for the increase.

Has the population increased? Again, no. Fishery-independent sampling has neither shown a dramatic increase in abundance, in trammel nets and inshore

waters nor in the survey catches along the coast. Lastly, South Carolina asked, does the survey methodology result in a poor estimation of the harvest?

What's being passed around right now is a memo from Charlie Wenner to Robert Boyles of South Carolina which looked into the intercept data. The high PSE values for the annual estimates as seen here range from 35.8 percent to 92.6 percent in the last six years. And so after the last board meeting that was, it was requested that South Carolina look into the data more closely.

So the 2005 intercept data, as you can see in this table, it provides by wave the number of positive intercepts for weakfish, the actual number of fish recorded, the harvest estimated from that intercept data and the effort data from the telephone survey and the related percent standard error. As you can see, the number of intercepts and the number of fish recorded is quite low and the PSEs are quite high for some waves, up to 99.2 percent for Wave 4.

South Carolina DNR staff states that because weakfish are a rare and infrequently targeted species the estimations are plagued by very high PSE values, meaning the data are not very precise because the very few intercepts that are positive for weakfish catch are extrapolated out by the estimated number of trips which was over 2 million for 2005.

In conclusion, South Carolina puts very little faith in this estimate but also recognized that all the states are dealing with the same problems with the MRFSS data. Should the board determine that South Carolina is no longer de minimis the state will be required to come into compliance with the FMP, this means the recreational fishing options in Amendment 4 and the monitoring requirements in Addendum I to Amendment 4.

This would be just the three ages per metric ton of total weakfish landed in the previous year because there is no commercial landings to require lengths. For 2006 this would have been 123 ages for South Carolina.

I'll also add – and the gentlemen from South Carolina might want to add to this – that although there are no current regulations for weakfish in South Carolina there is a package of regulations going to the legislature that includes a 12-inch size minimum and a 10-fish creel limit.

These regulations were based on attaining at least a

25 percent reduction from the historical landings in anticipation of a mandated reduction from Addendum II. So unless there are any questions I believe South Carolina might want to add something.

CHAIRMAN AUGUSTINE: Mr. Boyles, would you care to respond or add or give us your sense of where we're going with this?

MR. ROBERT H. BOYLES, JR.: Yes, sir, thank you, Mr. Chairman. And I really don't want to respond, necessary, but just thank Nichola for a good presentation. And as Nichola mentioned, I think we dealt with this last year. And my interest is not to find ourselves sitting here bashing the Marine Recreational Fisheries Statistics Survey but rather to provide a little bit more perspective on the fishery as we see it in South Carolina.

And to add to what Nichola mentioned earlier, we have our own creel surveys that we do to get a ground truth of what we're seeing. And I'd like to add that since 1991 through this past year we see that, this creel survey reveals that weakfish occur in only 1 percent of the creels that we've examined.

It ranks 14<sup>th</sup> on our list of species observed in these creels. And in that survey weakfish are indicated as a targeted species for only 6/10ths of 1 percent of the fishery. So I don't believe it is a very significant fishery. But, again, I recognize where we are with respect to the data that we do have with MRFSS.

I will say in addition this past fall we conducted a telephone survey of licensed saltwater anglers and weakfish were listed as a targeted species by only 1 percent of the respondents. So I think the reason we find ourselves where we are, that lack of any recreational size or creel limit does skew some of the data. You will see some fairly large creels late in the year. And we intend to address that with enacting through our legislature this size and bag limit. Thank you, Mr. Chairman.

CHAIRMAN AUGUSTINE: Thank you for all that clarification, Mr. Boyles. We appreciate it. Nichola, we do appreciate the effort and work you put into the review and your presentation. Let's move on to the next line item which is Item 5, an update from the technical committee – oh, I'm sorry.

I've been corrected. Nichola tells me we have to vote whether they're going to be de minimis or not. I think she already said they aren't, so can we have a motion from the board to remove them from de minimis status? Mr. Smith, do I need some help

here? Mr. Smith is recognized and he's talking about de minimis for South Carolina.

MR. ERIC SMITH: Here we are.

CHAIRMAN AUGUSTINE: Okay, there you go. Mr. Smith, please proceed.

MR. SMITH: What the heck was I going to say now?

CHAIRMAN AUGUSTINE: You were talking about de minimis status for South Carolina.

MR. SMITH: Yes, thank you. I know. I want to be clear I understand what we're looking for in a motion. Right now they're de minimis. If we take no action they remain de minimis. Based on the numbers without discussion one would have to presume that they are not de minimis because the numbers are above 1 percent.

But there is some reasonable doubt in the numbers based on the fishery analysis. And there is a legislative proposal in to adopt measures that are consistent with the plan for a state that's not de minimis. Okay, so if all of that is true no motion means we just stay where we are. Correct?

CHAIRMAN AUGUSTINE: That's correct. Go ahead.

MR. SMITH: We don't have to vote for a state to not be de minimis unless we want them to be not de minimis. I'm just trying to understand what you're asking of the board.

MS. MESERVE: We need a motion to approve de minimis status for 2006 or no motion meaning they would not be de minimis.

CHAIRMAN AUGUSTINE: Mr. Smith.

MR. SMITH: In that case, based on, no, **I move that South Carolina be declared de minimis** for 2007 based on the fishery analysis presented and the legislative proposal that is now working its way through their system. If I get a second I'll explain why I added that.

CHAIRMAN AUGUSTINE: Second by Mr. Frampton.

MR. SMITH: Okay, my reasoning is –

MS. MESERVE: Could I just interject for one

moment? To clarify, this would be for 2006, actually, not 2007.

CHAIRMAN AUGUSTINE: Yes, 2007.

MS. MESERVE: Two thousand seven de minimis will not be determined until the compliance reports are received September of 2007. So we're working a little bit behind here.

MR. SMITH: I liked it better when the microphones didn't work on this side of the room. Do we really need to have a motion for something for a year that has gone past?

CHAIRMAN AUGUSTINE: I see no reason for it other than correcting the record because the record is going to stand and –

MR. SMITH: Well, okay, then in that case **I move that South Carolina be declared de minimis** and leave out all the rest of it.

CHAIRMAN AUGUSTINE: Yes, okay. Mr. Beal, did you want to add to that or are we on the right track?

MR. ROBERT E. BEAL: This, we were working on the '06 de minimis last year, you know, since we started this issue last year. It's kind of rolled over into '07. I think, well, the board also or some of our species boards also review last year's data and say that the landings from a state were minimal and grant de minimis for future years.

That's a standard practice by our boards as well. So, you know, granting them de minimis status, you know, with the understanding that you know we'll get another read on this in about eight months until we have another year's worth of data.

And we can, you know, look at it again, see if the regulations in South Carolina have had the expected effect which is to reduce the number of trips with you know real high creel limits which will probably pull down their total landings, pulling them back into de minimis and all the things that cascade from there. So, I think the general motion of granting South Carolina de minimis status is probably an easy way to go.

CHAIRMAN AUGUSTINE: Thank you for that clarification. Mr. Miller, to the motion? We just tore out the system. I think this is a plan, to see if I can handle this without going crazy with you guys screwing up this meeting. Mr. Miller, are you

working now?

MR. ROY MILLER: I believe so.

CHAIRMAN AUGUSTINE: Okay.

MR. MILLER: Thank you, Mr. Chairman. Just using the example of South Carolina, I was wondering if the definition, if the chairman could help me or perhaps someone on staff could help me, is the definition of de minimis, of course, varies for each plan, but what I was wondering is compliance with management such as size and creel limits – is compliance with creel limits and size limits mandatory for de minimis states or isn't it or does that in fact vary by plan?

What I'm thinking about, for instance, is Delaware put in place size limits and creel limits for red drum even though red drum seldom appear in Delaware's commercial and recreational landings. Most years they don't. Same way with winter flounder with Delaware's declared de minimis. So what is the guidance for states in regard to implementing size limits and creel limits when they're declared to be de minimis?

And I just add as an afterthought that the weakfish stocks have declined to such an extent that there may be more of us, even some of us within the epicenter of the historical range of weakfish, that may be eligible for de minimis status. Our state, according to the MRFSS landings, only caught and kept I think it was 9,500 weakfish in 2005. So, if the chair has any insights on that I'd appreciate it. Thanks.

CHAIRMAN AUGUSTINE: I have some but I'd prefer to have Mr. Beal respond to that, please.

MR. BEAL: Thank you, Mr. Chairman. The de minimis standards and the sort of benefits of being de minimis vary by, vary within the commission plans. Some states or some plans grant de minimis states the option of not implementing the size limits and bag limits and those sorts of things. And the weakfish plan is one of those.

Some of the plans if a state is granted de minimis status the only thing that they're no longer obligated to do is some of the biological sampling. So it varies by plan. This is one plan that does allow the state, de minimis states not to implement the minimum bag limit and size limit.

CHAIRMAN AUGUSTINE: Does that help you, Mr. Miller?

MR. MILLER: Okay, I accept that. I don't know if I necessarily agree with it as where we should go from henceforward, but I accept it for the time being.

CHAIRMAN AUGUSTINE: Well, where we're going to go is back to talk about the motion and then we'll bring that up later if you'd like. Any further comments? Are there any objections to the motion as stated on the board? Steve.

MR. STEVE MEYERS: Mr. Chairman, not so much an objection but sort of a point of discussion here. I'd prefer that we would wait at least eight months or so until we get the information back from where we stand with things. I think South Carolina has done an excellent job of trying to move forward with management measures that would be beneficial to the sustainability of the stock. I'm not sure we really need to talk about de minimis at this point. Thank you.

CHAIRMAN AUGUSTINE: Well, are there any further comments on the motion? Okay, then I guess we have no other objections? Come on, somebody do something otherwise **approve without objection** other than your comments are stated on the record. Thank you. Okay, let's move on to the update from the technical committee on fishing mortality estimates. Mr. Allen, would you help us here?

#### **UPDATE FROM THE TECHNICAL COMMITTEE**

MR. RUSS ALLEN: Thank you, Mr. Chairman. I'm going to go through a few updates that the technical committee has put forth through some stock assessment work. We just kind of updated a few of the things. We're already in the last stock assessment, updated them through 2006 where possible. I'll show some landings data, F estimates, biomass and such.

The first one I'd like to show is the latest total losses of weakfish through 2005. This includes all recreational/commercial landings as well as estimated discards from both of the fisheries. And you can see that the landings have been decreasing ever since the latest high point in 1998 every year until this 2005 when the landings were a little bit higher than in the past but not much really there to talk about.

If you remember, we had a couple of modeling exercises in the last assessment, including a re-scaled F and a weakfish/striped bass modeling to get at some of the biomass and F estimates. The biomass

peaked in the late '90s for both of these methodologies and has decreased ever since, although in the last couple of years the re-scaled F work which was done by Vic Crecco has shown an increase in the biomass but still at very, very low levels as compared to the historic.

The F estimates that we have come up with those two modeling exercises have shown a continued decrease in F. If you remember, the assessment went through 2003 and at that point we were looking at the relative F estimates increasing somewhat and it was a little bit of a concern to this board.

Since that time the latest estimates we just went through have shown that that F estimate has decreased over the last three years. And one thing to remember, though, the 2006 data is preliminary. We're still working on some preliminary landings for 2006.

When we looked at the biomass and the F estimates from the re-scaled F work that Vic had done, the one thing that really stood out for me was that as F increased to the yellow bar biomass decreased. And that's what we're used to seeing in fisheries.

As the F decreased through the '90s the biomass started to rise again and the one thing that we notice is that when the biomass decreased in the late '90s into the 2000s, F did not increase. And I don't think any of us are used to seeing that type of phenomenon. And when I threw these two together it really shows that it doesn't look as if the F is the reason behind any of the loss in biomass.

The next two slides are somewhat updated. We've still got a lot of work to do to get them to where we need to go. We could not update the re-scaled F modeling to estimate M. But Jim Uphoff was able to do the weakfish/bass modeling and came up with another estimate. And M seems to be continuing to rise with that modeling.

We're hoping to get together sometime in the spring or early summer to update that unless the board thinks we need to move further on that right away. And also Jim did some work on the weakfish/bass modeling indices, including the New Jersey/Delaware trawls and the NMFS trawl. And these are the Z transformed, adding two to get rid of negatives.

And Jim also put a line through there estimating what he thought the actual indices were showing. And it kind of follows what the biomass has done in recent

time. And it peaked in the mid to late '90s and has declined through then. We still have to update the New Jersey and Delaware trawls on this, however, so it doesn't give you a full picture.

And that's pretty much it. You know, I can go over any of these slides that you want to, answer any questions, but they're just updates from what you already saw on the assessment. And I'm ready for any questions.

CHAIRMAN AUGUSTINE: Are there any questions? It was a pretty clear presentation. Thank you very much. Mr. O'Shea.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Thank you, Mr. Chairman. Thanks, Russ. Can you go to the slide again where you have F and biomass going in opposition directions and your comment saying that you normally don't see that, please. And my question is, does the fact that as the stock gets lower and the numbers in the biomass get lower, is there implications that there is then less data available?

And does that have an affect on your ability to calculate the F? And could that explain why your estimate of F might not be as – and I'm going to get messed up on whether it's precise or accurate – but you get down in what I call the "land of little numbers" and therefore you might expect them, you know, you might expect some odd behavior but that's just a function of the fact the numbers are so low?

MR. ALLEN: I don't personally think it is but I'm not, you know, I'd have to talk to Jim and Vic, actually Vic who did this work and see how he thought the precision was on those estimates. I don't recall him ever in anything that he wrote as far as the stock assessment or in this most recent update mentioning that there was less precision in those estimates.

CHAIRMAN AUGUSTINE: Mr. O'Shea, a follow up?

EXECUTIVE DIRECTOR O'SHEA: Yes, and the only reason I ask is we just had a presentation from South Carolina and some of their, you know, PSEs in there were, I understand it was a different thing but they're up at 80, you know, 80.8 and so there is quite a bit of variability in the data, just an observation. Thank you, Mr. Chairman.

CHAIRMAN AUGUSTINE: Mr. Allen, response?

MR. ALLEN: Yes, the one thing I will mention is that Vic's work is based on the MRFSS private boat, Mid-Atlantic private boat trips and then scaled using some other data. But, most of the Mid-Atlantic has pretty decent precision. I would think North Carolina, Virginia, New Jersey are all under 20 percent PSE. So I don't think that would be a major factor because I don't, it doesn't factor in the South Carolina or most of the Northeast.

CHAIRMAN AUGUSTINE: Thank you, Mr. Allen. Are there further comments/questions? Yes, Mr. O'Reilly.

MR. ROB O'REILLY: Well, I guess no one called me to tell me you started early. Sorry about that.

CHAIRMAN AUGUSTINE: We didn't want you to be here.

MR. O'REILLY: I was a little late. But on the PSE I did have something to bring up and would like to later on if that's possible.

CHAIRMAN AUGUSTINE: We have time. Why don't you bring it up now?

MR. O'REILLY: Okay, well, in particular when I – and I talked to Nichola about this – when I read through the minutes on Page 6 there was a reference, so this is generally about PSEs, there was a reference to the 15 percent being a standard for National Marine Fisheries Service.

And that was a big surprise to me because in 2003 National Marine Fisheries Service representatives met with the Summer Flounder Technical Committee and you know talked about 30 percent and the meaning of point estimates of the landings and the precision around them.

And they really didn't have any resolution on that. And for striped bass management the ASMFC has established a 20 percent PSE. But I think in general my question would be is it possible for staff to talk to the National Marine Fisheries Service and get a better idea, which isn't only pertinent to this board, about how to use the PSEs and what use they are.

So, for example, it may be nice to have a 15 percent PSE but that still means in a 95 percent confidence interval your landings estimate is somewhere plus or minus 29,000 fish if it's 100,000 fish to start with. And it goes up from there as you go up on your PSEs.

So I think everyone, quite a few boards need to look

at how to use PSEs because the PSE is related to the landings estimate. And a lot of the other work going on is trying to figure out what you do when you break apart a dataset into smaller components. So my question would be to contact National Marine Fisheries Service and get some good guidance on that.

CHAIRMAN AUGUSTINE: Thank you for your concern and bringing that point up. Mr. Meyers, would you respond to that or could you help us with the difference as you see it?

MR. MEYERS: Certainly, Mr. Chairman. We welcome any and all contact with our partners in the states in discussing the methods in which the MRFSS survey uses proportional standard error as a unique estimate. And, again, we welcome any and all comments and concerns and discussion and dialogue we can have with our partners on this subject.

CHAIRMAN AUGUSTINE: Terrific. What we'll do is we'll have staff follow up with that, Mr. O'Reilly, and Bob or Nichola will do that. Thank you. Any other comments or points? All right, seeing none, let's move on to the next agenda item. We're at Item 6 which is review and consider approval of Draft Addendum II. And this is going to be a final action at the end of the discussion period with this. So we'll get on to the first item. So would you go ahead and review the Draft Addendum II fishery management options, Nichola?

## **REVIEW AND CONSIDER APPROVAL OF DRAFT ADDENDUM II**

### **REVIEW DRAFT ADDENDUM II FISHERY MANAGEMENT OPTIONS**

MS. MESERVE: Thank you. I'm going to provide a review of Draft Addendum II which has been revised since the board's last meeting. Copies were available on the briefing CD and there are also a couple on the back table if you don't have it with you now. There are a number of options in it so it might be helpful to follow along.

As you know, Addendum II has a long history and has gone through several revisions since its inception in May of 2005. This version incorporates all previous versions and supplements as well as comments from the board and the TC. Specifically, this version was meant to flesh out the full range of options that the board could choose from for the fishery due to several board members stating at the last meeting that there were a couple more options

that they would like to be able to consider.

This addendum is in response to the overfished stock status of weakfish. Amendment 4 requires the board to adjust the management program to rebuild spawning stock biomass. However, this is made more difficult due to the fact that fishing mortality is not believed to be the culprit, but rather increased natural mortality is.

This leaves less choices for management. On the other hand, stock projections indicate that rebuilding will require low fishing mortality and natural mortality; therefore, should natural mortality decline a means to control expansion of the fishery may be required.

Amendment 4 provides the current regulatory framework for weakfish. In order to achieve annual fishing mortality targets the recreational fishery is constrained by size and creel limits and the commercial fishery by size limits, bycatch limits, gear restrictions and closures. This excludes the de minimis states, those that harvest less than 1 percent of the coastwide total. Appendix 1 in the draft addendum has the current state regulations.

Draft Addendum I provides a suite of management options. It clearly states that the board may choose any combination of options for either or both the commercial and recreational sectors to be applied on a coastwide, regional or state-specific basis.

Starting with the recreational fishery, Section 3.1.1 provides options for a creel limit. They are status quo, which are the four options in Amendment 4, a reduced coastwide creel limit or reduced state-specific creel limits. Appendix 2 and 3 have the creel limit analyses that were developed by the TC for previous mortality reduction options of this addendum. I'm not going to go into the appendices at this point because you've seen them before but if there are any questions afterwards you can feel free to ask Russ or myself.

Section 3.1.2 has five fish limit options: status quo, an increased coastwide minimum, increased state-specific minimums, coastwide maximum and state-specific maximums. Of course, both the minimum and maximum could be chosen if desired. Appendix 4 has the analyses that you saw at the last meeting for minimum size alternatives for several states.

Section 3.1.3 has season and area closure options, these being status quo, a coastwide closure, state-specific closures or a moratorium. Appendix 5 has

the analyses showing expected savings in harvest through closures by the two month waves used by MRFSS.

Section 3.1.4 presents something new for the board. It's a management trigger. Option 1 is status quo or no trigger. And Option 2 would implement a trigger that would initiate new management to limit harvest, maintaining the current Amendment 4 regulations until that action is triggered.

The trigger could be based on stock status or landings or both as compared to a determined historical reference period. This option developed from some discussion with the technical committee with some members saying that Amendment 4 had the regulations that are needed, as long as stock size is low, and only if the trend in natural mortality reversed and stock landings increased might some new regulations be necessary to maintain stock rebuilding.

For the commercial fishery the first set of options is for the bycatch limit. These are status quo, a reduced coastwide bycatch limit, reduced state-specific bycatch limits, or increased state-specific or coastwide bycatch limits in the event of a moratorium on directed harvest, meaning that weakfish would become a bycatch only fishery. Appendix 6 has the analyses from the TC as seen in the previous version of this addendum.

Section 3.2.2 has fish size limit options: 1, status quo; 2, increased coastwide minimum; or 3, increased state-specific minimums. These would work in concert with Option 3.2.3 for a minimum mesh size for nets. These options being status quo, an alternative coastwide limit, or alternative state-specific limits.

Section 3.2.4 has options for a season or area closures. These are status quo, coastwide closure, state-specific closures or a moratorium. Appendix 7 has the analyses for expected reduction in harvest by monthly closure.

Section 3.2.5 has options for a harvest cap which was requested specifically by the board at the last meeting. The basic options are no cap, a coastwide harvest cap or state-specific harvest caps. Should the board choose to implement a harvest cap there are additional sub-options that would need to be considered, the first of which is the amount of the cap.

This could be based on a mean of a reference period.

Both three and five year periods are used in the appendices as examples. Or it could be based on the highest landings within those reference periods. If the board desired a reduction amount, the cap could also be calculated in one of these ways and then reduced a certain percentage determined by the board from that amount.

Next the length of the cap would need to be considered. Would the board reevaluate the cap in two, three or five years, for example? Next, what counts as harvest, either the total catch which includes your discards but is harder to enforce or total landings which is easier to enforce but excludes discards?

Also, the allowance for non-directed fisheries could be considered. Either 100 percent of the cap could go to the directed fisheries or some percent less than 100 to be determined by the board could be allocated to directed take. This would allow for incidental take by non-directed fisheries with a small limit imposed. Also, all gears' landings or some could count towards the cap.

Next is when direct harvest is stopped. Directed harvest could be permitted until the cap is reached or until some percent less than 100 to be determined by the board is reached. This could allow for incidental take by fisheries for the remainder of the year so that directed harvest plus bycatch does not exceed the cap. Lastly, underages and overages would need to be considered. Underages could be added to the next year's cap and overages could be subtracted or neither of these options.

The last management option for the commercial fishery is the management trigger, the same as I explained for the recreational fishery. This topic really came up with the TC when the cap for the commercial fishery was being considered. But it was included for both sectors since the intent of this addendum, as I said earlier, was to give the board the full range of options and as much flexibility as necessary.

Lastly, there is an option regarding what Addendum II could mean for the de minimis states. Option 1 is to maintain status quo, that de minimis states would not be required to implement the provisions of this addendum. Or Option 2 is that de minimis states would be required to implement a recreational creel limit as determined by the board. That would be if Option 2 or 3 of 3.1.1 regarding the creel limit is selected but none of the other provisions.

Section 3.4 of the addendum includes the language from Section 4.5 of Amendment 4 regarding conservation equivalency which reads: "States can request permission to implement an alternative to mandatory compliance measures if the state can show that its alternative proposal will have the same conservation value as the mandatory measures."

This last slide is just to indicate that if the options of this draft addendum are selected for implementation the board needs to provide dates for states to submit their proposals for implementation and also a date to implement the approved plans.

On the agenda there was also a line item for advisory panel comments but there is nothing to report on this. The draft addendum and a memo were sent out to the AP but no comments were received. This may be due to the fact that there weren't that many significant changes in this version from the last that the AP commented on previously. So, unless there are any questions Russ has some comments from the TC in specific about the cap option as well as the management trigger.

CHAIRMAN AUGUSTINE: Thank you for that report, Nichola, very clear and excellent. I'd like to turn it over to Mr. Allen. Would you please proceed?

#### REVIEW TECHNICAL COMMITTEE COMMENTS ON DRAFT ADDENDUM II

MR. ALLEN: Thank you, Mr. Chairman. The technical committee did not meet since the last board meeting but we did have some e-mail conversations as well as some phone conversations. And some of the things that we discussed were the fishery cap, triggers, and other items of Addendum II.

First of all, all these comments that I'm going to go through are not necessarily a consensus of the whole technical committee but they're just comments that we got through those e-mail conversations and the phone conversations.

One thing that was pretty adamant was that any cap that the board is likely to put forth would be higher than any harvest that could possibly be happening right now based on the three to five years landings triggers unless there is a drastic decline in M and the stock rebuilds very quickly.

And that said, that probably will not result in any reduction in F until that increase or decrease in M occurs and the stock begins to grow. It could reduce landings without really reducing the fishing mortality

or favor stock rebuilding which has been a problem with all the options that you guys have discussed so far.

One of the most important points that we got through those conversations was that weakfish management has historically consisted of effort controls as opposed to a quota management. And this is a major change in management. And there will be a lot of problems with the implementation, timely reporting, and closures for many states since they don't have mandatory reporting and it's more of an unfunded mandate and they'd have to start that whole process. So that was a major discussion.

And, as I said, many of the same problems as the other Addendum II options were discussed by the board in October, same thing as with the cap. A coastwide cap on the recreational fishery would parallel what the board seems to hope to be able to accomplish with a landings cap for the commercial fishery. That was discussed a couple times through that conversation

The lag-time needed for biomass to recover even with an immediate reversal in M would exceed those two to five year cap horizons in the plan. That was something that came up a couple of times. One thing that a couple technical committee members thought was the, if there is a 25 percent reduction in the recreational fishery, which was discussed at the board last time, making it a four fish creel limit, there should be the same thing happening with the commercial fishery and it should be a 25 percent reduction with that thought process that doesn't necessarily have to be a 25 percent or equivalent to a 25 percent reduction in F.

I think the major concern at the last board meeting was discards. And this came up again in the conversation many times. The major gears which contribute to the weakfish landings do so as mixed fisheries and they have a potential to create a tremendous waste and it does not address the discard issue by putting a cap in.

Some other comments regarding Addendum II, there was some support for the board's thoughts regarding the coastwide four-fish creel limit including the de minimis states, not consensus but there was some support. There was also a suggestion to make weakfish a commercial bycatch fishery only with higher poundage allocation than is currently. In Amendment 4 I think it's 300 pounds. They were talking 500 or maybe even more.

Very good conversation that was started by Joseph Munyandorero from Florida, we really need to get more information on those mixed fisheries and how they operate, the gear types, allocations between those gears, potential interactions, something the technical committee should really look at at their next meeting.

The last thing is any reaction to the increases in weakfish dynamics associated with any decrease in M will not help the stock since it was probably on its way for recovery already. We discussed the option of using triggers in this addendum or even in the next amendment that is proposed. The idea is that triggers start a commercial cap could help satisfy what the board was looking for at the last meeting in October.

We could consider a variety of trigger options such as landings, biomass indices, length frequency criteria. One thing that we need to remember on those triggers, that they need to be easily calculated and be statistically robust. The triggers discussed for weakfish are meant for management perspectives, not stock assessment as in the Atlantic croaker triggers. We didn't get into the stock assessment part of that. We were just talking about management.

Some of the conversation flowed pretty well and it looked as if a few of the tech members were thinking that we should be going with status quo right now, initialize the stock assessment process which is due in 2009 and we think it's time to get that going now, start developing some kind of management and possibly even assessment triggers for that next go-round in case there is an increase in biomass due to the decrease in M.

And we were looking at that as not really to, what we can achieve now with any kind of cut or status quo but our ability to control any rise in F later if M increases and a weakfish recovery starts. And that's it for me.

#### CONSIDER APPROVAL OF DRAFT ADDENDUM II

CHAIRMAN AUGUSTINE: Excellent. Are there any questions or comments? I think it was just an update and a very clear report, Mr. Allen. We appreciate the work that the technical committee has done on this. It didn't look as though any, very many hard recommendations came out of it and it serves more or less as an update. So any specific questions to that? Yes, Mr. O'Reilly and then Mr. Miller.

MR. O'REILLY: Russ, I don't know whether you

have enough information but you may have, when you look at the type of management measures that have already been applied, because we spent a lot of time in October talking about the previous reduction in fishing mortality rate schedules, can you comment on the recreational fishery in terms of if you go back all the way to Amendment 1 where there was a voluntary 25 percent reduction in exploitation and then it continued in Amendment 2 and up through Amendment 4, when you look at the commercial fisheries there were ways to through season, area, size, however you want to look at it, ways to actually curtail the landings, the recreational fishery, from my idea, at least, and I do want your input, never has had that benefit.

The recreational fishery is characterized by as soon as Amendment 2 was started technical committees were coming to the board and saying, we're looking at an equilibrium approach to manage this fishery with size and possession limits but the fishery is in disequilibrium. And after about three or four attempts the 1981 to '85 dataset replaced the 1990 to '92 dataset and the main benefit there was there were more intercepts, more fish from Florida in particular, although the typical fishery through the '90s was a Mid-Atlantic fishery.

And even when we were getting ready to go to Amendment 4 some of the work done by technical committee members showed that if you wanted to meet the schedule that was part of the previous amendment, Amendment 3, to keep up with the commercial fishery you really would have to have very small bag limits.

So I find it sort of a management situation of two different approaches that are not similar, have not been similar. And I wonder with the, some technical committee members favoring the 12 and 4, what does that do to get an equal footing with what's already been done over the years and really starting in earnest in 1995 with the reduction in exploitation or reduction in F in commercial fisheries?

CHAIRMAN AUGUSTINE: Mr. Allen, would you respond to that?

MR. ALLEN: Well, Rob, I'm sure that my recollection isn't anywhere near as good as your recollection on all that situations that happened in Amendment 1 all the way through Amendment 4.

I kind of remember the last go-round into Amendment 4 that that's what the board was trying to do was set the recreational equal to what, any

mistakes that have been made by the technical committee in the past. And I thought that was the process through which Amendment 4 bag and size limits were put together. Now, they weren't exactly what the technical committee recommended at that time but I think – I'll leave it at that.

CHAIRMAN AUGUSTINE: Thank you, Mr. Allen. We have Mr. Miller followed by Mr. Carpenter.

MR MILLER: Thank you, Mr. Chairman. And thanks to both Russ and Nichola for excellent presentations. I want to commend staff and plan development team and anyone else that participated in the construction of this addendum before us today. They did an admirable job at fleshing this out.

And now, having said that, I'd also like to point out of the obvious, that there are now what I consider a bewildering array of options before us. We managed to take a fairly simple plan and turn it into a complex plan with many potential iterations which makes it harder for me to decide, you know, in my own mind what would be a proper path forward.

I have heard it expressed by one technical committee member, some concern was expressed by this technical committee person that perhaps the technical committee didn't have an opportunity to meet and discuss this latest iteration that, as Russ pointed out, the discussion was via e-mail and telephone conversation.

And maybe we all would have benefited from the opportunity for the technical committee to come together to discuss this complex array of options. I think that's all I'll say for the moment. Thank you.

CHAIRMAN AUGUSTINE: Thank you, Mr. Miller. Mr. Carpenter, followed by Mr. Boyles.

MR. A.C. CARPENTER: Thank you, Mr. Chairman. I would like to have the opportunity to put a motion before the board when you're ready, when discussion has reached that point. But in the meantime, I would like to take this opportunity to say that weakfish is an extremely difficult issue as the number of iterations that we have gone through here in the past decade.

And I think back on striped bass a couple of decades ago when the ASMFC took rather bold and rather conservative approach to management and we didn't have the benefit of models; we didn't have the benefit of all of the scientific information that we have today; and we just had to act on logic and reason and appreciated the science that we did have. So I think

that there are some ideas that I have that hopefully will simplify some of the options that have been put forward at whatever time you feel is appropriate for a motion Thank you.

CHAIRMAN AUGUSTINE: Thank you. We'll go through the comments and then we'll go right back to you, Mr. Carpenter. We have Mr. Boyles, then Mr. O'Reilly.

MR. BOYLES: Thank you, Mr. Chairman. If I could, Russ, could you help me understand something? I've, I understand that SEAMAP data, the fishery-independent trawl data from the South Atlantic has not been incorporated into the models. Is that correct?

CHAIRMAN AUGUSTINE: Mr. Allen.

MR. ALLEN: It was used in the assessment so it wasn't used as far as the weakfish/bass modeling or the rescaled F that I just showed but it has been used in the past and used for the catch at age and a few other things. So it is used in the assessment process, just not in the examples that I showed.

CHAIRMAN AUGUSTINE: A follow-on question, Mr. Boyles?

MR. BOYLES: Yes, sir, if I could. Thank you, Mr. Chairman. I think one of the things that concerns me is based on my review of the CPUE data from SEAMAP is that there is clearly something different going on in the South Atlantic in looking at time series data from SEAMAP.

And, Russ, I appreciate that. I was, I think someone had indicated to me some time ago that in terms of the stock assessment models that the weakfish, that the SEAMAP data had not been used. And it frustrated me a little bit to think that, you know, this body has been a big supporter of SEAMAP and it's something that we've been heavily invested in for a long time and I just want to make sure we're using the data. Thank you.

CHAIRMAN AUGUSTINE: Thank you for that input. Would you have a suggestion for the technical committee in the form of something more than just responding to? Is that what you had in mind or would you prefer to talk about that off-line?

MR. BOYLES: My point was just a question of clarification I think.

CHAIRMAN AUGUSTINE: All right. I wasn't

going to let you get away if there was an idea in there that we should move on something.

MR. BOYLES: I may come back if I might withhold that, after everyone else has spoken, by the way.

CHAIRMAN AUGUSTINE: Okay. Well, we don't have a lot of yeas and nays here. We're still in the discussion period so I'll call on you again when we have to. Dr. Daniel, you had a point?

DR. LOUIS DANIEL: I think most of my comments will come after the motion is made but I did want to make one, ask one point of clarification of staff. We are taking final action on this addendum at this meeting and not approving anything for public hearing. Is that correct?

CHAIRMAN AUGUSTINE: No, this is final action unless someone decides to derail about five years worth of work. And now we'll go to – to that point, Mr. O'Reilly, otherwise we're going to get on with Mr. Carpenter.

MR. O'REILLY: Not to a derailment, certainly, but is it appropriate to comment on the tables provided to us and the options?

CHAIRMAN AUGUSTINE: Fine, please go ahead.

MR. O'REILLY: That's what I wish to comment on. A lot of work went into this, as has been pointed out. I can't speak for the other states but what I found was that in – and I'm talking first about the commercial fishery. And I do that only because I do see a difference and a dichotomy in management over the years.

So, on the commercial fishery no matter which of the options you look at, the three-year cap, the five-year caps, the best year out of three, the best year out of five, for Virginia, which has been a significant commercial state for landings of weakfish over time, going back quite a ways, any of those options would suffice if there were to be a cap.

And the reason is when we left Amendment 3 on a reduction schedule that was going to increase and starting out with the 32 percent or 33 percent reduction fishing mortality rate and was scheduled to increase by the year 2000, somewhere in there if you look at harvest reductions it would have been about a 40 percent harvest reduction by 1999.

I don't think it's coincidence that the numbers work out that way. But when I looked at a 40 percent

harvest reduction of our landings overall for commercial they're very close to whether you choose a '96 to '98 timeframe, '97 to '99, five years, whatever you choose. It would be the landings we had in those years which are also coincident with the time that the assessment seems to have departed from the normal tracking of the fishery and fishing mortality rates.

So, I would content there is already a cap in place de facto for the commercial fishery by virtue of all the work that has been done starting in 1993 and lastly in 2002 with Amendment 4. That cap is already in place. If the stock, for the commercial fishery – and I'm sure if it's that way in Virginia it's that way for other states – if there is rebuilding of the stock would one expect there to be a rebound that would go much beyond what has already been put in place with closed seasons or closed areas, size changes and everything else?

I don't think so. I think if there is a rebound those measures are still in place. So I'm going to leave the commercial fishery there and on the direct landings and comment on the bycatch. There is a proposal to lower the bycatch. I think that's a good proposal because if you recall two things occurred with liberalization with Amendment 4.

One is very practical and still should stand with trawl fisheries and undersized fish being allowed to have up to 300 fish but they're not for sale. I think that that's a practical part of the fisheries. The second was to increase the bycatch from 150 to 300 pounds. It got mixed reviews from the technical committee. It got mixed reviews from the board.

It passed in the euphoria that existed back in November of 2002 with the adoption of Amendment 4 because the information, although there were signals that the assessment wasn't exactly telling us everything was positive, the information was very positive and we allowed that increase.

And I think looking at where this fishery stands now, where the stock status is now, that should be turned back to the 150 pounds. And, again, I looked at Virginia data on the bycatch. And just to give you information of the two bycatch fisheries, the gillnet fishery in 2005 had 1,377 trips and 1,277 of those the bycatch was less than 50 pounds.

The other bycatch fishery, the haul seine fishery, had 104 trips and the less than 50 pound bycatch trips were 77. So, clearly, here is an opportunity with 150 pound bycatch to establish another cap. When there

is rebuilding we should definitely look at 150 now and then with rebuilding be able to look in the future whether that should be relaxed and take careful aim at the options of what can happen if it is.

Now, the bycatch fishery in Virginia is not trivial overall only because the landings have fallen quite a bit. You know, the landings have fallen from an average of 1.5 million pounds from 1999 commercial in Virginia down to about 350,000 pounds for 2003 to 2005. So, yes, the bycatch even at those 50 pounds or less trips is still accounting for a 40 to 30 percent significance of the landings and you're not wasting those fish.

So those are my comments on the bycatch and the comments on commercial overall. I won't delve into the recreational beyond what I already think needs to be discussed by other board members, probably. And I thank you.

CHAIRMAN AUGUSTINE: Thank you, and I'm sure some of those comments will come up again when we review the options under 3.2.1 so thank you for that information and presentation, Mr. O'Reilly. Okay, I'm looking for I believe a motion from Mr. Carpenter.

MR. CARPENTER: Thank you, Mr. Augustine. And if I do get a second for this motion I would like the opportunity to address some information.

CHAIRMAN AUGUSTINE: Mr. Carpenter, is it a long motion or a short motion?

MR. CARPENTER: It's a fairly long motion and I have it typed and it's on the board now.

CHAIRMAN AUGUSTINE: Oh, excellent. Thank you. Please read it for us.

MR. CARPENTER: And I would like to ask that under Item Number 2 that we add a little b – are you ready Toni?

MS. TONI KERNS: Yes.

MR. CARPENTER: All right, that all other existing commercial regulations would remain as they are now. While she's typing that let me read the motion if you'd like.

CHAIRMAN AUGUSTINE: Okay, before you read the motion, we're covering all under one motion. And if past history serves me right we usually get into trouble when we're trying to mix apples and

oranges. And I wonder what –

MR. CARPENTER: I'll have to call you back.

CHAIRMAN AUGUSTINE: I like that tone. That was a good tone. You should play that again. What you might consider, Mr. Carpenter, splitting the motion and dealing with the first half, recreational, and then addressing the second part separate. Because if we get into any one of those items we might end up derailing the whole process. It's up to you, Mr. Carpenter.

MR. CARPENTER: Well, at this point I see this as a package deal and I'd like to present it that way. If some members find the need to split the issue I won't have a problem with dealing with it that way. But my motion is to **approve the following management measures under Addendum II of the Weakfish Plan: for the recreational fishery there would be status quo in terms of season and size limits in Florida and Georgia; South Carolina would adopt a 12-inch minimum size limit and a 6-fish creel limit; this is from no size limit and no season in their jurisdiction; all other jurisdictions would maintain their existing minimum size limits and adopt a 4-fish creel limit and there would be no seasonal closures.**

**For the commercial fishery would be to adopt a coastwide commercial cap based on the mean of the five-year period 2000 to 2004 and that's roughly 3.75 million pounds. All other commercial regulations would remain as they are now. And then another item that these recreational and commercial management measures will be reevaluated when either the coastwide commercial landings exceed 80 percent of the cap or any single state's landings exceed their five-year mean by more than 25 percent in any single year. If I can get a second to that I'd appreciate it.**

CHAIRMAN AUGUSTINE: Thank you for that motion, Mr. Carpenter. Mr. Colvin immediately raised his hand and seconded it so you can be a third if you want to, Mr. Meyers. But it has been seconded by Mr. Colvin. So if the board would take the time to review that, we're trying to capture the essence of this amendment in one fell swoop. So, let's start at the top of it. Instead of jumping around, let's start at the first line – oh, I'm sorry, Mr. Beal.

MR. ROBERT E. BEAL: Yes, just a quick question for the maker of the motion. A.C., when you were reading the language or reading your motion or

stating your motion it differed a little bit from what's up on the screen. In the last paragraph there I think when you were, where you were speaking you said the commercial, coastwide commercial landings exceed 80 percent of the cap, the wording on the board is equal or exceed 80 percent of the cap. It's a kind of small change but I just want to make sure we're all starting off on the same point.

CHAIRMAN AUGUSTINE: Mr. Carpenter.

MR. CARPENTER: It is as printed there. It's **"equal or exceed 80 percent"**.

CHAIRMAN AUGUSTINE: All right, thank you for that clarification.

MR. CARPENTER: And if I can address my motion.

CHAIRMAN AUGUSTINE: I wish you would, Mr. Carpenter.

MR. CARPENTER: All right, we have had some very good technical advice that this may not solve any of the problems and it may not. But I think that this management board has to be proactive and take what I'm considering to be a relatively conservative approach and to prevent overfishing should and when the stocks begin to return.

I think it is analogous to what we did in the striped bass case years ago when we didn't have the scientific information and here we have conflicting scientific information. I think we need to send a message to the public that we may not be able to fix this and this may not be able to fix it but this gives Mother Nature the best chance of rebuilding herself if and when conditions allow that to occur and we won't be over exploiting it.

I'm doing that on the recreational side through creel limits. On the commercial side we are maintaining the existing regulations that we have in place. We're putting a stop-gap cap measure on it and we're going to use the commercial fishery to monitor the status of this stock.

When we begin to see the commercial landings approaching that 80 percent level on a coastwide basis or we see one state's landings exceeding their former share or their proportional share of that thing, we know that we've turned a corner someplace and we need to reevaluate and rethink whatever is going on.

And hopefully by that time our scientific advisors

and counselors will have continued to monitor this thing. They can continue to figure out what is going on in the South Atlantic. And we can be in a position to then make some more informed decisions in the future. But this is a precautionary attempt to hold things a little more conservative than what we've had and give the system a chance to work. Thank you very much.

CHAIRMAN AUGUSTINE: Excellent. Thank you, Mr. Carpenter. We had a hand. Dr. Daniel, were you going to talk to a specific within the body of either part? Well, if you don't mind, will you hold that because I'd like to go through line item by line item and we're going to either, by consent we'll do what we do. Mr. O'Reilly, nothing specific – I've got to get to the audience – nothing specific unless it's to the first line under recreational.

MR. O'REILLY: No.

CHAIRMAN AUGUSTINE: We're not going to jump all over the place because we've got a lot to cover.

MR. O'REILLY: I'll jump later.

CHAIRMAN AUGUSTINE: Dr. Daniel and then back to the audience.

DR. DANIEL: I'll jump in. The, under for recreational fisheries a, one of the, the issue in North Carolina, and I agree with the stuff that A.C. has said but we also have the same concerns that Robert brought up about the SEAMAP data. And a lot of those data are, a lot of those spikes in those indexes came from off of North Carolina.

And so my real concern is that the primary recreational fishery now from North Carolina and south of Cape Hatteras, I can support this entire motion if it's status quo from Florida and Georgia and North Carolina.

CHAIRMAN AUGUSTINE: Thank you. I think when we get to that portion of it, when we get to that portion of it we'll ask Mr. Carpenter if he would entertain an adjustment to that. In the meantime Mr. Beal has a comment to make.

MR. BEAL: Well, I'd be guilty of jumping around if I ask it now.

CHAIRMAN AUGUSTINE: You're going to jump around.

MR. BEAL: It's under the commercial fishery. I just had a question of the intent.

CHAIRMAN AUGUSTINE: Okay. Here is my idea, folks. We've got a group of such options up there, we've got four under recreational and we've got two major ones under commercial and then we have a statement at the bottom. And it just seems to me that if we take them one line item at a time and we get a consensus that stays within the body.

If we have one item that possibly could derail the whole motion, then I think we should address that as we go along. Then it would be up to the maker and the seconder of the motion whether there is, we allow an amendment to that or whether they decide to do something else with it. And I think that's the only way we're going to get through this in a reasonable time.

And so now I'd like to go to the audience. Remember, we're not going to delve into any one particular part, now. If you have something, I think Mr. McKeon would have his comments relative to the commercial and also Mr. Leo might have the same. So – same thing? We're going to go recreational Item A.

Okay, so we're going to start with for the recreational fishery Item A, status quo for Florida and Georgia. Are there comments from the board or concerns on that line item? Is there any objection to that one line item? You have objection. Go ahead.

DR. DANIEL: And that was my issue, my point, trying to add North Carolina into that, recognizing that most of our fishery now is occurring south of Cape Hatteras and that if we could, if I could just friendly **add North Carolina to that Line A** then it satisfies me.

CHAIRMAN AUGUSTINE: That was the point. Now we're going to go back to Mr. Carpenter the maker of the motion. Would you consider including North Carolina in A?

MR. CARPENTER: I would accept that as a friendly amendment.

CHAIRMAN AUGUSTINE: Okay, it's up to the board now. It has been put out as a motion, accepted. It no longer belongs to the maker. Does the second agree?

MR. COLVIN: Yes.

CHAIRMAN AUGUSTINE: The second agrees so we will please add North Carolina – to that point, Mr. Miller.

MR. MILLER: Mr. Chairman, I don't understand why we would treat North Carolina differently than South Carolina. In other words, North Carolina's creel limit, if memory serves, is 12-inches and how many a day?

DR. DANIEL: Seven.

MR. MILLER: Seven. Well, why would we suggest that South Carolina be 12-inches and six, then?

CHAIRMAN AUGUSTINE: I'd ask the maker of the motion. Mr. Carpenter?

MR. CARPENTER: Well, in my original motion North Carolina would have had a creel limit of four. South Carolina has no existing creel or size limit and this was an opportunity to get them in that ballpark. It was my original intention.

CHAIRMAN AUGUSTINE: Thank you, Mr. Carpenter. Mr. Boyles, Mr. McCloy and Mr. Smith.

MR. BOYLES: Thank you, Mr. Chairman. My comment will actually have to deal with Item B so in the –

CHAIRMAN AUGUSTINE: You're out of order. Mr. McCloy and Mr. Smith.

MR. THOMAS McCLOY: Thank you, Mr. Chairman. My comment has to do with Item A. However, what transpires and happens in Line B and C will have some bearing on my comments. For example, if the recreational fishery is going to be going to a bag limit of four for the rest of the coast I would prefer to see all states go to that same bag limit.

And it kind of, it takes off on Mr. Miller's earlier comment when we were discussing the de minimis status and how it applies to you know those states that are in fact granted de minimis with bag and size limits. So, you've got a tough job, Mr. Chairman, but thank you.

CHAIRMAN AUGUSTINE: Mr. Smith.

MR. ERIC SMITH: Well, two points and a question, I understand the logic of Florida because they're already at 12 and four and I understand the logic of Georgia because they're at 13-inch, a larger size

limit, and a six-fish creel limit and those tend to balance each other out. I understand the logic of South Carolina. They have no regulations. It gets them into the fold with the same, almost the same size limit as all four southern states and a creel limit that is a lot lower than unlimited.

My question before I comment on North Carolina being added is either Nichola or Russ if you could, how large is the North Carolina recreational catch relative to the total recreational catch? That table isn't in the addendum and without seeing that it's hard to decide whether this is a supportable suggestion or not. It's probably in a plan review document, something like that, and I just don't happen to have that.

MS. MESERVE: Let's see, for 2005 the coastwide total was 1,600,000, approximately. And North Carolina's share of that was 157,000 pounds, about.

MR. SMITH: So they're about 10 percent of the coast and we've got ten states or so with major fisheries. I have some difficulty with the proposal, then, quite frankly.

CHAIRMAN AUGUSTINE: Thank you, Mr. Smith. Mr. O'Reilly, to that point.

MR. O'REILLY: Yes, I think you have to put what Nichola just said in perspective. In 2005 in numbers of fish that was the, looks somewhat anomalous now after 2006 data is mostly in. The New Jersey landings were about 1 million fish out of 1.5 million. So, I wanted to point that out to you.

But I also wanted to indicate that strictly on what the technical committee has been telling us over the last few meetings is that the sharp declines that you see in the North and Mid-Atlantic are not evident in the South Atlantic. And so I wonder, you know, just philosophically, if it's prudent to have different management measures in the area that over the last several years is showing to at least holding its own.

And if you do look at the data, you know that's what is happening with North Carolina, South Carolina, and Georgia, to some extent, and a very minor point of you know if you look at the numbers North Carolina in 2005 has higher landings by far than Virginia, Maryland and Delaware combined, probably not quite three times, 2.5 times.

There are vagaries in 2006 through Wave 5 so we don't have Wave 6. And that would affect the South Carolina totals. But still North Carolina is holding

fairly steady to where it has been the last four years. South Carolina, unless it has a tremendous Wave 6, is not going to be anywhere near where it was. Georgia is going to be fairly consistent at a low level.

Florida, which has the 12 and four, is also very consistent, 45,000 fish in 2004; 78,000 in 2005, 64,000 in 2006, absent any Wave 6. So, I think there is a question. I'm not pointing it at anyone but there is a question based on what the technical committee has told us as to having different size and bag options. You know, it probably is a good idea to at least talk about the consistency along the coast. Thank you.

CHAIRMAN AUGUSTINE: Thank you, Mr. O'Reilly. Mr. Allen, response, please. If you'd help us.

MR. ALLEN: Just looking at the 2003-2004 harvest it looks as if North Carolina – and I'm not exactly sure if these are exact numbers but – had about 30 percent of the landings and were the highest harvest according to what I have right in front of me but I, like I said, I'm running through stuff right here to answer a question real quick and I'm not sure if it's exact but the harvest in 2003 and 2004 were a higher percentage. Because of the MRFSS estimate for New Jersey in 2005 they were only at 10 percent.

CHAIRMAN AUGUSTINE: Mr. Miller.

MR. MILLER: Mr. Chairman, thank you. I offered the question before and I'm going to make a comment now if I may. I honestly don't understand the rationale for more liberal creel limits from North Carolina south than the rest of the states are proposing.

I would understand that rationale if we had good evidence for stock separation but my recollection of the stock assessment reports and the TC reports are that stock separation is still an active research area, one that we cannot say definitively or we cannot conclude definitively that there is a northern stock as opposed to a southern stock. There may well be but the evidence has been unconvincing thus far.

In that regard I understand no real justification why the states from North Carolina south should have a different creel limit regime than the rest of us. Thank you.

CHAIRMAN AUGUSTINE: Mr. Miller, would you suggest changing that Line A to include or exclude North Carolina and/or include South Carolina? What

would be your preference?

MR. MILLER: Mr. Chairman, I'll give you my preference. My preference would be that from North Carolina south they adopt the minimum size limit of 12 inches which is not a requirement that Georgia change their present size limit but have 12 as a minimum and a four-fish creel limit would be my recommendation. Thank you.

CHAIRMAN AUGUSTINE: Thank you for that, Mr. Smith.

MR. SMITH: Well, only as a matter of procedure, I thought you might have to ask for a motion to amend because A.C. had accepted North Carolina into the fold of the motion. I've offered my view. I'm not prepared to offer an amendment yet. I wanted to see what other people thought.

CHAIRMAN AUGUSTINE: Well, I was waiting for more discussion on it. Thank you, Mr. Smith. Are you ready for a motion, I'm sorry, for an amendment to that? Do we have a comment from the public on what we have on the board before we move forward with that? Mr. Fote, to that point.

MR. THOMAS FOTE: Tom Fote, Jersey Coast Anglers Association. Let's look at what we did in the last amendment. I mean so the history is there and fairness should be looked at. Basically the tables were decided that the recreational bag limits had only, did an 18 percent reduction and we had to do a 32 percent or 33 percent reduction, I don't remember the exact figures. I'm getting a little older. My memory is not as good as it used to be.

But we were supposed to take a reduction. New Jersey, Delaware and I think Maryland when they were at 14 and 14 actually went down to a lower, took a real reduction. What was at the time was four fish at 12 inches. So that was not a reduction.

Somehow Maryland, New Jersey and Delaware took a reduction under that and all of a sudden we went from – because they were all supposed to be conservation equivalency – we went to seven fish at 12 inches. So we actually took a reduction in those states above when they had that larger size and did an increase in the states below.

So now what you're proposing is basically the state of North Carolina who basically did not take a reduction but got an increase is back to status quo where they are for Amendment 5 when New Jersey because they didn't want to go to 12 inches which

could have actually have been, if you look at the conservation equivalency, a lot more liberal, decided we'll stay at the 13 because we want to be more conservative but now you're basically going to penalize them to say they have to stay at 13 inches because they didn't do it.

Now, I know the policy of this board all the boards of the commission is not to penalize people for being more conservative. Now, I don't think New Jersey would want to go to a 12-inch fish, anyway. But by exempting North Carolina this sends a real question of fairness to the other states that actually took a reduction under their last amendment while Virginia, North Carolina, actually liberalized.

Now, and also, you know, we can't do nothing about 205. You know 205, that's one of those outlier numbers, that 1.3 million at the same time, New York caught 194 fish. And the same thing happens in New York in blackfish in 2002 where they caught, you know, in a two-month period more fish than they caught in six years.

I mean, those numbers are there. We don't throw them out. We still use them. And it really hurts when we do this, like the estimate right now when we look at North Carolina in 2003 and 2004 they're making up 30 percent of the fishery and because of the outlier, that huge number in 2005, they're only 10 percent of the fishery. If they're a major player in the game, at least we all should be at the same creel limit. Thank you.

CHAIRMAN AUGUSTINE: Thank you, Tom. Mr. Smith, would you like to make a friendly amendment or do you want to go –

MR. SMITH: No. **I move to amend to strike the words in Item 1A, to strike the words "and North Carolina".**

CHAIRMAN AUGUSTINE: Do I have a second?

MR. BRIAN CULHANE: Second.

CHAIRMAN AUGUSTINE: I'm sorry; yes, Mr. Culhane. Discussion or objections. I see an objection, Dr. Daniel. Need for further discussion? We need to vote on it. Do you need a caucus? Thirty seconds. Fifteen seconds, if you will please return to your seats, please.

All right, and the motion is to move to amend the motion in Section 1A to strike the words "and North Carolina". Motion by Mr. Smith; seconded by Mr.

Culhane. All in favor of that motion please raise your right hand; thank you; opposed, same sign; null votes; abstentions; one null; abstentions; none. **The motion carries 12 in favor, 2 opposed, 1 null and no abstentions.**

Okay, let's go on to the whole next section. Section 3B and C. I'm sorry – are we okay now? Are there any objections to B and/or C? Seeing two, Mr. McCloy would you like to talk to that and Mr. O'Reilly followed by Mr. Boyles.

MR. McCLOY: Not an objection at this time, just a question, we've removed North Carolina from A. Have we approved A?

CHAIRMAN AUGUSTINE: We removed them but we didn't pass a motion to approve that. As it is right now we didn't have any further objections to it so it's a stand-alone as a part of this whole motion. So we shouldn't be dealing with it again. Go ahead, Mr. O'Shea.

EXECUTIVE DIRECTOR O'SHEA: Well, Mr. Chairman, what I understood your strategy was going to be was to take this motion in sections, walk through it and entertain amendments or changes to particular sections of the motion. And, having completed that, you would then have a motion to approve the whole, you know, the whole package. So, I, maybe the question that's being asked, is there still an opportunity for somebody to change the contents of Line A. Maybe that's the question that's being asked to you, Mr. Chairman.

CHAIRMAN AUGUSTINE: If that is the question then, yes, there is.

MR. McCLOY: Yes, that is the question based on my earlier comments.

CHAIRMAN AUGUSTINE: Yes.

MR. McCLOY: Thank you.

CHAIRMAN AUGUSTINE: We have Mr. O'Reilly and Mr. Boyles.

MR. O'REILLY: Yes, I voted against the last motion because I really don't think conservation equivalency has ever been a satisfactory premise for the recreational fishery. Certainly one form of conservation equivalency used to be 12 and 4 or 14 and 10 which went to 14 and 14, 13 and 6. It's all based on equilibrium modeling. I've never heard the technical committee say that equilibrium really

applies here so I'm a proponent of at least until better news comes ahead sort of coastwide bag limits.

CHAIRMAN AUGUSTINE: Thank you, Mr. O'Reilly.

MR. O'REILLY: Identical coastwide bag limits.

CHAIRMAN AUGUSTINE: Thank you, Mr. O'Reilly. Mr. Boyles.

MR. BOYLES: Thank you, Mr. Chairman. To Item B as I discussed earlier during the de minimis discussion, the state of South Carolina does take its obligations seriously. And my understanding of what we were trying to achieve here was a reduction in the take, and particularly from South Carolina's perspective a reduction in the take of the recreational fishery.

As I described earlier, we do have legislation that is before our general assembly now. And based on historical data the proposal that we have put forth to the South Carolina general assembly of a 10-fish, 12-inch minimum size, the 10-fish bag would result in a 43 percent reduction in weakfish take. And although these are not additive, the 12-inch minimum size would result in a 17 percent take.

So we have some difficulty, I have some concerns about going to my elected officials and trying to preserve the credibility of our process here at the commission and prescribing uniform size and bag limits simply on the basis of, that I just can't justify. So, I would speak against Item B at this point.

CHAIRMAN AUGUSTINE: Thank you. Further comments from the board. Mr. O'Reilly.

MR. O'REILLY: Just for my clarification, I thought we were talking about uniform bag limits.

CHAIRMAN AUGUSTINE: We are.

MR. O'REILLY: Not size.

CHAIRMAN AUGUSTINE: Would you, Mr. Boyles, did you want to consider amending that motion or even though you're going to speak against it?

MR. BOYLES: I would make the motion that we delete Item B on the basis of the calculations are based on 127 observations, 127 fish.

CHAIRMAN AUGUSTINE: Do I have a second to

that motion? Seeing none, no further consideration. Mr. Smith.

MR. SMITH: I wonder, Mr. Chairman, if – oh, never mind. It's going to look self-serving. I was about to suggest that perhaps this motion embody the point that de minimis states could maintain status quo. That would solve South Carolina's problem but it's going to look like Connecticut was sticking up for itself because we're de minimis and we're going to go with the four fish limit if that should pass so I can't in good conscience offer that motion. Sorry.

CHAIRMAN AUGUSTINE: Well, thank you for that point, Mr. Smith. Maybe another board member might want to consider that as something we could put in there to clarify the situation. It would be self-serving of Connecticut. We wouldn't get any benefit in New York. Thank you. Any further comment on that point? How about Line 3, is there any further comment on – well, C or D? From the board first and then to the public, Mr. McCloy and then Dr. Daniel.

MR. McCLOY: Thank you, Mr. Chairman. I think the intent of the overall motion is good. We all want to see the stock recover. We also have to recognize, and I think we all do, that fishing mortality is not the issue right now, it's natural mortality. So, fishermen will be, again, once again, interpreting this as they're going to be the, the impact of management will once again rest on their shoulders when all those other issues that we all hear about all the time aren't being addressed at all.

And, as I said, there is merit in trying to set the stage for recovery if natural mortality should be diminished. And as in that light I would like to **offer an amendment to this motion setting the bag limit at six as opposed to four**. The four was based on your 25 percent reduction which was I think an arbitrary number that the board looked at along with 50, 75 percent and 100 percent. Thank you.

CHAIRMAN AUGUSTINE: Do I have a second to that motion? Dr. Daniel, seconded by Dr. Daniel. Discussion on the change. Dr. Daniel.

DR. DANIEL: Well, I think that's a good compromise. I also think, though, before we get too far away that Eric's suggestion for de minimis states to maintain status quo with the idea that, with the understanding that South Carolina would be implementing a bag and size limit would help them as well. So, I would support making that change before we get too much further down online.

But I agree. And the main reason, and maybe this is self-serving, but I mean North Carolina has done a tremendous amount in reductions in the commercial fishing community and so I don't want to take anything away from that. But here we are reducing the recreational side and maintaining for the most part status quo on the commercial side.

And I think we're going to meet with some resistance to that. And I think to try to get us closer to status quo but having some controls on the fishery in the, with the idea that once natural mortality changes for whatever reason we'll start to see an increase, I think we're better served doing it that way than having such a disparate management approach between the recs and the commercials.

CHAIRMAN AUGUSTINE: Thank you, Dr. Daniel. Mr. Carpenter, would you consider adding that de minimis language so we wouldn't have to go through a motion process about those states that have it? I'm sorry. I guess we have to address the motion, first. I was going to try a new method of skirting around this stuff we learned yesterday. Let's address this motion. Are there any further comments to that motion by Mr. McCloy? From the public to that point? Just on that motion, Mr. Fote.

MR. FOTE: I think that's fairer, the six fish at 12 inches. But the problem, again, as I stated before, when the states of Delaware – now, I don't think that New Jersey or Delaware wants to go to 12 inches but they were more conservative when they could have gone to the 12 inch.

And you're now penalizing them for not being – and you really don't do that under the plans. Because under Amendment 5 they could have either opted for, what they did was stay at 13 inches and a bag limit. And they could have gone to seven fish at 12 inches and they decided not to do that.

So, I mean this motion is saying you stay status quo where you are. And you know it's again and fairness and equitable thing. Yes, I understand the commercial fishery. I also understand, New Jersey had a huge commercial fishery that basically was part of what was there, the North Carolina, the trawl fishery.

And we've done away with that and taken a huge hit and took a reduction. But, again, it's going to be harder to sell because as, again, people are going to look at this and see only on the rec side. If it was more fair and equitable, I say it should be. They could allow them to go with what they could have

done with Amendment 5.

Because that's, you know, that's really being fair here. We could have went to four at seven, I mean 12 inches at seven fish. We did not. We wanted to stay more conservative because the 13 was more conservative. And now we're penalized for doing that.

CHAIRMAN AUGUSTINE: Thank you for those comments. Mr. Boyles to that point.

MR. BOYLES: No, sir, Mr. Chairman. I'd like a motion to postpone this discussion for 15 minutes to bring something else back up.

CHAIRMAN AUGUSTINE: Board approval? We have time. Is the information of such essence that it will change the direction we're going or will it just add to the body of information we have to help us make a better decision?

MR. BOYLES: Mr. Chairman, I do believe it is germane. What I would propose we discuss is the question of de minimis states and I think it will clarify how we end up dealing with Mr. McCloy's motion.

CHAIRMAN AUGUSTINE: Are there any objections from the board? Seeing none, could you do it in 10 minutes?

MR. BOYLES: Yes, sir.

CHAIRMAN AUGUSTINE: Okay, thank you. We'll take a 10-minute recess.

(Whereupon, a brief recess was observed.)

CHAIRMAN AUGUSTINE: Would you all come back to your seats, please. We've taken about 12 minutes to do this and I think we have a solution to our slight dilemma here. All right, we're ready to get back to work here. We have to dispense with the motion up there that's on the floor, move to amend Section 1C to replace four-fish creel limit with a six-fish creel limit, motion by Mr. McCloy, seconded by Dr. Daniel. I think, is there any objection to that motion? Okay, we see objections so let's call for a vote.

MR. SMITH: Well, comment on the motion.

CHAIRMAN AUGUSTINE: Mr. Smith, do you want to comment right now?

MR. SMITH: Yes, thank you.

CHAIRMAN AUGUSTINE: Okay, comment on that.

MR. SMITH: I understand the desire to try and make this as painless as possible but I also understand that what we're really trying to do here is provide some caps that leave as many, when a stock is in low condition leave as many of the fish in the water with the hope that that will enhance the prospect for a recovery when M declines.

And if most states kind of go down one fish, two fish, I'm a little concerned that that's a lot of effort for a very little response so, I think I'm more comfortable with that four. And that would be the way I would vote. Thank you.

CHAIRMAN AUGUSTINE: All right, further comments. Mr. O'Reilly, in favor of or against?

MR. O'REILLY: I'm in favor of what Eric just said, the four fish.

CHAIRMAN AUGUSTINE: Okay, well –

MR. O'REILLY: And the reason is that we haven't seen a slide of it, well, two reasons. The first reason is when I read through the minutes of the past meeting there was mention that the recreational fishery essentially leads in the exploitation of the stock. And I think that's the first time since 1989. So I really do pay attention to that.

The second is I know you've heard a lot about what went on before with conservation equivalency but my knowledge is that the conservation equivalency on the recreational side was not to the same extent on the commercial and by that I just mean the methodology. I don't mean that there weren't some sacrifices in the past on the recreational fishery. But concerning the methodology and the fact that equilibrium models was used it's much different. And I think that with those two factors a four-fish limit is more appropriate.

CHAIRMAN AUGUSTINE: Thank you. And board members in favor of the motion, anyone care to comment? Dr. Daniel.

DR. DANIEL: Well, I agree with Rob from the historical perspective of how the reductions were calculated between the commercial and the recreational. The fact remains is we're dealing with this issue today, seven-eight years hence we made

those determinations. And so the perspective is going to be that we're reducing the recreational fishery and we're not reducing the commercial fishery. And I just think we need to be cognizant of that.

I think what Mr. McCloy's motion does is it puts some slight adjustments on the recreational fishery and then hopefully we can move into the bycatch allowances, reducing those down to the historical 150 which is a little something on the commercial side with the overall coastwide cap and we accomplish what I think is a good compromise based on the technical committee's report of not knowing what the reductions in F are going to do without a concominate reduction in M.

CHAIRMAN AUGUSTINE: Thank you, Dr. Daniel. Further comments, if not, ready to vote? Caucus for 30 seconds to a minute. Okay, those in favor of the motion – do you need to read the motion again or do you have it? Motion to, move to amend Section 1C to replace four-fish creel limit with a six-fish creel limit.

Motion by, made by Mr. McCloy, seconded by Dr. Daniel. Those in favor of the motion please signify by raising your right hand; thank you; opposed to the motion, same sign; thank you; null votes, same sign; zero; abstentions; zero. **The motion carries 10 yes, 5 no, 0 null, 0 abstained.** Mr. Boyles, I believe you have a motion you would like to entertain.

MR. BOYLES: Yes, sir, Mr. Chairman. Thank you. I would **move to strike Item 1A and B and replace it with the following: that southeastern states which are de minimis will remain status quo with the understanding that South Carolina is pursuing creel and size limits in their legislature.** Okay, I can't read it again because my script was just taken.

CHAIRMAN AUGUSTINE: I thought you were going to pull a senior moment. And Mr. Carpenter I believe is going to second that motion.

MR. CARPENTER: As I understand it I think I'd be willing to accept that as a friendly amendment.

CHAIRMAN AUGUSTINE: Thank you. All right, comments to the new motion. Make sure you understand it. Mr. Colvin.

MR. GORDON C. COLVIN: Just for the record, the seconder also accepts it as a friendly amendment.

CHAIRMAN AUGUSTINE: Thank you, the

seconder also accepted that. Thank you for that clarification. Anyone opposed to this motion? Mr. Pope.

MR. GIL POPE: Which of the southeastern states? Can you name them?

CHAIRMAN AUGUSTINE: A clarification, Mr. Boyles.

MR. BOYLES: Yes, sir, as it stands now, Florida, Georgia, and South Carolina.

CHAIRMAN AUGUSTINE: Clear, Mr. Pope?

MR. POPE: Yes.

CHAIRMAN AUGUSTINE: Okay, further questions to the motion. Any objection to the motion? Joe, do you need it read into the record? Okay, seeing none, approved by consensus. Let's wait until she gets that in place. Mr. Boyles. Mr. Carpenter, I think there is something missing here.

MR. CARPENTER: Yes, I think the motion needs to say that the de minimis southeastern states.

MR. BOYLES: Yes, sir, that is correct.

CHAIRMAN AUGUSTINE: Thank you for that clarification. Could we put, add de minimis in there?

MR. CARPENTER: Start the sentence with "the de minimis southeastern states". Thank you.

CHAIRMAN AUGUSTINE: Thank you for that clarification. How does it read now to the maker of the motion? Seconder?

MR. BOYLES: Mr. Chairman, yes, -- that's right. That's my intent.

CHAIRMAN AUGUSTINE: Is that clear with your, Mr. Carpenter?

MR. CARPENTER: Yes.

CHAIRMAN AUGUSTINE: All right, fine. We're ready to go forward, then. Remember, at the end of the second section, when we go through the commercial fishery, we'll be asking for a motion to approve the whole of it. Now let's move on to Item 2 for the commercial fishery. Oh, I'm sorry. A clarification? Bob.

MR. BEAL: No, I just had a question on Item 2

when you're ready for that.

CHAIRMAN AUGUSTINE: Yes, please go.

MR. BEAL: A.C., when you were originally making the motion you chose the word "cap" for the commercial fishery. Is this intended to be a quota where we will monitor that and close down the fishery once this occurs? Or is this more operational, similar to a trigger where once that amount is landed in a certain year we'll look into the regulations and modify them in subsequent years?

CHAIRMAN AUGUSTINE: Mr. Carpenter.

MR. CARPENTER: I think it is more in terms of a trigger or a point at which we will monitor this. I don't expect in-season monitoring to occur and shutting a fishery down. I think there is enough opportunity for the data to catch up to the fishery and time for us to react to it rather than try to have a daily quota monitoring system.

CHAIRMAN AUGUSTINE: Does that answer your question, Mr. Beal? Okay, would the maker of the motion, Mr. Carpenter, please comment on the second part of his motion.

MR. CARPENTER: The purpose here is, as I said earlier, to put an upper bound with conditions on it that would prevent the fishery from exploding too rapidly and also it would, if we monitor the fishery it will be using the commercial fisheries to monitor and help us get the data we need to figure this thing out.

It will minimize any discard mortality that would be associated with any kind of drastic changes in this commercial fishery. And I think it sends the same signal to the commercial fishery that we've just done with the recreational fishery in that this is not an unboundless resource that we have.

CHAIRMAN AUGUSTINE: To the motion, Dr. Daniel.

DR. DANIEL: Yes, I would just suggest for, maybe for the board's consideration that we make B, C and add a B that would reduce the commercial bycatch allowance back to the 150 pounds for all our fisheries. You know, as Rob stated in the recreational side we were talking, you know, we were in the euphoria stage in Amendment 4 when we increased that to 300 pounds.

That met with a lot of resistance from the board. It was a close vote. But I think in the conditions that

we're in now by having some slight reductions on the recreational fishery I would suggest that we take that action and that would be, that way our 150 would be consistent across the shrimp trawl fishery and all the other bycatch fisheries as well, if the board would agree to that.

CHAIRMAN AUGUSTINE: Dr. Daniel, would you suggest that as a friendly addition by the maker of the motion?

DR. DANIEL: Yes. I would make that as a **friendly amendment to add a reduction of the 300 pound bycatch allowance to 150 for all bycatch fisheries.**

CHAIRMAN AUGUSTINE: Thank you. And is that okay with the seconder? Does the – the seconder agrees?

MR. CARPENTER: That's a friendly amendment.

CHAIRMAN AUGUSTINE: Okay, fine. And, Mr. Colvin,

MR. COLVIN: Agreed.

CHAIRMAN AUGUSTINE: Thank you. Let the record show the change. Any further or are there any objections to the motion? Is that your point, Dr. Daniel? Is that clear? Mr. Carpenter? And Mr. Colvin? Okay, fine. The record is clear. Are there any objections to the motion that has been restated? No, we're just doing the second part on the commercial part. All right, any comments from the board? Mr. McCloy and then I'll come out to you. Mr. McCloy and then Mr. O'Reilly.

MR. McCLOY: Maybe a question and then a comment. Since A.C. indicated that this cap was being looked at more as a trigger, do we need to add something in the motion that reflects that and clarifies it? And the second part of my comment is a question regarding, you know, by what mechanism then do we take additional management measures? And what's the anticipated length of time that will require?

CHAIRMAN AUGUSTINE: Two very good points. Mr. Carpenter, would you like to respond, please?

MR. CARPENTER: I think that the language that I have there that starts with the words "these recreational and commercial management measures will be reevaluated" I think clarifies my intent that this is a trigger-type mechanism. And my expectation would be that once either one of those

triggers is pulled then we would start through an addendum process. And I think we'd have enough data and background that we should be able to react within a relatively short period of time.

CHAIRMAN AUGUSTINE: Thank you, Mr. Carpenter. Would you feel more comfortable, Mr. McCloy, if we added the word "trigger" in there or some language that would clarify it in your mind so you'd have a comfort level that you could support it?

MR. McCLOY: That's fine if we do have the record of this meeting, also, whatever the board's pleasure is.

CHAIRMAN AUGUSTINE: Thank you, Mr. McCloy. I'm sorry, who is, someone else had their hand up? I think that was it. I'm sorry – Mr. O'Reilly, please.

MR. O'REILLY: I just wanted to ask concerning the addition that was made on the bycatch allowance. Will that be consistent to the language in Amendment 4 which indicates that states may allow fishermen targeting species other than weakfish to possess more than, and of course it's 300 pounds in Amendment 4 so that would be 150 per day or trip which is ever longer, as allowable bycatch. And then it goes on from there to talk about fishermen are permitted this 300 pound which would be now 150 pound allowance. Is that the indication? Okay.

CHAIRMAN AUGUSTINE: Nichola, can we ask for clarification on that or Bob, either one?

MR. BEAL: My understanding is that the intent of Section 2B would be to modify that language, Rob, replacing 300 with 150 pounds.

CHAIRMAN AUGUSTINE: Thank you for that clarification. Any other questions? Any other objections? Seeing none, we go to the audience. Mr. McKeon followed by Mr. Leo. Come on up and identify yourselves, please. This is on the motion.

MR. McKEON: Sean McKeon, North Carolina Fisheries Association. Thank you, Pat, for the opportunity to comment. First, I'd like to say that I agree with someone who talked before that I think that current measures are sufficient to achieve the same objective.

But, having listened to the clarifications about whether or not this is a, the cap will trigger a closing down of a fishery or not, we would certainly be comfortable with a parenthetical, perhaps, as the

gentleman from New Jersey said, clarifying that, although I certainly trust your interpretation and your intent.

But I do also want to point out that the maker of the motion also began his explanation or his discussion with reference to striped bass. And I would, I certainly don't have to tell this board that we have some particular concerns with that as that is a fully-recovered fishery for 11 years that we're not allowed to possess or catch one in the EEZ.

And I would hope that those who have argued that the lack of landings is the indicator or is the thrust of why they would like to reduce the catch of weakfish, that if – if – the cap is reached, and certainly or rather when the cap is reached or when this fishery returns I hope that they're consistent with their arguments that landings do not equal, increased landings would not equal to having to reduce the fishery.

So, we would not have a problem with the motion. I would ask that you clarify that this particular cap is, the intent of that cap is to come back and reevaluate. Thank you.

CHAIRMAN AUGUSTINE: Thank you. Your comments are so noted. Mr. Leo.

MR. ARNOLD LEO: Thanks. Arnold Leo, Division of Commercial Fisheries, Town of East Hampton. I think it has been amply stated that the weakfish population is really being driven by natural mortality, otherwise known as striped bass to the commercial fishermen. And, therefore, conservative measures are being proposed except that they're not conservative.

We're using a, the five-year period that is practically the lowest landings rather than the one that would truly be conservative, 1999 to 2003. That would be conservative rather than extreme. And we're, in addition, proposing to cut the bycatch allowance in half. That's not conservative. That's extreme. A reduction by 20 or 25 percent would be conservative.

So I want you to know that in the eyes of the commercial fishermen you're taking extreme measures that are not called for by the data before you and we object to that. Thank you.

CHAIRMAN AUGUSTINE: Thank you, Mr. Leo. Any further comments from the board? Mr. O'Reilly.

MR. O'REILLY: I think this is an administrative situation and I wanted to wait to bring it up but I ran

the Virginia data for all of the time periods that staff provided in the addendum. And there is a consistent difference, a consistent bias to those data. And I don't know what was used. What I used was our landings data after they are certified by the National Marine Fisheries Service, usually by April 1 for every year.

If the staff who put this together used existing data that was submitted sometimes when it was preliminary, I don't know. I mean I think ideally you would say that all of the cap and any of the shares should be based on the published National Marine Fisheries Service data. That would be ideal.

However, in Virginia, and I don't know whether other states are experiencing this, since 2004 there have been some problems with the National Marine Fisheries Service data that we've been working on – and we have advised you of this before – where essentially some double-counting goes on.

So there may be a little revision that might be needed. And I'm seeking direction on how to do that. I don't know whether it's particular to Virginia or whether other states looked at this information as well. But for every year's worth of landings it is consistently lower than what I derive from running the landings myself.

CHAIRMAN AUGUSTINE: Thank you for that. Mr. Allen, would you respond to it or do you have an answer or should we just say, "Thank you very much for that question"?

MR. ALLEN: I would assume, Rob, that no matter what the board comes up with it will have to go back in front of the technical committee to find out exactly what those, the time period, if it's 2000 to 2004, exactly what those landing – and each state would be able to provide what they think are the landings at that time.

CHAIRMAN AUGUSTINE: Mr. Carpenter and then Mr. Meyers.

MR. CARPENTER: And to that point, the table does include PRFC and PRFC has no landings. We only have harvest. Landings occur in either Maryland or Virginia so that needs to be recognized by whoever is going to do this analysis. And it may be that that's part of the problem that you are seeing, Rob, between the published numbers and what your harvest records indicate, that it could be part of it.

CHAIRMAN AUGUSTINE: Thank you for that

clarification, Mr. Carpenter. Mr. Meyers.

MR. MEYERS: Thank you, Mr. Chairman. We will go back to our office of Science and Technology and do a scrub on the numbers to make sure that everything is up-to-date and proper. And we will get back to this board with any changes that need to be made. Thank you.

CHAIRMAN AUGUSTINE: Thank you for that commitment and help, Mr. Meyers. Okay, no further discussions or objection to? Can we caucus? Looking for a vote on this. Let's caucus for a minute. We have some, this is the whole motion, now. I stand corrected, as usual. These senior moments are tough when you get older.

The whole has been perfected. What you see is what you get. This is the final, final. So, one minute caucus. Do you want us to read it into the record? Boy, you're really going to test me now. Okay, we'll do it. Start at the top.

Move to approve the following management measures under Addendum II of the Weakfish Plan. One, for the recreational fishery: A, the de minimis southeastern states, Florida, Georgia, South Carolina, will remain status quo with the understanding that South Carolina is pursuing creel and size limits in the legislature; B, all other jurisdictions maintain fishing size limits and adopt a six-fish creel limit; C no seasonal closures;

Point 2, for the commercial fishery: A, adopt a coastwide commercial cap based on the mean of the five-year period of 2000 to 2004 (3.75 million); B, reduce the commercial bycatch allowance to 150 pounds per trip; C, all other commercial regulations would remain as they are now.

And, finally, these recreational and commercial management measures will be reevaluated when either the coastwide commercial landings equal or exceed 80 percent of the cap or any single state's landings exceed their five-year mean by more than 25 percent in any single year. Motion made by Mr. Carpenter; seconded by Mr. Colvin. All right, now we can caucus. One minute. Mr. O'Shea.

EXECUTIVE DIRECTOR O'SHEA: Thanks, Mr. Chairman. And just it will be our understanding that in approving this, which is essentially the contents of Addendum II, you would be in effect approving Addendum II. If that's the understanding I don't think you would need to take a vote to then approve Addendum II. So this is the contents and – the staff

is interpreting this to be the content, the board's intent to approve the contents and this as Addendum II.

CHAIRMAN AUGUSTINE: You always throw me a curve at the last minute. I still think we need a vote for the record. Mr. Smith has his hand up.

MR. SMITH: I actually agree only in the sense, I mean I agree with you, Mr. Chairman, because I think there are a couple of other things we have to do like the implementation date and other things that are part of the overall addendum that aren't necessarily the management measures, so.

CHAIRMAN AUGUSTINE: Thank you for that clarification. Okay, all in favor of the motion as read, please raise your right hand; thank you; those opposed, same sign; null votes; abstentions; so noted, one. **The motion carries 13 yes, 0 no, 0 null, 1 abstention.** Thank you. All right, now if you will refer back to your agenda – oh, we need to do something else. Oh, yes, the implementation date. Have you picked that out? Okay, Mr. Beal, do you have something in mind for us?

MR. BEAL: Sure. Assuming that the management board will be able or the states will be able to develop their proposals and have them reviewed prior to the next meeting if the proposals are submitted by April 6<sup>th</sup> of 2007 that will give approximately one month for the technical committee to review those proposals and provide feedback to the management board at the Spring ASMFC meeting.

The next date as far as states implementing, that's a little bit more difficult to project as staff in that, you know, some states take longer than others. So probably some – I think New York indicated the other day when we were having this discussion for tautog that they needed about six months to do this. So, that takes you into October sometime, so probably a little bit of discussion around the table as to how long it will take.

CHAIRMAN AUGUSTINE: Well, why don't we ask states who feel they are going to have issues to deal with – Mr. Smith and Gordon, do you want to add to what we've already heard? Mr. Smith.

MR. SMITH: Thank you. That's normally the process we go through and I understand that. But I think that's always because there are some variation on what states are allowed; they have to go back, poll their members and so forth. But in reality all these measures are hard-wired. There is no deviations.

I mean if we pass this addendum today, we've had our public comment period in the past. We've liberalized almost every measure so nobody can complain that they didn't know. I don't know why we don't pick a date that accounts for people's regulatory process as much as possible but gets on with it.

CHAIRMAN AUGUSTINE: You have a recommendation, a specific recommendation, Mr. Smith?

MR. SMITH: Yes, by some stroke of good fortune Connecticut General Assembly has authorized us to adopt anything required by an ASMFC plan in ten days but I don't think that would be fair to impose on everybody else.

CHAIRMAN AUGUSTINE: Gordon just gave us a big belly laugh.

MR. SMITH: So I guess I'm not the one to ask for the gold standard.

CHAIRMAN AUGUSTINE: Okay, Mr. Boyles, Mr. Colvin.

MR. BOYLES: Thank you, Mr. Chairman, just a reminder that some states do in fact have to go through general assembly and haven't been granted the grace that the state of Connecticut has been. As a result, most of the laws in South Carolina take effect July 1. That's presuming we can get our general assembly to act and which I feel confident we can. So, but I don't, I can't think of a time in which we've been able to enact a law prior to the beginning of our state's fiscal year.

CHAIRMAN AUGUSTINE: Okay, thank you. Mr. Colvin.

MR. COLVIN: Mr. Chairman, I would suggest that, consistent with Mr. Beal's recommendation that submissions be done approximately the 6<sup>th</sup> of April, the presumption that they be reviewed and subject to management board approval at the May meeting and then implemented thereafter, that the annual meeting of the commission would be an appropriate time by which the states could have implemented the plans that were approved in May. I think that gives ample time for rule making in most instances. So that's my suggestion. If you'd like it in the form of a motion, I'd be happy to offer it as such.

CHAIRMAN AUGUSTINE: Unless I see some

objection around the table I would suggest you put it in the form of a motion.

MR. COLVIN: I need dates for that annual Meeting.

CHAIRMAN AUGUSTINE: Dates of the Annual Meeting.

MR. COLVIN: Bob can help me out.

MR. BEAL: The Monday of the Annual Meeting is October 29<sup>th</sup>.

MR. COLVIN: Mr. Chairman, if I can offer a **motion, then, that the deadline for state submissions would be April 6<sup>th</sup> of 2007 and that the date by which states shall begin to implement the addendum will be October 29<sup>th</sup> of 2007.**

CHAIRMAN AUGUSTINE: Thank you, Mr. Colvin. Do I have a second to that motion? Yes, Mr. Berg. Okay, discussion or concerns? Mr. Smith, come on back to us.

MR. SMITH: I'm going to sound like I'm kidding, which I often do, but I'm not actually in this case. I guess I would ask, you know, it's frustrating that all of what we've gone through with weakfish and then we've just got a unanimous vote, we've had public comment on this addendum twice, I believe, once with oral and written comments, the other time with the written comment period, we've liberalized pretty much every regulation but we still want to do this, and if we adopt this schedule we forego all management conservation value if there is such a thing for all of 2007. And I find that a little frustrating.

I was hoping we would be somewhere around the suggested date that South Carolina was looking at, that we could get something meaningful in effect in the summer of this year. Now, having said that I don't honestly know what the New York regulation process is.

And if it actually means that you have to start in February and can't get done until sometime around September or October, that's unfortunate and I understand that. But, boy, that, it just seems a shame. We're just stepping into 2007 and we're talking about having a management change that doesn't go into effect, effectively, until 2008. And, boy, that's hard to swallow. Thank you.

CHAIRMAN AUGUSTINE: Thank you. Mr. Colvin, would you respond, please.

MR. COLVIN: I'm tempted to start this with "just a minute, now". And maybe this is a policy board discussion or even a full commission discussion and not a discussion for any individual management board, and it's not a new discussion; it's one we've had before. Each state's administrative procedures act is different.

And in some states there are opportunities to bypass the regulatory process for certain kinds of actions. In some states there are opportunities to implement measures by emergency or other forms of expedited rule making. And in all states there are provisions for normal rule making which, as I said before, differ in terms of their time frames and the details of their process.

In most cases, normal rule making takes months because it requires provisions for public notice and comment and opportunity to be heard. Another feature of all of our rule making processes is, no doubt, the notion that agency policy sometimes discourages a large number of small individual rule making actions and contemplates and calls upon its managers to bundle actions, and that is certainly the case in New York.

Now, we've already approved a couple of different actions this week that will require rule making. I think we've done something for tautog and now this with weakfish. And I seem to recall one or two other things that in some states will call for rule making. The rule making requirements that flow from the actions of the commission are not the only rule making that we do.

We do a lot of our own within our states for good reasons that arise within our state processes. And I have a list of pending changes that we need to develop to our marine finfish regulations this year that's as long as my arm and some of them are tough and complicated.

And there will be some expectation on the part of my division director, my general counsel and the support that I get from within that office and our commissioner's office to try to put as much of this as possible into as few as possible rule makings for them to review and approve. That's how it works.

Our freshwater fishing regulations are renewed once every two years. And you know this notion that we can, that we can micromanage our regulatory processes to jump through hoops on short notice every time we pass a little thing is something that this

commission has got to recognize and give us some flexibility on.

And the other problem we have frequently is with the dates and the compliance requirements. Again, we have talked about this before. It takes New York a minimum of six months to go through the normal rule making process. I don't think that's unusual. You know.

And that encompasses time for, you know the required lag time between the time something gets to the state register and the date it's actually published, a 45-day minimum comment period – and that's a minimum – and then subsequent processes for publication of notices of adoption and a cooling off period before they actually go into effect. That's how the process works. And I think we all need to recognize and respect that.

CHAIRMAN AUGUSTINE: Thank you for those comments and clarification, Mr. Colvin. Any further comments around the table? Yes, Mr. McCloy.

MR. McCLOY: Thank you, Mr. Chairman. I can appreciate Mr. Colvin's situation because when we have to go through the normal rule making process it's six to nine months. However, like Mr. Smith, we have a slightly expedited process for issues that are ASMFC mandates, not quite as fast as ten days, though.

I would just like to ask Mr. Colvin or make a comment, basically the motion that was passed and the addendum that we just adopted has two things that need to be implemented within the coming year or whenever that date we settle on, one is the six-fish bag limit for the recreational fishery and a reduction of the commercial fishery from a 300-pound bycatch to a 150-pound bycatch.

In looking at Appendix 2 which lists the states' current recreational regulations in the addendum, I note that New York is listed at a six-fish bag limit already and so I guess my question is, is the commercial fishery at a 300-pound bycatch level at the moment?

CHAIRMAN AUGUSTINE: Mr. Colvin.

MR. COLVIN: It's at 300.

CHAIRMAN AUGUSTINE: It is at 300.

MR. McCLOY: Thank you.

CHAIRMAN AUGUSTINE: Any further discussion? Seeing none, is the board ready to vote? Seeing no problem, we've heard objection so do we need a caucus? No caucus, all right. Board members in favor of the motion please raise your right hand; thank you; same sign for opposed; null votes; abstentions; one abstention. **The motion carries 13 yes, 0 no, 0 nulls and 1 abstention.** Now we need I understand a **motion to accept Draft Addendum II to Amendment 4 of the Interstate Fishery Management Plan.** Mr. Carpenter, do you want to move that?

MR. CARPENTER: **So moved.**

CHAIRMAN AUGUSTINE: You are quick. Can we get that put up on the board?

MR. BEAL: Yes.

CHAIRMAN AUGUSTINE: We have a second by Mr. Culhane. I'm sorry. Any objection to the motion? Seeing none, **the motion is accepted by consent.** Thank you all for all the hard work you put into this thing. It looked like it was going to be a monster when it started out and it came together very nicely. And I appreciate the help of you board members because when you're a senior you need all the help you can get.

So, if we can move on to the next line item and I think we're back to Nichola. We have to do Item 7, review and consider approval of Draft Addendum III for public comment. Remember, this is for public comment so let's not get bogged down in minutia within the context of this. So, Nichola, if you could go forward.

#### **REVIEW AND CONSIDER APPROVAL OF DRAFT ADDENDUM III FOR PUBLIC COMMENT**

#### **REVIEW DRAFT ADDENDUM III BRD CONSISTENCY OPTIONS**

MS. MESERVE: Thank you, Mr. Chairman. Yes, this is Addendum III to Amendment 4. This started with the board in October of 2006 and is to address an inconsistency between the South Atlantic Fishery Management Council's plan and the commission's weakfish plan. Starting with Amendment 3 and continued in Amendment 4 the commission required BRDs, bycatch reduction devices, that demonstrate a 40 percent reduction in catch by number of weakfish when compared to catch rates in a naked net.

Originally the council's Shrimp Amendment 2 from 1996 required a similar 40 percent reduction in number of juvenile Spanish mackerel and weakfish. However, in 2004 the council passed Amendment 6 which changed this to a 30 percent reduction in the number of finfish, so note there was a change in the percent as well as the specification from weakfish and Spanish mackerel to all finfish.

The reasoning behind the council's action was threefold. One, during the development of Amendment 2 the Spanish mackerel and weakfish stocks were both considered overfished, after which Spanish mackerel was declared fully recovered and weakfish was no longer overfished. This weakfish, this statement about weakfish right there was based on Kahn, Des Kahn's assessment from 2002.

Second, changing the certification criteria to a general finfish reduction requirement would support the council's efforts to achieve an ecosystem approach in fisheries management. And, third, the technology devices mandated for use were estimated to reduce finfish bycatch by at least 30 percent resulting in bycatch that was not having a significant adverse affect on the finfish catch and thus the council had reduced bycatch to the extent practicable.

So the statement of the problem as it reads in the addendum is that there is inconsistency and that the commission is committed to close cooperation with the regional fishery management councils and the board is required to ensure that state and federal management programs are coordinated, consistent and complementary.

However, the changes to the South Atlantic Fishery Management Council Shrimp FMP were brought on by weakfish assessment via a VPA that has since, that was proven to be flawed, showing high biomass with low fishing mortality, and it is unclear whether the council would have made the same decision given a declining weakfish stock.

There are two management options: Option 1, status quo, maintain the language in Amendment 4 and Option 2, modifying the BRD provision of Amendment 4 to be consistent with the council's Amendment 6 to the Shrimp FMP, meaning a 30 percent reduction in the weakfish bycatch by number.

Again, if the board, right now what, how it reads in the addendum is just blanks for the implementation schedule. This would be handled later after public comments. The PDT put this addendum together and did ask that the board request the technical committee

to look at this and look at the potential effects on the weakfish stock from this change. So, again, this is just to go to public comment at this point. Thank you.

#### CONSIDER APPROVAL OF DRAFT ADDENDUM III FOR PUBLIC COMMENT

CHAIRMAN AUGUSTINE: Thank you for that. This whole addendum is strictly a one issue item. And so I'm not sure we need to add anything or subtract from it so we'll go to Dr. Daniel first.

DR. DANIEL: Yes, I'd like to go, if we can go back to the presentation, the text slide.

MS. MESERVE: The statement of the problem slide?

DR. DANIEL: Yes, well, the one where it indicated the reasoning behind – that right there. I think that may have been part of it, the however language. The big issue for us was when the fishermen tried to go out and test these devices they'd get into a position where they'd go out and they'd see good reductions in finfish but they weren't able to locate any Spanish mackerel or weakfish.

And so what happened in many instances was the fishermen would go to locations with a high level of weakfish abundance; they'd never trawl there. There are no shrimp there. But they'd trawl there in order to catch the number of weakfish that they needed in order to certify the BRD. And that created a huge problem because the BRDs were operating, you know, the BRDs were being tested in areas where you wouldn't fish.

So what we tried to do was look at these devices, come up with a reduction estimate or a percentage that we felt that the good BRDs met that didn't have tremendous shrimp loss but still achieved most of them, all of them, over a 30 percent. Some of these devices were reducing finfish bycatch by as much as 70 percent overall. But because we couldn't find any weakfish we couldn't certify the BRD.

And so that's one of the main reasons that we went, we excluded weakfish and Spanish mackerel, not having a specific species and having it be overall finfish bycatch. Understand, too, that many of the BRDs that are currently in use did achieve this reduction and they're grandfathered in to the approach and they achieve the commission's desired reduction on weakfish as well as our desired reductions on finfish.

And so I don't really expect the doors to be knocked down with people coming in and trying to test new BRDs because they've really skinned that cat. But, it does provide an opportunity. If a fisherman comes up with a new and novel approach it gives them an easier way to test those and against a set of statistical criteria that are much easier to deal with than the old one.

So, it adds to this language. I do not believe based on my involvement with the South Atlantic Council that the changes to the stock status of weakfish would have affected our decision to move forward with what we did at the council level. So for that reason I would **move that the board select the complementary measures with the South Atlantic as our preferred alternative for public meetings.**

CHAIRMAN AUGUSTINE: Thank you for that explanation, Dr. Daniel. I was wondering in listening to your description of the problem, what you said is not captured in words, if you will, within the context of the statement of the problem as it is here. And I see Mr. Boyles nodding his head.

I am wondering if it would be appropriate, as this is a public information document, to forge a sentence or two that might go in there and capture the essence of what the issue was, the problem was in that area so it would be more explanatory to those folks who do review this.

And you know, how do you want to handle that, Dr. Daniel, or Mr. Boyles? Do you want to take some time during this meeting to form up a sentence or two and then get it to Nichola and then we'll get it to the board? Or do you have something in mind that you could put on the table for us at the moment?

DR. DANIEL: No.

CHAIRMAN AUGUSTINE: Mr. Boyles, would you like to attempt that or would you prefer to wait a few minutes, or Mr. Frampton?

MR. BOYLES: I'm not sure I can wordsmith on the fly but I think it would be helpful to offer some kind of explanatory comment because that's my understanding of the nature of the problem. And I think it's important to us as a commission to be as consistent as we can where possible with the actions of the South Atlantic Council.

CHAIRMAN AUGUSTINE: Okay, thank you for that. And Mr. Beal is nodding his head. Let's see

what Mr. Beal has to add to this.

MR. BEAL: I think rather than try to do it now if we, you know, staff works with Dr. Daniel and Robert Boyles and other folks that are familiar with the South Atlantic Council language, you know, in the next week or so, I think through some e-mail traffic we can probably wrap it up and get the document out for public comment.

CHAIRMAN AUGUSTINE: That's great. Thank you very much. And then to the second point that you made, Dr. Daniel, you indicated that Option 2 would be the board's preferred option.

DR. DANIEL: Yes, I think it was Option 2.

CHAIRMAN AUGUSTINE: Yes, that's to modify the BRD provisions of Amendment 4 to be consistent with the South Atlantic Amendment 6 to the Shrimp FMP.

DR. DANIEL: That was my motion.

CHAIRMAN AUGUSTINE: That's the one. Well, I think we'd like to go for consensus from the board. Is there any objection to noting that as a preferred option? Seeing none, if we can make that notation, Nichola, and add it accordingly. Are there any other comments? Is there any objection to the amendment as it is stated? Seeing no objection – addendum, I'm sorry. Seeing none, then **by consent the amendment is approved.** Thank you. Now we need to go to the implementation schedule.

MS. MESERVE: No.

CHAIRMAN AUGUSTINE: We don't?

MS. MESERVE: After public comment the implementation schedule can be decided on.

CHAIRMAN AUGUSTINE: Oh, okay. All right, Patrick, would you –

MR. PATRICK GEER: Pat, there is a problem with the Option 2. It says, "a 30 percent reduction in weakfish bycatch" and I believe the council's overall is overall finfish bycatch. So it doesn't speak specifically to weakfish. It talks about overall bycatch, finfish bycatch.

CHAIRMAN AUGUSTINE: A clarification on that, Nichola?

MS. MESERVE: This, however, is to change the

Weakfish Plan which would only be discussing the weakfish reduction bycatch so it's the 30 percent specifically that we want to alter, I believe, unless Dr. Daniel has something to add.

CHAIRMAN AUGUSTINE: Dr. Daniel, do you want to add something to that, a clarification, clarify it?

DR. DANIEL: Yes, that doesn't really solve our problem with the South Atlantic because then folks would have to, again, go out and try to find weakfish in order to show that the device achieves the 30 percent weakfish reduction.

The feeling is a 30 percent reduction in overall finfish bycatch because weakfish are so typical in their shape and behavior in a shrimp trawl, that if you get a 30 percent reduction in overall finfish bycatch you will achieve at least a 30 percent overall reduction in weakfish bycatch.

But to say that the fishermen or the testers would have to prove 30 percent weakfish creates the problem we tried to resolve at the council level so I would appreciate it if we could have overall, 30 percent overall finfish bycatch, consistent with the South Atlantic, and not bring weakfish into it.

CHAIRMAN AUGUSTINE: Okay, Patrick.

MR. GEER: I agree with Dr. Daniel on that. And also the reason for part of this was that about 85 percent of the BRD samples have to be removed because they do not contain Spanish mackerel, enough Spanish mackerel or weakfish. So they're spending millions of dollars on this work and getting very little return of it. So the idea was if you go with a 30 percent overall reduction you're probably coming up with the same results for species-specific information.

CHAIRMAN AUGUSTINE: Thank you. Let's see we have Georgia and we have North and South Carolina in the South Atlantic so is that a problem with Florida? Is there any implications there for anything? Fine. Georgia, no problems with that? And South Carolina, no problem with that? Fine. Make the changes and then we're all set. Thank you. Now is it back to you again? Our next agenda item is under other business, approve the PRT and SAS nomination or nominations. I'm not sure what we have in terms of total numbers.

#### OTHER BUSINESS

#### APPROVE PRT/SAS NOMINATION

MS. MESERVE: There has been **one nomination for Joe Cimino – I hope I'm pronouncing that right – to be added to the Weakfish Stock Assessment Subcommittee and the Weakfish Plan Review Team.**

CHAIRMAN AUGUSTINE: Are there any objections to adding Mr. Cimino to that, this? C-i-m-i-n-o. The first name is Joe, as in Joseph. Seeing no objections, **approved by consent.** Thank you. And then the final item we are going to elect a vice chairman. And I understand that Mr. Pankowski has a motion that, to do something good here. Mr. Pankowski.

#### ELECT VICE CHAIR

MR. BERNARD PANKOWSKI: Thank you, Chairman Augustine, and thank you for recognizing me. I'd like to **nominate Roy Miller for the vice chairman of the Weakfish Management Board and close the nominations and cast one vote.**

CHAIRMAN AUGUSTINE: Thank you. Do we have a second to that? We do by Malcolm. And so we'll say it's a slam dunk without objection. Congratulations, Mr. Miller. You have become a winner. Thank you very much and thank you for that opportunity. I think that was the last – are there any other business to come before this board?

I thank you all for your indulgence going through this process this morning. I think we reached a high point in terms of what we were able to complete in this meeting. We're going to have another comment here. And Mr. Carpenter, you're to be commended above and beyond the call of duty for your one collective, massive motion to boil things down to a point where it made sense.

MR. CARPENTER: It was the skill of the chairmanship that brought it through.

CHAIRMAN AUGUSTINE: Thank you very much. You always embarrass me. Nichola has one comment.

MS. MESERVE: Toni just needs to get the motion maker and a seconder for the nomination for the record. Do you know?

CHAIRMAN AUGUSTINE: Oh, we said, we'll pick somebody. Let's see. Okay, the motion is to accept, approve the nomination of Mr. Cimino VMRC to the

Weakfish Stock Assessment Subcommittee and the Weakfish Plan Review Team. Motion by Mr. Lazar, seconded by Dr. Rhodes. And are there any objections to the motion? Go ahead, you can do it.

MS. MESERVE: There is nothing more. It was already voted upon. I just had to clarify for the record who was the motion maker and the seconder so thank you.

CHAIRMAN AUGUSTINE: Well, you always put a spin on things. It's wonderful. Any other business to come before the board? Seeing none, thank you.

(Whereupon, the Weakfish Management Board meeting adjourned at 11:40 o'clock a.m. on Thursday, February 1, 2007.)