

**PROCEEDINGS  
of the  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
SUMMER FLOUNDER, SCUP AND BLACK SEA BASS  
MANAGEMENT BOARD**



February 21, 2002  
Swissotel Washington, The Watergate  
Washington, D.C.

## ATTENDANCE

### Board Members

Preston Pate (NC)  
Jack Travelstead (VA)  
Bill Adler (MA)  
David Pierce (MA)  
Pete Jensen (MD)  
Eric Schwaab (MD)  
Ernie Beckwith (CT)  
Rick Cole (DE)  
Pat Augustine (NY)  
Gordon Colvin (NY)  
Brian Culhane (NY)  
Damon Tatem (NC)  
Bill Cole (USFWS)  
Harold Mears (NMFS)  
Bob Ross (NMFS)  
A.C. Carpenter (PRFC)  
Bruce Freeman (NJ)  
John Connell (NJ)  
David Borden (RI)  
Jerry Carvalho (RI)  
Gil Pope (RI)  
Bill Outten (MD)

### ASMFC Staff

Michael Lewis  
Bob Beal  
Laura Leach  
Tina Berger

### Guests

John Merriner  
Harry Doernte  
Jack Stallings  
Megan Agy  
Peter Burns  
Charles Lynch  
Anne Lange  
Jill Stevenson  
Robert O'Reilly  
Phil Jones

Wilson Laney  
Dan Furlong  
Ronald Smith  
Mark Hodges  
Joan Berko  
Michael Scott  
Joe Wagner  
Denise Wagner  
Jack Ferrera  
Jim Drummond

Gary Caputi  
Marla Trollan  
Tom Fote  
Tom Meyer  
Chris Moore  
Valerie Whalon

## SUMMARY OF MOTIONS

**Move to approve the Addendum VI for Black Sea Bass using table 4-A, adding a series of initial possession limits as follows: for Quarter II (1500 lbs/day, 6000 lbs/week), Quarter III (500 lbs/day, 3,000 lbs/week), Quarter IV 750lbs/day, 4000 lbs/week), including a 60% trigger.**

Motion made by Mr. Colvin, second by Dr. Pierce; Motion carries (8 in favor, 2 opposed, 1 abstention)

**Motion to amend by adding a series of initial possession limits as follows: for Quarter II (1500 lbs/day, 6000 lbs/week), Quarter III (500 lbs/day, 3,000 lbs/week), Quarter IV (750lbs/day, 4000 lbs/week), including a 60% trigger.**

Motion made by Mr. Travelstead, second by Mr. Tatem; Motion carries (11 in favor, 1 opposed)

**Motion to amend the amended motion by changing the trigger to 40%.**

Motion made by Mr. Borden, second by Mr. Jensen; Motion fails (2 in favor, 8 opposed, 2 abstention)

**Move approval of Addendum V for Scup, using option 3.**

Motion made by Mr. Borden, second by Mr. Colvin; Motion carries (7 in favor, 1 opposed, 3 abstentions).

**Motion to approve Addendum VII, option 3-B, table 3, provided that New Jersey will be exempt from the reduction provided it implements a 10-inch minimum size, a season of July 1 – October 31, and a 50 fish bag limit, and further the states of Delaware, Maryland, Virginia and North Carolina maintain their current regulations.**

Motion made by Mr. Borden, second by Mr. Augustine; Motion carries (7 in favor, 2 opposed, 3 abstentions).

**Move that states be given the option of separating their recreational fishery by mode provided that the landings estimates by mode have a maximum 30% C.V.**

Made by Dr. Pierce, second by Mr. Connell, Motion carries.

**Move approval of the proposals submitted by NC, MD, DE, NJ, CT, MA, and the second proposal by RI.**

Made by Mr. Colvin, seconded by Mr. Adler; Motion carries.

**Move approval of all four New York options.**

Made by Mr. Colvin, seconded by Mr. Jensen; 11 in favor, 1 abstention, Motion carries.

**Move to approve the Virginia proposal as follows: (1) Option 2B; (2) Option 4; (3) 15 1/2 inches 5 fish closed January 1 - March 28th and a closure of July 22nd - August 5th in the ocean, and 17 inch 8 fish closed January 1 - March 28th and closed July 22nd - August 16th in the Bay; and (4) 16 inch 5 fish closed January 1 - March 28th and a closure of July 22nd - August 5th in the ocean and 17 inches 8 fish closed January 1 - March 28th and July 22nd - August 15th in the Bay.**

Made by Mr. Travelstead, seconded by Mr. Jensen; 9 in favor, 2 null votes, 1 abstention; Motion passes.

**Move to approve the Advisory Panel nominations of Joan Berko and William Egerter III.**

Made by Mr. Connell, seconded by Mr. Carpenter; Motion carries.

**ATLANTIC STATES MARINE FISHERIES  
COMMISSION**

**SUMMER FLOUNDER, SCUP, AND BLACK  
SEA BASS MANAGEMENT BOARD**

**Swissotel Washington, The Watergate**

**Washington, D.C.**

**February 21, 2002**

The Summer Flounder, Scup and Black Sea Bass Management Board of the Atlantic States Marine Fisheries Commission convened in the Monticello Room of the Swissotel Washington, The Watergate, Washington, D.C., Thursday, February 21, 2002, and was called to order at 2:00 o'clock p.m. by Chairman Preston Pate, Jr.

CHAIRMAN PRESTON PATE, JR.: I'd like to welcome everyone and convene this meeting of the Summer Flounder, Scup, and Black Sea Bass Management Board.

We have a little bit of an unusual agenda today in that we are combining this meeting later on with a joint meeting with the Mid-Atlantic Council Demersal Committee. Some of those members are already here, and we would certainly welcome them to join us at the table now, if they choose to do so.

Otherwise, we will ask them to join us at the time that we are scheduled to convene that joint effort. My intention today is to go through the agenda that is set for the board meeting up until 4:00 o'clock, which is the time scheduled for the joint meeting.

If the Board has not concluded its business at that time, we will suspend the business of the board, convene the joint meeting, conclude those agenda items and reconvene the Board to finish out our agenda.

We have a lot of work to do today. There are several addendums to the plan that we have debated over a number of meetings, and they still contain some reasonably contentious issues that we're going to have to resolve.

We have a lot to do in a very short period of time, and I will admonish the board to try and assist me in keeping us on schedule, particularly since we're already a half an hour behind schedule, so that we can move through the agenda efficiently and effectively and avoid having to go so late at night.

I have a room in this hotel tonight, so it really doesn't matter to me, but I'm sure there are many of you that want to leave and even though I don't have a pressing need to leave, I would like to get through at a reasonable hour tonight.

So let's begin, and I'll just note for the record that there appears to be a quorum. We'll pass around a sign up sheet just to ensure that there is. If you'll sign that, please, I would appreciate it.

The first item on our agenda is the approval of the agenda. If there are no additions to the agenda or modifications that Board members would like to see, I'll take that as a consensus statement of approval.

The next item is approval of minutes from the December 11, 2001, meeting. Motion to approve by Pat Augustine and a second by Bill Adler. Any objections? Seeing no objections, consider the minutes approved.

Now is the time for public comment on any of the issues that are before the Board today. Are there any members of the public that would like to speak at this time? Yes, sir, if you'll come up to the microphone please at the end of this table and identify yourself for the record.

MR. JOSEPH WAGNER: I would just like to make a couple comments on the sea bass. I'm Joseph Wagner. I'm a pot fishermen from New Jersey and I have been for about twenty-some years.

Everybody kind of knows the way things have been going with the closures and all, and the whole reason I'm here today is that we need to do something drastic and everybody realizes that. We've been trying all different things. Nothing is working.

We need to try something different. I really think that we need to go with a state by state on this so we can

stop the closures.

Anything else we do -- we can cut the trip limits down. All that's doing is taking a full-time fisherman like myself and making him a part-time fisherman that cannot sustain a living off of being a part-time fishermen.

If I could, that's what I would be, a part-time fisherman, and that's what I have been made to be by the way the laws have been going. I feel as if we can get this state by state -- I know the federal side is pushing for it, but I would like to see it implemented here today, that when the second quarter opens up, because that's where our problems start.

The first quarter is not a problem. Second, third and fourth quarters are the problems. If we can make it state by state in those quarters, we can remain to keep the season open and keep a steady flow of fish coming in on the market, get back some of our lost markets and get away with not having any closed seasons.

I hear people talk about the pots, how bad they are being out there and not being fished. We'll do away with that whole problem. Some people suggested we'll have to bring our gear in, maybe, when the seasons close.

Well, people who talk like that don't know nothing about pot fishing. You just can't do that. It won't work.

It won't work for many different reasons. I won't even get into that part.

But you won't have that problem if we can manage this in a way that we can bring in the fish.

If it's state by state and my state just gets whatever amount of pounds, we're going to be able to control it a lot better, and we'll catch the fish the way we see fit. Instead of putting out a lot of gear, we'll only put a little bit out, and the fish will come in in different intervals.

We won't have this problem with these closures and then everybody goes, and a lot of fish come in all at once. We're fighting amongst ourselves because the hook-and-line guys think the pot guys are catching all the quota and visa versa.

So I'm not going to keep rambling on, but I really think that we need to try this state by state. I don't see why

we can't do it. I know it's some paperwork and all that stuff, but everything is paperwork.

It just hasn't been working the way it's been going, and eventually it may go that way -- if nothing else, try a state by state for at least one quarter and see how it works out.

I mean we've tried these other things, but cutting us back on these trip limits for someone like myself, if you cut me back to a thousand pound-a-day trip limit, we're running 30, 40 miles.

We're not running two or three miles to get our fish. I mean, I have got a \$200 a day expense just in fuel, and when we're back and forth for a thousand pounds today and a thousand pounds tomorrow, when we could have got the 2000 pounds at once, it doesn't make economical -- it's not good for the environment.

We're burning more fuel and everything when we're doing it this way. I mean, I think the fishermen should be allowed to bring in the fish that they see fit to bring them in at the time, and the way it is with the closures, it's just not working.

Everybody knows that. So I'm not going to keep rambling on, but I really would like to see something as quick as we could to go to state by state. And if it can't go state by state, well, then, I would like to leave it the way it is, a 2000 pound trip limit, the federal thing, and if we catch them, we catch them. Thank you very much.

CHAIRMAN PATE: Thank you. Did you say where you were from?

MR. WAGNER: I'm from New Jersey.

CHAIRMAN PATE: Okay, thank you.

MR. WAGNER: One quick thing, I would like to make a note that there were about twenty of us in New Jersey that were pot fishermen. We're down to two sea bass fishermen. There have been about ten of us that dropped out of it just in the last year or two, and we're just hanging on the way we're going.

So it's not like this is a growing fishery, and the only

reason that these boats, a lot of them, are out of business is on account of the way the laws are.

CHAIRMAN PATE: Now that there are only two, is it still hard to get an agreement between the two on what has to be done?

MR. WAGNER: No, we never had a hard time getting an agreement amongst the fishermen on what had to be done to start with. It just seems like of it -- the politics is the problem. First of all, there's nothing wrong with the stock to start with. That's the whole problem. Thank you.

CHAIRMAN PATE: Thank you for your comments. Yes, sir.

MR. MIKE SCOTT: Mike Scott, Point Pleasant, New Jersey. Like Joe said, him and me are the only two guys left. I agree 100 percent with what Joe said, and I think this Addendum VI should be just thrown out.

Everything should just stay the way it is until we get the state by state. That's the only thing that's going to cure it. Everything else you've tried has failed, and in each section of the coast here, everybody travels different mileage in wherever they go to catch their fish.

Every state's fishery is a little bit different than the other, so I think a state by state would be the best way to control this fishery. Thank you.

CHAIRMAN PATE: Tom.

MR. TOM FOTE: Tom Fote, Jersey Coast Anglers Association. We were at the public hearing with the commercial fishermen and fully support this prospect.

We want to state what they basically just stated, use the 2000 pound trip limit and basically go by state-by-state quota. This is where we're trying to work out, in our state, how to handle the fishery. It's a cooperative between the commercial and the recreational, and the plan just doesn't really allow that. Thank you for your time.

CHAIRMAN PATE: Thank you, Tom.

MR. MICHAEL LEWIS: Thank you, Mr. Chairman. I

just want to remind everybody in the audience, if you are interested in commenting on some of the things that are going to be Amendment 13 to the black sea bass plan, which includes a state-by-state option, there will be public hearings on that, I think in mid-March.

I'm not quite sure about the exact dates yet, but they will be advertised, and please definitely come to that and make sure we get your comments then as well.

CHAIRMAN PATE: Thank you. Yes, ma'am.

MS. JOAN BERKO: Joan Berko, Point Pleasant, New Jersey, sea bass potter. I say that you should just throw this whole addendum out. It will not work.

You've already tried it for two years, and if you put a graph up on the power point there with what's happened since you've done these triggers and reduced trip limits, you'll see there are bigger closures.

You're not going to get any open seasons until you cut down on the number of new entrants in the fishery. There has to be a stable number. You can't have this ever-increasing effort. The only way you're going to achieve that is to get a state-by-state quota.

The Mid-Atlantic Council is pushing real hard; they're doing the right thing. If this is supposed to be joint managed fishery, it doesn't do us any good for them to pass the state by state and then we can't bring the fish into our states.

We've got to drive through the state waters from where we come from. So I say throw the whole addendum out. Thank you.

MR. LEWIS: Thank you all very much for those comments. I just want to remind everybody that we currently absolutely would be happy to -- Harry, just give me one second to explain to everybody why we can't just throw it out.

I think everybody knows that at this point we do not have any possession limits for quarters 2, 3 and 4 in state waters. As it is, there's nothing set up by the Board. So we need to have something down; we need to make some kinds of decisions today.

The addendum will go through. Just what the possession limit is going to be is really the only question at this point.

CHAIRMAN PATE: Thank you, Mike. Any more comments from the public? Yes, sir.

MR. HARRY DOERNTE: Harry Doernte from Poquoson, Virginia, and we had a meeting in Virginia with several of the full-time participants in the fishery, and we felt that the way to go was a state-by-state quota, with the stipulation that Virginia gets our historical number of about 4,000 pounds for the last three quarters. That's 400,000 pounds.

If you do not go with the state-by-state quota, why, there's several of us that feel -- and we sent a letter in showing that trip limits in that letter mainly start off at 2,000 pounds a week on the second quarter and 750 pounds a week on the third quarter and a thousand pounds a week in the fourth quarter.

On your addendum, Page 7, you said that the intention of the Board is to reduce or eliminate the time the fishing quarters are closed. You've been a complete failure at that up until this time, so I hope that you live up to your intentions. Thank you.

CHAIRMAN PATE: Thank you. Yes, sir.

MR. MARK L. HODGES: My name is Mark Hodges and I'm a pot fisherman also in Virginia Beach, Virginia, and I think I realize that this addendum can't be thrown out.

I think Bruce Freeman had mailed or faxed around a copy of his state-to-state approach early enough to have consideration; and if this Board's real intention is to eliminate the closures, then that's what you ought to be working on.

This Board, I think, can pass pretty much anything they want to. I mean, you've passed everything in the past two years without public hearing, so you can't use that as an excuse.

So that's what we ought to really be debating here today, is have the ASMFC pass some type of state-to-state program on some type of history. I mean, so it

might take you a half an hour or an hour to hash out who gets what and that sort of thing, but the people, the full-time people are able to stay in business.

On these tables 4A through, I believe, E or whatever, I mean, they're ludicrous. These amounts for trip limits, when we've got to run 50 and 60 miles for these trip limits -- I just filed my taxes last year and for my business, my expenses last year were \$51,000. That's a thousand a week.

500 pounds for a week or a thousand pounds a week or 500 pound trip limits, they're not going to make it. I'm 100 percent out of business. It's a wonder that any of us are still left at all. We're full-time people.

These trip limits that are being proposed are for bycatch and part-time people, and this has always been a directed fishery. It has been a directed fishery since the 1940's and now, because of political pressure or whatever else pressure, it's being turned into a bycatch fishery, and that's exactly what it is.

I would like to, at least, on Table 4A, if we're going -- if you all are ever going to get to that point to discuss this, I would much rather see -- and I'm sure any other full-time person would rather see a weekly landing limit other than these trip limits.

I don't see why somebody wouldn't object to it because I know a lot of those northern boats are fishing so close to the dock that they can fish seven days a week, six or seven days a week. We can't because of the weather or the distance and the size boats we're fishing in.

So, if a boat up there can land seven days at 500 pounds, then why can't we have a landing limit? So what I would like to propose, let's say the second quarter, give us 8,000 pounds for the week, give us 3,000 pounds for the week in the third quarter, or give us 4,000 pounds a week in the fourth quarter as a landing limit so we can take advantage of the 2,000 pound trip limit that the federal government has given us.

Even with these trip limits that are proposed, it's still going to close because of the massive number of people that are landing fish. Look at the last two years, what has happened to where the fish are being caught.

New Jersey south, for the second, third, and fourth quarter, every state, the landings are falling off. From New York north, the landings are going ahead because of the high number of people fishing. I realize they're not big-rig fishermen.

But you're talking about hundreds of people fishing, and I know there's a lot of potters in Massachusetts, but I know there's a lot of other -- there are hook and liners in state waters that sell fish, and they should not be involved in a commercial fishery.

I mean, those are recreational peoples selling fish, and we shouldn't be at the mercy of that. So, I hope at least you take into consideration the weekly landing limits, and that 500 pounds a week or a thousand pounds a week is a part-time bycatch fishery.

It's not a directed fishery. And then if we've got to negotiate some kind of trigger, then have it at the 75 percent. We've got a lot more fish to deal with this year, especially in the second quarter, and I don't really see much of a problem in the second quarter.

But, I mean, if you're really concerned about the closure, then you should throw this amendment away and come up with some kind of state landing limit based on individual quotas. Thank you.

CHAIRMAN PATE: Thank you. Gil, did you have a question?

MR. GIL POPE: Yes, I have a question.

CHAIRMAN PATE: If you'll come back, one of the Board members has a question.

MR. POPE: Yes, thank you very much, just a quick question. You had mentioned earlier that there were rod-and-reel fishermen selling fish. Are they unlicensed rod-and-reel fishermen selling fish?

MR. HODGES: No, I believe in some of the northern states, they're sold commercial licenses to sell fish, but it's all in state waters, but they're able to sell fish by buying a state license. They're not federally licensed people. That's what I was referring to.

MR. POPE: And are they fishing in federal waters?

MR. HODGES: No. No, it's all state water. I mean, in Massachusetts, according to Amendment 13 in the book, they had 500 and some landings, and they had three landings in from federal waters, in 1990, I believe, was the year, three out of almost 600 people.

CHAIRMAN PATE: Okay, thank you very much. Are there any more comments from the public? If not, I'll ask Mike to give a brief review of the plan, and I would ask him not to go back over the history of how we developed the addendum, in the interest of trying to save some time.

So I'm hoping that will meet everyone's needs. So, Mike, if you'll go forward with the review of the Addendum VI to the Black Sea Bass Plan, please.

MR. LEWIS: Thank you, Mr. Chairman. Real quick, the purpose of the addendum is to establish possession limits for quarters 2, 3 and 4 of the 2002 fishing season.

Like I said a moment ago, we do not currently have any possession limits in place for 2002, and so we need to have something set up by the time we leave today.

Then we also discussed instituting a system by which the Board can create the possession limits, triggers and adjusted possession limits during the annual specification setting process. As of right now, that process requires an emergency rule, which is what we've been doing all the time.

Unfortunately, that creates a lot of confusion on the part of the fishermen, a lot of confusion on the part of administrators and a pretty significant administrative burden on the states to have to do the public hearings and put out all the new regulations.

It would simplify the process greatly just by going ahead and creating the adjusted possession limits and triggers at the beginning of the year.

The first option, with quarter two, would start with 1,500 pounds; and then when 75 percent of the quota was projected to be taken, we would move to 150 pounds a day or a thousand pounds a week. That would be at the discretion of the states.

The Board would not make a decision on which one to use, but each state would decide whether it wanted to do a daily or a weekly possession limit.

Quarter 3 would start off with a 500 pound possession limit and that's daily -- that's a daily possession limit -- and then when 75 percent was projected to be taken, we would go to 100 pounds a day or 700 pounds a week.

Finally, quarter 4 would start at 750; at 75 percent, go to 100 pounds a day or 700 per week.

CHAIRMAN PATE: Gil.

MR. POPE: Back to that other one, please. One of the experiences that I've had in the past is the fact that when you have a trigger set at 75 or 80 percent, is that you tend to exceed it very easily, especially with larger size limits.

So if I had a recommendation to make, I would say that those should be lowered to maybe 50, 60 percent, but adjust the other possession limit accordingly and don't make it a set number like that to make up for that.

Do you see what I mean? The initial thing is you want to be monitoring that close enough, or you want to make sure that -- rather than going over, you want to make sure that that's being monitored correctly.

Our dealers have a hard time, sometimes, getting the numbers in on time; or for whatever reasons, we have a hard time with 75 percent as a trigger in our state. So, I would maybe think about changing that, if possible.

MR. LEWIS: I understand and I agree with you on that. I just want to let you know, first of all, that we have a whole series of options that I'm going to go through here, and some of them include lower trip limits and lower possession limits and triggers as well. So, we will go through that. Also, I just wanted to have that option up there because, as you just heard from the gentlemen that spoke, some of the fishermen really want to have a higher trigger percent so they can have the directed fishery for as long as possible before it goes down to those adjusted limits. I just wanted to have as many options up there as possible.

CHAIRMAN PATE: Thank you, Mike. I think it will be more efficient if Mike can complete his review and we can go back to addressing specific points. Thank you.

MR. LEWIS: Thank you, Mr. Chairman. The second option is what the Council has in place, actually. It's 2,000 pounds for quarters 2, 3 and 4 as a possession limit. There is no trigger or adjusted possession limit.

The quarter would open with 2,000 pounds and then would continue until the full quota was projected to be taken, at which time the fishery would be shut down for the remainder of that quarter.

Okay, this third one, for quarter two, we would start off at 1,500 pounds and then at 50 percent, we would go to 150 a day or a thousand pounds a week. Quarter 3 would start off at 500. At 50 percent, it would go to 100 pounds a day or 700 pounds a week; and then quarter 4, we would start at 750 and then at 50 percent go to 100 pounds a day or 700 a week.

Finally, this option, quarter 2 would start with 1,250 pounds, then at 40 percent we would go to 150 a day or a thousand a week. Quarter 3 would be 750 pounds from opening day until the entire quota was projected to be taken, at which point it would be closed.

And then quarter 4 would start off with 1,000 pounds and, again, it would start off there and would not go to an adjusted possession limit at all. It would just stay at 1,000 pounds until the quota was projected to be taken.

This last option was requested at the behest of the Potomac River Fisheries Commission. They have not actually had any landings since, I think, 1982, and they just requested this be put in there as an option to eliminate some of the unnecessary administrative burden of opening and closing the season, having to put out these emergency rules, et cetera.

That would be quarters 1 through 4 of 50 pounds, and I believe the intention was for there to be no closed seasons. It was just going to be open the entire time, 50 pounds straight through, no trigger, no adjusted possession limit. Again, that's just to eliminate the administrative burden.

The second part of the addendum is to create a process by which the Management Board can create not just initial possession limits, but triggers and adjusted possession limits at the annual spec-setting process.

This idea would be the Monitoring Committee would make their recommendations, including these triggers and adjusted limits, at each quarter in the beginning of the year at the same time they make the recommendations for the total allowable landings and that sort of thing.

Then the states would submit proposals of management programs, including possession limits, triggers and adjusted possession limits, to the Tech Committee for review and the Management Board.

After Technical Committee review and once they had recommended those proposals for approval, the management board would approve the state proposals. Everything would be in place for each quarter at the beginning of the year, just to simplify for the states and for the fishermen.

I just want to go through the public comment that I got. We had a series of public hearings, starting the 11th of February. We were in New York. New York fishermen tended to prefer Table 4C out of those presented.

They wanted to keep the fishery open for as long as possible during each quarter. There was some talk about closing or just adjusting the possession limits at a predetermined date, instead of trying to do it with a percentage, just using historical times when the landings had achieved that percentage.

They just wanted to go ahead and close it, for example, at July 13th, I think was one of the dates that was being discussed, and then assess the landings and reopen as necessary. There was a general call to reallocate the quota from quarter 1 to quarters 2, 3 and 4.

In Rhode Island folks decided just to keep the trigger percents low. They preferred Table 4C, but with the trigger reduced to 40 percent, and they agreed with the idea of eliminating administrative burden for those states or jurisdictions with low landings.

New Jersey, as you've heard from some of the public comment we've got so far, for the most part, folks did not believe that the addendum would help the fishery at all. They needed large possession limits for the directed fishermen and preferred Table 4B. There was a general call for a state-by-state quota.

Finally, there was a Maryland public hearing. Maryland fishermen tended to prefer Table 4A. There was really no clear consensus on which trigger percentage to use. I believe both 75 and 50 percent were advocated by different individuals.

They, too, wanted to keep the quarters open for as long as possible. Each gear type should have its own quota. That would be pots, trawls. They should all have their own quota separated out, and they also believed that a state-by-state quota was the best thing for the fishery.

That concludes my review. I would be happy to entertain any questions.

CHAIRMAN PATE: Thank you, Mike. Dave Pierce.

DR. DAVID PIERCE: Yes, Mike, you forgot to mention that we scheduled a public meeting in Massachusetts. Due to some miscommunications, the public meeting was not scheduled and advertised by ASMFC; and obviously with these three addenda being so significant, Massachusetts would want an opportunity to comment.

So, with your indulgence, Mr. Chairman, I would very briefly summarize what was provided to us by the public at our meeting that we held in Sandwich back a few weeks ago.

You also have a one-page sheet that was made available today that describes the comments and the position of an organization that was formed in Massachusetts last year, as a matter of a fact, in response to ASMFC actions of last year.

That's the Massachusetts Pot and Trap Fishermen's Association. They took the time to come and to comment. These fishermen and others who were present -- we had an audience of about 40 fishermen, commercial fishermen and recreational fishermen.

I think the audience was about 40 because we were

covering three different addendum, and that sparked a considerable amount of interest.

These fishermen, the pot fishermen in particular, the sea bass pot fishermen, emphasized the impact of last year's approach on their fishery, especially the low trigger, which essentially stripped them of their directed fishery.

That was their principal concern, that when sea bass arrive in our waters, around mid-May, much of the quota has been taken and the trigger is pulled. Last year, it was the 40 percent trigger.

So, they lost opportunity to fish for black sea bass in a directed way. As a matter of fact, this organization sued the Commonwealth of Massachusetts last year.

They highlighted that point at the public meeting, and for your information, the outcome of that lawsuit -- it was an attempt to get an injunction, a preliminary injunction against us regarding the enforcement of the weekly and daily limits.

The judge ruled in favor of the Commonwealth, and the message back to the organization and others who sued on this issue was that they sued the wrong group, and the judge pretty much suggested that next time around they sue the appropriate organization.

The attorney for this particular organization, I think, took note of that. So, this organization and others in the audience supported Option 4A. However, they wanted the weekly limits and not the daily limits.

But, obviously, that's something that the states would do on our own initiatives. So they supported the higher trigger. They highlighted the nature of their fishery versus fisheries elsewhere. They're very much aware of the fact that we're talking about otter trawl fisheries offshore, pot fisheries inshore and pot fisheries offshore as well.

They wanted to make sure that ASMFC clearly understood that with regard to this addendum and the implications of the options, that their particular fishery has a very low impact on the resource.

It's a pot fishery, primarily; therefore, it's shallow water

fishing and there are no dead discards. They asked ASMFC, the Board specifically, to acknowledge that special nature of their fishery, and they urged me to relay to you that all of their past efforts, working with the Commonwealth of Massachusetts on sea bass conservation be acknowledged.

They also took time to comment on the state-by-state allocation scheme. I won't get into that. Obviously, there will be further opportunity for those fishermen to comment on the state-by-state allocation system that will go to public hearing in March.

So, with that said, Mr. Chairman, that pretty much covers what was said about black sea bass. There were no comments from the audience as to the annual process for setting the fishery specifications.

CHAIRMAN PATE: Thank you, Dave. I've got Pete Jensen and Gordon quod up, but Mike needs to make note of some other public comments that are in your records.

MR. LEWIS: Yes, thank you very much. I apologize, David, for not having directed everybody to your attention. I forgot that Massachusetts had held that. I was kind of wrapped up in my own issues here.

The other situation is that David also did hand out a number of different things, including a letter that you might want to have a look at, including there was also a bunch of public comments that I distributed; a lot of written comments and then written drafts of the comments that I received at the public hearings.

I just want to make sure that you had a look at those and knew they were there for you to look at while we discuss these issues. Plus, if anybody needs a copy of the addendum itself, they are available. If you would please let us know, they can be passed out to you at any time.

CHAIRMAN PATE: Thank you, Mike. Pete.

MR. W. PETE JENSEN: Mike, has anyone taken a look at the effect that choice of any of these options would have on the season, based on past fishing practices?

In other words, if you adopted A, is there some

projection to when it would close and you would go to the alternate or how long those alternate might stay in place until the quota was reached?

MR. LEWIS: Pete, I have to admit that I didn't. Because of the variability, it seems to me that you never can tell how fast they're going to get caught, at the beginning especially.

Oftentimes, things have been soaking for a while or whatever else seems to be a very high catch rate and then it slows down a little bit. I have to admit that I did not take the time to make those calculations. Based on the amount of variability associated with it, I was really not quite sure if it would be worth it.

CHAIRMAN PATE: Gordon.

MR. GORDON C. COLVIN: Mr. Chairman, I observed that of the available options, the folks from New York who spoke up clearly preferred Option 4C. On the other hand, I do hear what others have said, and I've listened to what I've heard of the comments.

I believe that the substantive difference between 4A and 4C relates to our ability to effectively manage the process of projecting and taking the actions necessary between 50 and 75 percent of landings. That said, I'm prepared to offer a motion, Mr. Chairman, to approve the addendum using Table 4A.

CHAIRMAN PATE: We have a motion to approve using Table 4A.

DR. PIERCE: Second.

CHAIRMAN PATE: Seconded by David Pierce. Discussion? Dave Borden.

MR. DAVID V.D. BORDEN: Thank you, Mr. Chairman. Before I state how I feel about the motion, my question gets exactly to the point that I think Gordon just made. Mike, can you describe to all of us the process that the Commission follows in terms of determining the trigger and what the delay is in terms of figuring out exactly what the catch is?

In other words, I want you to be very direct and factual. In the past, if my recollection is correct, the staff has

had a great deal of difficulty with high triggers because by the time you get to it, you've run by it for two weeks, with the result that we end up closing the fishery.

The impact that has is that all the bycatch gets discarded, and we end up with ever-increasing dead discards, which doesn't do anybody in the fishery any good because they get penalized for it once the scientists figure out what the rate is. So, could you just state what that process is, what the delays are and what our ability to stick with high triggers are?

MR. LEWIS: Sure. The process for coming up with the trigger percentages is actually just presenting the Board with as many options as possible. We didn't really weight any of them in particular.

We just tried to put up as many different things as possible. We realize that different fisheries up and down the coast have different needs and may be interested in different trigger percentages.

So, that's how we came up with them, is just by coming up with as many different options as possible. Also, in terms of the delay, it's about two weeks in terms of the landings that we get from NMFS.

So, we try to project, obviously, ahead as far as we can, but oftentimes, it's very difficult, especially when the trigger percentage is high.

CHAIRMAN PATE: Follow up question?

MR. BORDEN: Thank you. That's where my concern is; in other words, to me, there's nothing magical about the trigger, other than the fact that if the trigger is set too high, what that means is we end up with a closed fishery and dead discards for a lengthy period of time, which I personally feel is quite irresponsible, given some of the mandates that we act under, particularly within the SFA, where one of the charges is to minimize bycatch.

This actually accelerates the bycatch. So, I realize the impacts, particularly on the southern areas and the Mid-Atlantic states, and I'm sensitive to that, but, to me, we don't want to be up around 75 percent.

I would prefer 40 or 50 percent if I were to just

characterize it. And if I could go back to the motion now, if I have to vote on this motion, I will vote no.

CHAIRMAN PATE: Jack Travelstead.

MR. JACK TRAVELSTEAD: Mr. Chairman, I would like to offer an amendment to the motion that gets at an issue raised by several of the fishermen who spoke earlier, and that is that daily trip limits this low adversely affect fishermen in the southern part of the range, particularly those that have to run 40, 50 miles offshore.

The amendment I would offer would add to what is here under the initial possession limits a series of weekly limits as follows:

For the second quarter, the option would be 1,500 pounds a day or 8,000 per week; for the third quarter, 500 pounds per day or 3,000 pounds per week; and for the fourth quarter, 750 pounds a day or 4,000 pounds per week.

This won't change anything for the more northern states. I'm sure they'll probably continue to operate under the daily limits and can do so because the fish are so close to shore. That's simply not the case down off Maryland, Virginia and North Carolina.

We've used these weekly limits in the past. They seem to allow for a little bit more equity in the harvest along the coast, and so I would offer that motion.

CHAIRMAN PATE: Is there a second to the motion to amend?

MR. DAMON TATEM: Second.

CHAIRMAN PATE: Second by Damon Tatem. Okay, we have a motion to amend. Is there any discussion on the motion to amend? Bruce.

MR. BRUCE FREEMAN: Thank you, Mr. Chairman. The comment I would like to make is that I think it needs to be obvious to everyone that with the quotas we have and the way the fishery is prosecuted, that there's not a system that we can put in place that will accommodate the various fishermen from north to south.

It's not possible. And whatever happens in this thing, we're going to accommodate some fishermen in one area and dislocate or affect adversely fishermen in other areas. The southern fishery primarily is an offshore fishery of some distance away from shore, and as you go further north, it's closer to shore.

In some areas, it's simply an hour or so from the dock. There also is a serious problem, as indicated by Dave Borden, on a number of occasions and Dave Pierce, of an incidental catch, particularly in a mobile gear fishery.

And as the stock increases, that incidental catch increases as well; therefore, everyone sees a discard problem, regardless of where you are in the fishery, so this ends up being a contentious issue.

I favor this particular amendment that Jack Travelstead has made. Simply, it works better for our fishermen, but we're also trying to accommodate the concerns for the incidental. I think the overriding point here is Addendum XIII that will be going out to public hearing.

It's my understanding that if this particular amendment is put into place by the Commission, it would supersede this particular addendum.

Although we're going through the process of trying to come up with something at least to put in place because there is nothing now, Amendment 13, I think, is the one that hopefully will allow states the flexibility of fishing the way it makes sense for them and to avoid the problem of discarding, yet allow for a directed fishery. Thank you.

CHAIRMAN PATE: Thank you, Bruce. I apologize, I skipped over Gil Pope and Dave Pierce for their comments, so I'll get to them. But first, Jack, let me ask you to clarify your motion by referring to Table 4A on Page 5 in the plan and clarify whether or not that 1,500 pounds applies to all of the columns in that table.

MR. TRAVELSTEAD: What 1,500 pounds?

CHAIRMAN PATE: The daily possession limit.

MR. TRAVELSTEAD: I don't understand your

question.

CHAIRMAN PATE: Go ahead, ask it.

MR. LEWIS: I think the question is, just to make sure everybody in the room is clear on it, that when you have this daily and weekly possession limit, you mean that for the initial possession limit and then for the trigger and adjusted possession limits to remain the same?

MR. TRAVELSTEAD: Correct. My motion to amend only added numbers to the column 2002 initial possession limit of 8,000, 3,000 and 4,000 per week.

MR. LEWIS: Okay, thank you. And the other issue, I just want to remind everybody, is that in federal waters, there is a possession limit for quarters 2, 3 and 4, and it is for 2,000 pounds. So if they were in federal waters, they could never have more than 2,000 pounds. I wanted that to be clear.

CHAIRMAN PATE: I have Gil Pope, Dave Pierce and Dave Borden and Harry Mears.

MR. POPE: Thank you, Mr. Chairman. One of the things that would be very useful to me -- and it goes to Pete Jensen's point -- is that I would like to see what happened last year as far as when the closings were, when the openings were, whether there were overages during that period with the particular trigger that we were using so that we get some kind of feel for what happened; if it didn't work or if it did work if we had a 75 percent trigger and we went over by maybe 15, 20 percent in one quarter and we were closed for two months out of the period.

I mean, these are all handy things to know so that when you do come up with trying to come up with something that will work this time, that you'll know what happened in the past, very well knowing that if there is an abundance or even more of an abundance of sea bass, that it more than likely is going to make it even slightly worse, if you understand my point. Thank you.

CHAIRMAN PATE: David.

DR. PIERCE: The weekly limit has always been of concern to me in that I'm not sure it can be effectively

enforced. I think it will be important for all states to provide an explanation as to how well weekly limits can be enforced, especially for a mobile gear fishery that has great range.

How would we keep track initially -- with the initial possession limit, how would we keep track of where they're going, where they're landing? It would be important to make sure that there aren't multiple landings of 8,000 pounds per week because the fishermen just can't be tracked.

With that said, I still think that Jack's motion has merit. I'm sensitive to this fact that there are fishermen who have to go quite a ways to get their gear, to tend their gear, and relatively small daily limits that just don't cut it.

It puts them out of business for all practical purposes, so I'm sensitive to that. However, that kind of a strategy runs afoul, doesn't it, of what was just revealed to us by Mike with the federal rule, the EEZ rule?

It's 2,000 pounds per day, right? So if it's 2,000 pounds per day, I would assume that these fishermen who have to go many miles to tend their gear are fishing in the EEZ so they would be restricted to that 2,000 pounds per day.

I guess I turn to Jack and ask Jack, since he's had time to think about this a little bit, does he still want to continue to support this particular amendment to the motion?

MR. TRAVELSTEAD: Yes. Let me explain. I met with my fishermen last week, and they were well aware of the federal limit of 2,000 a day, but that did not deter them from those who supported what I have offered in the motion to amend.

I mean, they're going to make more than -- in the second quarter, they're going to have to make four trips in that week. But at 1,500 pounds a day or at 500 pounds a day in the third quarter or the 750, it just doesn't work for them because they have to go offshore.

But by the time you get up to 2,000 pounds for that day, it meets their profit margin, I guess, and so it will work.

Now, let me also address your enforcement problem. This is an option that's being offered.

Now, if a state believes it's going to have trouble with enforcing this, then they should probably stick with the daily limit. We, in Virginia, have some experience with the weekly limit. We're having a lot of success enforcing it.

It does not appear to be a problem. It does take a little bit more effort to do that. We have instituted a call-in system where a fisherman must call in before he lands his fish. He has got to call back after he lands to report his quantities.

After that first call is made, quite often we'll send a marine patrol officer to the dock. We're fortunate in that we don't have hundreds of people in this fishery, and we don't have a lot of docks that they land at.

So, even with our limited enforcement capability, we are able to provide what I would call personal attention to the sea bass fishermen to make sure that the weekly limits are adequately enforced.

CHAIRMAN PATE: Thank you, Jack. Dave Borden.

MR. BORDEN: Thank you, Mr. Chairman, a couple of points. One is the fact that I think it's pretty easy to sit here and forecast that the 7,000 pound trip limit is going to attract additional effort into the fishery.

I can envision a whole segment of the trawl fleet in Southern New England that typically does not fish for sea bass because of the trip limit, if in fact they can start working at these levels consistently, will redirect on the stock, which I think is going to accelerate the landing limit.

The second point I would make relates to the issue of the triggers. This strategy that has been put forth I think has merit because it's kind of a compromise that allows the southern states to accommodate some of their fishermen.

But the only way it's going to work is if we knock the trigger down, which after we deal with this, I would like to make a motion that specifically deals with that issue.

CHAIRMAN PATE: Thank you, Dave. Harry Mears.

MR. HARRY MEARS: Thank you, Mr. Chairman. Overall, the addendum, especially when considering the process that I think will be discussed later on, is a good step in the right direction because it is bringing closer together the current differences between federal and state regulations in this case with regard to possession limits.

As this motion reads, it may or may not be more restrictive than current federal regulations, depending upon what individual fishing practices are of individual federal permit holders.

A point was made earlier that there is currently a 7,000 pound quarter 1 trip limit and then a subsequent 2,000 pounds for the remaining quarters in the EEZ. Well, just to clarify that, that would pertain to federal permit holders wherever they fish, both in the EEZ and state waters.

They would, under federal regs, have to comply with the stricter of state or federal regulations. So while in this transition period we're still facing a difference between state and federal regulations, I think what we're looking at, at least in the very short term, especially when we talk about Amendment 13 perhaps and how that may modify this, we are coming closer together.

But in the interim, we are going to continue to have differences which may impact both state and federal permit holders. Thank you.

CHAIRMAN PATE: Thank you, Harry. I've got Pete Jensen and John Connell listed, and then I would like to take a vote.

MR. JENSEN: Okay, a couple of points. One, I think David is entirely right. I think the experience has been, particularly when a season reopens, that with a 75 trigger, things happen so fast -- and we've had a couple of experiences -- that you do the projection.

People are bringing in fish in large quantities and then by the time you get to 75 percent, all of a sudden you get a signal that you've got 100 percent, and so you have rapid fire changes.

I think from my experience talking with Maryland fishermen, they would be more comfortable with 50 percent, which is essentially Table 4C.

The other point is -- and I guess this is a question to Jack -- I'm not aware that pot fishermen, at least in Maryland, are able or want to fish everyday, and so an 8,000 pound a week limit seems to be above their desire and ability to fish at 1,500.

So I think a lower number probably would accomplish what they are willing to go along with as far as a weekly limit, and also stretch out the achievement of the quota and also perhaps get to the point again that David made that it might not attract any new effort.

If the weekly limit, for example, instead of 8,000 pounds a week would be 5,000 pounds a week, where a fisherman could make one or two trips and be assured of what he's doing, and so I think there's room here for a little more compromise on the numbers in order to get what we said we want to get out of this addendum.

CHAIRMAN PATE: John Connell.

MR. JOHN W. CONNELL: Thanks, Pres. Certainly, I like Jack's strategy. I think it's a great approach. I don't believe it contradicts the 2,000 pound federal trip limit. We heard from fishermen at our public hearing.

You heard from them today, and I think it's the most evenhanded approach to try to give an opportunity within the entire range of this fishery for people to participate. Therefore, obviously, I have to support this motion.

CHAIRMAN PATE: Thank you, John. Pat.

MR. PAT AUGUSTINE: Thank you, Mr. Chairman.

CHAIRMAN PATE: Last comment.

MR. AUGUSTINE: Right. We met with our folks and it's rather interesting because they felt the higher the quota early on, the quicker the market was going to be closed, and it would result in lengthy closures, which, in fact, may very well leave an open niche for out-of-country products being brought in.

The sense was that once the product was not on the local market by local fishermen, it was either displaced or was hard to restart the effort again. It just seems to me that the numbers seem fair, but the 8,000 pounds is a little out of line for where we wanted to go. I'll call the question, Mr. Chairman.

CHAIRMAN PATE: I'll afford the maker of the motion the opportunity to comment. Mr. Travelstead.

MR. TRAVELSTEAD: I'm not sure I should do this or not, but I think I've been convinced to lower the 8,000 to 6,000, but I would not be willing to lower any of the other numbers.

CHAIRMAN PATE: Is that agreeable to the seconder, Mr. Tatem? Mr. Tatem says, yes. Are there any comments on that friendly amendment? Pete.

MR. JENSEN: I still believe the 75 percent trigger is too much, and so I wonder if the motion to amend could also include a 60 percent trigger instead of a 75 percent trigger. Jack, would you be willing to add that to your motion?

MR. TRAVELSTEAD: I would be willing to add that.

CHAIRMAN PATE: Okay, Mr. Tatem? Mr. Tatem agrees. The motion is amended yet again in a friendly manner. Gordon.

MR. COLVIN: Mr. Chairman, if it's helpful, that entire series of amendments is acceptable to the maker of the original motion. I don't know if it's acceptable to do, but --

CHAIRMAN PATE: Well, let's do it an easier way. I want to go ahead and call for the vote on the amended motion, and if that passes, it will become the main motion, and then we'll vote on that. So take about 30 seconds to caucus.

(Whereupon, a caucus was held.)

MR. JENSEN: Are you going to allow public comment on this amendment? It is a little different than we what went to public hearing on.

CHAIRMAN PATE: If this passes as the main motion, yes. All those in favor of the motion to amend, please signify by raising your right hand, eleven in favor; all opposed, one in opposition; null votes, no null votes; abstentions, one abstention. The amended motion has become the main motion. David.

MR. BORDEN: Yes, I would like to focus on the issue of the trigger a little bit more. I mean, given the fact that, as Mike characterized, the reporting requirement is released two weeks behind in terms of our ability to track this and trigger this.

I mean, what history basically indicates is that if we set the level at 50 percent, we'll probably be at 60 or 70 percent of a quota before we trigger it, which all you have to do is look at Table 3 in the document and look at the number of weeks that the fishery has been closed under more stringent regulations and, to me, it's pretty easy to predict that we're going to just end up with long periods of closures.

I would like to remind everybody that we're in a situation here where this stock is rapidly rebuilding. The abundance of it is increasing.

What we will be exposed to is an increase in abundance, an increase in bycatch, there will be more fish landed, and what we're doing with this is setting up a situation where last year, in 2001, for most of the periods, we had 40 percent triggers and we still ended up with significant closures of the fishery.

I would like to make a motion to amend to lower the trigger value to 40 percent.

CHAIRMAN PATE: Is there a second to Mr. Borden's motion? Pete Jensen seconds. So we have a motion to amend the amended motion that just became the main motion. I'll take one or two brief comments on that. David Pierce.

DR. PIERCE: It's hard to argue against David's logic. I think he's quite correct. Yes, there will be a discard problem as there is right now. I've already heard horrific tales of the amount of sea bass discarded in the first quarter of this year, horrific tales, and that's certainly going to work against our efforts to rebuild black sea bass.

However, we can't get away from the fact that we have specific states' interests that differ. In David's particular case, Rhode Island's case, I think that they're principally concerned about their primary gear type that lands sea bass and that's the dragger fleet.

So, obviously, it's in the best interests of Rhode Island and other states that have a trawler fleet, to try to provide for allowable bycatches throughout the entire quarter as long as possible. I sympathize with that.

I've dealt with this issue in my own state waters. Nevertheless, there are other states, Massachusetts, specifically, and I'm sure there are others that have other fisheries that direct on black sea bass and have done so for many, many years, decades.

In our particular case, it's the pot fishery, the very resource friendly type of gear that I've observed myself through sea sampling trips. That's irrefutable.

So while I understand the sense of having a lower trigger, at the same time, in light of the fact that we are still operating with a quarterly system and not a state system, where each state can control its own fate, I have to go with a higher percentage.

The 75 percent I prefer, but I can go with the 60 in order to make sure that there's a chance for a directed fishery by sea bass fishermen in our waters this coming spring.

CHAIRMAN PATE: Bruce.

MR. FREEMAN: Thank you, Mr. Chairman. As I indicated before, however we vote, it depends on the fishery in that individual area. Nevertheless, the issue of monitoring is not the issue here.

Even though the catch may be a week or two behind, the projections can be made based upon what experience we've had in the past. The difficulty lies in the low quotas. So whether we project two weeks before or four weeks ahead, it's really not the issue of the projection of when the trigger will be reached.

It's just that the quotas are so low, even if the catches

we're making, the possibility of ending the fishery is going to happen very rapidly, and we would like to see the 75 percent but agreed with the compromise of having the 60 percent trigger.

CHAIRMAN PATE: Jack.

MR. TRAVELSTEAD: The problem with these triggers is no matter what they are, when they're pulled, the pot fishery stops in the southern part of the range because you're going to these lower trip limits that are not economical.

It's as simple as that. So at 40 percent you're shutting them down that much earlier. The answer to the problem is to, as Bruce points out -- I mean, the staff here is doing a better job than the National Marine Fisheries Service at predicting these things; and as time goes on, they're going to get better at it.

I know my staff did in summer flounder in predicting those things. It's just something that comes over time as you have experience and monitor these things and how they change with time.

CHAIRMAN PATE: David Borden.

MR. BORDEN: Yes, I won't repeat what I said before, Mr. Chairman, but I just want everybody, particularly my good cohort from Massachusetts, to reflect on the point that with the change in the weekly trip limits, that's going to attract more effort.

It's going to accelerate the catch rate. He relies very extensively on fish moving into that area on a seasonal basis. I think it's highly probable that the state of Massachusetts will have a much shorter season under this type of arrangement than it will under the previous arrangement, and that's one of the reasons that the triggers are so critical.

CHAIRMAN PATE: Gerry.

MR. GERALD CARVALHO: Thank you, Mr. Chairman. I just want to point out that during the workshops that we had earlier this spring in Baltimore and Philadelphia, that the recurring scene that kept coming forward regarding discards was closed seasons were detrimental, not just to the fishermen and not just

to the resource, but everyone associated with fishing, including the consumer, is affected negatively by anything that would accelerate a closed season or extend closed seasons.

We're in a rebuilding process, and we're all suffering from the rebuilding process, but it's a pill we have to take in order to bring that resource back to the level we need to.

Closed seasons cause harm, collateral harm, that extends throughout the community, the markets, the consumer. Anything that we can do to support lessening the number of closed seasons we have, I think it's helpful during this rebuilding process. A lower trigger limit would do that. Thank you.

CHAIRMAN PATE: We will now vote on the motion to amend. Do we need to caucus? Everybody looks comfortable. Let's take 30 seconds.

(Whereupon, a caucus was held.)

CHAIRMAN PATE: The caucus is concluded. All those in favor of the motion to amend, please signify by raising your right hand, two in favor; all opposed, eight opposed; null votes, no null votes cast; abstentions, two abstentions. The motion to amend fails, bringing us back to the main motion.

Are there any members of the public that would like to comment on the main motion? Yes, sir, very brief and to the point, if you will.

MR. JACK STALLINGS: Jack Stallings, Virginia Beach, Virginia. Quarter 4 last year had a 2,000 pound per week limit and the season closed in five weeks, and now you're proposing 4,000 a week.

CHAIRMAN PATE: Okay, thank you. Anyone else? Yes, ma'am.

MS. BERKO: Joan Berko, Point Pleasant. I believe Table 4B is to keep it at 2,000 pounds, just like it is in federal waters with no triggers and then just close it when it's done and then, hopefully -- if you need one of these tables for this addendum, put that one in and then maybe you'll have another addendum to add the state by state. At least we'll be in agreement with the federal

plan. Thanks.

CHAIRMAN PATE: Thank you. Yes, sir.

MR. WAGNER: Joe Wagner. I'm just sitting back there listening. Real quick, if you've got to go with this, this is better than nothing for someone like me who has to run a long ways.

We can't live on anything less than this and we can't even live on this. I just want to make sure that everybody understands. We understand we can only bring 2,000 a day in. I'm used to personally fishing seven days a week when the weather lets me.

I've gone out as much as 40 days straight pulling gear when the weather is good. I'm down to going one day a week. It's just killing us. But all the states, everybody kind of agrees that you're not -- I'm just getting aggravated because everybody agrees that the fishermen in the northern states are a different kind of fisherman than the fishermen in the southern states.

I'm not real educated, but from what I can see just sitting back there gathering, it would make it a lot simpler to just get it over with, bite the bullet, go state by state, give a certain amount of poundage to each state, and let the state handle the fishermen and all this bickering is over with, and maybe we can survive a little bit better. Thank you.

CHAIRMAN PATE: Thank you. Any more comments from the public? Okay, let's vote on the motion. Take 30 seconds to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN PATE: Let's conclude the caucus and vote, please. All those in favor of the motion, please signify by raising your right hand, eight in favor; all opposed, like sign, two opposed; null votes, no null votes cast; abstentions, one abstention. The motion passes as amended. We made it through an agenda item. Yes, Jack.

MR. TRAVELSTEAD: There have been a lot of people here today who have supported state-by-state quota systems and I think some were coming here today thinking that might be adopted somehow.

Could staff lay out the schedule for Amendment 13, which does contain the provisions for state-by-state quotas?

MR. LEWIS: As I stated earlier, there are going to be public hearings on Amendment 13 starting in March. It looks to be maybe the week of the 18th, but that has not been -- I don't have a schedule yet of exactly when and where, but I think the week of the 18th is going to be the week for public hearings on Amendment 13.

Again, as Jack just stated, there's an option in there for a state-by-state quota system. In terms of adoption, it all depends on how everything goes, of course.

I guess the earliest would be probably April for it to be passed because that would be the time for the next meeting, but that's something that Bob -- if I could double check with you -- I think April is the next opportunity for Amendment 13 to be passed if we go through the public hearing process. And then I guess it would be implemented in 2003.

CHAIRMAN PATE: David.

DR. PIERCE: Regarding the issue of state-by-state shares, I would request that we task the Technical Committee with the responsibility of reviewing the Division of Marine Fisheries analysis of the commercial quota shares that would have resulted if all states had been at a 12-inch minimum size over the base period.

The analysis has been done by the Division. It was forwarded to --at least the results of the analysis was forwarded to the Board in a memo that I've copied and made available to the Board again.

That's a December 9 memo that describes the Division's specific concerns about the state-by-state share, and the analysis resulted in the conclusion that Massachusetts state share would rise to either 38 or 45 percent.

This analysis has not been reviewed by the Technical Committee, and I'm sure that the Board would like that to happen, so I would make that as a formal request. I could make it as a motion, but I wouldn't think that would be necessary.

CHAIRMAN PATE: I don't think it's necessary, Dave. I'll take the prerogative of the Chair in forwarding that

to the committee. Okay, that brings us to Item 6 on the agenda, which is review and approval of Addendum V to the Scup Plan. Mike.

MR. LEWIS: If anybody wants a copy of the addendum, please raise your hand and Megan will be happy to bring it to you. Okay, I think we may as well go ahead and get started with the quick review of Addendum V.

The purpose is to establish state-specific allocation of the scup summer period quota. That has been done through emergency rule in the recent past, and this addendum would set it up to carry on for a number of years until, of course, the Board decided to change it again, but it would not have to be done again for next year.

Option 1, which is included in Addendum I to the fishery management plan -- and this is what will come into place if the Board decides not to pass this addendum. This is what will be in place as a result of what is included in Addendum I to the Scup Plan.

This is based on 1983 through 1992 landings, prior to additional landings submitted by Massachusetts. Again, I am not going to go through any background on this. It is all in the document, and you all were here, anyway, and so I'm sure you remember how everything happened the other year.

Option 2 is based on the summer of 2000 emergency rule, based on landings from 1983 through 1992, including the additional landings that were reported by Massachusetts.

Option 3; shares here are based on 1983 through 1992 landings data, including additional landings from Massachusetts. Massachusetts state shares were not increased by 1 percent. This is in place during 2001 summer quota period.

Finally, Option 4 is based on 1986 through 1992 landings. Massachusetts did not supply additional landings for the years 1983 through 1985. Therefore, these years were not used calculating the base period for this option.

Again, we had public hearings on these documents.

This was, again, starting on February the 11th. In New York the fishermen who attended suggested that they keep the summer period quota as high as possible.

They wanted to transfer quota from the winter periods to the summer period, and they wanted to eliminate state and federal quota discrepancy. They didn't have any real clear consensus or very many directed comments as to the options presented here.

Rhode Island seemed to think Option 3 was okay. Again, there were not very many directed comments, but there was some discussion and folks seemed to think that Option 3 made the most sense to them.

New Jersey, Option 4 was preferred and New Jersey fishermen were very disappointed that the addendum did not address commercial discards.

Again, I believe Dr. Pierce had a public hearing for scup up in Sandwich, and he may have some comments with regard to Massachusetts fishermen.

DR. PIERCE: Yes, very briefly, there weren't that many comments on the commercial fishery for scup. The principal emphasis was on the recreational fishery for scup and black sea bass.

The only issue that came up was whether ASMFC should continue to do what it has been doing up to this point in time, just on an annual basis make the determination.

I did share with those in attendance many of the concerns and issues that I raised with this Board at our last meeting relative to the Commonwealth's desire for ASMFC to continue with the shares, not on a permanent basis, but decide annually as to what shares should be set.

I'm not going to go over those reasons again. I realize we're short on time. So they had encouraged that ASMFC would continue to go with the annual setting of the percent shares and not go with the permanent percent shares.

CHAIRMAN PATE: Thank you, David. Any more comments that you hadn't noted in the record? Okay, I'll recognize Dave Borden.

MR. BORDEN: Yes, Mr. Chairman. To try to expedite the deliberations, I move approval of Option 3.

MR. COLVIN: Second.

CHAIRMAN PATE: We have a motion by David Borden to approve and seconded by Gordon Colvin. Discussion on the motion? David Pierce.

DR. PIERCE: I've already made my case at the previous board meeting regarding Massachusetts desire that we do continue in the spirit of how we've managed scup in previous years; that is, we discuss the percent shares each year and then we set the percent shares, and the Commonwealth, in the spirit of solidarity with ASMFC, adopts that percent share.

There's a lot of history behind scup management, as we all know, the Division's lawsuit, the results of that lawsuit, the appeals court decision and all of that.

A few years ago, the Division of Marine Fisheries followed the guidance of the appeals court, which basically was to work with ASMFC, come up with some way in which Massachusetts can be satisfied with a percent share, and we have an approach that's working at this time.

So I would encourage the Board, too, in the interest of supporting Massachusetts position on this, to not adopt permanent percent shares for the summer fishery, but to just set those shares for this year, 2002.

CHAIRMAN PATE: Is there any member of the public that would like to comment on the motion? Seeing no public request, I'll come back to the Board. Harry Mears.

MR. MEARS: Thank you, Mr. Chairman. My remarks on this are already a matter of record from previous meetings, but I think it's worthy of repetition.

We have a situation now where we have a Commission quota, which is considerably in excess of the federal quota, based upon a vote taken at a previous meeting that pretty much resulted from different estimates of discard mortality rates.

We currently have, under federal regulations, a summer scup quota which is predicated upon an allowance for research set aside for projects that will be conducted utilizing a certain percentage of the scup quota, which was set aside for research purposes, as well as the subtraction for overage from the year 2001.

The bottom line is that under federal regulations, we have a summer quota of 2.556 million, which is about half a million pounds less than the amount that we're discussing here today.

My main point here is that as we continue to strive to narrow the differences we have between state and federal management regimes, the bottom line is that it continues to be a disservice and disadvantage to federal permit holders. Thank you.

CHAIRMAN PATE: Thank you, Harry. You'll note that is another item on the agenda. It's Item 9. So if the Board members will remember those comments, he will not have to repeat them when we get to that point.

We will now vote on the motion. Take 30 seconds to caucus please.

(Whereupon, a caucus was held.)

CHAIRMAN PATE: Conclude the caucus. All those in favor of the motion, please signify by raising your right hand, six in favor; all opposed, like sign, one opposed; null votes, no null votes; abstentions, three abstentions. The motion passes. David Pierce.

DR. PIERCE: I had assumed the motion would pass. I had no belief that it would have gone in another direction. However, I will say for the benefit of the Board that Massachusetts is extremely disappointed in the decision to set these permanent percent shares. It's going to cause us to have, in our state, some more discussion about how ASMFC manages scup for the summertime. It could lead to some further acrimony and bitterness. I hope not, but, again, I express my great disappointment that the decision was made.

CHAIRMAN PATE: Dave Borden and then Bob Beal has a comment.

MR. BORDEN: Thank you, Mr. Chairman. You

know, I understand the sensitivity of the state of Massachusetts on this, but in the circles that we all travel in fisheries management, there's nothing that's ever permanent.

I wish that were the case, but everything is subject to review. We do annual reviews, and I'm sure that at some point we'll be back discussing shares and share allocation.

CHAIRMAN PATE: Bob, did you have a comment?

MR. ROBERT BEAL: David covered it.

CHAIRMAN PATE: Gil, real quick.

MR. POPE: Yes, real quick, thank you very much. Yes, I'm sorry that you feel that way, Dave, but there are permanent shares in a lot of things that I would personally, myself, I agree with you 100 percent. There are permanent shares that I would like to see changed as well, so that seems to be unfortunate.

CHAIRMAN PATE: That brings us to Item 7 on the agenda, the review and approval of Addendum VII to the Scup Plan. Mike Lewis will give us a review of this proposal.

MR. LEWIS: Thank you, Mr. Chairman. This one is not likely to be quite as short as the last. We've got pretty complex issues here. The purpose of the addendum is to establish recreational fishing specifications for the 2002 Scup Fishery.

The issues for discussion are should fishing effort be regulated on a coastwide or state-specific basis. Should northern states be grouped separately from southern states or some other kind of regional administration, or should the recreational fishery be divided by mode?

Issue 1, regulation on a coastwide or state-specific basis, the first option is selecting a coastwide option to be implemented by all states. This requires a 45 percent reduction.

That is, of course, comparing the 2001 landings as projected out through Wave V MRFSS data to the 2002 harvest limit. So in here, we have a number of different combinations, four different combinations. I suppose

others could be calculated, but that is what would be needed on a coastwide to allow for the 45 percent reduction.

Option 2, state-specific management programs to achieve a 45 percent reduction. Under this strategy, each state would be required to come up with its own management program that would achieve 45 percent.

In other words, states would not be required to come up with different percentage reductions. It would just be everybody has the same amount to reduce, but each state decides how to do it.

Okay, Option 3, state-specific reductions based on the performance of 2001 regulations. Each state would have to achieve a percent reduction that is based on the performance of the regulations in previous years.

These options are based on a combination of a couple of different things. One is base year. A calculated reduction based on 2000 landings and then also an average of 1998 through 2000, and then I also calculated with using numbers of fish landed and pounds of fish landed. This is all done at the behest of various Board members.

Option 3A, state-specific reductions using the landings in numbers of fish and 2000 as the base year. In this case, a 45 percent reduction would be required to achieve the 2002 harvest limit.

3B, state-specific reductions using landings in number of fish and an average of 1998 through 2000 as the base year. Interestingly enough, because of all the variations landings, 1998 through 2000, this actually is overall a 4.5 percent increase in the harvest.

In other words, the average landings from 1998 through 2000 are 4.5 percent less than the limit allowed for 2002. But because of various performance of different regulations in place, there are still reductions necessary for most states.

Massachusetts is a notable example with a 7 percent increase allowed under this option. Option 3C, state-specific reductions using landings in pounds and 2000 as the base year. Again, because 2000 was used, a 45 percent reduction is required, and state-specific

reductions for Option 3D using landings in pounds and 1998 through 2000 as the base year. Again, because that average was used, a 4.5 percent increase.

Okay, Issue 2, Regional management. One option would be for there to be a -- Massachusetts through New Jersey have state-specific regulations and then Delaware through North Carolina, which have little to no landings of scup, have just the regional regulations that would work for the entire group.

Then it could also be split up into more than two regions. It could be base regions on patterns of resource use on a smaller scale. Just one example would be Massachusetts through Connecticut, New York through Delaware, Maryland through North Carolina. That's just to give you an idea of the kinds of things that people were talking about.

Issue 3, separate recreational fishery by mode; separate the management of the party and charter sector from the remainder of the recreational fishery.

This has been justified by the financial dependance of captains and crew on participation in the charter and partyboat sector. It's important to note that no guidelines have been established. States will be required to submit proposals for technical review.

Should this pass and should they try to separate anything by mode, it would be required to be reviewed by the Technical Committee.

It's also important to note that any state-specific measures that are put in place will be required to be reviewed by the Tech Committee.

A proposal would be necessary and the Tech Committee would have a look at it and recommend it to the Board. Public comment, again, February 11 started. There was no clear consensus on state-by-state or regional management approach in New York. They did, however, very strongly support mode separation.

The 50-fish bag limit was very important to the charter and partyboat industry in New York, and they wanted to ensure that was still in place. The season length was also very important, and they agreed for the need for socioeconomic analysis of the fishery, just to add data to the cause for separating by mode.

Rhode Island, they suggested using an average of 1998 through 2000 as the base year and to try to manage for the longest season possible.

New Jersey, because of the large historical catch in New Jersey, most fishermen felt that if different base years were used, New Jersey would have a much larger percentage.

Option 3B was consistent with the fluke and black sea bass fishery management plans. There was no clear consensus on a separation by mode, but they did believe that it should be kept as an option for the future.

There were many concerns with the accuracy and use of the MRFSS data. Thank you very much. Again, I believe Dr. Pierce probably has some comments with regard to this from the results of his public hearings in Massachusetts.

DR. PIERCE: Yes, this one sparked a lot of debate, a lot of public comment as you might expect considering the controversy that we had last year about the recreational fishery in Massachusetts, principally what happened with the party and charter boats.

I expected a lot of people to come and comment and they did, and I encouraged them, of course, to focus on the addendum and not to spend too much time on the 100 fish versus 50 fish.

But they did want to dwell on that, as I expected, since it's a fine opportunity to provide ASMFC with their feelings relative to that issue since it's clearly going to be a management strategy that the Division considers for this coming spring.

For your benefit, a number of letters, a number of pieces of correspondence have been made available to you. They've been passed out. On Issue 1, coastwide or state specific, all of the individuals present supported the state-specific strategy.

No one could see the sense of requiring all states to suffer a 45 percent cut in recreational landings this year. I think we already know from observations by the industry, commercial as well as recreational, scup are very abundant.

They didn't see a resource problem and with that in mind, they couldn't see the sense of such a large reduction of 45 percent.

Secondly, coastwide Option 1, combinations of bag limit, minimum size limit, and the open season would destroy the Massachusetts Scup Recreational Fishery.

That was their feeling, especially the party and charter boat fleet that takes place, that fishes in the spring, and is critically dependant on scup. So that was everyone's view, all those who spoke.

And as I said, those in attendance, at least half of those in attendance represented recreational fishermen. They were very firm on that opinion.

By the way, in attendance were representatives of the Hy-Line Party Charter operations. That's a 37-year business that works out of Hyannis. Hy-Line has banded together with many other Cape Cod party and charter boat operators and businesses to defend their interests.

You have their letter now. One of those operators is Paul Donovan of Golden Eagle Deep Sea Fishing. He provided a very informative letter regarding the importance of spring scup fishing and the importance of having the higher bag limit for him and also for his colleagues.

In attendance were representatives of the party and charter fleet that fishes Buzzard's Bay out of New Bedford, the Massachusetts South Coast Party Charter Boat Association.

Some members included Captain Lee Roy, Inc. and Patriot Party Boats. Patriot Party Boats is owned and operated by Jim Tietje. Jim Tietje is one of our ASMFC industry advisors. The organization has forwarded a letter to you. I won't go into the specifics.

You can read those, I'm sure, at your leisure, although there isn't much leisure time today. In addition, you've been provided with a copy of a bill that was filed or is about to be filed with the Massachusetts legislature.

This issue of how the recreational fishery in Massachusetts is managed last year and this year or in

the future has caused the industry itself to band together and to formally file a bill with very supportive legislators in Massachusetts that would establish the 100-fish bag limit year round for the recreational fishermen in Massachusetts.

So, obviously, there is a great deal of interest on how scup is managed. I shouldn't forget, too, that you have a letter on Massachusetts Senate letterhead, signed by Senator Robert O'Leary of the Cape and Islands; Senator Therese Murray of Plymouth and Barnstable; Representatives Demetrius Atsalis, Shirley Gomes, Thomas George and Matthew Patrick of Barnstable; Representative Eric Turkington of Barnstable, Dukes County, and Nantucket.

They were in favor of the state-specific measures, as well as separate treatment for the party and charter boat fleet and very importantly, in their view, a continuation of the 100-fish limit for Massachusetts.

Also, the list goes on regarding legislative interest in this recreational fishery. I mustn't forget Senator Mark Montigney and Representatives Rodgers, Caball and Kazara of the New Bedford area. They've written to Paul Diodati and have focused on maintaining the 100-fish limit.

I've also been told that a letter is being sent to ASMFC by Senators Kerry and Kennedy. There is a tremendous amount of interest on this issue on how the Massachusetts party and charter boat fleet is to be affected by ASMFC decisions and, of course, a tremendous interest in what ASMFC's reaction will be to Massachusetts maintaining the 100-fish limit in May and June.

My phone has been ringing off the hook subsequent to that public meeting and, of course, I suspect I'll be receiving many more phone calls as I'll be spending a lot more time on this issue, especially working with the legislature to explain what's happening.

As expected, Option 2, state-specific management programs to achieve a 45 percent reduction, with each state developing its own way to get to that reduction, there was no support and, frankly, why would there be support for that particular option when we have Option 3 which provides for the state-specific measures based

on performance of 2001 regulations with 2000 as a base year or 1998 through 2000 as a base year, broken down by numbers of fish or by pounds of fish.

So people tended to focus on that particular option as a better one for us to look at. As expected, there was support for average scup by number for 1998 through 2000. With that particular option, Massachusetts would receive an 8 percent increase, largely because our 2001 landings dropped relative to 1998 and 2000.

By the way, for states that will be affected by this addendum, for Massachusetts, Rhode Island, Connecticut, New York and New Jersey, this option is the least painful, except perhaps for Connecticut and New York.

There's a slight difference of 3 percent and 5 percent. There was no support for regional management, perhaps because the specifics were lacking.

Also, the continued threat of a spring shutdown and the 100 fish provided no motivation for regional management. There was a great deal of support for separating the recreational fishery by mode.

Obviously, the Massachusetts party and charter fleet has special concerns, and as I've already indicated a number of times, they've elaborated those concerns in their correspondence with you. I won't go into the specifics because, again, we're pressed for time.

Regarding their customers, the fleet has taken the time to contact many of their customers who come many miles to participate in our recreational fishery in the springtime. Apparently, there are 50 letters back on my desk when I go home that have been sent to us.

Many of them, I think, are form letters with about 80 percent of those letters coming from New York and New Jersey interests. In particular, I would like to call your attention to one letter that was sent to our governor and Paul Diodati. You've got it.

It's the 100 Blacks in Law Enforcement Who Care. I never realized this organization existed, but I guess when you implement restrictions that are quite severe, you get a response. Because of the significance of this letter, I just want to read one short paragraph and that is:

As a result of many factors, the terrible tragedy that has befallen our nation on September 11, 2001, being one of the most compelling, I found it necessary to conceive and plan an event that would heal the souls and inspire the spirits of my membership.

As noted in the letterhead, my membership is overwhelmingly comprised of New York City police officers, as well as other members in the field of law enforcement. Friends and family fishing out into your welcoming shores was what most readily came to mind

And this letter, of course, was in support of our maintaining that 100 fish per angler limit in May and in June. With that said, Mr. Chairman, that pretty much covers the interest expressed by the public in this issue.

While today I'm sure we're not going to be making any decisions about the specific strategies each state implements to achieve the necessary reduction or increase in our recreational landings for this year, I'm confident the issue will come up again at the next Board meeting or at least come up during the process we may adopt for determining what's approvable for this coming spring.

So please take the time, when you have the time, to look these letters over and give careful consideration to the authors of these letters and the tremendous amount of interest in this issue in Massachusetts.

CHAIRMAN PATE: Thank you, David. David Borden.

MR. BORDEN: Thank you, Mr. Chairman. I have a motion to make, but I'm not going to make it immediately, and I would suggest that we allow some discussion to take place before I put the motion on the table.

The discussions and impacts that we're talking about here are going to be very profound in terms of the impacts on the recreational sector, and I would just like to highlight a couple of points.

One is if you look at any of these tables and you look at the biggest percent reduction, it falls on the shoulders of New Jersey. The reason that is taking place is for exactly the same reason that you have increases in sea

bass landings taking place in the northern zone right now.

You have an increasing population. The population is redistributing to some of the historic areas and the scheme, for lack of a better word, the management scenario that we have before us essentially penalizes the state of New Jersey by capping them at some percentage that was established when the population was low.

I'm not sure we can resolve this situation here, but my suggestion is that at some point we need to have some kind of subcommittee sit down and deliberate on exactly this type of situation because with every species, some state gets gored in the process.

Somebody is always at the extreme. If they start out with a low percentage, we go to one of these capping schemes, and they, therefore, get penalized because they're at the far extreme of it. So I would urge you at some point to appoint a subcommittee to look at that particular issue.

The second point I would make here relates to what is happening in the fishery, and it's quite analogous to what has happened in the Striped Bass Fishery. We have a percentage allocation share that was implemented as part of the federal program.

In this particular case, the recreational percentage is exceeding its share on an annual basis, and the regulations, so far, have basically been ineffective at maintaining the shares.

The problem that creates, or creates in my own mind, a whole series of equity issues. If we were in exactly the same situation where the commercial fishermen were overfishing their share, I guarantee you that the Board would take fairly dramatic action to stop that.

I personally believe that we have to do something fairly dramatic here today to stop that shift in the landings because of the equity issues and because of the fact that it penalizes the commercial fishing sector.

I would feel equally so if the position were just the opposite and the commercial fishermen were exceeding their share. So I think we have some major and very

delicate issues to deliberate on today, but as I said, I do have a motion to make.

But I think there's a lot of value -- there are a lot of people that came to this session just for the ability to speak on the issue, and I think before I put the motion on the table, you should take further comments.

CHAIRMAN PATE: Thank you, David. Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. Just a point of clarification. I think I would like to get a sense for the number of vessels we're talking about in Massachusetts that are in this fishery during the month of May and June that require a 100-fish limit per person.

I and several others have been led to believe that number of vessels is something in the order of 25 to 30 and that they, indeed, do not go 10 or 15 miles offshore. In fact, they travel less than 5 miles from shore.

And with some of the folks up there I talked with, I asked if it would possible to do half-day trips like we do in New York for all our folks who are limited to 50-fish per day.

The letters and information that have been presented by Massachusetts by their senate and Hy-Line organization and the 100 black officers are very impressive, but we don't know this other information so it's almost like taking that information as gospel, if you will, in the words that have come from Massachusetts that say, okay, it's okay for you to do this.

So is there any way of quantifying the number of vessels that actually participate in this and do they, indeed, stay three to five miles out? Do they have to go for an all-day trip for 100 fish? Do they all come from Canada?

We have a tremendous number come from New York and New Jersey, and could you give us some of that information as background, and maybe it will help us make our decision a little clearer and quicker.

CHAIRMAN PATE: Gordon.

MR. COLVIN: David made some excellent points

about some of the issues that concern us here. I think there are some others as well, and I want to ask Mike a question before I view one other point.

I think one of the difficulties that we are presented in this management program that's been acknowledged over time is that this is a program in which we have a rapidly expanding population and evidently a rapidly expanding recreational participation and clearly a very rapidly expanding recreational success in a management program where a pretty small proportion of the overall quota is allocated to the recreational side of the fishery, and that complicates our problems significantly.

At some point, it may be appropriate to examine that issue. It's a tough one. The difficulties we have with these things, and I've said this before in other context, as soon as you cut the pie, whether it's between recreational or commercial or between regions or among states or however you cut it, it becomes extraordinarily difficult once that's done to go back and revisit it.

I do believe that as time goes by, we need to find ways to go back and revisit these issues because if we don't, we really have to ask ourselves how fair is it to make these decisions in the first place.

I didn't say anything when things came up a little bit earlier here about a black sea bass state-by-state quota, but when the time comes to debate that, believe me, I will.

Now, Mike, the question I have relative to the various options under Option 3 relates to the baseline question. In the case of fluke, we selected a baseline year of 1998, as I recall, and there was an evaluation of that done by the Technical Committee who found it an appropriate year because it preceded the time in which we had done state-by-state allocations; is that correct?

MR. LEWIS: Yes, it is.

MR. COLVIN: And what year or years would be analogous in the Scup Program?

MR. LEWIS: I think 2000 is.

MR. COLVIN: 2000 was the first year in which states had an individual responsibility to hit a target?

MR. LEWIS: I think 2000 was the last year that they didn't.

MR. COLVIN: Say that again.

MR. LEWIS: I think 2000 was the last year that it was coastwide.

MR. COLVIN: Right, okay.

MR. LEWIS: Correct, so, therefore, that's why it was chosen. It reflects the state of the stock as much as possible and still has the coastwide program.

MR. COLVIN: Right. So another way of putting it would be that in the case of scup, the year 2000 would be analogous to 1998 with fluke?

MR. LEWIS: Correct.

MR. COLVIN: Thank you.

CHAIRMAN PATE: Dave Pierce.

DR. PIERCE: The year 2000 also has another distinction, and that distinction is that it was the year when New York landed 3 million fish or about 2.3 million pounds. It landed 1.7 million fish in Wave V alone.

The annual target for all states was 1.24 million pounds. So, by using year 2000 by itself, we have an interesting situation where New York garners a very large percent share of the overall target. That's of concern to me.

It should be of concern to everyone because, let's face it, we're doing what we did with fluke, and that is we are setting state-by-state quotas for the recreational fishery in a roundabout way because we work off of a base where percent reduction is required, and I can't support working off of a year 2000 base.

Well, I shouldn't say that. I can support it, but only reluctantly because of the fact that, again, we would be setting state-by-state shares that I suppose can be revisited, and it's my understanding that this is only for

2002; correct?

It's not as if our fate is cast in stone regarding how the recreational fishery is treated between states, so I think we should bear that in mind. I'm a bit disappointed.

Well, actually I'm more than a bit disappointed that one of the options that I had proposed when this draft was circulating amongst all the states wasn't included in the public hearing document, the public meeting document.

I think there was a misunderstanding on the part of the staff regarding what I was trying to achieve. I'll mention it, anyway. I was going to make a motion, but I'm going to hold off, obviously, because David has already made a point that he has one to offer.

I was hoping that we could do something that would make a lot of sense for 2002, in my mind, and that is because this is a horse race involving four horses, primarily, Massachusetts, Rhode Island, Connecticut and New York.

I was hoping that we could exempt New Jersey; that is, this whole New Jersey constant added to the 2001 landings level and not require them to take a percent cut that is ludicrous in light of the fact that their fish rate really isn't as significant as fisheries in other states.

It's Massachusetts, Rhode Island, Connecticut and New York. The option I had offered up for public comment that didn't make it into the document was that we should take year 2000 landings or the baseline 1998 through 2000 and then add it all up and divide it into four easy pieces, four identical pieces, and then calculate our percent reductions based upon that equal sharing of the scup recreational landings.

It seems to me that makes sense because we're dealing with the MRFSS database, and I still feel very uncomfortable with the MRFSS database for scup.

It may be that the landings in New York weren't as high as the number that we're working with now. Maybe it's just an artifact of the sampling that occurred that year, I don't know.

But we are working with the MRFSS database, and we

are now looking at 2000 as a way to determine what to do in 2002. I'd be interested in the reaction of the Board to my suggestion that we not set specific state shares for this year, that we make it equal across the board, not giving one state an advantage over the other, and also that we exempt New Jersey.

CHAIRMAN PATE: Gil.

MR. POPE: Thank you very much. I have a question, a technical question on the party and charter. If you wanted to divide the party and charter off, my understanding, would that be on a state-by-state basis itself or would that be done -- it would be.

Do we have enough data to do that, do you think? See, we didn't have that much data when we tried to do it. I think it was tautog we wanted to do something along those lines and there wasn't even enough data with that, so are you looking to --

MR. LEWIS: In this case, the burden of proof would be on the state. As I said, there's no established criteria for that. If a state chose to try to separate by mode, it would be up to the state to figure out how they were going to do it and then present it to the Technical Committee as a proposal and the Tech Committee would determine whether or not it was statistically sound.

MR. POPE: Yes, but my point is that I'm not sure how the Technical Committee could make any kind of rational decision on that if they don't really have any data.

MR. LEWIS: If there wasn't sufficient data, I would assume that would probably not work, but that would be entirely up to the Tech Committee and that specific proposal.

CHAIRMAN PATE: Ernie.

MR. ERNEST E. BECKWITH, JR.: Thank you, Mr. Chairman, just a question in terms of process. How do you plan on proceeding? Are you going to take each issue one at a time?

CHAIRMAN PATE: Mr. Borden said he was prepared to make a motion, and I don't know what form that

motion will be in. If it's comprehensive enough to address all of them, that's my preference if that's acceptable to the Board.

MR. BECKWITH: One of the reasons I asked the questions is that we really haven't talked much about Issues 2 and 3, and I was just curious as to what David was thinking.

We really can't do a comprehensive motion at the moment. I think we need to at least have a little bit of discussion about Issues 2 and 3. I was just curious as to what you have in mind, that's all.

CHAIRMAN PATE: Mr. Borden, I'll entertain your motion if you're willing to do so.

MR. BORDEN: Well, the motion that I planned -- let me just tell everybody what I plan to put on table. The option that I intend to put on the table is Option 3 with Table 3, but I think Ernie's point is well taken.

We need more discussion, and that's one of the reasons I held off. I thought we needed more discussion of the coastwide option, and I think the other point that has just been raised is how we treat the state of New Jersey because I for one am inclined to remove them from that table and offer some other alternative. That's why I think we need more discussion, that's all.

CHAIRMAN PATE: Thank you and we'll withhold the motion for that discussion if anyone has any more input. Let me go to Bruce, David, and then come back to you.

MR. FREEMAN: Thank you, Mr. Chairman. I certainly agree with Massachusetts and Rhode Island and that is exempt New Jersey from the motion.

It's certainly self serving, but the difficulty we have is our catch has gone almost non-existent, according to the MRFSS data in 1989 to 10,000 fish; in 1999, 173,000; and then in 2000, a little over 300,000.

Our coefficient of variation has been 40 to 50 in these areas. That means the trend certainly is upward. We have seen an increase certainly in the catch and, as indicated, we totally agree.

As this resource is expanding, it's expanding geographically, not only in numbers, but in area, and now we're seeing fish back in New Jersey, which historically we have had. We went back to federal aid reports we had done in the '50s, the mid-'50s, and found that 48 or 47 percent of the partyboat catch in those years was scup.

It was one of the most important species, even more so than summer flounder. Since that time, as that resource has decreased in abundance, we have not had the availability of scup.

But as this resource now is expanding, we do, and under the scenarios presented, at very best we're looking at a 50 percent reduction in our catch, which we believe is still insignificant, and at worst an 87 percent reduction.

I mean, there's no way, we believe, we could have an 80 percent reduction. We would simply have to prohibit the possession of scup. We would have to give a quarter of a scup per person per day to come up with that kind of reduction, which just is not possible. At the present time, we account for about 2 percent of the coastwide recreational catch in numbers and 1 to 5 percent in weight. It's a relatively small amount, and we're faced with a very difficult situation.

However, we realized two years ago when we talked about this that we agreed to take restrictions similar to the other coastal states in bag limits and size limits because we anticipated we would see this resource return to our waters and realized that we needed to do something to make sure that our catch would have some controls over it, and we've done that in good faith.

But the way this is presently structured, we would essentially have to eliminate our fishery when we're really accounting for a very small percent.

We would still be willing to take restrictions in the way of seasons or size limits and bag limits to control our catch, but not to the extent of an 80 percent reduction.

CHAIRMAN PATE: Dave Pierce.

DR. PIERCE: Yes, I noted a little earlier on that if we were to go with a slightly different approach that

perhaps falls within the range of options we brought to public hearings, there would be a different consequence in terms of the impact on different states, the percent increase or decrease required in the year 2002.

I thought I would at least give you those percentages so you would know what would actually result. For example, with Table 3, using 1998 through year 2000 landings by number, if we were to treat each state the same, exempting New Jersey, we would end up with Massachusetts at plus 9, Rhode Island at minus 13, Connecticut at minus 9 and New York at minus 45.

So, obviously, the burden of having to deal with the recreational fishery cuts would fall on New York in a major way. So I appreciate that, Gordon; I'm not targeting New York. I just wanted everyone to know what the consequences would be of our having this equal division of the pie, so to speak, for 2002.

CHAIRMAN PATE: Gordon.

MR. COLVIN: Out of the question. The fact that we have more people and catch more scup and have historically should not be somehow the basis for a management program that levels the playing field for that reason only. It's absurd.

I would like to address the New Jersey issue, if I could. I understand exactly where Bruce was coming from in his comments. The reductions of the magnitude that come out on these tables are pretty much unthinkable.

I don't know how you would do them. At the same time, I've got to flip the issue around and look at it from the perspective of the competitors to the New Jersey industry who reside in Southwestern New York.

If we look at the recent trend, as Bruce did, the trend is quite abruptly upwards, as it should be, as it clearly is an indication of the success of the management program.

The difficulty is that if one projects that trend to continue to grow as it did, with landings rising from next to nothing to 173,000 to 300,000 to goodness knows what next year. In the absence of further restrictions, we could get to a point quite easily where one could foresee a serious concern arising, as I

indicated, in this area of competition between the two states.

Right now the regulations that we go into the year with, on top of which some additional burden of reduction will be imposed, is a season closure until the first of July -- there's no spring fishery in New York -- and then 9 inches and 50.

And we'll have to go deeper than that and how much deeper is yet to be determined. The prospect for an unrestricted New Jersey fishery that would allow their fishery to grow significantly above what it did last year, up against Southwestern New York where additional restrictions are imposing, is not a very palatable one.

What I'm wondering is if something could be constructed that would prevent what appears to be an unnecessarily draconian reduction and tries to hold the situation in New Jersey relatively constant as the rest of us, including our fishermen, need to cut back.

(Whereupon, Vice-Chairman Freeman assumed the Chair.)

MR. FREEMAN: Gordon, we've given considerable thought to this issue and, indeed, believe there needs to be constraints. What we're believing would be reasonable, from our perspective, is to move forward with restrictions that had been voted on at the Mid-Atlantic Council where we would go to a season restriction of July 1 to October 31 and a 10-inch size limit, which is an inch increase over what we have now, and a 50-fish bag limit.

In other words, we would put in place what the Council had advocated for EEZ. So we believe this, particularly with the increase in size, would have, at least on paper, a 31 or a 32 percent reduction. We realize we need to take action.

We don't want to be exempt because we believe, as you do, that we anticipate seeing more fish. This issue next year is going to be in Delaware and the year after that, it's going to be in Maryland. It's going to go right down the coast.

Gordon Colvin: Well, if the Vice Chairman would recognize me in response, I think that kind of a proposal

is very positively oriented towards the concern I expressed, and I would love to see it appended to the motion that David is drafting.

MR. FREEMAN: We would be happy to do that.

MR. LEWIS: Vice Chair's privilege notwithstanding, I think David Borden was next on the list.

MR. FREEMAN: Okay, David.

MR. BORDEN: Yes, let me go back to Bruce's point. Bruce, the season that you're talking about is a closed season from when to when?

MR. FREEMAN: Well, the open season, as the Council indicated, would be July 1 through October 31 with a 10-inch minimum size and a 50-fish bag limit.

(Whereupon, Chairman Pate resumed the Chair.)

MR. BORDEN: All right, with that in mind, Mr. Chairman, I'll make a motion that we approve Option 3, Table 3, with the following changes that New Jersey will be exempt from the reduction provided it implements a season of July 1 through October 31, a 10-inch minimum size, and a 50-fish bag limit; and further, that the states of Delaware, Maryland, Virginia and North Carolina must maintain their current regulations.

CHAIRMAN PATE: Motion by Mr. Borden and second by Pat Augustine. It's a pretty long and complicated motion, so give the staff a second to get it typed up.

I realize at the beginning of my comments at the opening of the meeting I said I was going to suspend the Board's deliberations at 4:00 o'clock, but I don't feel like we're at a convenient stopping point yet.

I would like to go on for another bit to have some more discussion on this motion and hopefully resolve it before we get into the joint meeting. But if not, I will call time out and move to that part of the agenda, so indulge me for a little bit longer.

I will read it into the record then: The motion to

approve Addendum VII, Option 3, Table 3, provided that New Jersey will be exempt from the reduction provided it implements a 10-inch minimum size, a season of July 1 through October 31, and a 50-fish bag limit; and further, the states of Delaware, Maryland, Virginia, and North Carolina maintain their current regulations. Bruce.

MR. FREEMAN: Just for clarification -- and I think this is already ongoing -- there was difficulty with Maryland having a seven inch, needing an eight inch, and they indicated they were in the process of moving up to an eight inch, and then that was what was required on a statewide basis for the rest of the coastal states. I think those states south of New Jersey will have that eight inch in place. I just want to make that clear.

CHAIRMAN PATE: Okay, Mike pointed out that we might need to clarify that the option that is being proposed for approval is actually Option 3B of Table 3. Any more comments? Harry.

MR. MEARS: Thank you, Mr. Chairman. The National Marine Fisheries Service would especially like a motion if all states could essentially be in the same situation New Jersey would be under this particular motion from this Board, particularly since the Service now is in the process of reviewing the earlier measures which Bruce mentioned, which were submitted by the Mid-Atlantic Council.

However, I recognize this only pertains to New Jersey, and I would only hope that since a state-by-state allocation process is so important to this Board, that at some point very soon, so that we can end all the chaos and all the miscommunications between federal and state jurisdictions, that we can agree with the Council what priority a state-by-state process can have in terms of scup management and to establish a time table to make that happen.

That being said, I wanted to make one other comment, and that was on page 4 of the public information document, which under Option 1, it refers to a 2002 recreational harvest limit of 2.77 million pounds.

At least from a federal perspective, that should read 2.71 million pounds. Once again, under Framework 2 to several Mid-Atlantic fishery management plans,

there has been a research set aside allowance inclusive for, in this case, scup, and approximately 2 percent will be used from the allowable quota for research purposes.

The maximum could have been 3 percent and the other 1 percent will, in fact, be wrapped back into the commercial and recreational specifications for 2002. But the 2.77 should in fact read 2.71. Thank you.

CHAIRMAN PATE: Gordon.

MR. COLVIN: Mr. Chairman, I believe that this motion offers an appropriate solution to the problems that have been discussed with respect to New Jersey's situation. I believe it represents an honest effort on the part of the Board to address the difficulties with scup management.

However, I am concerned that its basis being the average of the landings over a three-year period rather than the single year that would be the year 2000, which was, as listed earlier, analogous to how we've done things in the past is not appropriate.

I don't think we can agree with this. Furthermore, let me add to that my reservations going in to continuing to allocate every fishery and now every component of every fishery via state-by-state quota.

That is, in my view, as I've said many times, divisive. It does not unify us. It divides us and creates more and more difficulties. For those reasons, I will not vote in support of the motion.

CHAIRMAN PATE: Ernie.

MR. BECKWITH: Thank you, Mr. Chairman. I certainly endorse what Gordon said. And just looking at Table 2 and Table 3, it appears that the four primary states that are involved in this recreational fishery are probably going to split it down the middle.

I wonder if we could spend a minute or two talking about the relative merits of one base period over another, and I know Gordon made a comment before. I think, Mike, he asked you a question. I wonder if you could just perhaps reiterate what you said previously and give us any additional background. That would be

very helpful.

MR. LEWIS: Okay, 2000 was chosen because it was the last year that there were coastwide regulations for scup. It reflects the most recent stock characteristics. Hopefully, it is as close to what it is now as we can get, so that was why it was chosen.

However, it was suggested that we develop some options that use an average of years to try to take care of some of the great deal of variation from one year to the next.

If one state had particularly high landings or low landings in one year and had the opposite the next, it would, hopefully, average it out and therefore give, in some people's mind, a more accurate view of how the fishery operates in that state and give a more equitable allocation to that state if we're going to use that as a base year. Those are the two mind frames that went into choosing those two different options or created those two different options.

CHAIRMAN PATE: Ernie, do you have any follow up to that? Okay, David.

DR. PIERCE: Well, I repeat that the year 2000 alone would be very problematic, I think, for all of us because 2000 was that unique year where New York landed an amount that exceeded the annual target of 1.24 million pounds.

They landed 2.3 million pounds. Therefore, for that reason alone, the year 2000 should not be used as the basis for reduction. The increase from 1999 to 2000 for New York was far in excess of any increase occurring in any other state, according to the MRFSS data. Averaging years makes a lot more sense in order to get us away from any criticism that would arise from just year 2000. So, with that said, I would support the motion and definitely be very much opposed to the use of just the year 2000.

CHAIRMAN PATE: Okay, I want to take some comments from the public now. Tom Fote has had his hand up.

MR. FOTE: I think what I should first start off with is apologizing to the Board. I guess I sat here about four

years ago and said you raised my size limit from seven inches to nine inches and I wouldn't catch any fish in Raritan Bay.

Then Gordon showed me a table about two years ago and says, "Look what I have happening in New York," and I said, Oh, my God, we're going to be in big trouble."

Basically, this plan was designed a long time ago. We knew the problem was not the directed commercial fishery or the directed recreational fishery. It was the bycatch. We have addressed a lot of those bycatch issues.

This stock is coming back like gangbusters. It's more than we hoped for, and I couldn't believe it. I was out in Raritan Bay this year. We were fishing for weakfish. We probably caught 145 scup between three of us. I kept 13 scup.

Nobody else kept any because you have to eat the whole fish. They were not big fish. They were 9 to 10 inches, 11 inches. They were bigger than I thought they would be, and I took home 14 just to basically -- because I hadn't eaten scup in, I figured it out, 40 years.

I wanted to see if they were as good as I remembered, and they were. I really appreciate the Board's indulgence. I mean, it's a lot better than I did at the South Atlantic Board because we're on the fringe of red drum, and we asked for one fish instead of six fish and they cut us out because -- I mean, we're doing a lot better here.

We really need to address the problem of stock assessment. That's what is driving this. We basically underestimated what the stock is here and we really need to look at a larger quota.

I mean, the same thing that's happened to summer flounder is the same thing that's happened in many species, and we're going to run around and tag and again, what Gordon said before, we're going to have to address this.

Remember, the quota was actually higher even though - - God, I was sitting back on the Board as one governor's appointee then on the Board, and we got cut quota

because you would have reduced bycatch. The recreational community went from 29 to 22 percent, and I fought against that motion because I said it was going to be trouble down the road.

If you look at the historical averages, actually some years we show a larger recreational catch than commercial, back in the years past. We need to address the problem, but thank you for the Board's indulgence. I appreciate all the attention you're giving to New Jersey. Thank you.

CHAIRMAN PATE: Okay, thank you, Tom. I would like to take a vote now unless there are some strong feelings that the Board is not prepared to do so. We need to move along with the joint meeting. Is everybody comfortable with that? Let's take 30 seconds to caucus and then we'll take the vote.

(Whereupon, a caucus was held.)

CHAIRMAN PATE: Conclude the caucus, please. All those in favor of the motion, please signify by raising your right hand, seven in favor; all opposed, like sign, two opposed; null votes, none registered; abstentions, three abstentions. The motion passes.

Okay, we will rearrange ourselves to allow the Demersal Committee to get to the table and reconvene in just a second.

(Whereupon, the meeting recessed at 4:25 o'clock p.m., and reconvened at 5:40 o'clock p.m.)

CHAIRMAN PATE: We'll reconvene the board meeting by going back to Agenda Item Number 7, approval of Addendum VII to the Scup Plan. There was one issue that is yet to be resolved in that addendum and that's the separation by mode proposal. Mike, if you'll just hit that again to refresh everybody's memory on what we need to do.

MR. LEWIS: Sure. As you all know, there's been a lot of discussion as to whether or not the states should be given the option of trying to separate the charter and party boat fisheries from the remainder of the recreational fishery.

Again, there is no established criteria for determining

whether or not states can actually do that and so should the Board choose to allow states that option, the states will be required to have a proposal sent to the Tech Committee for review and then possible passage by the Board.

CHAIRMAN PATE: David Pierce.

DR. PIERCE: I would make a motion that the states be given the option of separating their recreational fisheries by mode.

MR. CONNELL: Second.

CHAIRMAN PATE: Okay, motion by Dr. Pierce; second by John Connell. Discussion on the motion? Gordon Colvin.

MR. COLVIN: The concept of doing this is very interesting and very intriguing and one that we've had interest in in a number of fisheries and certainly was very well supported by the for-hire industry in New York at our public hearing.

The difficulty I'm having with the motion is it's my understanding that virtually every time this issue has become the basis of a proposal from a state, even for fisheries where there is more data with a higher degree of statistical reliability, like fluke, the technical advice has been that such proposals will simply not stand up to technical review.

So my question in this context is why do we think that this motion, passed at this time and incorporated into this addendum, would result in anything that would be approvable for 2002 and that would stand up to review by our own Technical Committee, because, believe me, if I honestly thought that it could, I would be very supportive of this and I know our industry would.

CHAIRMAN PATE: David.

DR. PIERCE: Well, Gordon makes an important point. From our perspective in Massachusetts, we feel confident that we'll be in a position to do this because of the effort we put in in the year 2001 to collect information from our recreational fisheries.

We're developing a report right now. The report should

almost be done that will describe that sampling effort that was funded through ACCSP monies.

So with that data in hand, with my staff being committed to provide the Technical Committee with an analysis that will pass muster, I'm confident that we'll be in a position to forward to the Technical Committee an analysis that will stand up.

Time will tell, of course, on that, but I would at least like the option of bringing forward that kind of an analysis that would enable us to separate the recreational fisheries by mode, which is important in Massachusetts since, as I indicated at an earlier board meeting, in our state, in contrast to other states, we have a very strong party/charter boat fleet.

Last year, I believe, or the year before -- I forget the year now. I guess it was the year before -- there was 58 percent landings of recreational scup by the party and charter boat fleet and the balance was from the private and charter. So, for that reason I would like this to move forward to be adopted by the Board.

CHAIRMAN PATE: Dave Borden.

MR. BORDEN: Thank you, Mr. Chairman. I'm supportive of the concept. Obviously, this follows along the lines of what Rhode Island proposed some time ago with tautog. However, to me the motion isn't clear.

Is the intent of the motion to approve Issue 3 as outlined in the issues document because this language is different than that, so is that what the intent is?

DR. PIERCE: You'll have to point me in the right direction here, David. Where does it differ from what's in the --

MR. BORDEN: The difference is that staff had included -- this goes back to the point that Gordon Colvin made. The staff had pointed out that this issue of a minimum coefficient of variation is the technical issue that has to be wrestled with, and the staff had recommended a 30 percent coefficient of variation as part of that.

Your motion does not include that, so I just want to be clear. Is your intent to adopt Issue 3 as proposed?

DR. PIERCE: No, because I hadn't given much thought to that 30 percent minimum coefficient of variation. Frankly, when I saw it in the document, I wasn't sure how to interpret that. I'm still not sure what exactly that means.

Now, clearly, as indicated here in Issue 3, no guidelines for separating the recreational fishery by mode have been established.

I'm hoping that the Technical Committee will be in a position to look at whatever is provided to it by whatever state chooses to do this analysis and then renders up an opinion regarding whether or not, indeed, the analysis provided by the states are sound.

I recognize there's a lot of uncertainty here, but then, again, what we brought to public hearing is pretty squishy, and what does statistically sound mean?

MR. BORDEN: Well, that's exactly the point that I think Gordon was making and I'm making is that either we specify some level of statistical competence that we want the proposal to meet or there is no specification, so I think we're going to put the Technical Committee virtually in an impossible position to evaluate the proposal.

DR. PIERCE: If I may, Mr. Chairman, might I ask the staff why they picked 30 percent as the minimum coefficient of variation because I had no input into that. I don't know who did. Obviously, some thought was given to it.

CHAIRMAN PATE: Just stand by just a minute, he's answering a question for me right now.

DR. PIERCE: Yes, Mike, the question was relative to the statistical soundness of the proposals that are brought forward, what would determine statistically sound.

I suppose it would be whatever is brought forward has less than a 30 percent minimum coefficient of variation. I'm not sure what that means. Why did you or whoever put this together suggest 30 percent as the number?

MR. LEWIS: That was suggested to me because it has been used in other fishery management plans, including

for summer flounder. So it was included in here because it seemed reasonable, and it seemed like what the Technical Committee would agree with. It was discussed and agreed to by the Tech Committee.

DR. PIERCE: It's still unclear to me what it means and what its implications are. I wouldn't mind putting it in if, indeed, there's some valid basis for it.

I don't recall 30 percent being used for summer flounder, but then again, I've never been involved in any analysis regarding whether or not summer flounder recreational -- go ahead.

CHAIRMAN PATE: David, Chris may be able to help us.

MR. CHRIS MOORE: Yes, David, as Mike said, that 30 percent has been used in other plans. We used it in the summer flounder. I guess you guys called it an addendum. We called it a framework.

It's the framework that implemented conservation equivalency for the summer flounder recreational fishery; and if you remember, one of the issues that did come up was whether or not a state could implement programs that had different management regimes for the mode or for different areas.

The Board and the Council considered it and actually adopted language that said a 30 percent CD would be the deciding point for those particular calculations.

That 30 percent coefficient of variation is just a measure of the precision, a rounded estimate. It tells you how good or how precise an estimate is for a particular grouping or whatever you're looking at.

Thirty percent value, as Mike indicated, came from a Technical Committee recommendation, again, when they were considering this issue for summer flounder.

DR. PIERCE: Further, if may, Mr. Chairman, what does the 30 percent refer to? In other words, I'm trying to come up with a modified motion that would reflect a level of precision that must be required, but a level of precision of what?

MR. MOORE: The language for summer flounder

indicates that the 30 percent reflects the precision around landings estimates for particular areas for particular modes. Does that help?

So, in other words, for a particular sector of the fishery you have an estimate of a hundred fish and your precision around it was 30 percent, then you could say there was between 70 and 130. It does refer to landings.

DR. PIERCE: All right, Mr. Chairman, then, if there's no objection by the seconder, I would modify this so that it would read: Move that states be given the option of separating their recreational fishery by mode, provided landings by mode have a minimum 30 percent coefficient of variation.

CHAIRMAN PATE: Minimum or maximum?

DR. PIERCE: The text says: "However, the Summer Flounder, Scup and Black Sea Bass Technical Committee has identified 30 percent as a minimum coefficient of variation." Maybe I'm still misunderstanding this, but --

MR. LEWIS: I apologize, that is a typo. It should be maximum.

DR. PIERCE: All right, well, I'll use maximum if Chris says that's the right way to go. Thank you for that suggested change.

CHAIRMAN PATE: Mr. Connell, do you agree?

MR. CONNELL: Can I also address the issue?

CHAIRMAN PATE: Certainly.

MR. CONNELL: Yes, I do agree.

CHAIRMAN PATE: Mr. Connell agrees with that change in that and you may address the motion.

MR. CONNELL: Thank you, Mr. Chairman. I seconded the motion because I certainly agree with the concept. It's one that we've talked about for a few years.

Although, honestly, the state of New Jersey is not ready

to put forward such a thing right now, I encourage the exploration and the creativity that would be involved in developing these concepts.

As a matter of a fact, there was a lot of support at our public hearing for this; and even more generically, there was even discussion that perhaps someday in one of our plans, if not this plan, we might want to look at the subsistence fishery and see if there was a way we could accommodate subsistence fishermen within the recreational mode.

So I'm not just looking at this in terms of party/charter boat, although I know this was the impetus for getting it going, but I look at this as possibly at some time expanding.

We're just beginning to explore it and I would encourage the continued exploration and someday it may come into fruition, with the understanding that anything brought forth would have to meet all of the standards of the Technical Committee and be approved by the Board.

CHAIRMAN PATE: Bill Cole.

MR. WILLIAM COLE: Thank you, Mr. Chairman. ACCSP has addressed this several times in the past. We've had it looked at by our Technical Committee; and as you well know, we've attempted to segregate data collection for the for-hire industry as a separate component, not classifying it as rec or commercial or anything else.

My question, since the charter and headboat components are only a part of the for-hire industry, as the ACCSP program has standardized the language, would the motion address the entire for-hire industry or only the charter/headboat component there of it?

CHAIRMAN PATE: Chris.

MR. MOORE: You know the way that the recreational data are broken out, there is a party/charter mode and a private rental mode, but I don't think there is a for-hire mode, so I think this motion would then just refer to party/charter as a particular entity.

CHAIRMAN PATE: Bruce.

MR. FREEMAN: My understanding of this motion would give the state the latitude to make that determination. This coefficient of variation is really a function of sample size as well as variation, and so what it really does is put the onus on the state to conduct enough samples in order to give confidence that the estimate of the catch, indeed, is a good representation of what actually is happening.

In the case of Massachusetts, if they have the organization of the industry, they certainly could segregate out party boats and party charter to do this. I mean it gives them wide latitude in being creative -- or any other state.

So I think it's certainly a way to operate, and it does put bounds on what the state would have to do. It does put a responsibility on the state, but if they feel it is important and get the cooperation of getting the samples, they could easily do this.

CHAIRMAN PATE: One more comment from David Pierce and then we'll vote.

DR. PIERCE: Yes, the charter/party boat fleet is well aware of the controversy regarding bag limits and what have you and how much they actually catch.

So I'm very confident that this coming spring there will be an arrangement worked out with the party and charter boat fleet that will involve our learning a lot more about the nature of their catch in terms of amount, species, you name it, so that we no longer have to be dependent on MRFSS survey data to describe what's happening with the charter and party boat fleet.

Frankly, I don't think that survey does a very good job. So we'll be putting in the effort to drastically improve that database.

CHAIRMAN PATE: Thank you, David. Real quick, Bruce.

MR. FREEMAN: It seems to me that this issue is going to become more important in the future, dealing with quotas. If, in fact, we see an increase in resources and we attract more and more people and essentially don't control that effort, this may be the salvation of the

for-hire fishery.

For example, they could get a portion of the catch based upon sampling such as this and make a determination. If they needed a large bag limit, they could have such a limit.

They may restrict their season, but in order for them to survive, they may feel they have to attract people with a 50 or a 100 or a 200 fish bag limit and they may do so, as long as it can be justified.

By doing that, it makes the rest of the management much more easier because most of the private boat fishermen don't require catches of that size in order to justify their trip. So I see great value in this, and it seems to me in the future this is going to become not an exception.

CHAIRMAN PATE: Do we need to caucus on this? Everybody is comfortable with their level of understanding and consensus? All those in favor of the motion, please signify by raising your right hand, ten in favor; opposed, like sign, none opposed; null votes, no null votes; abstentions, one abstention. The motion passes.

And with those last two actions that the Board has taken, we have approved Addendum VII to the Scup Plan. Thank you very much and we will now move -- yes, one more item on Addendum VII is the establishment of a schedule and a process for reviewing the state proposals. Mike.

MR. LEWIS: As stated in the addendum, it's required for each state to send a proposal for their state-specific management measures to the technical committee for review, and that would include the general management program as well as any separation by mode proposals.

We need to figure out when to do that. The next opportunity to approve it in a board meeting would be in April during the time that we're going to be talking about Amendment 13.

It could also possibly be done by conference call, and then there's also the possibility of having the executive director have the ability to approve proposals, so long as they were recommended by the Technical

Committee. That is in place in other places here and there, so I just wanted to put that out as one other option.

CHAIRMAN PATE: David.

MR. BORDEN: I have another issue, Mr. Chairman. Are you finished with this one?

CHAIRMAN PATE: No, we're not. We need to try to get some feedback from the Board on how much time you'll need for developing your state proposals. Gordon.

MR. COLVIN: Based on approval of the addendum today, are we able to go home right now, use the reduction numbers in our first motion and the two tables in the plan to construct our proposals?

CHAIRMAN PATE: Yes.

MR. COLVIN: April is way too late. Fisheries begin in April and for those of us -- it does not include New York, by the way -- that have spring seasons, regulations are going to need to be in place pretty quickly.

I think we need to give ourselves a fairly tight deadline for the submission of proposals for Technical Committee Review, based on the action today. I mean this is not a surprise, guys. We all knew this was coming.

CHAIRMAN PATE: A suggestion on a time frame, Gordon? You're looking at your watch; it must be short.

MR. COLVIN: I am. He said tomorrow. No, I think probably two weeks and I would also suggest that following Technical Committee review and deliberation, my personal preference would be that the matter not be delegated to the executive director, particularly in the event of any negative recommendations, but rather resolved by the Board via conference call.

CHAIRMAN PATE: Okay, David Pierce.

DR. PIERCE: I would be much more comfortable with

three weeks. I know the time commitments of my staff that will have to do this work, and a three-week period would give me a level of comfort that would enable me not to force my staff to do some overtime work on the weekends.

So three weeks is my preference and I think that's plenty of time prior to the beginning of the fishing season, which certainly in Massachusetts gets going like the first week of May.

CHAIRMAN PATE: Okay, someone with a calendar will give me the date of three weeks from today. That's what we'll go with. March 15th will be the deadline for submitting state proposals.

Those will be submitted to the Technical Committee for their review and once they are commented on by the Technical Committee, we'll convene a conference call of the Board for final approval. David Borden.

MR. BORDEN: Thank you, Mr. Chairman. I suggest that the staff communicate that by e-mail to everybody, and then we can route it to the appropriate staff members tomorrow morning and then, as I said, I've got another issue when you're finished with this.

CHAIRMAN PATE: Very good suggestion. Mike.

MR. LEWIS: I also wanted to point out in Table 6, we had some confusion when looking at the summer flounder proposals, and there were some individuals on the tech committee or from the states that had a little confusion about how to use these calculations.

Table 6 on Page 10, if you would please look at that, the columns under no size limit, 7 inches and 8 inches minimum size should be zeroed out. Unfortunately, the calculations that are used do not allow the ability to look back and see what reduction you would have gotten or should get with 8 inches or 7 inches or no size limit, and so we really don't have the ability to calculate using anything smaller than 9 inches. I will make sure I put that in the e-mail and explain that, just to remind you and you can let your people know.

CHAIRMAN PATE: Okay. David, come forward with your other issue, please.

MR. BORDEN: Well, I just want to go back and just quickly ask a question. Harry Mears had raised the issue of the research set aside and the deduction on the quota, and I'm not sure we resolved that, number one.

I think most of the people around the table, in fact, at the Mid-Atlantic Council voted for the research set aside. It seems to me that if somehow we don't take action to reduce our quotas by that amount, the same way the Mid-Atlantic Council did, all we're going to do is accelerate this increasing overage, and we don't want to do that.

My suggestion would be that the quota that is allocated to the states reflect the deduction of the research set aside.

CHAIRMAN PATE: David.

DR. PIERCE: It's tempting; however, I don't think that ASMFC has any say in how that set aside is used, what research gets funded? I've had a problem with that from the get go.

It's solely a Council responsibility of taking that amount of fish and making determinations as to who will get the nods. I'm not saying it's a problem, that I've witnessed a problem with that process to date.

It's just that there is no partnership of sorts in the determination as to what research gets funded, and I would like to see that. If we're going to reduce our state quota downwards to reflect the federal research set aside, then I would like to see some sort of a process that would bring us more fully into that partnership role.

CHAIRMAN PATE: Ernie, did you have a comment?

MR. BECKWITH: Just a question. Prior to us having a motion to approve the addendum, did we miss Issue 2? I don't think we made any decision on that, that regional management?

CHAIRMAN PATE: I thought it was rolled into that first motion.

MR. LEWIS: That was included in that first motion that was passed.  
Can we go back to that?

CHAIRMAN PATE: Bob, can you go back to that first motion, please?

MR. LEWIS: It appears to me that was addressed, but, of course, you can address it.

MR. BECKWITH: It's fine for me. I just didn't want us to approve the addendum if we didn't deal with it. If everyone is comfortable that it deals with it in that motion, that's fine with me.

CHAIRMAN PATE: Okay, thank you. Harry.

MR. MEARS: Thank you, Mr. Chairman. I just wanted to clarify for the record there, in fact, is a very strong partnership with the Commission with regard to the Mid-Atlantic research set aside program.

When the solicitation is prepared, it's based upon funding priorities that are coordinated between the Mid-Atlantic Council, NMFS and also ASMFC.

In fact, our experience during year one of that program, we could not have succeeded without the technical input of technical reviewers, which were provided through ASMFC. I just wanted to emphasize that this is clearly a grant program which is a strong partnership between NMFS, the Mid-Atlantic Council and also the Commission. Thank you.

CHAIRMAN PATE: David, is there any action you want the Board to take beyond that discussion?

MR. BORDEN: Well, I mean, I would certainly be prepared to make a motion to do that, but I just haven't gotten enough feedback around the table to -- I don't want to waste people's time if I'm the only one that feels that way.

I'm just a little concerned, more than a little concerned, that we've got this difference between the two quotas, and, in fact, it's going to increase if we don't take that action, so we're making a bad and awkward and probably a somewhat discriminatory situation worse.

CHAIRMAN PATE: David.

DR. PIERCE: Well, with a quota set aside for the

commercial fishery for research purposes, I can see the sense of it, because you've got a hard quota from which you can subtract numbers and come up with an end result.

But with the recreational fishery, we're talking about targets. They're not hard and fast numbers. They're squishy, really, when you think about it. We don't monitor in an effective way during any particular point in time where we are relative to that quota.

So, it's not as if it is something that's hard and fast that we can control; so because of that inability to control it, stop the recreational fishery, for example, when the target is reached, I don't see the merits of reducing the recreational target by some set amount for research. I suppose it complicates matters by not doing so, but I still don't see the logic of it.

CHAIRMAN PATE: David, let me make a --

MR. BORDEN: Can I just ask one quick question of Chris? What's the total amount of fish that's allocated to the scup research set aside, I can't recall? 2 percent, isn't it?

MR. MOORE: Yes, 2 percent of the total TAL is allocated to research for scup. So, on the recreational harvest limit you went from 2.77 million pounds to 2.71 million pounds. If you want to do a quick calculation -- I can't remember what the summer quota was, but take 98 percent of that.

MR. BORDEN: But the poundage, Chris -- I can't do the mathematics -- can you remember what the number is?

MR. MOORE: No. The only thing I have in front of me is the total -- the research set aside on that was 222,775 pounds. That was the amount allocated to research.

MR. BORDEN: Okay, so failure to do what I suggest and everyone fishes to their quota, then the amount of the overage that we're going to have to deal with is going to increase by 220,000. It will be the 450,000 that we're already over this year, plus 220,000 because of the --

MR. MOORE: Remember, David, that the federal

specs take these calculations into account. So on the two winter periods, we've already reduced the quota to account for the research set aside.

We've also, on the federal side, have a specification for the summer period that deals with this research set aside.

MR. BORDEN: Okay, and I'm glad you made that point. Then what I was advocating was wrong. All we would have to do is take the 2 percent out of the summer allocation?

MR. MOORE: Right. and if you want, the recreational harvest limit as well.

CHAIRMAN PATE: David, since this is linked to Item Number 9, which we've already discussed and developed a strategy for, would it be possible to include this issue in the discussion of that group or by that group, unless you want to take some action on it today. I'm not trying to preempt solving your problem.

CHAIRMAN PATE: He just dropped the issue, Joe, and the Chairman thanks him. Okay, then that concludes Item Number 7, and now we will move to Item Number 8, which is review and approve state-specific management proposals for the Summer Flounder Recreational Fishery for this year, and Steve Doctor is going to do that, right, Steve?

MR. STEVE DOCTOR: The Technical Committee met on February 4 to review the state management proposals for 2002 for the recreational fisheries. The committee determined that the plans submitted by North Carolina, Maryland, Delaware, New Jersey, Connecticut and Massachusetts were approved.

At first, there was a problem with the Rhode Island proposal, but it was sent back for reworking, and then it was subsequently approved. A few of the plans deviated from the established procedure when a state's landings were below their harvest limit.

This situation allows for a liberalization of that state's regulations, possibly including a longer season, decreased minimum size and/or increased creel limit. There is no established methodology for liberalization.

Each state develops its own procedures, some of them under the guidance of Chris Moore. The states that

were able to consider less restrictive measures included Massachusetts, Connecticut and New York.

Though the committee did not take issue with this aspect in any of the proposal, it was consensus of the group that the methodology for liberalizing regulations should be standardized before next year.

The Virginia proposal presented several options for achieving the Board-approved harvest limit. The options associated with Tables 2 through 6 were approved by the committee. However, the Virginia proposal also included several options that separated the management of the recreational fishery by mode.

Tables 11 through 14 involved separating the party/charter boat mode from the remainder of the fishery. This division was objectionable to the Technical Committee as the precision of the data was thought to be inadequate.

Tables 7 through 10 presented options dealing with separation of inland from ocean fisheries. This division met the 30 percent coefficient of variation requirement established previously and was recommended for approval by the Technical Committee.

But because it was never done before, it was thought that this should be brought before the Board. The New York proposal presented four options. Options A and B were accepted by the Committee.

Options C and D, while technically correct, were subject of some debate. Both Options C and D proposed to reduce the size limit.

Option C used data from New York open boat survey, charter boat survey and included measurements from 4,383 fish.

This data was used to estimate the percentage of catch between 6 and a half and 17 inches, which was then used to calculate the percent increase in landings by reducing the size.

The approach, while different than used before, has a sample size that appears large enough and the method appears correct. Option D employed a method similar to that used to reduce the harvest, and 2001 was adjusted for the landings in excess of the harvest.

While it appeared to be technically correct, the committee indicated a preference for Option C because it was more conservative and uses more contemporary data than Option D. Thank you. Do you have any questions?

CHAIRMAN PATE: Any questions of Steve? A.C.

MR. A.C. CARPENTER: We had submitted a letter that essentially said that we would choose either a Maryland or a Virginia-approved plan. Did the Technical Committee get that, or did they review it or what is the status of that?

MR. DOCTOR: We did not receive that letter, but that has been protocol in previous years so I don't think that would be a problem.

CHAIRMAN PATE: If there's no discussion, we certainly need a motion to approve something. Gordon.

MR. COLVIN: Mr. Chairman, I will move approval of the proposals submitted by North Carolina, Maryland, Delaware, New Jersey, Connecticut and Massachusetts and the second proposal from Rhode Island.

CHAIRMAN PATE: Is there a second to Mr. Colvin's motion? Seconded by Mr. Adler. Discussion on the motion? If not, all those in favor, please signify by raising your right hand, 11 in favor; opposed, like sign, no opposing votes; null votes, none registered; abstentions, one abstention. It passed 11 to zero.

We need to address the proposals submitted by New York and Virginia. Gordon.

MR. COLVIN: Mr. Chairman, I want to just talk to the Board a minute about New York's proposal because I believe the results of the Technical Committee Review exposed a policy issue that the Board might want to be aware of before acting on the proposal.

We were confronted this year with the prospect of having a projected catch that actually fell below the state's target and, therefore, opened up the possibility of a relaxation of our regulations.

Recall, please, this is the second year in which the

current form of management is being implemented by the Board and, therefore, what's happening this year in terms of presenting the prospect for relaxation of regulations is happening for the first time.

As Steve's report pointed out, there is no specified or established process for evaluation of state proposals that relax their regulations, and in particular there's no process and immediately available reference table to calculate the effects of reducing the state's size limit.

Our staff came up with two options which are referred to in the report as Option C and D, and they are referred to in my memo to the Technical Committee, which is included in the packet that was just handed out.

The Technical Committee Report indicates a preference for Option C. That leaves the Board with a decision to make as to whether it would approve of the management measures based on Option D. Let me just point out a couple of things.

As I said, this is the first time we've done this, and it may well be that the decisions we make in this regard establish some form of precedent by which other states' proposals of such a nature would be evaluated in the future and that's why I wanted to ask you to think about this.

The primary difference between Option C and D are this: Option C is based on data that we collected, that New York state collected, through sea-sampling operations on party and charter boats in New York state in 2001.

Option D is based on the MRFSS tables, the MRFSS-based tables, essentially the same table that Chris Moore put together a year ago -- two years ago almost now, I guess, Chris -- that is based on the results of MRFSS sampling for New York state for the year 2000.

So it's a year older, and it's a different dataset. Should the board -- there's clearly no question that the 2001 data is better. It's better because it's a year newer.

We know and our own data shows, but intuitively, we know that the length frequencies are changing, particularly as size limits keep going up in New York and elsewhere and that on balance, the better option, the

preferred option would be to use the more recent data.

If that's the Board's decision, New York will accept it, but I want to point out that if the Board makes such a decision, the Board is essentially establishing a benchmark for this sort of decision that others might be challenged to meet.

The only reason we're in this situation is that New York is in the happy circumstance of having a pretty good-sized sea sampling dataset in our party/charter boat fishery last year. If we didn't have it, we wouldn't be having this discussion.

If you don't have it, and that's what we choose, you'll all be, potentially, in the position of being excluded from making a case for reducing the size limit in the future, should we make this decision.

So that's why I wanted to bring the issue forward. There's a potential precedent here, and we will accept the judgement of the Board, but we want the board members to just be aware of where it might lead us down the road.

CHAIRMAN PATE: Thank you, Gordon. Are you prepared to make a motion?

MR. COLVIN: Well, I would certainly make a motion in support of all four New York options, A, B, C and D and put that up for consideration, and I would like to see what the Board's reaction is with respect to their level of comfort with the inclusion of Option D.

CHAIRMAN PATE: Is there a second? Second by Pete Jensen. Discussion by the Board? Pete.

MR. JENSEN: I guess I don't understand why if all four are technically correct in the words of the Technical Committee, why they would make a choice or have a preference. If it's technically correct to do it that way, it's technically correct. I'm not understanding the definitions.

MR. COLVIN: I, personally, Mr. Chairman, would have been happier had the Technical Committee done a straight thumbs up or thumbs down on this myself, as you can well imagine. Maybe Steve can shed some light on the issue. I think they, too, are dealing with a

reality that this hasn't come up before.

MR. DOCTOR: One of the problems arises is that there was no established procedure set, so it was a judgement call that had to be made on this.

Initially, the Technical Committee was in favor of all four alternatives put forth by the state of New York, but there were people on the Technical Committee from New York that had reservations with Item D.

Then it was just assumed because -- well, it came to the conclusion that because this is new territory, we aren't sure what the effects of it will be, that they had a preference for the more conservative of the two plans.

So, yes, you're correct, they are technically correct, but the consensus was that people were more in favor of the more conservative one.

CHAIRMAN PATE: John.

MR. CONNELL: Taking the words that Gordon Colvin himself used a few years ago relating to New Jersey in another plan, if it's technically correct, it's correct. That's my feeling. I feel the same way as Pete.

CHAIRMAN PATE: Okay, I would like to have about a 15-second caucus on this.

(Whereupon, a caucus was held.)

CHAIRMAN PATE: End the caucus, please. All those in favor of the motion, please signify by raising your right hand, 11 in favor; opposed, no opposition; null votes, none registered; abstentions, one abstention. The motion passes.

The Chair will recognize Mr. Travelstead.

MR. TRAVELSTEAD: Thank you, Mr. Chairman. Let me start by saying that Virginia feels the pain of all the states that had to endure this last year, and you'll see that it has resulted in Virginia submitting a tremendous number of options that we received from every fisherman in the state, every little group of fishermen, charter boat captains, fishing piers, whatever.

I think they have their own way of achieving this 43.8

percent reduction that Virginia has to come up with this year. Since we submitted this group of options, we've looked at probably another 20 or 30.

But the good news is I can boil it down to four options. Two of the options are statewide proposals, and they appear in the package and are listed as 2B and 4. They use the straightforward methodology that the previous states used, the tables, the viable curves. Those are statewide options.

The other two are options that treat the ocean side of Virginia differently from the Chesapeake Bay, and I would note that the Technical Committee did approve, or I guess did say they were technically approvable in that the data met the 30 percent coefficient of variation.

The Technical Committee did raise some concerns about enforcement and transfer of effort. On the enforcement issue, Virginia has a very good enforcement division. They're well managed and well trained and are used to dealing with different regulations in different areas.

We have to deal with that everyday with striped bass, so I don't really see it being an enforcement issue. The areas that we're talking about are widely separated from the Chesapeake Bay.

We're talking about the upper eastern shore, for the most part Chincoteague and Wachapreague and those areas. So it's not a situation where you have anglers very close to one another fishing on different regulatory regimes.

In terms of effort transfer, I don't think that's going to happen. In 2001 Virginia's regulations were very different from all of the regulations along the Atlantic, and we did not see effort transferred to the eastern shore.

It appears it did happen to Chesapeake Bay, which is where the primary fishery is. Just to show you some numbers, the fishery in Chesapeake Bay last year landed 2.5 million pounds of flounder.

On the eastern shore, where we're talking about having slightly different regulations, they landed 150,000 pounds, so about 5 percent of the fishery occurs on the

eastern shore. To suggest that there would be this tremendous shift in effort from the Bay to the shore just doesn't make sense, I don't think.

The ocean fishery simply isn't large enough to handle that kind of effort shift, so I don't think that would happen. The two options that we're looking at that would separate ocean from Bay would establish a 16-inch minimum size and a 5-fish bag limit on the ocean side and a 17-inch and 8-fish bag limit in the Bay and would add 6 or 7 days to the closed season in the Bay to make up for what the ocean doesn't provide in terms of reduction.

The other option we're looking at on the ocean side is 15-1/2 inches and 5 fish and again 17 inches and 8 fish in the Bay, with an additional week closure.

I would be glad to offer a motion to approve those four motions that I have mentioned, and we will ignore all the others.

CHAIRMAN PATE: Can you clearly state what those options are, Jack, for the motion?

MR. TRAVELSTEAD: Yes, they are Option 2B, which is 17-inch minimum, 8 fish, and a closed season of January 1 to March 28 and July 22 to August 9, statewide.

Option 4, which is 17-1/2 inch minimum, 8 fish, and a closure of January 1 through March 28; no summer closure. The third option has two parts: On the ocean, 16 inch and 5 fish and a closure of January 1 through March 28 and July 22 through August 5; and on the ocean side, 17 inch and 8 fish and a closure of January 1 through March 28 and July 22 through August 15.

And the last option, again two parts: ocean side, 15-1/2 inches and 5 fish and a closure of January 1 through March 28 and July 22 through August 5. In the Bay, 17 inch and 8 fish and a closure of January 1 through March 28 and July 22 through August 16.

CHAIRMAN PATE: Thank you, is there a second to Mr. Travelstead's motion?

MR. CARPENTER: Second.

CHAIRMAN PATE: Seconded by A.C. Carpenter. Bruce.

MR. FREEMAN: Jack, I have two questions. One is in your memo you indicate that you offer these alternatives and then indicate that the industry may come up with other ones. Now you're narrowing it down to four?

MR. TRAVELSTEAD: Yes.

MR. FREEMAN: You pick one of these four?

MR. TRAVELSTEAD: Yes, if these are approved, our commission will adopt one of those four. We have had many conversations and already held public hearings on this.

MR. FREEMAN: Okay. My next question is if, in fact, Virginia exceeds its target next year, are you going to be able to determine where those excesses occurred, as in the event that you get the ocean and the Bay option; where that excess occurred?

MR. TRAVELSTEAD: Sure, we'll be able to tell that because we can separate those two areas now with the MRFSS data.

MR. FREEMAN: And your people collect the MRFSS?

MR. TRAVELSTEAD: No, no. No, it's a subcontractor.

MR. FREEMAN: Okay. Do you supplement the --

MR. TRAVELSTEAD: Yes, we do.

MR. FREEMAN: So you take an additional sampling?

MR. TRAVELSTEAD: We have done that for years, yes.

CHAIRMAN PATE: Gordon.

MR. COLVIN: Jack, I have a question on the ocean part of this proposal. I'm assuming that in -- well, you indicated that the ocean would be, quote, unquote, applicable to a limited part of the ocean on the eastern

shore, or is that the entire ocean fishery for the entire state?

MR. TRAVELSTEAD: It's the entire territorial sea.

CHAIRMAN PATE: John.

MR. CONNELL: Jack, just for my information, where is the dividing line between the ocean and bay?

MR. TRAVELSTEAD: It's the coalregs line, usually. I mean it's either that or the baseline of the territorial sea. We use different lines in different regulations. It connects the two lighthouses on Cape Henry and Cape Charles.

MR. CONNELL: Okay, well then a follow-up question. When a boat comes out of Virginia Beach, how do they make a determination which size and regulations --

MR. TRAVELSTEAD: If they're coming out of Virginia Beach, they're probably fishing -- I mean, it depends on whether you're coming out of Linhaven Inlet, you're in the bay; if you're coming out of Rudy Inlet, you're in the ocean.

MR. CONNELL: Right, that's my concern. What determines what they're regulation is when they get back to the dock?

MR. TRAVELSTEAD: Where they're fishing, the same way it works on striped bass.

CHAIRMAN PATE: Rick Cole.

MR. RICHARD COLE: Jack, in reference to your targets for the two areas, all the states have a target that we're shooting for as far as the number of fish we're permitted to harvest. What are your target for your two areas and how were they determined?

MR. TRAVELSTEAD: I'm not sure what you're asking now. The target reduction statewide is 43.8 percent.

MR. COLE: Yes, but each state is given a specific number of fish to remove from the stock, and since your proportioning this amongst two areas, I was

curious how you developed this individual target concept, because you have to have to it because you told Bruce you would be able to determine whether or not you went over.

MR. TRAVELSTEAD: I think Rob O'Reilly, who is here, could probably address that better than I can, and the staff has borrowed my sheets that have the calculations on it. So until they give me it back, I can't answer it, but perhaps Rob can.

MR. ROB O'REILLY: I'm sorry to say I didn't hear the question because I was up front talking to Steve Doctor.

CHAIRMAN PATE: Rick, will you restate the question for Rob, please?

MR. COLE: Rob, I was curious to know how you developed your target, number of fish that are to be removed from the stock in 2002 based on your area concept?

In other words, what Jack is telling us is that you're going to remove so many from the Chesapeake Bay, and you're going to remove so many from the coastal bay. How was that determination made, and do you have those hard numbers because you're going to need those hard numbers in order to tell where and if any overages occurred and where they did occur in 2003.

MR. O'REILLY: I think I heard a few times today the encouragement of creativity; and to do this, we really had to be just that. The ASMFC guidelines for conducting this exercise were based on a situation where if you try and relax regulations in any area, essentially the mathematical formula doesn't work.

You are instructed by ASMFC to subtract 2002 season closure reductions, for example, from 2001 and then use the remainder to progress through the analysis and the effects of the bag size and the season.

Similarly, for this, when you have different regulations for different areas, you have to go through a process where you say that, for example, a little over 71,000 fish were harvested in 2001, and let's just use the 15-1/2 and an 8.

You assume that since there's no change from the 2001

regulations, the Bay has to account for those 71,000 plus fish. In consequence, the 734,000 fish, which is the target for 2002, is essentially lowered to a lower number to account for those 71,000 fish.

So instead of a 43.8 percent reduction in the example I gave you, you have to make almost a 47 percent reduction. The Bay has to pick up or account for the fact that the regulations in the ocean will be the same as they were for 2001, and the reduction credit in the ocean obviously does not achieve 43.8 percent on an area basis.

That's really how we conducted this. I did talk to Chris Moore several times, probably more times than he would like, but there really was no other option other than to go through that approach.

We did try an approach beforehand and that was to inflate the 2001 landings statewide and work from there, and what we found out was that it was really too liberal. You ended up with no change in the ocean.

You ended up with the Bay having just a very one-day additional seasonal closure. Clearly, that does not make a whole lot of technical sense. So we went to the approach where we downgraded the 734,000, the target, by the 70,000-plus fish and that becomes the new target.

Your statewide reduction goes up because the Bay is going up from 43.8 to almost 47 percent, and the Bay is 95 percent of the 2001 fishery. I hope that was a good answer for you.

MR. COLE: I think I understand basically what you did. You've got your targets anyway for each -- it's broken down for each area. But now these two options, these two area options, did they go through the Technical Committee? Has the Technical Committee seen them?

MR. O'REILLY: The Technical Committee has not seen these particular area options. They have seen the area options that I think start on Table 10 in the packet. Excuse me, they start on Table 7 and run through Table 10.

The scenario is the same in that you're providing a splitting of the data, the statewide data, into a bay

component and an ocean component, and you are establishing different management measures for each area.

CHAIRMAN PATE: Okay, thank you, Rob. We need to vote on this while we still have a quorum. People are beginning to run off in great numbers. Do we need to caucus? It doesn't look like it.

All those in favor of the motion, please signify by raising your right hand, nine in favor; all opposed, no opposition; any null votes, two null votes; abstentions, one abstention. The motion passes. Thank you. On the next item on the agenda --

MR. CARPENTER: Mr. Chairman, before you leave state approval, I would like to get it on the record that the Technical Committee and the Board agreed that the PRFC would be allowed to choose from either Maryland's or Virginia's proposals for the Bay.

CHAIRMAN PATE: Thank you, A.C., I intended to make that statement myself and --

MR. CARPENTER: But I can't break Virginia's in half or take any of the Chincoteague quota.

CHAIRMAN PATE: So noted for the record. The next item that is on the agenda, we discussed during the joint meeting and set the strategy for putting together the work group to address, and that's the resolution of the discrepancy between the Commission and NMFS quotas for scup for the summer period.

Item number 10 under other business, Mike is going to make some comments about the stock assessment subcommittee nominations for scup.

MR. LEWIS: This is just real quick to try to get any nominations that anybody might have for the stock Assessment subcommittee that needs to be put together. We're going to go through the SARC in 2002, and so a subcommittee needs to be convened and we're just looking for nominations.

CHAIRMAN PATE: David.

DR. PIERCE: Yes, I would nominate Gary Nelson from my staff. He has been involved quite a bit with

scup and a few other issues of great concern to ASMFC. He knows the system and he's got the population dynamics expertise, and I think he would be a good addition to that subcommittee.

CHAIRMAN PATE: Thank you. Without objections, we'll include him.

MR. LEWIS: Also, just for the record, Vic Crecco has been nominated by the state of Connecticut.

CHAIRMAN PATE: Any more nominations? Staff has handed out a memo on the advisory panel nominations for the plan. Mike.

MR. LEWIS: Before you right now is a memorandum from Tina Berger, and there are two individuals who have been nominated for inclusion in the Scup, Black Sea Bass Advisory Panel. They are both from the state of New Jersey, Joan Berko and William Egerter.

CHAIRMAN PATE: Yes, John Connell.

MR. CONNELL: I move to accept the nominations of Joan Berko and William Egerter.

CHAIRMAN PATE: Motion to approve; seconded by A.C. Carpenter. All in favor, please signify by raising your right hand, 11 in favor; any opposition, none; no null votes; abstentions, no abstentions. The motion passes.

This concludes our agenda. Thank you very much; good work today. Meeting adjourned.

(Whereupon the meeting adjourned at 6:45 o'clock p.m., February 21, 2002.)

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