

**PROCEEDINGS
OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
WINTER FLOUNDER MANAGEMENT BOARD**

**August 17, 2004
Radisson Hotel Old Town Alexandria
Alexandria, Virginia**

ATTENDANCE

Board Members

George Lapointe, Maine DMR	Eric Smith, Connecticut DEP
Sen. Dennis Damon (ME)	Lance Stewart, Connecticut Gov. Appointee
Patten White, Maine Gov. Appointee	Gordon Colvin, New York DEC
Dennis Abbott, proxy for Rep. Blanchard (NH)	Pat Augustine, Chair, New York Gov. Appointee
G. Ritchie White, New Hampshire Gov. Appointee	Bruce Freeman, New Jersey DFG&W
David Pierce, Massachusetts DMF	Ed Goldman, proxy for Assemblyman Smith (NJ)
Vito Calomo, proxy for Rep. Verga (MA)	Tom Fote, New Jersey Gov. Appointee
William Adler, Massachusetts Gov. Appointee	Roy Miller, Delaware DFW
Mark Gibson, Rhode Island DEM	Harry Mears, NMFS
Jerry Carvalho, proxy for Rep. Naughton (RI)	Wilson Laney, US FWS
Everett Petronio, Rhode Island Gov. Appointee	

Ex-Officio Members

Steven Correia, TC Chair	Kurt Blanchard, LEC Representative	Harold "Bud" Brown, AP Chair
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ASMFC Staff

Brad Spear	Lydia Munger
Bob Beal	Mike Howard
Vince O'Shea	

Guests

Bruno Vasta	Gregory DiDomenico	Lew Flagg
James Fletcher	Dick Brame	Anne Lange
Mike Cannon	Dan McKiernan	Bob Ross
Tony Bogan	Peter Burns	

There may have been others in attendance who did not sign the attendance sheet.

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MOTIONS

Move to accept all options in Section 2.5 to approve the parameters as opposed to the current estimates for the SNE/MA and GOM stocks.

Motion made by Mr. Lapointe; seconded by Mr. Gibson. Motion carries unanimously.

Move to substitute “at or near” for “above” in Objective 2 of Section 2.3.

Motion made by Mr. Colvin; seconded by Mr. Smith. Motion carries unanimously.

Move that the Board adopt Option 1, status quo, for Section 2.4.

Motion made by Dr. Pierce; seconded by Rep. Abbott. Motion unanimously.

Move to accept Option 2 for both management units (SNE/MA and GOM) in Section 2.5, Issue 1. Motion made by Mr. Lapointe; seconded by Mr. Gibson. Motion carries unanimously.

Move that the Board accept Option 2 for Section 2.5, Issue 2, for both stocks (SNE/MA and GOM). Motion made by Mr. Gibson; seconded by Mr. Colvin. Motion carries unanimously.

Move that the Board accept Option 3, Section 2.6.1.

Motion made by Mr. Calomo; seconded by Mr. Carvalho. Motion fails.

Move that the Board accept Option 1, Section 2.6.1.

Motion made by Mr. Lapointe; seconded by Mr. R. White. Motion carries unanimously.

Move to adopt Option 1 of Section 2.6.2 for both stocks (SNE/MA and GOM) and include a provision that, on an annual basis and at its discretion, the Board may invoke the provision of Option 3 (limit on the amount of time spent between the target and threshold levels).

Motion made by Mr. Smith; seconded by Dr. Pierce. Motion carries (8 in favor, 2 opposed, 0 abstention and 0 null).

Move that the Board choose Option 4 of Section 4.1.

Motion made by Dr. Pierce; seconded by Mr. R. White. Motion carries (9 in favor, 1 opposed, 0 abstentions, 0 null).

Move to substitute to choose Option 2 of Section 4.1.

Motion made by Mr. Lapointe; seconded by Mr. Calomo. Motion fails.

Move to adopt Option 4 for Section 4.2.

Motion made by Mr. Colvin; seconded by Mr. Lapointe. Motion carries (9 in favor, 1 opposed, 0 abstentions, 0 null).

Move to accept Option 1 of Section 4.5.3.

Motion made by Mr. Lapointe; seconded by Mr. Calomo. Motion carries.

ATLANTIC STATES MARINE
FISHERIES COMMISSION

WINTER FLOUNDER MANAGEMENT
BOARD

Radisson Hotel
Alexandria, Virginia

August 17, 2004

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The Winter Flounder Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Suite of the Radisson Hotel, Alexandria, Virginia, on Tuesday, August 17, 2004, and was called to order at 8:00 o'clock a.m. by Chairman Patrick Augustine.

WELCOME & INTRODUCTIONS

CHAIRMAN PATRICK AUGUSTINE: Good morning, all. Would the board members please take their seats. I'd like to welcome you all here to the Winter Flounder Management Board meeting.

BOARD CONSENT

We've got a very busy agenda this morning; and hopefully by the end of the day we will, not the end of the day but the end of our session, we will have approved Amendment 1 to the Interstate Fishery Management Plan for winter flounder.

If each of you would review the agenda, are there any corrections, suggestions or additions? Seeing none, the agenda is approved.

I'd like to have you make comment on the proceedings of the May 25th, 2004, board meeting. Are there any corrections,

additions, or deletions? May I have a motion? Bill Adler, motion to accept; seconded by Mr. Abbott. All in favor aye; opposed; null votes; abstentions. Passed.

PUBLIC COMMENT

At this time, I'd like to ask the public if they have any comments they would like to make. The public will be allowed to make comments throughout the proceedings; so any time you have an issue, please make mention of it.

For the board members, please note you're having a Fisherman's Dock Co-Op, Incorporated, piece being handed out. It covers comments on the Winter Flounder Amendment 1. Try to squeeze in taking a look at it. I think when the public has a chance to speak on this, Greg DiDomenico will probably want to make some comments. At this time we'd like to get into the discussion and approval of the amendment, and we'd like to have Lydia, Ms. Munger, give us an overview of the public comment.

**REVIEW OF PUBLIC COMMENT ON
DRAFT AMENDMENT 1**

MS. LYDIA MUNGER: Thank you, Mr. Chairman. There are a couple of items coming around to the board at this time. The first is a summary document that summarizes all the public hearings that took place throughout the states during July.

The second is a document summarizing the written public comment that was received. Then there are also comments coming around from the law enforcement committee as well as from the advisory panel.

The advisory panel just had their meeting yesterday, and the chair is here as well as the

representative from the law enforcement committee and the technical committee chair. As we go through the options, please refer to your handouts and also feel free to ask questions of these individuals.

I've prepared a presentation that goes through a summary of all the public comments that were received. I'd like to go through the hearings as they occurred, state-by-state, summarizing the public comments, and then I'll go through the written comment.

I have another presentation prepared that details each issue as well as everybody's comments on that issue. So, first I'd just like to go through the public comment.

The first hearing took place in Old Lyme, Connecticut, on July 12th, 2004. There were 16 people in attendance. What I'm going to do for each hearing is go through first the comments that were related to specific options or sections within the amendment, and then I'll summarize the general comments.

The bulk of the comments received were more general in nature, but there were a number of good comments received in favor of certain options.

So, in Old Lyme, Connecticut, for Section 2.4, management units -- and one other thing I'd like to point out is there is a summary table at the beginning of both the public hearing summary document and the written public comment summary document that will break all this down into neat format for you to look at.

Okay, so in Old Lyme, Section 2.4, management units, 16 people spoke in favor of Option 2 which would be splitting the current stocks into smaller management

units. For Sections 4.1 and 4.2, recreational and commercial management measures, these are two separate sections, but the options in each section are exactly the same.

For the most part, the comments that were received were the same for each section, so I've just lumped them together. If you have any questions about that, feel free to stop me.

Fourteen people spoke in favor of Option 1 for management measures, which is status quo, meaning that states would keep their current regulations as detailed in the draft amendment.

There are copies of the draft amendment on the back table if anyone needs them. There was one comment in favor of Option 4 in Old Lyme, which refers to the stock area specific management measures.

There were a number of general comments received at the hearing in Old Lyme. There were many concerns about predation, and it was requested that an objective be added to the amendment as well as that research needs be defined within the amendment regarding predation concerns.

There were concerns that the social and economic aspects were not adequately addressed in this amendment. Both said there was not enough research presented and also that the impacts were not fully fleshed out within the draft amendment.

There were statements made that there should be no additional restrictions on fishermen in Long Island Sound, that current restrictions are sufficient. There were comments that the overfishing in the Southern New England/Mid-Atlantic stock is occurring elsewhere in the stock, not in Long Island Sound.

There was a request for a research need to examine the effects of electro-magnetic fields from power plants on the movements and behavior -- or from power lines, excuse me, on the movements and behavior of winter flounder.

The second hearing took place in East Setauket, New York, on July 13th, 2004. Twenty-seven individuals attended this hearing. Comments on Section 2.4, management units: There were two comments in favor of Option 1, which is the status quo, keeping the current stock definitions. Three comments were placed in favor of Option 2, splitting these into smaller management units.

Section 2.5 deals with fishing mortality targets. The first issue deals with fishing mortality targets. There was one comment in favor of Option 1, which is the status quo targets from Addendum II to the FMP; and one comment in favor of Option 2, which is the SARC 36 criteria for fishing mortality targets.

Section 2.5, Issue 2, deals with biomass targets and thresholds. There was one comment in favor of Option 1, which is status quo. And just to go back to the draft amendment, status quo is the Addendum II targets and thresholds, but there are no biomass targets and thresholds listed in Addendum II for either stock of winter flounder.

Section 2.6.1, dealing with stock rebuilding targets, there was one comment in favor of Option 1 that reads, "rebuild to the target within the rebuilding time frame."

Section 2.6.2, stock rebuilding schedules, there was one comment in favor of Option 1, which is using the Amendment 13 control

rule, which is a ten-year rebuilding time frame.

There were comments on Sections 4.1 and 4.2 in New York. There was one comment in favor of Option 1, which is the status quo for management measures; and two comments in favor of Option 4, which is the stock area specific management measures option.

General comments in New York, there were a number of comments that were concerned that if an allocation were to be divided between recreational and commercial sectors, the individuals who commented wanted to make sure that allocation was fair and based on the historical landings in the recreational and commercial fisheries.

There were many comments that detailed a concern that the Amendment 13 reductions are not being taken into account by the Commission. There were concerns about predation on winter flounder as well as habitat degradation.

There were some comments that were detailed that thought that all regulations in all the states should be equal to prevent situations where states with more liberal regulations are taking a lot of the business away from states with more conservative regulations.

Also in New York, there were comments that thought that the Mid-Atlantic stock should be once again separated from the Southern New England stock; concerns that multi-species management should be examined as a more effective way of managing, especially with predator-prey interactions; and that the options for the recreational and commercial management measures within the draft document are not specific enough.

What this individual was saying is that these options don't spell out what the bottom line would be for the public when it comes to implementing these reductions, and that was a cause for concern.

The next hearing was in Belmar, New Jersey, on July 15th, 2004. There were 14 people in attendance. Section 2.4, dealing with management units, there was one comment in favor of Option 2, which is splitting the current stocks into smaller management units.

Section 2.6.2, stock rebuilding schedules, there was one comment in favor of Option 1, which is the ten-year rebuilding time frame from Amendment 13.

General comments in New Jersey: There were a number of comments concerned about fyke nets in estuaries and their potential for fishing all the time when they're in the water; whereas, recreational fishermen can only go out when the weather is good and only are putting effort on the fish when they are actually out fishing; a number of concerns about predation on winter flounder and habitat concerns.

There were questions about the appropriateness of habitat recommendations in ASMFC plans, not concerns that the recommendations presented are wrong, but more that this individual was expressing that since the Commission does not have authority to regulate habitat issues, that perhaps they should keep habitat out of the plans entirely.

There was a suggestion for a comprehensive study over an entire year studying inshore and offshore areas to get a broad picture of winter flounder movements over the course of the year. There was a comment that

perhaps the timing of current seasons should be examined further.

More general comments from New Jersey: A tagging study was suggested to take place across all states simultaneously to determine exactly how much movement takes place between states and whether it would be appropriate to split the current stocks into smaller management units.

Concerns were placed regarding future regulations in that they be equitable between recreational and commercial fisheries. There was concern that Amendment 13 reductions were not being taken into account by the Commission.

A comment was received that overfishing is happening elsewhere in the Southern New England/Mid-Atlantic stock and not in New Jersey. Another comment was received to separate the Mid-Atlantic from the Southern New England stocks.

On July 19th, 2004, there was a hearing in Narragansett, Rhode Island. There were seven people in attendance at this hearing. For Section 4.1, recreational management measures, there was one comment in favor of Option 2, and this option deals with inshore reductions in fishing mortality to parallel the reductions that take place with Amendment 13.

General comments from Narragansett: Some comments that the management measures put in place with the draft lack specificity in terms of what the ultimate end result will be for the public; a number of concerns about habitat degradation; suggestions to implement seasonal closures to protect spawning movements of winter flounder as they move into the estuaries to spawn; a comment that the current commercial quota in Rhode Island is

unrealistic -- in fact this individual thought that this quota is too high -- and comments that additional recreational regulations will be unfair considering the currently minimal recreational fishery that is taking place in Rhode Island.

Also in Rhode Island, there were concerns that future regulations will be based on this current pattern of low landings and will not take the historical high into account once the fishery should rebound.

There was a suggestion that all flounder species be managed together. Somebody brought up the case of Boston Harbor where the winter flounder are thought to have returned; and that if this is in fact the case, that the Boston Harbor case should be researched so that lessons can be applied elsewhere; and that the Commission should begin to collect data now so that in the future the split into smaller management units can be made if the presence of data is the concern at this time.

There was a hearing in Plymouth, Massachusetts, on July 20th. There was one person in attendance. Section 2.5, dealing with biomass targets, this individual was in favor of Option 3, which is the step increase from Amendment 9 to Amendment 13 targets, and that option is only valid for the Southern New England/Mid-Atlantic stock.

Section 2.1, stock rebuilding targets, there was one comment in favor of Option 3, which means rebuild to a point half-way between the target and the threshold by the end of the rebuilding time frame.

General comments in Plymouth: There were concerns regarding the achievability regarding Goal Number 1 and Objective Number 6. These issues deal with bringing back the winter flounder to inshore areas.

The comments received here were concerned that this goal and this objective are not achievable, especially in a relatively short time frame such as ten years. There were concerns about predation on winter flounder; a concern that the biomass target for the Southern New England/Mid-Atlantic stock seems too high.

There were comments that the ten-year rebuilding time frame as used by the council -- and that appears as an option within this amendment -- is an arbitrary number.

It was thought that recreational and commercial management measures should be more area-specific, knowing that Massachusetts is in a difficult position when it comes to implementing management measures for winter flounder because Massachusetts tends to land from all three stocks.

On July 21st there was a hearing in West Boothbay Harbor, Maine. There were two people in attendance. Section 2.5, dealing with fishing mortality targets, there were both comments in favor of Option 2, which is the SARC 36 criteria and for biomass targets; two comments also in favor of Option 2, which are the SARC 36 criteria.

General comments in Maine: There was concern about the potential for fishing in the Gulf of Maine under the federal B-day program. There were thoughts that the federal program should perhaps complement the state program and not the other way around as is currently done.

There were comments that the Commission should remain conservative in the Gulf of Maine even though the assessment states that the Gulf of Maine stock is not overfished and overfishing is not occurring.

However, there were fears that being conservative now may penalize fishermen in the future if the stock should rebound, that regulations may not be relaxed. And there were comments that there should be no exemptions for data collection as a condition of de minimis status; the thought behind this being that since there is a lack of data in inshore areas of the Gulf of Maine north of Massachusetts, that all data counts, and that perhaps de minimis states throughout the range should not be allowed to not conduct data collection as a condition of de minimis status.

And the last hearing took place in Portsmouth, New Hampshire, on July 22nd, 2004. There were two individuals in attendance. Section 2.4, dealing with management units, there was one comment in favor of Option 2, which would entail splitting the current stocks into smaller management units.

Section 4.1 and 4.2, recreational and commercial management measures, again, the comments for these two were the same so I've lumped them together: one comment in favor of Option 1 for both sections, which is the status quo, and one comment in favor of Option 4 for both sections, which is the stock area-specific management measures.

General comments in Portsmouth: There were concerns regarding the achievability of Objective Number 6 which, again, is that inshore objective; comments that recreational fishermen in New Hampshire are discouraged, and in fact are not fishing for winter flounder, which is why the catch and effort numbers for recreational fishing in New Hampshire appears so low; and also comments that there is not much of a recreational fishery in New Hampshire to regulate at this point.

In the discussion of the management options, there is a list of management tools that are available to the board, and one of these is a maximum size limit. There were comments received at the Portsmouth hearing that this maximum size limit would be inappropriate for winter flounder, and they asked that the Commission keep that in mind.

There were comments that bag limits, if they are put in place, should be large enough to allow a recreational fishery to continue at a meaningful level. There was a statement that the Gulf of Maine fishery will not rebound under current management, which brings me to written public comment.

Comments were received through August 13th, 2004, and there were two letters passed out to the board also today. Fifteen comments were received by staff through August 13th. Section 2.4, management units, there were three comments in favor of Option 1, status quo; and one comment in favor of Option 2, splitting the current stock into smaller management units.

Section 2.5, fishing mortality targets, three comments were received in favor of Option 2 which is the SARC 36 criteria; and also for Section 2.5, biomass targets, three comments were received in favor of Option 2, the SARC 36 criteria.

Section 2.1, stock rebuilding targets, one comment was received in favor of Option 1, rebuilding to the target during the rebuilding time frame.

And for Section 2.6.2, stock rebuilding schedules, three comments were received in favor of Option 1, which is the ten-year Amendment 13 control rule, and one comment was received in favor of Option 3, placing a limit on the time spent between the

target and the threshold.

Section 4.1 and 4.2, recreational and commercial management measures, three comments were received for both sections and all were in favor of Option 4, stock area-specific management measures.

And for Section 4.5.3, which deals with de minimis, one comment was received in favor of Option 2 under which states would petition the board for the exemptions that would apply to them under de minimis status.

General comments received in the written comments: There were suggestions for a complete closure, a moratorium of the winter flounder fishery. There were comments received that asked the Commission to address inshore depletion north of Massachusetts.

There were concerns about the effects of power plants on winter flounder habitat and also concerns about the effects of predation on winter flounder stocks. A comment was received that suggested a multi-species approach as potentially a more effective way of managing these winter flounder stocks. This concludes the public comment summary.

CHAIRMAN AUGUSTINE:
Thank you, Lydia. Any comments from the board? Any comments from the public? All right, seeing none, we'll move along. Mr. Correia, are you ready to make your report from the technical committee?

SELECTION OF OPTIONS FROM DRAFT AMENDMENT 1

MS. MUNGER: I'm sorry, Pat, I'm just going to jump in. Staff has prepared a presentation that goes through the

draft amendment section by section, and for each section lays out the technical committee, law enforcement committee, advisory panel and public comments on each of the option, so if you would allow, Mr. Chairman, we could go through that presentation. It should lay it out pretty nicely for the board.

CHAIRMAN AUGUSTINE:
All right with the board? They're all nodding their head yes. Let's do it, Lydia.

MS. MUNGER: Thank you. This presentation was prepared to review all of the options presented in Draft Amendment 1, and I'll go through section by section and show -- out of everybody that commented, each group that commented I'll show what they said so maybe it will be easier if we just start.

Section 2.2, which is the goals of Amendment 1, I will detail the public comment, the technical committee stance, if there is one, advisory panel stance if there is one and the law enforcement committee stance, if there is one.

And at any point the chair of the AP, the chair of the technical committee and the law enforcement committee representative should feel free to jump in and stop me. I'll just read through this slide and then we'll take board comments or discussion section by section.

So for Section 2.2, goals of Amendment 1, there was one comment expressing concern with the second of these goals. The technical committee recommends approval and the advisory panel did not have a comment on this section.

CHAIRMAN AUGUSTINE:
Any comments from the board? Seeing

none, Lydia, move on.

MS. MUNGER: Management objectives -- and I'll try to give the page numbers as I go through this also -- management objectives appear on Page 35 of the draft, and there are extra copies of the draft on the back table if necessary.

There were two comments concerned with the achievability of Objective Number 6. The technical committee recommends approval of the management objectives, and the advisory panel did have one comment on the objectives, and that is to edit Objective Number 2.

The way it reads right now is "manage the winter flounder stocks under an ASMFC rebuilding plan designed to rebuild and then maintain the spawning stock biomass above the target biomass levels and restrict fishing mortality to rates below the threshold."

The advisory panel would like to see it read, "Manage the winter flounder stocks under an ASMFC rebuilding plan designed to rebuild and then maintain the spawning stock biomass at or near the target biomass levels and restrict fishing mortality to rates below the threshold. That's replacing the above with an "at or near."

CHAIRMAN AUGUSTINE: Comments from the board. Mr. Brown, would you want to expand your comments, please, from the advisory panel.

MR. HAROLD "BUD" BROWN: That was just recognition that the biomass could go above or below the target, just that it would fluctuate around the target so just not maintain it above -- just wordsmithing.

CHAIRMAN AUGUSTINE:

Thank you, Mr. Brown. Dr. Pierce.

DR. DAVID PIERCE: I just need a quick reminder from Steve Correia as to how we determine spawning stock biomass for these stocks. Is the determination based solely on bottom trawl survey results?

CHAIRMAN AUGUSTINE: Mr. Correia.

MR. STEVE CORREIA: No, the estimate of spawning stock biomass is based on, at this point, a VPA model which includes survey indices and catch at age and maturity ogives, all fed together to come up with an estimate of what the standing stock of the mature fish are.

DR. PIERCE: So for all the stocks, we have a VPA?

MR. CORREIA: For Gulf of Maine, we have a VPA. For Southern New England/Mid-Atlantic, we have a VPA. I'm not sure what they have for Georges, but Georges Bank is not done in this form.

CHAIRMAN AUGUSTINE: Thank you, Mr. Correia. Any further questions? Lydia.

MS. MUNGER: Section 2.4 deals with the definition of management units. This section also begins on Page 35 of the draft. So just to run back through public comment, for Option 1, status quo, there are five comments in favor.

Option 2, splitting into smaller units, there were 22 comments in favor. The technical committee recommends Option 1, status quo. The advisory panel recommends Option 2, smaller management units.

And the law enforcement committee -- the AP and the LEC handouts were give around at the beginning of this meeting. But the law enforcement committee lists Option 1 as enforceable and Option 2 as less enforceable.

CHAIRMAN AUGUSTINE:
Any comments from the board? Mr. Mears.

MR. HARRY MEARS: If I could ask for a clarification of the advisory committee's recommendation in that regard. I read their report, and that's really not the connotation that I took from reading the report.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Mears. Mr. Brown.

MR. BROWN: We looked at smaller management units as a long-term goal. We had a long discussion with Steve about it's not achievable at this point. I think there is a general recognition that there are a lot of smaller populations of winter flounder and we looked at this long-term.

MR. MEARS: But just to clarify, you do not recommend it at this time in management of the resource? You look at it as something that hopefully can be achieved in the future?

MR. BROWN: That's right.

CHAIRMAN AUGUSTINE:
Thank you. Any further questions or comments? Seeing none, Lydia.

MS. MUNGER: Section 2.5, the definition of overfishing. The first issue deals with fishing mortality targets and thresholds. For public comment for Option 1, which is the status quo from Addendum II, one comment was placed in favor; and

for Option 2 there were six comments in favor of Option 2 as the SARC 36 criteria. The technical committee recommends Option 2 and the advisory panel did not comment.

CHAIRMAN AUGUSTINE:
Mr. Correia.

MR. CORREIA: Just a point of clarification. It's unclear in the text whether or not these overfishing definitions are referring to the parameter Fmsy or F40 percent, or it's the parameter and the current estimate.

The estimates of the parameters may change when you update the assessments, and so the question is if it's the parameter, then you have an easier process of updating the estimate. If it's the actual estimate, I'm not sure in this process if you have to go through an addendum to change those numbers.

CHAIRMAN AUGUSTINE:
Questions from the board. Mr. Lapointe.

MR. GEORGE LAPOINTE:
A comment more than a question. Wouldn't it make sense to go with the parameter and make our plan more flexible as we go forward? I mean, I don't want to do an addendum every year or two years when we do an assessment.

CHAIRMAN AUGUSTINE:
Mr. Correia.

MR. CORREIA: That's why I brought it up. I agree.

CHAIRMAN AUGUSTINE:
Will you make that recommendation, Mr. Lapointe?

MR. LAPOINTE: Are we at that stage, Mr. Chairman?

CHAIRMAN AUGUSTINE: Yes, Mr. Lapointe.

MR. LAPOINTE: We've got to keep you away from parliamentary school. Then if it's what's needed I would make a motion that in fact under Option 2 in the document it would, Option 2 both Gulf of Maine and Southern New England/Massachusetts -- it that Massachusetts? -- Southern New England/Mid-Atlantic, I'm sorry, that Option 2 under both of those would use the parameter and not the estimate.

CHAIRMAN AUGUSTINE: Thank you. Do I have a second? Mr. Gibson seconds it. Discussion? George, Lydia would like to have you clarify that just one more time on Section 2.5.

MR. LAPOINTE: As I understand it, there was a question raised about whether we wanted under the -- we would be choosing under Option 2 in both Southern New England/Mid-Atlantic and the Gulf of Maine, Option 2; and we're not, I assume, voting on the option at this point, it's just a clarification in the text.

CHAIRMAN AUGUSTINE: Yes, it's just the option at this time.

MR. LAPOINTE: It would be to use the parameter estimate for an overfishing definition and not the -- the parameter and not the estimate of the current estimate of the number. Is that correct?

MR. CORREIA: Yes, and it will also apply to Option 1, which is how I think it's written in the plan now. Also when you get to the biomass reference

points, the thresholds and the targets, that same issue would apply on that one.

MR. LAPOINTE: And for consistency for all those estimates, I would expand to that.

CHAIRMAN AUGUSTINE: Okay, is that clear? Thank you, Steve. Mr. Fote, question?

MR. THOMAS FOTE: Am I right in understanding we're not voting on the motion, we're just voting to clarify the options?

MR. LAPOINTE: That's correct.

CHAIRMAN AUGUSTINE: Just on this option. Comment from the public, Mr. Doberley.

MR. MICHAEL DOBERLEY: Thank you, Mr. Chairman. It's Michael Doberley, Deputy Director of Government Affairs for Recreational Fishing Alliance. If you could, we would ask that in the definition of overfishing, if you could somehow incorporate into that the fact that a stock size may be increasing or decreasing.

There is a lot of misperception amongst the general public right now that overfishing is tantamount to a decreasing stock size, and it's a false impression. I'm trying to make it a little bit more positive.

I played around with it. I couldn't find a way to do it. Much better minds at this table than my own could find a way to work that into it. We think that would help just be a more accurate reflection of the overall status. Thank you.

CHAIRMAN AUGUSTINE:
Thank you for those comments. Okay, back to the board. Comments on the motion on the table? Ready for a vote? Okay, all in favor say aye, raise your right hand; opposed. A point of clarification before we do that?

MR. CORREIA: Yes, the motion as written on the board only applies to Option 2 of Section 2.5. I thought that you had modified it so that it applies to all the parameters for the overfishing definition.

MR. LAPOINTE: Yes, we did.

CHAIRMAN AUGUSTINE:
Could you correct that, Brad. The motion reads move to accept Option 2 of Section 2.5 to approve the parameters as opposed to the current estimates for the Southern New England/Mid-Atlantic and Gulf of Maine stocks. Motion by Mr. Lapointe; seconded by Mr. Gibson.

MR. LAPOINTE: And wouldn't it be best just to refer -- it would be for all the options in Section 2.5 under definitions of overfished and overfished. Isn't that accurate, Steve? Again, we're just trying to clarify this. I don't want to spend too long on this.

CHAIRMAN AUGUSTINE:
We'll have Brad clarify it. Go ahead, Lydia.

MS. MUNGER: I just want to make sure that this is the board's intent, but under Section 2.5, there is a second issue dealing with biomass targets. I want to clarify that if the board would like to approve the parameters as opposed to the estimate for those also, that gets --

MR. LAPOINTE: So fishing

mortality rate target thresholds, biomass target and thresholds. I should have said that earlier, but I was just trying to be quick and clearly failed.

CHAIRMAN AUGUSTINE:
That covers it. Thank you very much. Move to accept all options in Section 2.5 to approve the parameters as opposed to the current estimates for the Southern New England/Mid-Atlantic and Gulf of Maine stock. Motion by Mr. Lapointe, seconded by Mr. Gibson.

Those opposed to that motion, raise your right hand; none; null votes; abstentions. The motion carries.

MS. MUNGER: Okay, now that the board is clear on exactly what they're looking at in Section 2.5, I'm just going to move to Issue 2 and summarize the comments, which is the biomass targets and thresholds.

For public comment, there was one comment in favor of Option 1, status quo. Five comments were placed in favor of Option 2, which is the SARC 36 criteria parameters. And for Option 3, which only applies to the Southern New England/Mid-Atlantic stock, there was one comment in favor. The technical committee recommends Option 2, and the advisory panel did not comment.

CHAIRMAN AUGUSTINE:
Comments from the board? From the public? Seeing none, move on, Lydia.

MS. MUNGER: For Section 2.1, stock rebuilding targets, appearing on Page 43 of the draft, there were two public comments placed in favor of Option 1, which is rebuilding the biomass to the target level within the time frame established; one comment in favor of Option 3, rebuilding

the biomass to a point halfway between the target and the threshold within the timeframe established. The technical committee recommends Option 1, and the advisory panel recommends Option 2.

CHAIRMAN AUGUSTINE:
Comments from the board? Mr. Goldman.

MR. EDWARD GOLDMAN: Yes, under Option 1, I believe this is the appropriate section, I'd like to make a motion that we implement regulations to reduce the fishing mortality in the commercial sector only to achieve the target; and according to the schedule outline, I believe it's 2.2 of this addendum.

The rationale being that the commercial fishery accounts for, I believe it's 91 percent of the harvest over the time series that we covered; and therefore putting the onus on the recreational fishery would not help the rebuilding schedule at all.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Goldman. Lydia.

MS. MUNGER: Just a point of clarification. I'm just wondering if this would be more appropriate under Section 4.2, commercial management measures as opposed to -- because Section 2.1 deals with what level of biomass should be achieved by the end of the rebuilding time frame. It's completely up to you. I just wanted to point that out.

CHAIRMAN AUGUSTINE:
Mr. Goldman, okay? Okay, thank you, so we don't have a motion then. We have no need for a motion. There was no second and he has actually withdrawn the comment. Mr. Colvin.

MR. GORDON C. COLVIN:

Just to clarify the process, Mr. Chairman, as I understand it, we're simply reviewing the comments at this time and that motions to adopt particular options, whether they are in the plan as presented to the public or some other options, would not be in order until we have completely gone through the entire staff presentation on comments, and then we're going to come back and go through it section by section for adoption?

CHAIRMAN AUGUSTINE:
We were going to make only those changes as appropriate as Lydia went through the comments. In this particular case, Mr. Lapointe has a point of clarification so we clarified that.

Otherwise, we plan on going through all of the public comments, comments from the board and/or from the public on those comments and then at the end of the day go through those and at one fell swoop approve the document.

MR. COLVIN: So we're going to go back through section by section to select options later?

CHAIRMAN AUGUSTINE:
Yes, we are, Mr. Colvin.

MS. MUNGER: Okay, Section 2.2, stock rebuilding schedules. This section refers to the amount of time that the rebuilding should take place over. This begins on Page 43 of the draft.

For public comments, there were five comments in favor of Option 1, which is the Amendment 13 ten-year rebuilding timeframe; one comment in favor of Option 3, which places a limit on the amount of time spent between the target and threshold levels. The technical committee recommends Option 1 and the advisory

panel also recommends Option 1.

CHAIRMAN AUGUSTINE: Comments from the board? Comments from the public? Seeing none, Lydia.

MS. MUNGER: For Section 4.1, recreational management measures, the section begins on Page 52 of the draft. As far as public comment goes, there were 16 comments in favor of Option 1, which is status quo, meaning that states would retain their current regulations as summarized in the table in the draft amendment.

One comment was placed in favor of Option 2, which is inshore reductions in fishing mortality to parallel the reduction achieved in federal waters by Amendment 13. And, seven comments were received in favor of Option 4, which is the stock area-specific management measures.

The technical committee supports Option 4 and the advisory panel was split on this one. A majority supported Option 1 with a minority supporting Option 4, and perhaps the technical committee or advisory panel would like to comment on these options.

CHAIRMAN AUGUSTINE: Comments from the board? Comments from the public? Mr. Colvin.

MR. COLVIN: I'd like to hear the technical committee and the advisory panel if they could discuss a little bit the reasons for their opinions, and in particular the majority and minority opinions.

CHAIRMAN AUGUSTINE: Thank you. Mr. Correia and then Mr. Brown.

MR. CORREIA: I guess the

comment that I would like to make is relative to maintaining the status quo, both in this and in the commercial, in that even if you don't make changes to the plan, currently you are not meeting the F40 objectives of the plan that's in place.

Now I guess you could make an argument saying, well, we believe Amendment 13 is going to achieve the F target, even though it's F40, it's a little bit different but saying you could achieve it.

But if it doesn't, if you choose the status quo, you're going to be in a funny position of saying we're going to maintain the regulations despite the fact that we need a 50 percent decrease in fishing mortality rates.

CHAIRMAN AUGUSTINE: Thank you, Mr. Correia. Mr. Brown.

MR. BROWN: Well, I was the minority vote for Option 4 for the flexibility for the same reasons that Steve wanted. The people that wanted it the other way were from New Jersey and New York, and they have an existing fishery. Even though Steve explained to them that they might get that cut, they wanted to stay with status quo.

CHAIRMAN AUGUSTINE: Thank you. From the audience, please come on up and identify yourself.

MR. MIKE CANNON: Mike Cannon, United Boatmen's Association. Part of the reason why we went with status quo instead of Option 4 is as we were reading down, the stocks are divided into two: the Southern New England/Mid-Atlantic and Gulf of Maine. Those are too big an area.

And under Option 4, it would be -- like we

have a fishery in New York. They don't have one in Massachusetts. They don't have one in New Hampshire. But, we would all get grouped together and we would get the same regulations as those other states that don't have the fish. That's the reason why we went with status quo.

CHAIRMAN AUGUSTINE: Thank you for that clarification. Any other comments from the public? Seeing none, I'm going to go to back to Lydia.

MS. MUNGER: Thank you, Pat. Section 4.2, commercial management measures. Again, the options presented for commercial management measures are the exact same as the options that appear for recreational management measures.

I've summarized the comments again here. The only difference is that there were no public comments in favor of Option 2 for commercial management measures. Otherwise, all the comments that you've already heard are the same as for Section 4.1.

CHAIRMAN AUGUSTINE: Any comments from the board?

MS. MUNGER: Also, the law enforcement committee commented on the options in Section 4.1 and 4.2. I'm not sure if Mr. Blanchard wishes to comment on these.

CHAIRMAN AUGUSTINE: Mr. Blanchard, please.

MR. KURT BLANCHARD: I'll just quickly take you through our consideration of these measures. Under Option 1 we felt it was less enforceable. Even though it was status quo, it has been enforceable through the years. We're

concerned with the shift of effort with Amendment 13 back to state waters by some of the fishermen.

Under Option 2, unable to enforce the intent of the FMP based on dual stock management measures within a jurisdiction. That's a concern of ours. We see that now in the lobster plan, and it's created some enforcement problems.

Option 3 is enforceable based on trip limits and management of annual quota. Option 4 is less enforceable based on the options in force with the current stock definition. If we use 2.4, Option 1, they're large and they cover many jurisdictions. Our concern, again, within this is the two stock overlap. And our comments are the same for 4.2. Thank you.

CHAIRMAN AUGUSTINE: Thank you, Mr. Blanchard. Any other questions or comments from the board? Seeing none, Lydia.

MS. MUNGER: The last section for which there are actual options for the board's approval is Section 4.5.3, dealing with de minimis fishery guidelines. This begins on Page 58 of the draft. The definition of de minimis is laid out currently, and the board has reviewed this definition in this section.

What the board needs to pick options for are the exemptions that would apply to states that have de minimis status. So, as far as public comments goes, there was one comment in favor of Option 2 under which states would petition the board for exemptions that would apply under de minimis status.

The technical committee supports Option 1, which is that states that apply for and are

granted de minimis status are exempted from biological monitoring or sub-sampling activities for the sector for which de minimis has been granted.

And under this option, states would still have to report annual landings, comply with recreational and commercial management measures and apply for de minimis on an annual basis.

The advisory panel -- and perhaps Bud would like to elaborate but I'll just summarize, the advisory panel does not support exemptions at all for de minimis states. The law enforcement committee has comments on the options listing Option 1 as enforceable and Option 2 as less enforceable. And if any of these individuals would like to elaborate.

CHAIRMAN AUGUSTINE:
Thank you, Lydia. Comments from the board? Mr. Brown from the advisory panel, please.

MR. BROWN: Our feeling was that because the winter flounder are in such a depressed state, that it would be better to collect biological data during the recovery for future use; and that since landing data is going to be collected anyway, why not collect the biological data to get age and those kinds of things.

CHAIRMAN AUGUSTINE:
Thank you. Lydia, we're back to you.

MS. MUNGER: This concludes the run through of the sections in the draft amendment that have actual options for board approval.

CHAIRMAN AUGUSTINE:
All right, we're back to the board now. Mr. White.

MR. G. RITCHIE WHITE:
Thank you, Mr. Chairman. I'd just like to commend staff for this presentation. The format was extremely helpful to me and hope that other management boards would adopt the same format. Thank you.

CHAIRMAN AUGUSTINE:
Thank you, Mr. White. Lydia did an exceptional job on that. We thank her very much for that. Mr. Adler.

MR. WILLIAM A. ADLER:
Thank you, Mr. Chairman. Is 4.5.2 the wording for allowing conservation equivalency in the winter flounder? It's on Page 57. Is that the wording that allows conservation equivalency for this particular fishery?

CHAIRMAN AUGUSTINE:
Lydia.

MS. MUNGER: Yes, that's correct.

MR. ADLER: So we would have conservation equivalency if that gets approved.

MS. MUNGER: As is stated in the text -- and I'll just read it for everyone's benefit -- the winter flounder technical committee, under the direction of the plan review team, will review any alternative state proposals under this section and provide to the winter flounder management board its evaluation of the adequacy of such proposals.

MR. ADLER: All right, so that does it. Okay, thank you.

CHAIRMAN AUGUSTINE:
Thank you, Lydia, and thank you, Mr.

Adler. Any further comments or questions? Then I think it's time we go from the beginning and work our way through the document. Mr. Correia.

MR. CORREIA: Again, just a few comments. As you go through these options, there are several that are not compatible with each other. For instance, if you choose an option that says we want status quo reference points, it means you don't have a biomass target.

When you get down to rebuilding strategies, well, then you're stuck because some of the options there require that you have a target.

The other item that I think the board should put for consideration, as they're going through this, is to remember that winter flounder are managed by the New England Fisheries Management Council in the Groundfish Plan.

They have biomass reference points, rebuilding strategies, control rules, stock structures, and so on. If this board chooses to deviate in terms of stock structures or targets from that plan, it means that the goals will be very different.

Most of this fishery is in the EEZ. So depending on what you choose for an option, you could find yourself being in a position down the road of having to enact regulations or try to achieve something that can't be achievable because of what's going on in the EEZ is in a whole different set of reference points and so on different goals.

CHAIRMAN AUGUSTINE: Thank you, Mr. Correia. As we're going through the options, then, if you'd be kind enough to point out those differences if we decide to take another option, that would be most helpful because you're very familiar

with both Amendment 13 and the plan. Mr. Lapointe.

MR. LAPOINTE: Just a follow up to Steve's comments. Regardless of whether we choose status quo or the Amendment 13 options on fishing mortality targets and thresholds, we will still have the tension between state and federal management.

I mean, regardless of the options we choose, my sense is that we'll still have that tension about how to manage the state and federal waters differently in a parallel track. I mean, we shouldn't be under the illusion that one option is going to get us out from that friction is my point before we get started.

CHAIRMAN AUGUSTINE: Mr. Correia.

MR. CORREIA: No, for instance, if you choose to maintain the status quo fishing reference point, which is F40 which is about 0.2, the Fmsy of the New England Council is around 0.32 so you could be put in a situation, say, in the Gulf of Maine where it's rebuilt and they have a target of 0.32 and you have an F40 target that you have to hit, because they're controlling the most of the mortality in the EEZ, that means that their effort is going to be 0.3.

It means that this board has to come up with a mechanism to get it down to F40 and regulations that they cannot control in the EEZ unless they go with a trip limit. Those are the kind of issues I think you have to immediately come up with if the goals are different.

MR. LAPOINTE: Thank you for that clarification.

CHAIRMAN AUGUSTINE:
Good, thank you. Mr. Fote.

MR. FOTE: Well, we can control by basically putting landing limits in place and then we can control our own points, but that's not the way you want to do things like that. You know, I'm just thinking about it.

We deal with the Mid-Atlantic Council with most of those joint plans that we have. Basically, we work together. We pass motions together. I don't foresee that happening with the New England Council, and I don't foresee us having joint meetings so I guess we're going to just have this problem all along.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Fote. Other comments from the board? Seeing no other comments, public, any comments? Seeing none, Lydia, let's go through it point by point.

MS. MUNGER: Okay, I'm going to bring us back to Section 2.2, the goals of Amendment 1, just so the board can get one last look. This section is on Page 34 of the draft amendment.

Okay, I'm just going to quickly read through the goals for the board: Goal Number 1, to promote stock rebuilding and management of the winter flounder fishery in a manner that is biologically, economically, socially and ecologically sound; and, Goal Number 2, to promote rebuilding of the inshore and estuarine component of the winter flounder stock.

CHAIRMAN AUGUSTINE:
Comments from the board?

MR. LAPOINTE: Those are

both included and they aren't options? Do we have two goals?

CHAIRMAN AUGUSTINE:
Mr. Lapointe has a comment.

MS. MUNGER: They're not options. I just wanted the board to review them one final time.

CHAIRMAN AUGUSTINE:
Any further questions? Thank you. Lydia.

MS. MUNGER: Under Section 2.3, management objectives, again, not options, I just want the board to review them one last time, Page 35, and I'll read through these for the board:

Objective Number 1, manage the fishing mortality rates for the Gulf of Maine and Southern New England/Mid-Atlantic stocks to rebuild the stocks and provide adequate spawning potential to sustain long-term abundance of the winter flounder populations.

Objective 2, manage the winter flounder stocks under an ASMFC rebuilding plan designed to rebuild and then maintain the spawning stock biomass -- I'm going to read it as is -- above the target biomass levels and restrict fishing mortality to rates below the threshold.

Now on this objective, the advisory panel had a comment on that word "above" and wanted to change it to "at or near" and that's the board's prerogative.

Objective 3, establish an interstate management program that complements the management system for federal waters. Number 4, foster a management program for restoring and maintaining essential winter flounder habitat.

Five, establish research priorities that will further refine the winter flounder management program to maximize the biological, social and economic benefits derived from the winter flounder population.

And, Number 6, restore the winter flounder fishery so that inshore recreational and commercial fishermen can access it throughout its historical range and at the historic age structure.

CHAIRMAN AUGUSTINE:
Okay, Mr. Fote, Mr. Colvin and Mr. Pierce.

MR. FOTE: Is there any problem doing what the advisors asked us to do?

CHAIRMAN AUGUSTINE:
Say that again, please.

MR. FOTE: Is there any problem doing what the advisors asked us to do in changing the language for Option 2?

CHAIRMAN AUGUSTINE:
No, if you so desire. Mr. Colvin.

MR. COLVIN: Mr. Chairman, I move that we substitute the words "at or near" for "above" in Objective 2.

CHAIRMAN AUGUSTINE:
Can we do that without a motion or would you like to do it as a motion? Mr. Correia.

MR. CORREIA: The only comment I would have is if you put "near", you have to put some sense of what "near" means. I mean, "near" might mean you're at 99 percent of the target to some groups, and it might mean that you're at 5 percent of the target to another group.

CHAIRMAN AUGUSTINE:
Mr. Colvin, you have a definition for the word "near"?

MR. COLVIN: No.

CHAIRMAN AUGUSTINE:
Okay, anyone else have a new definition for the word "near"? Do we want to put the word near in? Mr. Smith.

MR. ERIC SMITH: No, I don't want to put a definition in. I respect Steve's point of view, but this is all English language. These are objectives and I don't think any -- we'll defend ourselves against somebody who thinks "near" is an 80 percent deviation from the MSY or whatever the reference point is at that time.

I mean, I think in the English language it's very clear to us we mean the number is going to hover somewhere around that number. It doesn't have to be maintained always above, which was what the AP's point was, so I support the motion.

CHAIRMAN AUGUSTINE:
Thank you. So the motion, before we get to Dr. Pierce, the motion will read move to substitute "at or near" for the word "above" in Objective 2 of Section 2.3. Motion by Mr. Colvin, seconded by Mr. Smith. That's clear, then. Dr. Pierce.

DR. PIERCE: My preference always has been, with regard to winter flounder, to focus on fishing mortality as a way to deal with our concerns about winter flounder abundance, to rebuild abundance, to prevent overfishing. I feel comfortable with this wording, especially since Number 2, the remainder of Number 2 is very specific with regard to how we deal with the fishing mortality rates.

There is no reference to “near”.

The threshold F, it's to restrict fishing mortality to rates below the threshold. That's where the emphasis needs to be. I don't want us to be too overwhelmed by the need to achieve certain biomass levels that, frankly, may not necessarily be achievable. That's, of course, subject for some debate a little later on this morning, so the change in that objective is fine by me.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Pierce. Anyone opposed to the changes? All right, a show of hands in favor of the motioned change; opposed, same sign; null; abstentions. The motion is approved. Lydia.

MS. MUNGER: Okay, Section 2.4, specification of management unit, begins on Page 35 of the draft.

DR. PIERCE: Excuse me, Mr. Chairman.

CHAIRMAN AUGUSTINE:
Yes, Dr. Pierce.

DR. PIERCE: We had hands up with regard to this particular part of the plan. Would you recognize me on the objectives?

CHAIRMAN AUGUSTINE:
Yes, please, go ahead.

DR. PIERCE: Just a clarification, and this is with regard to Number 6, Objective Number 6. Is the technical committee in a position to advise us regarding when we are at the historic age structure?

CHAIRMAN AUGUSTINE:
Mr. Correia.

MR. CORREIA: I guess it depends on how you define “historic.” We probably can tell you what the age structure was back into the early '80s. Other than that, what you can do is to get a relative based on equilibrium age structure that says, well, you should have so many ages in a population if you're achieving your fishing mortality rate.

Of course, it's a difficult issue because you have lots of variation in recruitment which impacts the age structure. It's one of those things that's hard to nail down technically, but you know when you have a healthy age structure.

CHAIRMAN AUGUSTINE:
Thank you. Does that suffice, Dr. Pierce?

DR. PIERCE: I won't make an issue of it. It's in there as a proposed objective. I suppose we'll learn as we go on that one.

CHAIRMAN AUGUSTINE:
Okay, thank you. We're ready to move on.

MS. MUNGER: Okay, Section 2.4 deals with the specification of the management unit. Within this section, there is the issue of defining management units for inshore winter flounder populations.

This is on Page 35 of the draft amendment and there are two options here. Option 1 is the status quo based on the current FMP and addenda, meaning that the Commission deals with the Southern New England/Mid-Atlantic stock and the Gulf of Maine stocks in the inshore portion, and that these stocks are managed in the EEZ by the New England Fishery Management Council, recognizing the existence of the Georges

Bank stock also managed by the Council.

Option 2 under this issue would entail splitting the current stocks into smaller management than those currently used.

CHAIRMAN AUGUSTINE:
Comments from the board. Steve, nothing? Advisory panel, nothing? Okay, yes, Dr. Pierce.

DR. PIERCE: Are you ready for a motion, Mr. Chairman? I would move that we adopt Option 1, status quo, which is the technical committee recommendation.

CHAIRMAN AUGUSTINE:
Yes, thank you. Second by Mr. Abbott. Discussion on the motion? Mr. Lapointe.

MR. LAPOINTE: There is clearly sentiment the AP was looking at smaller management units. I think I kind of favor the idea conceptually, although I know in practice it's difficult and we should pay attention to how easily -- and I use that term in quotes -- we've dealt with separate management units in the lobster fishery.

It's something I think we need to keep our eye on because as we advance the information or our ability to do that, I think it's something that we should -- we shouldn't preclude that option. And by voting for the status quo, that would mean we'd need to do an addendum probably to change this again in the future or an amendment?

CHAIRMAN AUGUSTINE:
Bob, Mr. Beal.

MR. ROBERT E. BEAL: It should be an addendum, or it most likely is an addendum. We just have to make sure that it appears on the list of items that can be

-- that management unit appears on the list of items that can be adjusted through an addendum. And I'm trying to find that section, on Page 60. Yes, Number 11 in the list on page 60 is management area, so that can be done through an addendum.

MR. LAPOINTE: Thank you. And then just a question for Bud, if I might.

CHAIRMAN AUGUSTINE:
Please, go ahead.

MR. LAPOINTE: The AP voted for Option 2. Can you just give us a little bit of the flavor of that discussion, remind us?

CHAIRMAN AUGUSTINE:
Mr. Brown.

MR. BROWN: Well, the flavor of the discussions between us and Steve was clarifying that he couldn't do it at this point; and that if the board were to ask him to do it, he couldn't. We would like it.

CHAIRMAN AUGUSTINE:
Thank you. Further comments on the motion? Public: Seeing none, the motion reads move that the board adopt Option 1, status quo, for Section 2.4. Motion by Dr. Pierce; seconded by Mr. Abbott.

Board, all in favor, a show of your right hand, please; all right, opposed same sign; null votes; abstentions. The motion carries. Lydia.

MS. MUNGER: In Section 2.5, definition of overfished and overfishing, this section begins on Page 38. There are two issues within this section. I'll take the first one first which is choosing a fishing mortality rate, target and threshold.

For both stocks under this issue, there are two options. The first option is status quo, meaning the fishing mortality targets and thresholds specified in Addendum II to the fishery management plan.

Option 2, and I can get into greater detail if the board asks that I do, but Option 2 is the SARC 36 criteria that appear in Amendment 13. And since the board has approved the parameters, not the actual estimates for these options, the board should keep that in mind.

CHAIRMAN AUGUSTINE:
Mr. Lapointe.

MR. LAPOINTE: Yes, Mr. Chairman, I'd like to make a motion that we accept Option 2 for both management units, for the Southern New England/Mid-Atlantic and for the Gulf of Maine.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Lapointe. Seconded by Mr. Carvalho. Comments from the board: Dr. Pierce.

DR. PIERCE: Just a clarification of the maker of the motion. Is his selection of Option 2 applicable for fishing mortality rates, targets, and thresholds and spawning stock biomass targets and thresholds?

CHAIRMAN AUGUSTINE:
Mr. Lapointe.

MR. LAPOINTE: I was just doing fishing mortality rates and thresholds at this point, because I thought that was the context within which staff brought it up.

CHAIRMAN AUGUSTINE:
He's just doing the fishing mortality rates and thresholds. Yes, it was. Further

comments? Mr. Fote.

MR. FOTE: After what went on yesterday in tautog, is this going to require more by the states to do at this time as far as sampling? We talked about it yesterday, the money available, the personnel available and I want to make sure -- Bruce isn't here right now -- how this would affect the states. Would they be required to do more work than they're doing right now?

CHAIRMAN AUGUSTINE:
Mr. Lapointe.

MR. LAPOINTE: I think under compliance that's a discussion, but under the target mortality rate, that's an estimate that's conducted now so I don't get the sense this creates extra work for the states.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Lapointe. Any further comments or questions from the board? Public comment? Seeing none, are we ready for a vote? All in favor of the motion please raise your right hand; opposed, same sign; null votes; abstentions. The motion passes. Lydia.

MS. MUNGER: Issue 2 under Section 2.5 deals with setting biomass targets and thresholds. I'm going to have to take each stock independently because the Southern New England/Mid-Atlantic stock has one additional option, and the Gulf of Maine stock has two.

So, for the Southern New England/Mid-Atlantic stock, for choosing a spawning stock biomass target and threshold, there are three options presented in the draft document. This is on Page 41. Option 1 is the status quo.

Under Addendum II there are currently not any biomass targets and thresholds specified, so that's what status quo would mean. Option 2 is the SARC 36 criteria. Option 3 is the step increase from Amendment 9 to the SARC 36 criteria, so it deals with achieving the same target but in a series of steps.

CHAIRMAN AUGUSTINE:
Thank you, Lydia. Comments from the board? Mr. Lapointe.

MR. LAPOINTE: I have a question. Steve, this is one of those consistency questions. We did approve Option 2 under the fishing mortality target. If we chose something else for the biomass target, will that get us in one of those technical bollixes that you warned us about?

CHAIRMAN AUGUSTINE:
Mr. Correia.

MR. CORREIA: Yes, I believe it will in two ways. One is that there is a linkage between the Fmsy estimate and the Bmsy estimate so they tend to go together. The second one is under Option 2, you notice that there is an F rebuild. It says F rebuild is equal to 0.24.

That F rebuild that equals 0.24 for, say, Southern New England, is related to what it would take to rebuild up to 30,100 metric tons of SARC 36 within a ten-year period, so it's linked to Option 2 in the spawning stock biomass and one of the options under Option 1 under the control rule.

If you go with status quo, it means that there is no rebuilding target, in which case you'd have to ask what does F rebuild mean. What it means is you will now have an F -- well, I'm not sure how to reconcile that.

And if you go to Option 3, where you have these step increases, and I'm not sure how that relates to F rebuild and how it relates to time periods within the control, that it would probably be not much linkage between them so it's going to be tough.

CHAIRMAN AUGUSTINE:
Any other comments from the board? Public comments? May we have a motion. Mr. Gibson.

MR. GIBSON: I'd move that the board accept Option 2 for both stock areas, the SARC 36 biomass targets and threshold.

MR. COLVIN: I'll second that.

CHAIRMAN AUGUSTINE:
Mr. Colvin seconded. Comments on the motion from the board: From the public? Are we ready to vote? Dr. Pierce.

DR. PIERCE: Caucus.

CHAIRMAN AUGUSTINE:
Oh, caucus, I'm sorry. I didn't think anybody needed it, you all looked so sure of yourselves.

(Whereupon, a caucus was held.)

CHAIRMAN AUGUSTINE:
All right, thank you. All right, caucus time is over. May I have a show of hands in favor of the motion; opposed, same sign; abstention; null vote. The motion carries. Dr. Pierce.

DR. PIERCE: Mr. Chairman, just a quick comment regarding the Bmsy values. Clearly, there has been a lot of controversy at the New England

Council level relative to what the Bmsy value should be; step-wise increase or set them at the numbers that were recommended by the Northeast Fisheries Science Center and other sciences involved in the determination of those values.

I certainly do not want to get this board involved in those discussions again at this late date; however, I think it's important for us to understand that the council's plan does have a provision whereby there would be a review of the biomass reference points, the Bmsy values, in particular.

This addendum that we have I don't believe has that wording that relates to that change. However, because we have earlier on voted to not specify specific numbers, consistent with the recommendation from Steve, it does give us the ability to respond automatically to any change that may be made in these reference points as a consequence of the review that will occur -- the important review that will occur in a few years.

I just wanted to make that known for the benefit of the board that, for example, the 30,100 metric tons for Southern New England/Mid-Atlantic winter flounder may be reduced in a few years. Maybe it will be increased, who knows? I suspect it might be reduced but we wait and see on that one. In the meantime, we go with the 30,100.

CHAIRMAN AUGUSTINE:
Thank you for that clarification, Dr. Pierce. Any other comments from the board? Lydia, your turn.

MS. MUNGER: The next section is Section 2.6.1, stock rebuilding targets. This is on Page 43 of the draft. There are three options presented in this section, and each of these options refer back

to Section 2.5, the options that were selected for biomass targets and thresholds.

Option 1, states rebuild the biomass to the target level within the time frame established in Section 2.6.2, which is the next section.

Option 2, states rebuild the biomass to the threshold level within the timeframe established in Section 2.6.2. Option 3, states to rebuild the biomass to a point halfway between the target and the threshold within the time frame established in Section 2.6.2.

CHAIRMAN AUGUSTINE:
Thank you, Lydia. Comments from the board? Yes, Mr. Smith and Mr. Gibson.

MR. SMITH: Thank you. I definitely don't think we should vote for Option 2 because to take ten years or so to get just to your threshold would be really the wrong thing to do. We seem to be a bunch of conformists this morning.

Maybe all our meetings ought to be at 8:00 o'clock. You know, we're going quickly into the night without much argument, and under that logic we would just vote for Option 1. I'm intrigued by Option 3.

I'm hoping we'll get a little bit more debate on that. What that says to me is as long as you're not overfishing and as long as the stock is not overfished, you can agree as a board to spend some time between your rebuilt level and your overfished threshold.

I think that may be desirable in this context of this particular plan. As has been pointed out publicly, and Dr. Stewart and I were just chatting about it, most of the fishing mortality on this stock occurs in the EEZ, and therefore we're kind of the tail on the dog.

Now there is a role for the Commission because we can put a lot of fishing mortality into the stock when it occurs in near-shore waters, both through recreational fishing pressure, historically, you can see it, or small boat commercial fishing.

So we have a role to play in here in making sure that we control mortality so that as it gets cut down in the EEZ, it doesn't shift inshore and so forth.

However, as a rebuilding strategy, I think it's kind of intriguing to say we're not going to act precipitously every time we move around between the overfished left threshold and the rebuilt target; we're going to take two or three years and look and see how the system responds when Amendment 13 measures are adjusted annually or periodically to account for changes in stock parameters.

I'm tossing that out there to see if it resonates with other people. And also, though, I have the same question that I think George Lapointe had on the last point for Steve Correia. If this is one of those pitfalls, let's hear about it.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Smith. Mr. Gibson.

MR. GIBSON: I understand where Eric is coming from here, but I think given that this plan -- and we haven't gotten to the point about the monitoring program for the states, but given that there's no explicit linkage that have been developed between the states' monitoring programs and the overall biomass targets, I don't think any of these options really have much meaning because we have no performance measures now to judge the rebuilding of the inshore stocks as a component of the overall.

I was going to bring that up later in the discussion when we got to the monitoring programs. I know the technical committee and Steve made an attempt to do that, but is recommending that they can't do it.

I think as we get to that point, you're going to see that lacking a connection between your state's monitoring program as a recruitment indices and the biomass indices in the trawl surveys, lacking a linkage between those and the overall targets and biomass targets and thresholds, this choice is largely meaningless, in my view.

I would at this point opt for Option 2 because I think it's more conservative, and I believe that we're not going to restore the inshore component unless we agree to aggressively pursue fishing mortality reduction in state waters as well as other measures, habitat improvements and so forth.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Gibson. Mr. Lapointe.

MR. LAPOINTE: I have I guess a follow up to Eric's question. I mean, it's kind of an appealing idea for me, but if you go half-way between the target and the threshold in the time frame, the target then becomes less meaningful unless you say there's an extra date.

So, I mean, what we're in essence doing is stretching the rebuilding schedule, and that's an honest decision we need to make, although it would be inconsistent with the plan. And so if Eric could respond, is it another -- I'm just using ten years for discussion -- do you then extend you know that time frame another five because you would need some certainty for reaching that target level?

CHAIRMAN AUGUSTINE:

Steve.

MR. CORREIA: I just wanted to answer Eric's question. The big pitfall here is if you pick Option 3, then what's going to happen is you're going to end up with different rebuilding Fs then what you have going in the EEZ, and you're going to have the same problem of, okay, if the EEZ is more liberal, how do you achieve it? We have no measure of saying there's an inshore F and an offshore F.

We just have one stock-wide F; so if you pick this one, you're going to still be back in the boat of having very different Fs and having to figure out a management regime that would allow you to achieve that in the face of a fishery that's managed in the EEZ under a different set of rules and goals.

CHAIRMAN AUGUSTINE:

Thank you, Steve. Mr. Smith.

MR. SMITH: Thank you. This has helped me to realize that my comment is probably better placed for Option 3 in the next section. If you read these carefully, there is a linkage here between the targets and the rebuilding schedule.

And as I'm collecting my thoughts on this whole issue, I wanted to raise the question on the rebuild point, but in reality spending some time between those two reference points is more appropriate to the schedule itself rather than the target.

And Steve's answer is kind of what I was looking for. I think I agree with Mark Gibson now on the target itself, that Option 1 is cleaner because of what Steve said. I want to bring my point forth on the next

section, if I may.

CHAIRMAN AUGUSTINE:

Good point, thank you very much. Mr. Lapointe is squared away. Mr. Calomo.

MR. VITO CALOMO: I

agree with Eric Smith's first comments. I think to be bold and innovative, that the Atlantic States should have its own identity and not always just follow the "mother ship" at times. I prefer Option 3, to be quite frank with you, on that premise, and I so move that we accept Option 3 and bring it to a vote.

CHAIRMAN AUGUSTINE:

Thank you. Motion on the floor. Do I have a second? Jerry Carvalho seconds it. Comments from the board? Any comments from the board at all? From the public? Are we ready for a vote? Please caucus.

(Whereupon, a caucus was held.)

CHAIRMAN AUGUSTINE:

All right, may we have that show of hands one more time in favor of the motion, show of right hands; same sign, opposed; null votes; abstention, one abstention. The motion fails. May I see another motion on the table. Mr. Lapointe, you're undecided.

MR. LAPOINTE: Well, sir,

I'll make a motion for Option 1, Mr. Chairman.

CHAIRMAN AUGUSTINE:

A motion for Option 1; seconded by Mr. Ritchie White. Discussion on the motion? Mr. Lapointe first and then Dr. Pierce.

MR. LAPOINTE: Just a

comment about, again, the tension between the state and the federal management process. It is largely a fishery prosecuted in

federal waters and to be inconsistent doesn't make a lot of sense.

Now does this mean if we don't rebuild in the specified time that we're just going to close the fishery if it's a stupid thing to do? I would argue no. I mean, we're a responsive board.

And as we move forward, we look at the impacts of Amendment 13, we're going to revisit this if we need to. You know, I don't intend to commit state suicide because we don't achieve those goals. So that's just something I think the board needs to recognize as we move forward.

CHAIRMAN AUGUSTINE:
Good point, Mr. Lapointe. Dr. Pierce.

DR. PIERCE: Just a clarification. Earlier on we made a change to the objectives 2.3, Number 2, that relates to the target biomass levels, and we used the word "near."

I just wanted to understand the implications of that change relative to this particular motion where it says "rebuild the biomass to the target level." Is there an inconsistency here with this particular motion and the action we took earlier on to change that objective?

CHAIRMAN AUGUSTINE:
Mr. Correia.

MR. CORREIA: I actually do not think there is a difference, because what you would expect is that once you rebuild and you are fishing near Fmsy, that population should be fluctuating around that Bmsy target, so you may end up with a couple years of bad recruitment and the population falls a little bit below naturally and comes back up.

So in that sense, I think it's consistent. Where the trigger would kick in is if you fall below the minimum threshold and then says, well, now you have to put a rebuilding plan in place to get up to your target.

I guess people can argue about where "near" is. It's pretty clear that if you put in these Fs and the population behaves as you think it will, it should get up someplace near to Bmsy, and I think in fisheries close enough is good enough.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Correia. Mr. Fote and then Mr. Lapointe.

MR. FOTE: I happen to agree with Vito. It's also the fisheries down south is a little different than the fishery up north. And, you know, we have councils setting up problems and it creates problems.

I just think of summer flounder and bluefish and few others that we've basically been driven by what the feds said. You know, I have difficulty with that, but I understand the problems.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Fote. Mr. Lapointe.

MR. LAPOINTE: In following up on David's question and Steve's comment, I think that having in this objective a specific point estimate is a good thing because we can follow up on that; and then as a board, we can do the "at or near" to adjust for the potential biological wobble around the biomass target, so I don't think those are inconsistent statements.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Lapointe. Any more comments from the board? Any comments from the public? All right, we have a

motion on the table. Move that the board accept Option 1, Section 2.6.1.

Motion by Mr. Lapointe; seconded by Mr. Ritchie White. Board members all in favor, a show of your right hand, please; opposed same sign; null votes; abstentions. The motion carries. Lydia.

MS. MUNGER: Section 2.6.2, stock rebuilding schedules, this section deals with the amount of time in which the plan should be allowed to rebuild to what the board just specified would be the target level of biomass.

There are three options for each stock in this section, so I'll just take all three options. Option 1 is the Amendment 13 recommended MSY control rule that specifies a ten-year rebuilding time frame.

Option 2 states take immediate action to reduce fishing mortality whenever the stock is overfished or when overfishing is occurring. Option 3 places a limit on the amount of time spent between the target and threshold levels.

CHAIRMAN AUGUSTINE: Comments from the board? Mr. Smith.

MR. SMITH: Yes, thank you. This is actually a more appropriate place for me to make the comment I did a couple of moments ago. I've just read the text lying under Option 3 which is at the top of Page 45.

I'm again intrigued by the fact that if 90 percent of the fishing mortality, at least for the Southern New England stock, is occurring in the EEZ, that's what's going to drive recovery.

Mark Gibson is also right, one of our goals

of this plan is to rebuild the inshore stocks, and that means we have to do things that are compatible and consistent in terms of management measures.

The attractive thing about Option 3 is that it gives us -- if we adopt that as part of our strategy here for a rebuilding schedule, it gives us some time to watch the effect of Amendment 13 and see when the stock is reviewed in the context of Amendment 13 requirements, and there are several built-in required reviews, that gives us an opportunity to say, okay, we can take a couple years, we wait, we see that benchmark and then we see what we need to do.

That's kind of a responsive management approach which I favor. The thing that I'm also intrigued by is the last paragraph. The technical committee says they developed the option. They don't agree with it on its own, but it may be more appropriate as a subset to one of the other options listed here.

And if I could direct this to Steve, do I take that comment to mean if we were to accept Option 1 or either Option 1 or Option 2 as our principal schedule, Option 3 could be something that we would vote -- we could invoke that to put a couple of year pause in here when we needed to?

And, again, only in the circumstance when we're above the biomass thresholds and below the fishing mortality thresholds, so we're not overfishing and overfishing is not occurring, we just haven't rebuilt the stock yet so we're not in a danger zone.

Am I correct? I mean, Option 3 could stand alone but it would leave you kind of weak in terms of what your overall schedule should be, so it looks like it should occur in the context of either Option 1 or 2. Is that

correct?

CHAIRMAN AUGUSTINE:
Steve, would you respond to that, please.

MR. CORREIA: Yes, I'm actually looking at that sentence, and I don't know what it meant, to be honest.

MR. SMITH: Now I'm glad I asked.

MR. CORREIA: So I guess that one snuck by. I think there's two issues here. One, again, is that we only have one stock assessment; so when you get the stock assessment number, it's going to be for the whole stock.

It's not going to be a separate issue for inshore stocks, although certainly for those state that have inshore surveys, you'll have some metric of say, well, what are the surveys doing relative to the stock.

I think the larger issue, which is the theme that's been going through this, is whether or not you're going to be put into a situation where you have a different F target. If you get in a situation where you have a different F target, the first question you're going to have is can you measure where you are relative to it?

The only assessment you're going to have is for the whole stock, and then the issue is going to become what kind of regulations can you put in place, short of a quota, that would be able to achieve that F in the face of management in the EEZ having different goals.

And there are issues in this stock, unlike, say, fluke where you have a single stock up and down the coast. Over here you have three stocks, and those stocks are landed in

multiple states. For instance, Massachusetts lands winter flounder from Gulf of Maine, Southern New England, Georges Bank.

Maine lands winter flounder from Gulf of Maine and Georges Bank. I'm sure Rhode Island lands from Southern New England, Gulf of Maine and even some of Georges Bank. So, short of a quota, it's hard to imagine how you're going to achieve the F target.

I'm not sure how a quota would work in this case where you have landings from three different stocks, so I think that's the issue in terms of picking Option 2 and Option 3 versus Option 1.

CHAIRMAN AUGUSTINE:
Thank you for that clarification. Does that help you, Mr. Smith?

MR. SMITH: I mean, entirely from what I asked from Steve, I'm still not sure how to fit these things together. Thank you.

CHAIRMAN AUGUSTINE:
Mr. Gibson.

MR. GIBSON: I agree with where Eric and Vito were trying to get to. It's not clear to me how we provide that flexibility yet, but I certainly agree that we need to find some flexibility here for these inshore stock components which may or may not respond to the Amendment 13 action, and they may or may not respond to in-state reductions in fishing mortality; for example, the upper Narragansett Bay/Providence River spawning component. There needs to be some flexibility. I'm not sure where it comes in, but I certainly agree with the attempts to do it.

CHAIRMAN AUGUSTINE:

Thank you, Mr. Gibson. Mr. Smith.

MR. SMITH: Let me suggest this and see how it sounds to people. If we were to adopt Option 1, which is the Amendment 13 control rule, and we were to then pass a subsequent motion that would read something like this: On an annual basis, and at its discretion, the board may invoke the provision of Option 3, which is a limit on the amount of time spent between the target and the threshold levels.

We might buy the kind of flexibility I'm looking for and that Mark Gibson referred to, but our basic benchmark is to use the Amendment 13 control rule.

I think that's consistent with the fact that most of the mortality occurs in the EEZ, so be consistent, but, again, annually the board meets in the context of meeting week so that we're all here anyway, and we look at things and maybe our technical committee has to back up a few months and be able to give us an estimate of you just ought to stay on the Amendment 13 track or no deviations, or they may advise -- you know, they're coming up with a periodic review next year, and some things are beginning to look a little interesting, and there's going to be a lot of scrutiny be given. You are about to take a measure. Maybe you ought to postpone that for a year and wait for the assessment.

So that's kind of a step-wise process to try and deal with what we've been talking about. I wonder how others feel about that.

CHAIRMAN AUGUSTINE:
Thanks for that, Mr. Smith. Any questions or comments on the comments that Mr. Smith had made relative to how that could go together? Dr. Pierce.

DR. PIERCE: I would like

Eric to make that in the form of a motion if he would. I think it makes a great deal of sense. I think he has crafted a possible path for us to take that will indeed give us the flexibility that we need, so I would urge him to make a motion.

CHAIRMAN AUGUSTINE:
Thank you, Dr. Pierce. And, Mr. Smith, if you do that, I think Dr. Pierce would probably second it.

MR. SMITH: On that basis, Mr. Chairman, my motion would be that we adopt Option 1, which is the Amendment 13 recommended MSY control rule for both the Southern New England/Mid-Atlantic and the Gulf of Maine areas; and that further, we include a provision that will read as follows: On an annual basis, and at its discretion, the board may invoke the provision of Option 3.

And for Brad, he can read it from the document and for Joe I'll read it. And Option 3 reads "limit on the amount of time spent between the target and threshold levels." That's the total motion, Mr. Chairman.

CHAIRMAN AUGUSTINE:
Dr. Pierce.

DR. PIERCE: Yes, I would second that.

CHAIRMAN AUGUSTINE:
Dr. Pierce seconds that motion. Mr. Smith, have you read it up on the board to see if that's correct?

MR. SMITH: Yes, to be clear, this is for Section 2.6.2 so move to adopt.

CHAIRMAN AUGUSTINE:
Add 2.6.2.

MR. SMITH: Yes, 2.6.2 for both stocks to include a provision to comma. At the end of that line, Brad, to comma, on, okay, on an annual basis. I would say the last two lines, put them in parentheses just so you know that's verbatim taken from the document. Okay, we need to define parentheses, but that's okay. It's early.

CHAIRMAN AUGUSTINE:
Dr. Pierce.

DR. PIERCE: I would suggest the word to be substitute with the word that so it would be include a provision that, comma, on an annual basis, and at its discretion, comma, the board may invoke.

CHAIRMAN AUGUSTINE:
Make those corrections?

MR. SMITH: That's acceptable.

DR. PIERCE: So at that second line down, both stocks and include a provision that, comma, and then another comma would occur after discretion.

CHAIRMAN AUGUSTINE:
Is that clear now, Mr. Smith? Thank you. Mr. O'Shea did you want to make a comment?

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Thank you, Mr. Chairman, just that with this stock being one that's overfished and overfishing is occurring, you had clear advice from the technical committee on Option 1, and now that's being somewhat modified, and I think it might be helpful to have a comment from the chair of the technical committee as to what this modification does to their recommendation. Thank you.

CHAIRMAN AUGUSTINE:
Mr. Correia.

MR. CORREIA: I believe what this will do is we will, in the future, take a look at where the stocks are relative to the threshold, where the fishing mortality rates are and report to the board.

Then I guess the board will decide whether or not they need to take action, and we'll understand what that action is and make a recommendation based on that action, how it fits in with what's going on in the EEZ and what's going on within state waters and provide the advice, and they'll take a vote.

CHAIRMAN AUGUSTINE:
Thank you. Mr. O'Shea, Mr. Brown, Mr. Ritchie White and Mr. Colvin.

EXECUTIVE DIRECTOR O'SHEA: Thank you. Well, just to follow up then, Steve, the advice on Option 3, the last sentence there was this option may be more appropriate as a subset. I guess what I'm curious about is this consistent, then, with the advice from the technical committee, this action, what the intent was of the technical committee?

MR. CORREIA: Yes, I can't remember what the intent was of this. I think what it was looking at in terms of some of the other options that were there and say, all right, instead of having -- if you chose, say, the status quo, then maybe what you would say is, well, we want to stay -- we want to get from the target, from the threshold F to the target F, which is really what this is referring to.

It's not a big change because you're talking about going from, you know, say, 100 percent would be the threshold down to 75

percent of that as the target. Where it doesn't relate is when you're in this rebuilding mode.

So what would happen is once -- you know, assume that this is the greatest plan in the world, five years from now this stock is rebuilt, and let's say fishing mortality moves up to the threshold, then the board could turn around and say, well, we're going to give three years to go from the threshold to the target.

That's how I would envision this working. It would be entirely consistent, but it would be on the other end once the stock is rebuilt or you have a rebuilding F that's lying somewhere between the threshold F and the target F or you have biomass that's in between the two and you're trying to fine tune.

That's how I see this working. It's not something -- if you were to try and implement this next year, then what would happen is the advice would come and say, okay, you can do this, but likely what's going to happen is you're going to have an F rebuild that's different in the EEZ, and you're going to have to figure out how to achieve that.

CHAIRMAN AUGUSTINE:
Thank you for that clarification. Mr. Brown wanted to respond from the advisory panel.

MR. BROWN: I think it's important to note that the Gulf of Maine stock is not supposed to be overfished, nor is overfishing going on, so there's an inconsistency there.

And, also, a concern I have on a personal level is I believe that because of that, that the Gulf of Maine winter flounder can be fished under B-days under special access

programs in the Gulf of Maine, and that seems to be inconsistent -- because of the imprecision of the stock assessment, I think that's something that the board should express to the council.

CHAIRMAN AUGUSTINE:
Very clear point. Thank you very much. Ritchie White, please.

MR. WHITE: Thank you, Mr. Chair. I believe I heard Eric say earlier his intent was that he would not invoke Option 3 unless the stock was not overfished and overfishing was not occurring. Is that correct?

MR. SMITH: Yes. The substance of the top of Page 45, in fact the boldface text says -- in my view, it says the only time you can do this is when you're between the threshold and the target, not -- if you're overfished or overfishing is occurring, as Steve said, you couldn't do it next year in Southern New England. We're overfished. We can't do this. Thank you.

CHAIRMAN AUGUSTINE:
Thank you for that clarification. Mr. Colvin.

MR. COLVIN: That was my question.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Colvin. Mr. Lapointe.

MR. LAPOINTE: I like the concept but I'm concerned about the execution. I would think that we wouldn't -- you know, if I think about it annually, I don't want to get into an extended argument about navel-gazing early on in this process.

You know, we've talked about, well, to see how Amendment 13 works, and so I would hope that the board remembers this as we

discuss it annually; and for the first couple years, it's like a five-minute discussion, and then we move on.

Then as we get into the out years, we then spend some more substantive time looking at whether in fact the two can occur at the same time. That's my biggest concern about this particular motion.

CHAIRMAN AUGUSTINE:

Thank you, George. Any other comments from the board? And from the audience? Jim.

MR. JAMES FLETCHER:

James Fletcher. I'm sitting here, you're saying a ten-year rebuilding schedule, and you're taking it from a stock assessment.

But I'd like to point out to you that stock assessment has not brought in the solar cycles on 11 years to 18.6 year tide cycles, the lunar nodule cycles, or anything else that's driving this.

ASMFC was created because of a cyclical period of declines in stocks that we noticed in 1870, 1900, 1930, which brought ASMFC into being in 1942; 1960. These cyclical patterns, you all are discussing a ten-year and it should be set up in moons.

You all are -- the board and management is not reacting to what has occurred naturally. The advisors and the scientific people are not looking at what is causing the systematic. And then if you all set a mortality rate that's not consistent with what the stock is doing, what good is it?

The other thing that has come up on is consistently we protect the small and kill the largest, and the fishermen are being told that's good science.

Well, as I challenged the Mid-Atlantic Fisheries Council, I want somebody to show me somewhere else in the world a science that tells me to kill the largest, genetically, mostly productive animals and let the runts and the rejects breed, and that is good science.

Somebody else come in and show me, and as I told them, I will shut up. But the other thing that comes to mind that I have down here is we are being told to kill through different methods and throw back overboard.

ASMFC Amendment 1 says prevent physical waste. I put those things on the table, but the main thing of it is your science and saying ten years to rebuild in doesn't fit in with the other cyclical patterns that we exist.

I just ask you to consider that, and it won't affect what you do today, but that ten-year period is not and should not be, it should be a different length of time to fit into the cyclical patterns of natural events. Thank you.

CHAIRMAN AUGUSTINE:

Thank you, Mr. Fletcher. Any comments on the motion, further comments on the motion from the board? From the audience? We're ready for a vote. How about a caucus. I see a lot of no, shaking their head. All right, Mr. Graham, do you have that motion? We'll read it to you, okay, thank you.

The motion will read: moved to adopt Option 1 of Section 2.6.2 for both stocks, Southern New England/Mid-Atlantic and Gulf of Maine, and include a provision that on an annual basis, and at its discretion, the board may invoke the provision of Option 3, parentheses, limit on the amount of time spent between the target and threshold

levels, closed parentheses. Motion by Mr. Smith; seconded by Dr. Pierce.

Board members, all in favor a show of your right hand, please; opposed, same sign; abstentions; null votes. The motion carries. Lydia, your turn.

MS. MUNGER: In terms of sections that have specific options, the next section for the board is Section 4.1 which deals with recreational fisheries management measures.

This section has four options, and I'm going to go through them in just a moment, but I just want to point out that Section 4.2 has the exact same options, and it's up to the board whether we cover them together or separately.

CHAIRMAN AUGUSTINE: Your preference, ladies and gentlemen. Would you like to have these addressed separately? It's probably easier to do it separately.

MS. MUNGER: Okay, so Section 4.1 only, which is recreational fisheries management measures. This section begins on Page 52. There are four options under Section 4.1.

Option 1 is the status quo. Under this option, states would retain their current winter flounder regulations which are detailed in the tables. The recreational table is actually on Page 57 of the draft.

Option 2 reads "inshore reductions in fishing mortality," and these would be designed to parallel the reductions achieved in federal waters by Amendment 13.

Option 3 is a hard quota for winter flounder landings. Option 4 deals with stock area-

specific management measures, meaning that any management measures applied -- for instance, in the Southern New England/Mid-Atlantic stock, would be applied across the entire stock so no state-by-state or other management measures under this option.

CHAIRMAN AUGUSTINE: Comments from the board? Comments from the public? Dr. Pierce.

DR. PIERCE: All right, so we're on 4.1, recreational fisheries management measures, and I note from rereading this material and reflecting back on what was covered at our public hearings, that Option 4 is the preferred alternative of the board.

Because it is the preferred alternative and I have heard no strong arguments actually to go in a different direction, I would move that we select Option 4 for Section 4.1; Option 4 being stock area-specific management measures.

CHAIRMAN AUGUSTINE: Do I have a second to that motion? Mr. Ritchie White seconds it. Discussion? Mr. Gibson, Mr. Lapointe.

MR. GIBSON: How does Option 4 differ from Option 2 in the essential elements of it? Option 4 allows just more flexibility in what measures; whereas. Option 2 focuses on a measures to reduce fishing mortality? It's not clear to me how these are different.

CHAIRMAN AUGUSTINE: Do you want to respond to that, Steve?

MR. CORREIA: Seems to me that one of the differences in the inshore reduction, it sounds like you could say that

you need to take a 50 percent reduction to parallel what's done in Amendment 13. It sounds like some of that you could do on a state-by-state basis.

If you look at Option 4, it doesn't really have that Amendment 13 listed in there, but it talks about putting measures in stock-wide rather than state-by-state. I think the issue behind that was the technical committee felt it's extremely difficult to do conservation equivalency.

Usually we model it, but then we have no way of measuring the effectiveness of those measures. I believe that's what the difference between those two options are.

CHAIRMAN AUGUSTINE:
Thank you, Steve. Yes, Lydia will elaborate, and then we'll get to you, George.

MS. MUNGER: Just to elaborate on what Steve said, under Option 2 it does say if this option is selected, the states right now only within the Southern New England/Mid-Atlantic stock area, because of the results of the assessment, would develop proposals designed to achieve the desired reduction as specified by the board; whereas, in Option 4 all measures would be applied across the entire stock.

CHAIRMAN AUGUSTINE:
Thank you, Lydia. Mr. Lapointe.

MR. LAPOINTE: So a question, Option 4 doesn't allow the use of conservation equivalency? Because it strikes me that the use of conservation equivalency is consistent with what we've done as states before.

And because we said that we couldn't manage on a stock-specific basis, I think in the earlier part of our discussion at this

point, although we desire that, that trying to put stock-specific measures in is getting our cart before our horse at this point.

CHAIRMAN AUGUSTINE:
Mr. Correia.

MR. CORREIA: Yes, I think that is a legitimate issue with this. I think the intent of this is that for the measures that will be put in place within the state waters, which is what you can control, I guess short of possession limits and quota, that that would go -- for instance, if you had a mesh size, it would go up and down the coast.

If you had trip limits, that would go up and down the coast. That's my read of what Option 4 does. And what you wouldn't have is a trip limit of 400 pounds in Massachusetts and 200 pounds in Rhode Island, 500 pounds in New York, 700 pounds in New Jersey. Option 4 seems to say you're going to have one trip limit up and down the coast, one mesh size. That's my read on it.

CHAIRMAN AUGUSTINE:
Does that help, George? Are you even more confused now than you were before?

MR. LAPOINTE: I'll listen to other board discussion.

CHAIRMAN AUGUSTINE:
Thank you, George. Any further questions from the board? Any comments from the audience? Mr. Goldman.

MR. GOLDMAN: I guess this is the appropriate spot for me to put my --

CHAIRMAN AUGUSTINE:
Yes, this is the appropriate.

MR. GOLDMAN: I tried to catch your attention before so I'm going to have to ask that this be put in as an amendment, that any new -- the key word being "new" -- regulations to reduce the fishing mortality to achieve the target according to the schedule outlined in 2.2 of this addendum should not be applied to the recreational fishery.

And my rationale is that the present limits of the recreational fishery seem to be working; and that since 90 percent of the fishing is occurring in the commercial sector in the EEZ, the burden would unfairly -- any new regulations would put an unfair burden.

As we heard from the gentlemen from Massachusetts yesterday talking about the tautog fisheries, the recreational sector, especially the for-hire sector is extremely strained at this point.

As we add these new regulations in each fishery, we're just going to watch more of these charter and party businesses go under, along with the associated bait businesses and marinas and things. I think we need to take a serious look at that. That's why I'm proposing the motion. Thank you.

CHAIRMAN AUGUSTINE: Thank you. Do we have a second to amend that motion? Do we have a second? Seeing none, the motion fails for lack of a second.

Back to the main motion. Any further discussion from the board? Any comments from the board? Yes, Mr. Gibson.

MR. GIBSON: It seems to me that Option 4 takes away the flexibility for states to respond to unique situations. They're coast-wide measures, it says that it provides the board maximum flexibility, but it doesn't seem to afford the states the

flexibility to respond to these unique situations, which seems to be spelled out exactly in the wording of Option 2, allow states to tailor their proposals to unique situations, but making significant fishing mortality reductions in the recreational fishery and/or the commercial one if this option were selected there. I'm not sure I understand what the benefits of Option 4 is and why the board prefers this.

CHAIRMAN AUGUSTINE: Thank you, Mr. Gibson. Lydia will respond first, then Dr. Pierce, then Mr. Lapointe.

MS. MUNGER: Mark, you're correct in your assessment that under Option 4, regulations would be applied stock-wide. Now Section 4.5.2 still is in place -- that's on page 58 -- which states that the technical committee may review any alternative state proposals, and then bring their recommendations to the board. I just wanted to point that out, but you are correct in that under Option 4, regulations would be applied across the stock.

CHAIRMAN AUGUSTINE: And with your patience for a moment, Dr. Pierce, we'd like to have Steve respond or add to that.

MR. CORREIA: Just a comment that when you look at these options, you have to think of them in consideration of what the previous options were, so you have options where you were going to have different stock units or state-by-state units and all that.

So part of what you see here is in response to the ability of other options to go in place like some of these may not apply because of the choices that you've made.

CHAIRMAN AUGUSTINE:

Thank you for that. Dr. Pierce and then Mr. Lapointe.

DR. PIERCE: Certainly, there are down sides to Option 4. I made the motion because I wanted to get this discussion going to resurface all the reasons why allegedly the board decided to prefer this Option 4.

I'm not hearing many, if any, members of the board say they prefer Option 4, yet we voted it as a preferred. The history might be lost on us from when we last discussed this issue.

Option 2, clearly there is a bit of logic here that's sound and would tend to move us in favor of Option 2 and not Option 4, and that specifically is the short paragraph that's already been alluded to, that if this option is selected, the states in the Southern New England/Mid-Atlantic stock area will develop proposals designed to achieve the desired reduction in fishing mortality for the inshore recreational fishery, and this will allow states to tailor their proposals to unique situations.

My question to the technical committee is -- and I can't recall whether this has already been concluded by the technical committee - - would the technical committee ever be in a position to assist us as a board to evaluate if indeed we can as individual states propose specific measures to our own presumably unique situations, that then could be evaluated to see if we're going to achieve our mortality rate targets?

CHAIRMAN AUGUSTINE:
Thank you, Dr. Pierce. Steve.

MR. CORREIA: Cobwebs are coming loose in my brain. The purpose for Option 4 was if you were to choose

reference points or rebuilding Fs that were different than Amendment 13, then the only way that you would be able to control that would be to try and put in measures that would control the mortality stock-wide, depending on how you chose that.

That was the linkage between that and some of the previous ones, so that clears that one up. Relative to the inshore reductions in fishing mortality, making them proportional, the TC has commented on this before.

It is difficult because we don't know what the partial Fs are inshore versus offshore so you can assume that they're proportional.

When you start to look at that, the only metric that we really have is the landings. So, for instance, you might say if you need a 50 percent reduction in F, well, maybe that corresponds to you assume a 50 percent change in the landings.

In some cases, say, the recreational you've got a decent database to be able to do that. For the commercial that database is inconsistent across states. Some states have better reporting requirements than others. So that would be a little more difficult to do, but we could do the best that we can with the data that we have.

DR. PIERCE: If I may, Mr. Chairman, so Option 4, really, the motion, is not appropriate in light of the decisions we've already made relative to the targets. I think that's what Steve said, that Option 4 was thrown in there as a way to go if we don't follow the council's lead. That's the gist of it, I think.

MR. CORREIA: I mean, you could go with Option 4 with Amendment 13 if you want to have consistent regulations across the state. I mean, that does work. But where that option was critical was if you

chose reference points for rebuilding that were different than the council, then the only way that you'd be able to control that is by controlling the mortality coastwide within the stock. So you'd have to put that one in to make the other options work.

DR. PIERCE: So if we choose Option 4, if this motion passes, then what would be the next step relative to the measures that would have to be implemented by all states coastwide? That has yet to be determined, correct, so this is kind of a pig in a poke. If we approve this, we all wait and see to determine what will have to be implemented by everyone in every state. Am I correct?

MR. CORREIA: Yes, and it would be quite a task at this point, because if you look at the table, the states have very different bag limits, seasons. Some don't have any. Some have different seasons, different size limits. So we'd have to figure out how to make all these adjustments to come up with the 50 percent reduction that you're looking for.

DR. PIERCE: Well, I'll leave it up to you, Mr. Chairman. We've had extensive debate. We can either vote this down or I can withdraw it, if the chair would like me to go in that direction, because I don't support my own motion now as a consequence of all the discussions that we've had. So if you don't mind, I'll withdraw the motion, if no board --

CHAIRMAN AUGUSTINE: We could do that, Dr. Pierce. We have three other hands up; and unless they're in support of Option 4, I would suggest that you withdraw it. Mr. Lapointe, do you want to talk to that point or do you want to --

MR. LAPOINTE: I was

going to make a motion to substitute.

CHAIRMAN AUGUSTINE: That will do the job, then, so we're all set there. Mr. Smith and then Mr. Mears.

MR. LAPOINTE: But, Mr. Chairman, I do want to move this off the dime.

CHAIRMAN AUGUSTINE: Let's do it, then.

MR. LAPOINTE: I think we've had extensive discussion. With the forbearance of the board, I'd like to make a motion to substitute for Option 2 under 4.1; and then if I get a second, explain it.

CHAIRMAN AUGUSTINE: Okay, look for a second. Mr. Calomo seconded that motion. Mr. Lapointe, go ahead.

MR. LAPOINTE: A couple things. One is we've had extensive discussion about the ability to use conservation equivalency which we both love and hate. We should love it as a concept and be careful about its implementation.

Option 4 was a preferred measure, but that was in times -- you know, I mean in the past. And we've had other discussion, and it seems that Option 4 would raise expectations about our ability to do stock-specific management measures, which we've also had discussion that we can't do at this point, so that was the reason for the motion.

CHAIRMAN AUGUSTINE: Thank you. Mr. White, you've been waiting very patiently. Ritchie.

MR. WHITE: I pass.

CHAIRMAN AUGUSTINE:
Thank you very much. Mr. Smith and then Mr. Mears.

MR. SMITH: Thank you, Mr. Chairman. Unfortunately, I was not quick enough with my raising my hand. Can we say scup instead of winter flounder for a moment and think about the aggravation we've caused ourselves over the last year and a half or two years by having different recreational rules for scup up and down the coast. And up and down the coast in the context of scup is only four states.

I like, as George adroitly pointed out, the concept of conservation equivalency. Every state manager would like to have the flexibility to go back home and see what his constituents are going to beat into his hide with a hammer and then decide what the right thing to do is at that time.

However, we set ourselves up for the same kinds of conflicts, and I don't know why it hasn't been such a big issue with winter flounder as it has been with scup, and part of it is because we haven't constrained it with a quota so there has been no cost associated with it.

I can't help but think we're going to down the road of having inconsistent rules that ultimately will really impact on people and we'll be back into the part of conservation equivalency that we hate, as George points out.

So, the bottom line is it's a very clear decision. If you think conservation equivalency, its usefulness has come and gone, but that we should be going with common coast-wide measures, then you should vote no on Option 2 and vote yes on

Option 4.

If you still like having that flexibility to be able to tailor to the state's interests, then you like Option 2. I think I like Option 4. Thank you.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Smith. Mr. Mears and then Mr. Abbott.

MR. MEARS: My comments are similar to Mr. Smith. I also prefer Option 4 solely on the basis of the comments which I heard from the chair of the technical committee. I'd like to be corrected if I'm mistaken, Steve.

What I heard was that under Option 2, the ability of the technical committee to evaluate management proposals, particularly that are not consistent on a stock-wide basis would be severely compromised; is that correct or not?

MR. CORREIA: I think it would be very difficult. I think a good example is if you look at the tables that are in here that were developed back in '92, these measures, they were based on, well, if we do this, we're going to achieve this partial recruitment.

And then this would tie in to achieving this reduction in F. So you crank through the models and you say, we think it's going to work like this.

If we turn around and say can we measure the effectiveness of what we have done state-by-state, were they actually equivalent, the answer is we have no clue, because the only metric we have is one partial recruitment vector coming out of the assessment and one fishing mortality rate coming out of the assessment.

So we can't say this is New York's contribution to that partial recruitment; Massachusetts achieved their conservation equivalency. So, it's putting measures in but no way to effectively measure them.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Correia. Mr. Abbott and then Mr. Fote.

MR. DENNIS ABBOTT:
Thank you, Mr. Chairman. As regards Option 2, in reading the description of it, I'm troubled when I see in the first paragraph one complication, and then in the second paragraph allowing states to tailor their proposals to unique situations.

In my mind, we've had enough "tailoring" going on in a lot of our management programs. Striped bass is a good example of always having states tailor-make for their unique situation.

For the state of Massachusetts, in the third paragraph where it says implementation of this option will be difficult for states such as Massachusetts where landings come from three different winter flounder stocks, different stocks status, it sounds a lot like lobster to me.

And we've heard the Commonwealth of Massachusetts talk about their difficulty in managing the lobster stock. I think that we would just be compounding that situation by passing Option 2, so I think that we should look at Option 4. It seems like the logical choice. Stock-wide management works. What should work for one should work for all.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Abbott. Mr. Fote.

MR. FOTE: When you said

"scup", there's five states involved. New Jersey does have a scup fishery. And when you wind up in the tail end of this fishery, it gets wagged by the states above a lot of times, and that's why you need sometimes the option of basically doing a different management plan because you see things differently when you're basically at the extreme of the stock, and that's why I have to support Option 2.

CHAIRMAN AUGUSTINE:
Thank you. And Mr. White wants to call the question. Mr. Colvin, to the motion.

MR. COLVIN: I just want to get one little point cleared up in my mind. It will come as no surprise to everyone here that I'm going to pretty strongly support the concept of a stock-wide uniform management approach for all kinds of reasons, not the least of which is that we keep hearing from our technical committees over and over again, whether it's in the concept of lobsters or tautog or flounder or something else, that when we try to manage on units that are different than the stock assessment units we create, we make their lives miserable and we create substantial long-term problems for ourselves.

But, the question I wanted to get at here is that if we went with Option 4, it was suggested earlier in this discussion that there still is an opportunity to apply the conservation equivalency provisions that appear later in the management plan on a state-level basis to the standard, if you will, stock-wide regulations that would be required.

I need to get a clear answer to that in order to come to a final conclusion on this. Is that the case? Let me just lay it out hypothetically. If there was a stock-wide recreational size limit of 13 inches and a

creel limit of six that emerged as a result of implementation of Option 4, would it be possible under the conservation equivalency provisions of this that appear later in this management plan for a state to vary those parameters, such that what they implemented was equivalent to that standard?

CHAIRMAN AUGUSTINE:
Thank you, Mr. Colvin. Mr. Beal, would you respond to that, please. I think it's covered under 4.6.3, but go ahead, measures subject to change, Page 60.

MR. BEAL: Gordon, the way it is written now, if there is a regional or a stock-wide standard, let's call it a bag limit, size limit, for the recreational fishery, a state would be allowed to vary their regulations provided they can prove they are conservationally equivalent to the standard.

MR. COLVIN: I would hope that would ease the minds of some of the members of the board who have concerns about the need to have some individual flexibility within their states and tip them towards four as opposed to the substitute motion. Thank you.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Colvin. To the motion, Mr. White, Ritchie White.

MR. WHITE: Yes, I'll make a comment and then I'd like to move the question. I agree with Gordon that Number 4 establishes a baseline, and then a state can conservation equivalency make changes and also be more conservative. The only other option I see is if a state wants to be less conservative than the baseline, and that's not fair. So, having said that, call the question.

CHAIRMAN AUGUSTINE:

Thank you. The question has been called. Any comments from the public on that motion? Mr. Bogan.

MR. TONY BOGAN: Thank you, Mr. Chairman. Tony Bogan from United Boatmen. I've been going over this in depth for quite a while between United Boatmen and RFA trying to come up with some ideas and then watching this whole system play out here.

A couple concerns I have. Gordon brought up one of the questions that I was going to bring up. With your indulgence, if I could phrase this a little different and then perhaps get an answer to the question, if we were looking at -- under Option 4 if we were looking at a percent reduction in harvest, 30 percent was the required reduction, would we then -- under conservation equivalency, as Mr. Colvin asked his question, would the individual states be able to then take their information and say this is how we would implement a 30 percent reduction as opposed to like in striped bass where we said it's a two at 28 standard and we came up with something equivalent? Is that possible, because that's going to kind of color my comments depending on the answer.

CHAIRMAN AUGUSTINE:
Lydia.

MS. MUNGER: Tony, what you're describing with each state coming forward and saying there's a 30 percent reduction, this is how we're going to achieve it, that would be Option 2. And then a stock-wide standard, like the striped bass situation you described, would be Option 4. And then states could submit proposals for conservation equivalency.

MR. BOGAN: Okay, I

assumed that. I hate to assume because I'm very bad at it. A couple things that concern us, first of all, the comments about, you know, the concern over the technical committee's problems or difficulties that they would have because of the resolution of the data and being able to look at individual states.

Well, that's dealt with in every fishery that I deal with, which is a lot of the fisheries that this Commission deals with. I mean, we're constantly hearing about issues with the data and concerns with the data.

But it seems those concerns are awfully one-sided. When it comes from the board and the technical committee, it's, well, you know, we don't feel comfortable with the resolution of this. When it comes from the fishery itself, meaning the people that prosecute it, it's always, hey, it's the best available, it's all we've got, we've got to work with it.

So I would argue that I would throw that counter argument back that to say we don't want to do it because it's a little difficult, well, you know what? We have to deal with that in other fisheries, too.

Another big concern I have is a comparison I heard from the board, from a board member of winter flounder, comparing it to what's going on in summer flounder, scup and black sea bass.

Well, you might as well compare striped bass to blackfish then, if that's what you're going to do, because to compare the issues and the debates under a coastwide or state-by-state in the summer flounder, scup and black sea bass plan to what's going on with winter flounder, ignores the differences, the enormous differences in those two stocks, in those two fisheries and the way those fish

migrate.

All the conversations that we've had leading up to this point about trying to break this stock down into its component parts, because you've got people from pretty much every state telling you that they feel that this fishery is far more similar to tautog than it is to summer flounder, scup and black sea bass.

I guess we were all just imagining it, because in my mind just because you're not happy with either a coast-wide plan or a state-by-state plan in a specific fishery does not mean that philosophy should then apply to all fisheries.

I'm very concerned when I hear comments like that because it ignores the reality of how this fishery actually exists and how it's prosecuted. After the answer to my question, I would have to say, well, I don't see an option that I really would like to deal with.

We would much prefer the substitute motion with Option 2 than as opposed to the stock-wide management measures. If we fail in Option 2, then to save time later and not coming back up and commenting again, then I'm going to have to fall back to a comment that was made by RFA that we agree with and a comment that was made by Mr. Goldman that if we are forced to deal with this on simply a single stock, Southern New England/Mid-Atlantic, it's one stock and you treat it as one fishery, then you've got to look at the fishery as having its two component parts, commercial and recreational.

And in the ten years since the implementation of the FMP for winter flounder, the percent share harvest of the winter flounder stock in the recreational

sector has gone from 32 percent to 14 percent, so any reductions that are done in the plan, just like was done in tautog in the reverse, should be proportional to your impact on the fishery.

And seeing as how we have no impact on the fishery, we are one-seventh of the fishery, it should be done accordingly. I don't want to go that route. It kills me to go that route because I know what it's going to do to the commercial guys in Jersey.

But since we don't have the option of breaking the stocks up, I don't see another way to go; other than if we can go with Option 2, I think we can avoid that battle. Thank you and I appreciate you letting me ramble on.

CHAIRMAN AUGUSTINE:

Good, thank you for those comments. The board has already caucused. Now we're looking for a vote. All in favor of the motion to substitute, move to substitute, choose Option 2, Section 4.2, motion by Mr. Lapointe, seconded by Mr. Calomo.

All in favor of the option to substitute raise your right hand one; opposed; nine; abstain, none; null votes, none. The motion fails. Mr. White.

MR. PATTEN D. WHITE:

Can I call the question on the original vote?

CHAIRMAN AUGUSTINE:

Thank you, Mr. White. The question has been called. Do we need a caucus on the original motion, which was move that the board choose Option 4 of Section 4.1. Motion by Dr. Pierce; seconded by Mr. Ritchie White.

Do we need a caucus? Seeing none, all in favor, a show of hands, nine; opposed, same

sign, one; abstentions, zero; null, zero. The motion carries. Lydia, it's your turn.

MS. MUNGER: Section 4.2 is the next section.

CHAIRMAN AUGUSTINE:

Mr. Colvin.

MR. COLVIN: Move Option 4 for Section 4.2.

CHAIRMAN AUGUSTINE:

Moved by Mr. Colvin; seconded by Mr. Lapointe. Move to adopt Option 4 of Section 4.2. Motion by Mr. Colvin; seconded by Mr. Lapointe. Any comments from the board? We had a question that has been called already, too. Greg, from the public.

MR. GREG DiDOMENICO:

Greg DiDomenico, Garden State Seafood Association. All I can really ask at this point in regards to the commercial fisheries management measures is I ask you all to consider a couple of things. It was touched on earlier but I want to give you some specifics.

The days-at-sea reductions just in vessels in New Jersey have been reduced by 60 percent from 2001 to 2002. In that time, commercial landings in New Jersey have been reduced by half, from about 500,000 to 230,000.

Also, this is according to NMFS database days-at-sea call-in, the number of days at sea was reduced from 8,367 in 2001 to 2,965 in 2003 and more reductions are expected. Right there is a tremendous reduction in fishing mortality in the state of New Jersey, so I can only ask that you consider that when making this decision. Thank you very much.

CHAIRMAN AUGUSTINE:
Thank you, Mr. DiDomenico. Any other comments from the board? Any other comments from the public? Seeing none, is the board ready? Mr. Correia.

MR. CORREIA: Just to follow up on that point is that in Amendment 13, it is anticipated that the measures that were put in place should achieve the goals for Southern New England winter flounder.

The concern that the board needs to be aware of is people moving into state waters, so you have a direction of effort into state waters, people giving up their federal permits or people who have lost their federal permits, and now you have effort increasing within the state waters.

CHAIRMAN AUGUSTINE:
Thank you for that clarification. Any other comments from the board? All right, seeing none, are you ready for a caucus? Do you need a caucus? You don't need a caucus? No caucus.

Okay, members of the board, all in favor, show of hands, nine; opposed, same sign, one opposed; null votes, zero; abstentions, zero. The motion carries. Lydia.

MS. MUNGER: The last section for which there are options.

CHAIRMAN AUGUSTINE:
Mr. Gibson.

MR. GIBSON: I don't know whether I slipped into a black hole or what, but was there any discussion about the monitoring program? We moved right into the recreational/commercial measures option. I had a comment that I had wanted

to make back there about the monitoring program, and did we just skip that section?

CHAIRMAN AUGUSTINE:
Go ahead, make it now.

MR. GIBSON: All right. Well, I note that in there -- and it relates back to one of my other comments -- that there is an identified monitoring program of assessing annual recruitment of states that are identified with their surveys, the states that are identified with their trawl surveys.

I just wanted to put on the record again that there is no performance measures associated with any of those surveys, no identification of historic levels of abundance, potential proxy targets that might map back into the Amendment 13 overall stock-specific biomass targets.

It's unclear to me how the states are going to monitor the performance of their inshore spawning components and make any judgment or assessment as to how that's improving or not improving in the big picture and the small picture.

We just identified, but there's no performance measures here, so I don't know where we're going to get to in terms of this inshore objective and rebuilding the inshore components.

CHAIRMAN AUGUSTINE:
Steve, would you respond to that, please.

MR. CORREIA: For those inshore components that have surveys, we can continue to provide advice where those indices are relative to the time series pattern. We can do the same thing with the recruitment.

That's a different issue than trying to

develop reference points from the same data, which is the exercise that we went through last time. I think it's very easy for the technical committee

-- when we're doing the reports, we actually do put in the individual surveys, the recruitment, so on and so forth, so we can continue to do that, Mark, and then the board can react to those kind of issues saying -- well, in the Southern New England/Inshore Massachusetts survey, the survey is near the lowest it's ever been in a time series. I suspect some of the other surveys are also having that same problem in Southern New England.

CHAIRMAN AUGUSTINE:
Thank you for that clarification. Dr. Pierce.

DR. PIERCE: Since Mark brought it up, I just wanted to get a clarification; 3.2, assessment of spawning stock biomass, it says under this amendment, I assume addendum, these states would be required to annually develop an index of spawning stock biomass, and it notes that the four states that are now involved in survey work.

I would assume that through these surveys, we are already providing indices of spawning stock biomass; therefore, this is just indicating that we need to continue those surveys. Is that the intent of 3.2, to continue those surveys?

CHAIRMAN AUGUSTINE:
Mr. Correia.

MR. CORREIA: Well, that's something that the plan development team put in there. I guess that's the idea behind it. I would prefer instead of saying "spawning stock biomass", that it just said "stock biomass", because we don't have an index for several of the indices. And, also, I do

note in here that Maine has a trawl survey, and that's not listed in this list of states that have surveys.

CHAIRMAN AUGUSTINE:
David, a follow up.

DR. PIERCE: Okay, so first of all, states are not going to be committed to, on their own, developing indices of spawning stock biomass or total stock biomass. That's being done now so this is just status quo, basically, correct? Okay.

George, of course, can respond to this. Whether the state of Maine should be included in this list, I don't know, but their survey is of relative short duration, a couple of years. Their funds are quite soft. As I understand it, they're getting funds from the Northeast Consortium. I don't know if those funds will be continued, but George will enlighten us.

CHAIRMAN AUGUSTINE:
Mr. Lapointe is making some signs. Yes, Mr. Lapointe.

MR. LAPOINTE: David made the points I did, that Maine does have an inshore survey. It's not of sufficient length to develop the spawning stock biomass estimates yet. The funding is quite soft.

We only have funding through next spring. We're desperately seeking new funding, so you can include it, but I don't think it would be a useful addition at this point, so I would leave it as it is.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Lapointe. Any other comments? Yes, Dr. Pierce.

DR. PIERCE: In addition,

with regard to the state of Maine survey, isn't it true that the lobster fishery is corrupting that indices, that the survey cannot be done because of the proliferation of fixed gear?

It's a major issue for survey work, and that is just a point I want to make, that the lobster fishery, of course, is extremely important. We have the Gulf of Maine. I'm thinking of the Gulf of Maine effort.

The lobster plan, as I understand, it does allow for increased effort in the Gulf of Maine, increased pots being fished in the Gulf of Maine. It's becoming more and more difficult for survey work to be done in the Gulf of Maine, specifically.

That's been noted by the Northeast Fisheries Science Center. I think it's also being noted by a committee that was put together by the Service, working with industry, noting that this is a major problem.

A gear conflict committee of the New England Council will be reconstituted to address this issue. I just wonder out loud if we are going to lose our ability or at least -- well, lose our ability to continue to do these surveys, to produce these indices of spawning stock biomass because of the proliferation of fixed gear. I would appreciate any comments relative to the remarks that I have just made.

CHAIRMAN AUGUSTINE:
Lydia.

MS. MUNGER: A point of clarification, from the perspective of the plan development team, I'm wondering what the board wants. Does the board want the plan development team, first of all, to leave the Maine trawl survey out of this list?

Okay, that's what I'm seeing from the board, so unless there's any objections, the plan development team is going to leave that one off the list, first of all.

CHAIRMAN AUGUSTINE:
I don't think there's any objections to that. No, take it off. Any other comments from the board? Lydia and then Dr. Pierce.

MS. MUNGER: Dr. Pierce, if I could ask for some clarification from you of what you would like to see reflected in this amendment based on your comments.

CHAIRMAN AUGUSTINE:
Dr. Pierce.

DR. PIERCE: I would say leave it alone for now, but we would anticipate that the technical committee would be obliged to advise us as to when we have reached the point where the indices of spawning stock biomass are no longer useful because of a loss of stations due to proliferation of fixed gear, not just lobster gear, but gillnet gear as well.

CHAIRMAN AUGUSTINE:
Thank you. Mr. Correia.

MR. CORREIA: I think you need to be a little flexible on these issues. Again, not all the surveys give you a metric of spawning stock biomass. They all give you stock -- some can only give you abundance. They may not even give you a biomass index, so you need to be flexible with that.

The other thing is, as Dave pointed out, sometimes surveys can run into problems, as Maine has, with losing strata because of fixed gear. But, also, other issues go on. Certain surveys change vessels or there may be a change in the gear. That would change

their index relative to historical.

Those are things that happen. You wouldn't want to hard wire a survey, saying, you know, you never can change your boat, never can change your net, because sometimes you just can't get that equipment any more, or sometimes you have to change vessels, so it needs flexibility.

CHAIRMAN AUGUSTINE:

Thank you, Mr. Chairman. Mr. Miller.

MR. ROY MILLER: Steve, I would just add that Delaware has a Delaware Bay trawl survey. To the extent that information from that survey might be useful as an indicator in the southern portion of the stock's range, we'd be happy to supply that information.

We don't catch many winter flounder. Obviously, the stock is contracted, but we do catch a few, and maybe we'll catch more if the stock is rebuilt.

CHAIRMAN AUGUSTINE:

Steve.

MR. CORREIA: We always love to get the data, take a look at it, see if it's useful. If we can use it, we try to use it. Sometimes information is not in a survey, but we always like to get the data and take a look at it.

CHAIRMAN AUGUSTINE:

Thank you, Steve. Lydia.

MS. MUNGER: Okay, I'm going to move on now to Section 4.5.3, which deals with de minimis fishery guidelines. The board has previously established a definition of de minimis status, so I'm not going to go back through that today.

I am going to go through the two options that I listed for exemptions under de minimis status, and this is on Page 59 of the draft.

Under Option 1, states that apply for and are granted de minimis status are exempted from biological monitoring/sub-sampling activities for the sector for which de minimis has been granted.

For example, commercial de minimis qualifies for a commercial monitoring exemption. States must still report annual landings, comply with recreational and commercial management measures and apply for de minimis on an annual basis.

Option 2 states that states that apply for and are granted de minimis status may petition the management board to determine what exemptions will apply. Under this options states must still report annual landings and apply for de minimis on an annual basis.

CHAIRMAN AUGUSTINE:

Thank you, Lydia. Mr. Lapointe.

MR. LAPOINTE: Thank you, Mr. Chairman. I would make a motion to accept Option 1 for de minimis status in the Winter Flounder Plan.

CHAIRMAN AUGUSTINE:

Do I have a second to that motion? Mr. Patten White.

MR. WHITE: No, I can't do that.

CHAIRMAN AUGUSTINE:

Oh, you can't? Second by Mr. Calomo. Discussion on the motion? Mr. Smith, then Mr. Mears.

MR. SMITH: I guess I kind

of like Option 2, to allow us an ability to look at it as a board each year. Now I guess I wouldn't want to call a board meeting only for that reason, and I'm a little concerned that the process would get gummed up. But, as I read Option 1, I thought it was fairly limiting. It said you have to do this; you don't have to do that.

Under Option 2 you can still decide that a state can be exempt from monitoring. It can be a choice the boards makes, but, let's face it, if it's a state with a core principal -- if they're geographically right in the core of a particular stock and they want to claim *de minimis* for some other reason, maybe you want them to monitor anyway.

I think you kind of want to look at that on a case-by-case basis, so I'm not sure why the motion came out as Option 1. I hope somebody can clear that up for me.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Smith. Response to that, Mr. Lapointe? Then Mr. Mears.

MR. LAPOINTE: In responding to that, if a state is in the core of the winter flounder area and they apply for *de minimis* status, we should look at the *de minimis* status definition.

I mean, by its very nature, it states that have a minor component of the fishery, recreationally or commercially, and that wouldn't imply that they're in the core of the range. It's a recognition of the fact that - I know in my own state where we're starting to put our next year's budget together, and we're looking at another 10 percent cut in our budget.

And it recognizes that we can't do everything. And for those states that are *de minimis*, it just says that we can get enough

information from the states that are *de minimis*, so that in fact we get the information we need to monitor the fishery.

CHAIRMAN AUGUSTINE:
Thank you, I like that new word. Mr. Mears.

MR. MEARS: I'll pass.

CHAIRMAN AUGUSTINE:
Thank you. Mr. Brown.

MR. BROWN: Mr. Lapointe's comment was exactly why the advisory panel made the recommendation that states not have *de minimis* status, because we probably could be *de minimis* in Maine because we don't have a fishery. That concerns us.

CHAIRMAN AUGUSTINE:
Would you care to move a substitute motion, Mr. Brown?

MR. BROWN: I can't do that.

CHAIRMAN AUGUSTINE:
You can't do that? Well, someone should. Any comments from the board? Any further comments on the board? Any comments from the public?

Seeing none, caucus? Do we need to caucus? Seeing no need, all right, for the board -- Joe, do you have it? Okay, the motion, move to accept Option 1 of Section 4.5.3. Motion by Mr. Lapointe; seconded by Mr. Calomo.

All in favor, show of hands, seven; a show of hands by those opposed, one; null votes, zero; abstentions, two. The motion carries. Lydia, back to you again. We did them all.

MS. MUNGER: This concludes the presentation of the options and selection of the options within the draft amendment.

CHAIRMAN AUGUSTINE:
Mr. Lapointe.

MR. LAPOINTE: Don't we need to do compliance states, page 64 on the draft document?

CHAIRMAN AUGUSTINE:
Lydia.

MS. MUNGER: During final approval of the draft amendment, implementation dates, compliance dates, implementation schedules, all that needs to be selected; so if the board wishes to go ahead with final approval, then that can happen.

MR. LAPOINTE: I guess I would ask other board members if there are people who don't think we should do final approval today? Seeing none, my thought is we should just put the dates in there, realistic dates, and if we can, approve this plan. We've got 20 more minutes.

CHAIRMAN AUGUSTINE:
I'm sorry, George. If the board moves for final approval, then I believe under our rules that anyone who is here as a proxy, representing a state, will not be able to vote.

MR. BEAL: Yes, the new rule is that if anyone is serving as a meeting-specific proxy for this meeting or for any board meeting is not permitted to vote on any final actions by the board.

Approving an amendment is a final action or recommending that the full Commission approve this amendment is a final action by

this board, so any meeting-specific proxy should not participate in the vote when the board gets to that point.

CHAIRMAN AUGUSTINE:
Okay, fine. That's clear. So, George, do you want to make a motion to move the whole -- before you do that, can we get Mr. Adler?

MR. ADLER: Yes, I just wanted to check one thing. Remember earlier in the meeting there was a discussion on one of the options that it was okay provided that in the measures subject to change that something -- is it there, what you were concerned about? All right, fine.

CHAIRMAN AUGUSTINE:
Okay, George, back to you.

MR. LAPOINTE: I'm unclear. Do we need a motion for approving the plan, and then we'll put the dates in, or do we need to decide whether we're going to put the dates in? I'm good either way.

CHAIRMAN AUGUSTINE:
We'll ask Mr. Beal.

MR. LAPOINTE: I'm good either way.

MR. BEAL: I would do the dates first and then approve the entire package with one final motion.

MR. LAPOINTE: Thank you. Then I would like a little bit of discussion about what realistic dates are.

CHAIRMAN AUGUSTINE:
All right, Mr. Colvin.

MR. COLVIN: Thank you, Mr. Chairman. I have a question for Lydia.

On Page 64, just above the center of the page, there is a bracketed, capitalized statement list compliance items. Could you explain what that refers to?

CHAIRMAN AUGUSTINE:
Bob.

MR. BEAL: Gordon, I'll take a crack at that one. That one was left open-ended or not completed in that staff doesn't know or did not know exactly what elements of this plan were going to be mandatory compliance criteria.

But, the normal course is to fill that out based on the discussions today. The board has selected management programs, monitoring requirements, and eventually we will approve compliance dates, and all those items will be listed there as compliance criteria.

MR. COLVIN: Okay, I think I understand. You know, we've been pretty careful to go through and read goals, objectives, and some other critical elements, even where we didn't have options to select.

I think before I'm comfortable voting at the bottom line on this, after we take up Mr. Lapointe's suggestion to insert compliance dates, I would like the staff to carefully review with us what are the compliance requirements as they stand in the record at that point, if we can do that next, please.

CHAIRMAN AUGUSTINE:
Mr. Beal, would you want to do that now, or would you want to wait until we select the dates?

MR. BEAL: Yes, give me a couple minutes to put the list together and then come back.

CHAIRMAN AUGUSTINE:
Okay, Dr. Pierce.

DR. PIERCE: I share Gordon's concern. I'm not sure what I am expected to comply with, what are the specific measures that would relate to Southern New England/Mid-Atlantic flounder. So, once we know what those are -- and I assume we have to wait for some recommendations from the technical committee.

Once we know what those are, we'll have a better understanding of how long it will take to get those in place from the practical viewpoint. Then perhaps it would be appropriate for us to establish compliance dates once we have in hand those technical committee recommendations.

CHAIRMAN AUGUSTINE:
Mr. Correia.

MR. CORREIA: Well, we're going to have to go through the usual suspects to come up with seasonal closures, trip limits, mesh sizes, minimum sizes. Those are the typical items that we deal with outside of a quota in here.

We'll have to come up with those measures for the stock-wide area, and then I guess the board will have to take a look at those and decide how they're going to do conservation equivalency to deviate from that. That will take a while to do.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Correia. Mr. Beal and then Mr. Ritchie White.

MR. BEAL: I guess there's a couple process options or courses that the board could take on this one. If the board wants to take final action today and charge

the technical committee, with the understanding that the technical committee is going to bring forward the specifics or options for recreational and commercial management within the two regions, and then the board will select options later on, that's an option. You know, it's one course that the board could take.

The other option is that the technical committee can work between now and the annual meeting and develop those recommendations and bring those back to this board, and the board can consider final approval at the annual meeting when they have more of the specifics for Section 4.1 and 4.2, which are the recreational and commercial management programs.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Beal. Mr. Ritchie White and then Mr. Smith.

MR. WHITE: Thank you, Mr. Chair. I guess I have a little problem going ahead and supporting this without seeing this in writing. I want to see this section and see exactly what we're voting on, unless there are other timing issues that George is bringing this up that we should consider.

CHAIRMAN AUGUSTINE:
Mr. Smith and then Mr. Lapointe.

MR. SMITH: I agree with Mr. White. I admire George's time management skills, and let's fill our whole amount of time, but there are a couple of other things in here that -- I mean, I, too, would like to see the list of compliance measures that are going to spill forth from the decisions we made today, and we kind of have to figure out how that works.

I'd also point out that in the public

comments we had several on the recommended non-mandatory management measures, which are the habitat types of issues, and they actually suggested we do things differently than what we have in here.

We haven't given that any time, and as a non-mandatory measure, I'm not sure I would give it a whole lot of time. I think those things are going to evolve gradually. I'm a little uncomfortable.

If we could approve the plan as it stands now today and say, but we're deferring approval of compliance schedules, compliance items, anything else that's left undone and do those at the annual meeting, that would be fine. But if there is no reason to do it, I'm not sure the rush is warranted.

CHAIRMAN AUGUSTINE:
Thank you. Mr. Lapointe and Mr. Colvin.

MR. LAPOINTE: This has been a good discussion. The sentiment of the board is that we do need discussion on that and we should send it back to the technical committee.

I hope we can have them meet in some way so that in fact they can answer some of these questions. I think it's incumbent on all of us, because a lot of these things aren't technical questions, they're when our states can get together plans to follow through.

And so between now and the annual meeting, we need to talk to our folks about what's realistic in terms of dates, because we don't want to put it so far out that we don't take action. We don't want it so short that we can't take action.

And so having said that, I think we shouldn't approve the plan because without compliance that's a hollow gesture at this

point, so I think we should just -- I actually have fulfilled the goal of taking up nearly the rest of the time for the board. I apologize for that.

And we should just direct the technical committee and our own states to follow through so that we can have this discussion at the November meeting.

CHAIRMAN AUGUSTINE:
Thank you. Mr. Colvin.

MR. COLVIN: Thank you. I have a couple of questions regarding the issues that appear at the bottom of Page 64 and the top of Page 65, monitoring requirements, research requirements, and law enforcement requirements.

These appear here under the sub-heading, "mandatory elements of state programs." I want to make sure I understand again what we're getting ourselves into.

As I read the monitoring requirements section, it suggests to me that the intent here is that mandatory monitoring requirements for fishery-independent surveys will be specified in the future through the addendum process. Do I read that correctly?

CHAIRMAN AUGUSTINE:
Lydia.

MS. MUNGER: Gordon, it's my understanding -- and, please, I'd ask the board to correct the plan development team if we have this incorrect, but it says that such surveys may be implemented through the Commission's addendum process, including the opportunity for public comment, not that they necessarily will.

MR. COLVIN: I asked the question because of the fact that this sub-

section appears under a main section entitled "mandatory elements of state programs." I raise the same question with respect to the research requirements and law enforcement requirements.

If in fact it is not the intent of the plan to make monitoring, research and law enforcement requirements, as they are described here, mandatory elements of state programs, I would assert they should not appear under that heading. They should appear elsewhere.

CHAIRMAN AUGUSTINE:
Lydia, do you want to respond to that?

MR. COLVIN: I think we're open to confusion in the future, otherwise.

MS. MUNGER: The plan development team is open to the board's suggestions regarding anything that appears in this draft, so if the board feels that these section should be removed, the plan development team is happy to do so.

CHAIRMAN AUGUSTINE:
Further comments from the board? Gordon.

MR. COLVIN: The direction I would propose the board give the plan development team is that Section 5, compliance, is a special section. It conveys for the record what it is we've got to do under penalty potentially of an ACFCMA moratorium.

And that's all that should be in here. If there is stuff that is recommended that we do, or highly recommended or would be really great, but isn't a compliance requirement, it shouldn't be in here. That would be my view.

CHAIRMAN AUGUSTINE:

To that point, any other comments from the board? Agreed. Mr. Blanchard.

MR. BLANCHARD: I just have one comment for the law enforcement perspective is how can you have a plan without having law enforcement as a mandatory compliance measure?

CHAIRMAN AUGUSTINE: I don't want to try to answer that one. Does anyone want to try to answer that one? Mr. Beal, do you want to --

MR. LAPOINTE: I don't think Gordon is saying that we don't need law enforcement. I think what he's saying is that we need to carefully review the list and include those things that the states must do, otherwise have the cuffs put on them.

And if we think that a law enforcement report pursuant to the enforcement of this plan is part of that, it should be included. We're not saying that there shouldn't be enforcement but whether there should be a report.

CHAIRMAN AUGUSTINE: I agree with Mr. Lapointe on that. Yes, Lydia.

MS. MUNGER: The plan development team will review this section and bring it back to the board at the annual meeting for a complete review of the revisions.

CHAIRMAN AUGUSTINE: Mr. Freeman.

MR. BRUCE FREEMAN: Relative to the enforcement issue, it would be my understanding that the sections, for example, 4.1, 4.2, which are a requirement that the board determines need to be made to

control fishing effort definitely would be enforced.

And, again, I agree with the comments that we expect enforcement or enforcement is necessary, but the way it's stated under the various sections, I think it's the key.

CHAIRMAN AUGUSTINE: Thank you. Dr. Pierce.

DR. PIERCE: I don't think much more needs to be said on this issue. Lydia has already gotten some I think good guidance from us relative to what we need to see at our next meeting as it relates to compliance criteria.

Some of these indeed cannot be compliance criteria. They don't make any sense, such as 5.1.1.4 where all state programs must include law enforcement capabilities adequate -- that's impossible, obviously, and my agency doesn't have any control over our law enforcement agency.

It's now within the executive office of environmental affairs. It's no longer a sister agency, so it makes for some difficulty to say the least. So, I'm confident that Lydia has heard the concerns and will have something more meaningful and useful at the next meeting.

CHAIRMAN AUGUSTINE: Thank you for that, Mr. Pierce. Any comments from anyone else around the table? Any comments from the public at this point in time?

We know what our next course of action is going to be. We'll be following through. The technical committee or the PDT will finalize and clarify those issues that the board members brought to the surface at the tail end of the meeting.

I personally want to thank you for your indulgence and sticking with us throughout the morning. It hasn't been tedious; it's been kind of fun. The technical committee I thought did an outstanding job. The PDT did an outstanding job. I think Lydia is to be commended for the way she put this package together. It's very complex, a lot to it and she's done an outstanding job. So, any other comments from the board? Dr. Pierce.

DR. PIERCE: Just to make sure I understand the process, the technical committee is going to meet between now and the next meeting and follow up.

Okay, and then we'll be in a position at our next meeting to respond to those recommendations for options, and then we'll formally, I assume formally, adopt the addendum and implement the specific dates for compliance.

CHAIRMAN AUGUSTINE: Yes, that's my understanding of it at this point in time. Lydia, we're clear on that?

MS. MUNGER: David, you're correct, the technical committee will meet. The plan development team will put further work into this draft and the compliance schedules and such will be presented to the board for final approval at the annual meeting.

CHAIRMAN AUGUSTINE: Thank you for that, Lydia. Any further comments from the board? Yes, Mr. Laney and then Mr. O'Shea.

DR. WILSON LANEY: Well, just a question I guess to staff and to Steve, I noticed in the comments that the Electric Power Research Institute submitted

a rather lengthy commentary on the plan and made some comments in there that appeared to me might merit some response from staff or the technical committee. Is there any plan to respond to those comments?

CHAIRMAN AUGUSTINE: Mr. Correia.

MR. CORREIA: I didn't have any intent to respond.

CHAIRMAN AUGUSTINE: Do you have any suggestions?

MR. LANEY: No, I was just curious. I'll talk to Steve and staff about it later.

CHAIRMAN AUGUSTINE: Thank you very much. Mr. O'Shea.

EXECUTIVE DIRECTOR O'SHEA: Thank you, Mr. Chairman. Just so I understand the status and maybe of benefit to the public, to recap what happened here today, the board has gone through the amendment, and it's the sense of the board that you're going to, at the next meeting, adopt this amendment, but you're holding off on that until we have time to flesh out the compliance provisions as well as set a compliance date.

And the reason I'm sort of saying that is when we bring this issue up again, it's not going to be to tinker with the contents of the amendment. It's simply to flesh out the compliance and to set a date. That's the sense of what the board has done here today.

CHAIRMAN AUGUSTINE: That's my understanding, Mr. O'Shea. If we look around the table, I think we had nodding of several heads that we have debated and discussed all of those issues,

and it's just a matter of those two or three items that have to be finalized, so it should be a relatively straightforward meeting.

EXECUTIVE DIRECTOR
O'SHEA: Thank you, Mr. Chairman.

CHAIRMAN AUGUSTINE:
Thank you. Lydia, have we covered everything? Is there any other business to come before this board? Mr. Adler.

MR. ADLER: I just wanted to make one general comment. I know there was so much paper handed out right at the last minute here, and I think it's sort of a disservice to the people who wrote them. I didn't have time to read what their comments and positions were.

I know it's nobody's fault but it just --and I'm sure with other boards it would be the same. There was an awful lot of paper here, and I would have liked to have had time to read this stuff.

And when they had it out here, when the meeting is going, I mean, it just sort of sits here in a pile. That's just a comment. That's all.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Adler. Mr. O'Shea.

EXECUTIVE DIRECTOR
O'SHEA: Yes, Mr. Chairman, to that point, the reason that happened is because the board made the choice to close the comment period last Friday. That was the board's decision to do that.

MR. ADLER: Okay, maybe we should remember that the next time we do that so that we go, look, give us enough time. Maybe that's a solution. Thank you.

CHAIRMAN AUGUSTINE:
There wasn't a very large window between the time all of the meetings were held and the time that Lydia was putting this whole package together, and it did put us in a bind. I felt the same way you did, Mr. Adler.

It does become difficult to try to read through it all, but I was very appreciative that we had the public make comments on the record. That did help clarify some of those comments they had made. Are there any further comments from the board? Mr. Calomo.

MR. CALOMO: Thank you, Mr. Chairman. I will be redundant, but I think it's better that it comes from somebody sitting here other than the chair.

I think that Lydia did an outstanding job on keeping us on track and making reference to the pages that we could follow better with the visual. I commend her for that. I think you've done a fine job, Mr. Chairman. Thank you.

OTHER BUSINESS/ADJOURN

CHAIRMAN AUGUSTINE:
Thank you very much for those comments. Any further comments? Seeing no further business, this meeting is adjourned.

(Whereupon, the meeting adjourned at 11:00 o'clock a.m., Tuesday, August 17, 2004.)

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