ATLANTIC STATES MARINE FISHERIES COMMISSION
1444 Eye Street N.W. 6th Floor
Washington, D.C.  20005

SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS
MANAGEMENT BOARD
WEDNESDAY, MAY 1, 2002
at
Omni Newport News Hotel
1000 Omni Boulevard
Newport News, Virginia
## INDEX

**TOPIC** | **PAGE**
--- | ---
**ANNOUNCEMENTS AND INTRODUCTIONS** | 3
Preston Pate | 3

**APPROVAL OF AGENDA** | 3
Preston Pate | 3

**TECHNICAL COMMITTEE REPORT** | 4
Steve Doctor | 4
Motion - Options 7, 8, 9 and 10 | 34
Jack Travelstead | 34
Vote | 36
Motion - Options 7, 8 | 37
Jack Travelstead | 37
Vote | 39
Motion - Development of Standards | 44
Gordon Colvin | 44
Vote | 47
Motion - North Carolina Rec Harvest | 49
Pat Augustine | 49
Vote | 49

**REVIEW/APPROVAL PROPOSALS for 2002 RECREATIONAL SCUP FISHERY** | 62
Michael Lewis | 62
Motion - Mass Scup Measures 2002 | 74
David Pierce | 74
Vote | 79
Motion - Rhode Island Proposal | 83
David Borden | 83
(Break into two motions
Bruce Freeman | 84
Vote Motion Part 1 | 84
Withdraw Motion Part 2 | 88
David Borden | 88
Motion - Connecticut Proposal | 89
Ernie Beckwith | 89
Vote | 90
Motion - New York Proposal 1 to 9 | 94
Ernie Beckwith | 94
Vote | 94

**OTHER BUSINESS** | 99
Pat Kurkul | 99
PROCEEDINGS

[3:20 p.m.]

ANNOUNCEMENTS AND INTRODUCTIONS

BOARD CHAIR PRESTON PATE: I'll call the meeting of the Summer Flounder, Scup and Black Sea Bass Management Board to order, and let the record note that we have a quorum and that Bob Pride is joining us today as a Board member with a proxy from PRFC.

__________________

APPROVAL OF AGENDA

The first item on our agenda is approval of the agenda, and unless there's objection I'll note that -- Jack.

JACK TRAVELSTEAD: Mr. Chairman, we have some people here who are interested in the Virginia flounder issue, and I was hoping that we could take that close to the beginning of the agenda so they can be on their way. I don't think it's going to be a terribly lengthy item, and that would allow you to then proceed with scup for as long as you want into the night.

BOARD CHAIR PRESTON PATE: Thank you, Jack, and God forbid we go into the night with scup.
But I'm certainly agreeable to that and my plan would be to ask Steve Doctor when he presents the Technical Committee Report to present the segment dealing with Virginia's proposal and then move directly into the discussion on that, if that's okay with you and the rest of the Board.

So, with that change noted, I will deem the agenda approved. And we need some recognition of approval for the minutes of our February 21st meeting. Absent any objection, I'll do that by consensus of the Board, if that's agreeable to everyone.

(No response audible.)

BOARD CHAIR PRESTON PATE: Are there any comments from the public at this time?

(No response audible.)

BOARD CHAIR PRESTON PATE: Seeing no interest in that, we'll move to the Technical Committee Report by Steve Doctor. And Steve, if you'll jump right into the Virginia flounder proposal, please.

__________________________

TECHNICAL COMMITTEE REPORT

STEVE DOCTOR: Thank you, Preston.
As regards the Virginia summer flounder regulations, the plan that was submitted to the Board at the last meeting had not been reviewed by the Technical Committee.

After the meeting the committee member from Virginia explained that the initial options developed by Virginia in February assumed that the coastal bays and inlets were included in the ocean ed (phonetic). This error resulted in the landings associated with the ocean ed being set lower than they should have been and the resulting regulations not achieving the required reduction.

Virginia's committee representative planned to develop some new options using post-stratified data and present them for review via conference call prior to the Board meeting.

On April 25th, a limited number of committee members participated in a conference call to review the options developed by Virginia. The consensus opinion was that the techniques used were correct. Some committee members have concerns regarding the ability to evaluate the likelihood of the proposed regulations constraining Virginia's harvest to the specified limit. Those concerns are
based upon possible transfer effort between areas and seasons and the absence of compensation for any resulting recoupment.

It is important to note that the analysis of effort transfer and recoupment is not specified as a criterion in Addendum 7. In addition, there is some question as to whether sufficient data and proven methodologies exist to accurately reflect the effect of area specific regulations within the state.

I would add, though, that the plan was -- the plan that was most recently submitted on April 25th and the consensus opinion does meet the requirement -- or the opinion of the technical committee is that it does meet the requirements specified.

BOARD CHAIR PRESTON PATE: Jack, do you want to --- the handout?

JACK TRAVELSTEAD: Everybody has a handout. Let me just take you through a little bit of the history to remind you. There were four options that were presented to the Board at our last meeting and they are on this first sheet listed as 1, 2, 3 and 4. Two are statewide options, which use
the standard methodology that everyone has always used. And Options 3 and 4 split the coastal area from Chesapeake Bay and its tributaries.

When we -- and you approved those options 1 through 4. We then went to the Marine Resources Commission in Virginia. They held a public hearing. And following that hearing, they adopted -- they did not adopt any of those four options. They adopted a combination of those options, which is listed in your handout as Option 5.

We now know, as Steve has told you, that the methodologies used to calculate all of these options, including the one my Commission adopted, was in error. The error was rather simple in that we believed that the harvest of flounder that occurred in the coastal bays, behind the barrier islands in Virginia, was included in the oceanside harvest numbers. We now know that's not the case. Those harvests are included in the Chesapeake Bay harvest.

When we learned that, we got in touch with NMFS and learned that it was possible to break out the harvest from the coastal bays using a SASS
program. In fact, Alexie Sharof did that for us up in Maryland. The data were provided to us and the options were recalculated using the correct data.

And what you see the new options as 7, 8 and then if you flip over, 9 and 10, the methodologies -- once the data are separated and corrected, the methodologies used to calculate these options is identical to what it was before.

What you'll see, however, is because the ocean harvest is now -- or the oceanside harvest is now much larger than it was in the first four options that were presented to you at the last meeting, the lengths of the closed seasons for the coastal area are significantly longer. In fact, in one of the options, I think it goes to the end of the year. Yeah, from -- the coastal area would have to be closed from June 27th to December 31st to meet the necessary reductions.

Options 7 and 8 were reviewed by the Technical Committee, I guess over -- in a conference call that was held last week. Now, consistent with Virginia's past performance, we have two new ones, 9 and 10, which are on the back of the sheet, that the Technical Committee did not look at, but they used
the exact same methodology as 7 and 8.

You'll see Options 7 and 8 make use of a 15 and a half inch minimum size in the coastal areas. But when you go to 15 and a half inches, you have to have these long closed seasons. To avoid that, I asked Rob O'Reilly to calculate options that raised the minimum size to 16 and 16 and a half in the coastal area. And that gets you obviously a shorter closed season as a result of that, June 10th to June 24th or June 10th to June 16th.

So, again, Options 9 and 10 have not been reviewed by the Technical Committee, but they utilize the new data set and the same methodology that follows as Options 7 and 8 that the Technical Committee has seen.

The Marine Resources Commission will meet on May 28th and will be made aware of this issue and whatever action you decide to take today, what options you choose to approve, and we'll move forward to adopt a corrected option.

So, that's the explanation. If there are questions, I'll be glad to try and answer. Rob O'Reilly is here, as well, if you have technical questions.
BOARD CHAIR PRESTON PATE: I have -- not a technical question, Jack. You may have said this and I missed it in your opening comments, but what's the current status of your season? What has happened from January 1st until now?

JACK TRAVELSTEAD: We have -- the Commission has adopted Option 5 on the front sheet. That's what they adopted. We now know that will not achieve the required 43.8 percent reduction, because it utilized the wrong data set. In fact, we recalculated that same option. That is what is in Option 6, if you flip back through the sheets, you'll see with the new data set that it does not meet the required reductions. So, we know we must change the regulations from what they are now. We're not in compliance with the management plan. We've got to go through a procedure to change those regulations.

The question is do we adopt a statewide measure that you see in Option 1 and 2, which are still valid, or Options 7, 8, 9 or 10, which continue to separate the coastal area from the Chesapeake Bay.

GORDON COLVIN: Follow-up, Mr.
Chairman?

BOARD CHAIR PRESTON PATE: Yes, Mr. Colvin.

GORDON COLVIN: Jack, Option 5 is in place. Option 5, as I see it, is 15 and a half size limit in quote, all coastal. Could you just elucidate on what that all coastal consists of?

JACK TRAVELSTEAD: Again, all coastal is defined exactly as it was at your last meeting. All the barrier islands -- all the waters behind the barrier islands, coastal bays, as we call them, as well as the three-mile limit or that portion of territorial sea.

GORDON COLVIN: Okay. And 17 and a half inch is inside Chesapeake Bay. Each of those areas having a closed season from January 1 to March 28.

JACK TRAVELSTEAD: Right.

GORDON COLVIN: And a second closed season beginning on July 22nd?

JACK TRAVELSTEAD: That is what we currently have, yes.

GORDON COLVIN: All right. You know, just a couple of questions relating to this. When
did the fishery open this year? When did fishing begin in Virginia this year?

JACK TRAVELSTEAD: It began on March 29th.

GORDON COLVIN: Consistent with that then. And at 15 and a half and 17 and a half?

JACK TRAVELSTEAD: Yes.

GORDON COLVIN: Which would create a complication, would it not, Jack, for Options 9 and 10?

JACK TRAVELSTEAD: It would create a complication in that fishing is now going on, so that --

GORDON COLVIN: Yes, that's my point.

JACK TRAVELSTEAD: Yeah. Yeah.

GORDON COLVIN: Has the Commonwealth considered what it might do if it chooses those options to compensate for the fish between 15 and a half and 16 or 16 and a half that might have been taken during the intervening period?

JACK TRAVELSTEAD: I think what you're asking is -- you know, what kind of additional penalty would be imposed, because we're fishing now at something that's -- that doesn't
comply.

GORDON COLVIN: And considering that it is also something that this Board didn't approve.

JACK TRAVELSTEAD: Right.

GORDON COLVIN: Both those considerations.

JACK TRAVELSTEAD: We have not contemplated that in any of these options, simply because we don't have data for this year that basically tells us what has really happened. We know that May and June are the principal months of harvest in the coastal area. If we can get the regulations in place on May 28th when the Commission -- then we will have at least stopped fishing during the month of June under the old size limits.

BOARD CHAIR PRESTON PATE: But Jack, that's not a problem with any of the other options, 6, 7 and 8, since you're fishing at 15 and a half.

JACK TRAVELSTEAD: No, I think --

BOARD CHAIR PRESTON PATE: In all coastal. That same problem would not be created with those options; is that right?

JACK TRAVELSTEAD: That's right.

BOARD CHAIR PRESTON PATE: Okay.
Pat.

PAT AUGUSTINE: Thank you, Mr. Chairman. Follow on question. I was going to ask — elaborate upon what Pres just asked. If in fact the number 9 and 10 have not been approved, although it would give you a different scenario here, have not been approved and they are different sized fish, 15, 16 and a half -- 16, 16 and a half, as compared to some of your other options that would compensate you -- well, you have to compensate -- you're actually at 15 and a half, you would still have an open season. Let's go to Option 5, although it was not -- oh, I'm sorry, it was not valid. Let's go to Option 6. All coastal, 15 and a half, January 1st through January 28th, and the season again would still be open, as it is now, but it would carry through to July 22nd.

The question is if that will keep you within your overall quota and keep you from going over, as you did unfortunately last year, would it not be more appropriate to follow that scenario as opposed to trying to get 9 and 10 approved, which has to go through I believe your legislative body and also has to be approved by ASMFC. I just need
some clarification, Jack.

JACK TRAVELSTEAD: Our thinking on Options 9 and 10 are that if you can get the size limits closer together, you not -- well, when you raise the size limit in the coastal area, you get rid of the burden of that long closed season, which is what the fishermen want obviously, but the closer you can make the size limits, the chances are you're going to reduce people trying to recoup their losses by fishing in the other area.

If it stays at 15 and a half and 17 and a half, you know, I think there's going to be more incentive for people to trailer the boats over to the eastern shore and fish over there, which is this recoupment problem that the Technical Committee has a problem with. So, hopefully we would avoid some of that if we went with a 16 or 16 and a half.

PAT AUGUSTINE: Thank you.

BOARD CHAIR PRESTON PATE: Bruce.

BRUCE FREEMAN: Jack, something that's not clear. You indicated that originally the coastal included the bays and the ocean, but now it does not?

JACK TRAVELSTEAD: When we calculated
the first options, we had data that showed us what
the harvest was in inland waters and what it was in
ocean waters, and we made the incorrect assumption
that the harvest in the coastal bays was included in
the ocean number, when in fact it is not, it is
included in the inland number.

We have now corrected the data by
teasing out the harvest in the coastal bays and
adding it to the ocean number, which you can see in
Table 1.

BRUCE FREEMAN: All right. Well, the
issue that I'm confused about, relative to
Virginia's regulations, the coastal lagoons and the
ocean is considered ocean, and how MRFSS collected
the data was different. But from your standpoint --

JACK TRAVELSTEAD: That's correct.

BRUCE FREEMAN: -- coast -- I mean,
what concerned me originally, Jack, from Virginia's
proposal was the enforcement issue, because there
was such a discrepancy in size, people would claim
they're fishing one area and be burden on your
enforcement to prove --

JACK TRAVELSTEAD: I think we've
solved that problem by -- the coastal area, which is
now defined as the coastal lagoons, plus the three-mile limit, would all be under the same size limit and closed season.

BRUCE FREEMAN: Okay.

JACK TRAVELSTEAD: You run into enforcement problems if you have to draw a line across the mouths of all of those lagoons --

BRUCE FREEMAN: Oh, yeah.

JACK TRAVELSTEAD: -- and have one size limit in the lagoon and one out in the ocean. That's an enforcement nightmare. We've solved that problem by making both sides of those lines -- and we are enforcing the regulations as possession rules so that if you left the York River, the Chesapeake Bay, and rode your boat all the way to the eastern shore and fished on 15 and a half inch fish -- of course it would be enforced as a possession limit there, but it would also be enforced as a possession limit when you got back to the dock.

BRUCE FREEMAN: Okay. Well, bear in mind there was a lot of -- at least let me speak for myself, there was apprehension on this issue because of different size limits in the state. And I think we've all considered that at times, and for various
reasons have found out it was very difficult for one reason or another, but enforcement is certainly one of the reasons. And that there is considerable attention being paid to Virginia to see how it works out, quite frankly, this year.

And if it does work to any degree, there may be other states thinking about doing the same thing. So, I think it's very critical that you can separate the areas for recording purposes and you can enforce it because of enforcement issues.

And so that's one of my concerns.

While I have the floor, I understand, Jack, you're asking the Board to approve 9 and 10, but the Technical Committee has not reviewed it, but you use the same techniques for calculation.

I would indicate that if in fact this Board agrees to approve 9 and 10, and you're asking for that action today, that at very least our decision be based upon that returning to the Technical Committee and get their review. One is it sets a precedent. I mean, it's never been done where someone submitted something to a board and it approved it before Technical Committee had a chance to speak on that. And even though you may be right,
it may simply be the same calculation, just on a
different area, I would submit that it should be
submitted to the Technical Committee either before
or after we vote, just to make sure --

JACK TRAVELSTEAD: I don't have any
objection to that at all.

BRUCE FREEMAN: Yeah, I just -- the
contcern is -- you know, you're bringing something to
our attention and trying to do this and organize
your fishery and notify people, I think we all have
been in a position like that and understand your
position, but I still think from a procedural
standpoint, the Technical Committee has to look at
even those calculations.

JACK TRAVELSTEAD: Sure. You know,
without Options 9 and 10, quite frankly I think
we're going to end up with a statewide rule, because
I just can't see anyone on the eastern shore of
Virginia supporting 7 and 8 with such a lengthy
closure. Six months of the year being closed in
Option 8 and virtually all of June, which is their
best month, being closed under Option 7. And that's
why I asked Rob to work up Options 9 and 10 to see
what they looked like.
BOARD CHAIR PRESTON PATE:  Pat.

PAT AUGUSTINE:  Thank you, Mr. Chairman.  Is there any way at all possible in that the season closed on -- I'm sorry, it was open -- closed till March 28th, it opened on the 29th -- is there any way to go back historically over the last two or three years -- I guess you were fishing on 15 and a half inch fish in the last two or three years -- and come up with some guesstimate as to what you might be harvesting.

If this goes forward, and it should go forward, and I agree with Bruce that we should move it forward, but it would seem to me one of the Technical Committee's questions might be what do you anticipate having harvested during that period from March 29th to June whatever it happens to be, and how will that be taken into consideration, so you won't go over the quota during the end of the year?

JACK TRAVELSTEAD:  If you don't mind, I'm going to ask Rob O'Reilly to address that, but I -- you know, if it is possible to be done, I certainly wouldn't object to -- in a sense adding a penalty which would result in some additional closure under 9 and 10.
ROB O'REILLY: It certainly could be done. We already know that from last year the third WAVE is a big WAVE, now that we've got the data oriented the correct way. The second WAVE traditionally you're looking at a very small percentage. I think it's a bad idea to make such a requirement on the basis of what I've seen over the years, of the performance of these systems since 1999.

What you should look at are if we do go to a higher size limit, then the -- my expectation, unless I heard differently from Doctor Moore, would be that for next year we would be effectively getting zeroed out at that higher size limit.

If you recall these tables, the size limit you had in 2001, you essentially are zeroed out for 2002. That would also occur. So, there's already a penalty built in in that respect.

The second thing that was done for 7, 8, 9 and 10, which was not done for any other options from any other states, are if you look in the packet, we didn't work on the percent that we were supposed to derive from 2001 closed season. We
actually took 15 days, which was our closed season, out of 61 days for that WAVE 4, and we proportioned that amount of landings and added it back into these proposals and then resumed for a closed season.

We know that's very representative and very reliable way to account for 2001. So, I think it might be a bad idea, overall, to try to start guesstimating, really, what the effects were. Because as we're also seeing, each year brings new problems. And it's more than just the closed season at work here. It's availability. It's many factors that you've heard Doctor Moore and others talk about.

PAT AUGUSTINE: Thank you.

BOARD CHAIR PRESTON PATE: Ernie.

ERNEST BECKWITH: Thank you, Mr. Chairman. I just want to address the issue of the penalty. If I recall, we all had -- we all have a target number of fish that we're supposed to meet, and I think all we do is look at the end of the year and see if the state of Virginia exceeded that target number. And if they did, they will pay the penalty next year by taking a larger percent reduction. So, at this time I don't think it's an
issue we can deal with. I think it will take care of itself.

BOARD CHAIR PRESTON PATE: Rick.

RICHARD COLE: From the standpoint of the Technical Committee, Jack, when this information was broken out by area, it met the PSE requirements that we use, the 30 percent; is that correct?

JACK TRAVELSTEAD: That's correct.

RICHARD COLE: So, there wasn't any problem there when you broke it out by area, even though they refined it the way that Jack indicated, that they broke it out, they had to break out the coastal from the Chesapeake Bay landings. They still had the proportional standard error that was 30 percent.

JACK TRAVELSTEAD: I wasn't there for that discussion. Did they look at the PSE after the data was reproportioned? Or was it even calculated?

RICHARD COLE: I mean, that's one of the criteria that we use as qualifying criteria. Gordon shakes his head no.

STEVE DOCTOR: Let me say that the stand-alone, the data before it was separated met the criteria and the number of -- the amount of
landings that are in there would make me believe that as separated, it would also meet the requirement. I have no reason to believe it wouldn't.

RICHARD COLE: Okay. Let me just hear what Gordon had to say.

GORDON COLVIN: Quite frankly, I think that's an issue here, because the only situation in which I am aware that the Board has specifically established a PSE evaluation criterion is with respect to the prospect of a mode split management system for scup, which is going to come up later.

And I'm not aware that we established any statistical evaluation criteria for summer flounder. I will also say that our Technical Committee member is troubled by that and that frankly one of the points that I wanted to make in the course of this discussion is that this Board by golly needs to work towards -- before we go through this exercise again next year, establishment of some standards for review of state conservation equivalency proposals, for all -- both these managed species.
Further, that contrary to what the Technical Committee Chairman just said, I know that our Technical Committee member is troubled, very troubled, by what she believes are a relatively small number of intercepts and length measurements in the underlying database that supports the area specific size and possession limit tables that Virginia generated and used to develop their regulations and suspects that they would -- because of the low numbers of measurements that support the tables, that a statistical review would show quite a range of potential variability.

Now, be that as it may, that's not a rule that we applied to anybody, and --

BOARD CHAIR PRESTON PATE: Were you through, Mr. Colvin?

GORDON COLVIN: Well, --

BOARD CHAIR PRESTON PATE: Rick.

RICHARD COLE: Gordon, if you'll think back, the State of Maryland brought -- I think for two consecutive years, they brought options before this group asking to break out their landings by coastal areas and by Chesapeake Bay.

And as I recall, this collective body
indicated to the State of Maryland that their information did not meet the statistical requirements, the 30 percent PSE, that we felt were required. Am I right, Pete?

PETER JENSEN: Right.

RICHARD COLE: So, that precedent has been established amongst this group.

BOARD CHAIR PRESTON PATE: Jack.

JACK TRAVELSTEAD: Mr. Chairman, Rob O'Reilly has some numbers on this that I think will help clear up some of it.

ROB O'REILLY: I hope you can appreciate that it took until April 15th for the National Marine Fisheries Service to get the raw data available so that Doctor Sharof could thankfully do this analysis for us.

We don't have exact CV's. The way the Technical Committee conference call was conducted, that point was brought up as concern until I pointed out that the inland component contained 1,253,894 fish before it was split. It had a CV or a PSE of 7.9 percent.

The ocean component had a mere 71,284 fish, and had a 22 percent CV or PSE. 800,000
pounds of the 1.25 million were added to the ocean
component. So, you know what happens to that 22
percent when 800,000 numbers -- excuse me, not
pounds, numbers of fish, are added to 71,000. And
there was no one after that information was talked
about who had distinct reservations about the CV's.

We could still get the CV's. It
would be an exercise, but that's not a problem to do
that. But I think if you have any attention for the
data, you can see that it makes sense that if the CV
in the ocean went down substantially, the one in the
inland would not have increased by an extent from
7.9 percent to bring it over 30 percent for the
Chesapeake Bay, which has landings distributed
throughout the season. And that's the basis that I
provided to the Technical Committee.

GORDON COLVIN: Can I ask Rob a
question?

BOARD CHAIR PRESTON PATE: Yes, sir,
Mr. Colvin.

GORDON COLVIN: And Rob, those CV's
relate specifically to what?

ROB O'REILLY: The 7.9 percent relate
to the combined data from the inland and the coastal
bays.

GORDON COLVIN: But that relates to the variance around the total estimate of the number of fish landed?

ROB O'REILLY: I think it's a little more complicated than that. We had National Marine Fisheries Service at our last Technical Committee meeting, but that's pretty close to the idea, yes. It's really, from what I understood from our meeting briefly, it's a 95 percent confidence interval and then and it's the spread around that interval further.

GORDON COLVIN: Specifically what we're looking at is a statistical measure that relates to the --

ROB O'REILLY: Right.

GORDON COLVIN: -- number of fish caught?

ROB O'REILLY: Right.

GORDON COLVIN: As opposed to the number of fish caught at different size intervals, for instance?

ROB O'REILLY: That is my understanding.
GORDON COLVIN: Or at different times of the year, or in different locations?

ROB O'REILLY: My understanding, it's on the landings and I think what would bear that out is 71,000 fish from the ocean with a CV of 22 percent.

GORDON COLVIN: That gets to the underlying concern, is that we talked about a CV or a PSE, but the reality is that that's examining the statistical reliability, as I understand it, and believe me, my understanding is very limited, of the number of fish caught, the estimate of the number of fish caught, period.

And it doesn't necessarily address all these other issues that go into our rules about the geographic distribution, the seasonal distribution, or the size distribution, or for that matter the catch frequency distribution, all of which are part of what we're doing.

So, to some respects, the application by the Board of a quote, 30 percent CV or a 20 percent CV or a 30 percent PSE or anything else that we might have done either specifically this year with scup or in the past ad hoc on fluke apparently,
it may in fact be a somewhat naive act on the part of the Board in terms of really addressing the reliability of the data and the statistical variability of the data that's being used to select regulatory options and implement them, and our -- and what our confidence ought to be, that those measures if implemented and enforced, will in fact achieve the quota targets that we're trying to manage for.

And my point here isn't to pick on Virginia. To the contrary. My point is to pick on us as a Board for not perhaps being as thorough and consistent about this as we ought to be.

We have made the decision, for better or for worse, and I'll say it again that I did not support to adopt state specific recreational quotas for summer flounder and scup.

We have a whopping one year of experience under our belt with fluke, and zero under our belt for scup. But what we've already observed is that there are a lot of questions being raised by our own technical people about whether or not we have appropriate ground rules and side boards for the evaluation of all elements of the proposals that
we're developing. And I would like to suggest --
and strong reservations being expressed by some of
the members of our technical advisors about how
we're doing things.

Now, having established these state
specific quotas, as we've said before, raises the
bar a great deal in terms of our need to be
accountable to each other for hitting the targets
that we've been assigned, because now if Virginia
goes over or New York goes over, that overage comes
out of everybody else's hide. Comes out of
everybody else's commercial and recreational quota
for next year. And we need to be much more
confident than I presently am that the quotas that
we approve and the regulations that we approved, we
administer those quotas, are not going to exceed the
recreational targets state-by-state.

And I will tell you right now, Mr.
Chairman, I am not at all confident that what's been
approved for fluke for the three big states, New
York, New Jersey and Virginia, is going to fall
within their assigned quotas for this year. I don't
believe it will. I certainly don't believe it will
for New York. And frankly, as of today, with the
season opening tomorrow, we haven't decided yet
whether we're going to fall back to 16 and a half
inches as the Board approved or stick with 17,
because of our reservations about what might happen.

    And hopefully by the time I get home
tonight, we will have decided. I guess I'll know if
the armed guards are posted in front of my house
when I get there.

    But -- and that's part of the
problem. If we approve things that because of the
rules we've established are really not technically
appropriate, then it's very difficult when we get
back home not to make the tough choice that we have
to make. And frankly, I think we've got to toughen
it up.

    Now, you know, enough of the
monologue. I think the action that we need is to
assign our Technical Committee, which has really
only been revitalized within the last six to 12
months, to really get down to figuring out what
sorts of evaluation criteria we ought to apply to
state specific proposals and come back to us with
some recommendations so that we have an opportunity
to really address all these issues and get -- for
want of something better to say, the components of a compliance manual, thinking back to weakfish many years ago, for evaluating state specific conservation equivalency proposals for summer flounder and scup.

Now, I don't think a motion is needed, but I'll be happy to offer one if that's what it takes to get that process kicked off. But I don't -- and I don't think we've done the job we need to do as a Board.

Frankly, you know, when we passed that motion on fluke for 30 percent CV, a lot of the Technical Committee members -- scup, we passed that motion -- a lot of Technical Committee members don't know -- didn't know and still don't know what they were supposed to apply that to. It was a very vague motion. And it didn't make sense to them.

They did their best with it, and they've come back with recommendations, which we'll hear, but we didn't do a very good job. And I think we need to do better. We owe it to each other.

BOARD CHAIR PRESTON PATE: And I agree with a lot that you said, Gordon, and I'd like to address Virginia's request and then get back to
your idea about the charge to the Technical Committee and it might be best to have a motion on that. But we'll move forward with that. 

Bob, do you want to make a comment?

Okay, Jack.

JACK TRAVELSTEAD: Are you ready for a motion?

BOARD CHAIR PRESTON PATE: Yes, sir.

JACK TRAVELSTEAD: Okay. Just again to remind the Options 1 and 2 you've already approved. They're the two statewide options. So, we don't need anything further on them. However, I would move approval by the Management Board of Options 7, 8, 9 and 10 that have been presented to you today.

BOARD CHAIR PRESTON PATE: Is there a second?

PAT AUGUSTINE: I'll second for discussion.


GORDON COLVIN: Mr. Chairman, I'm not going to vote in favor of the motion, and I just wanted to indicate for the record what my reason
was. If you review the first paragraph of the
discussion the Technical Committee report, you will
see these disconnected sentences. Four of these
options included -- involved the separation of
inland and ocean fisheries using MRFSS data to craft
separate regulations for each area, and then later
the Committee was unable to reach consensus on
approval for these options due to concerns regarding
potential effort transfer. I think those concerns
persist in the minds of some of the Technical
Committee members. They certainly persist strongly
in the mind of New York's Technical Committee
representative, and for that reason we'll -- I at
least will not vote in favor of the motion.

BOARD CHAIR PRESTON PATE: Further
discussion? Rick.

RICHARD COLE: Thank you, Mr.
Chairman. I'm not going to vote for the motion
either. The main reason that I'm not going to vote
for it is because Options 9 and 10 have not been
through the Technical Committee. When we went
through this process at the last Board meeting, I
was one of the two people that voted against the
initial Virginia approach here, and again primarily
because I didn't -- I felt that those options had not been ruled on by the Technical Committee.

So, I would feel much more comfortable if 9 and 10 were not in the motions. So, as long as they're in there, I can't support it.

BOARD CHAIR PRESTON PATE: Howard.

HOWARD KING: That was essentially my comment.

BOARD CHAIR PRESTON PATE: Any more discussion on the motion? Jack.

JACK TRAVELSTEAD: What I'd like to do is get a vote on this motion, and if that fails allow me to come back with another motion. Is there any objection to that?

BOARD CHAIR PRESTON PATE: No, not from the Chair.

JACK TRAVELSTEAD: Okay.

BOARD CHAIR PRESTON PATE: Then I'll call for the vote on the standing motion. Since there are not many people here to caucus, I guess we don't need to do that today.

(Motion as voted.)

{move approval by the Management Board of Options 7, 8, 9 and 10 that have been presented to you
today.)

All those in favor of the motion, please signify by raising your hand.

(Response.)

BOARD CHAIR PRESTON PATE: Two in favor. All opposed?

(Response.)

BOARD CHAIR PRESTON PATE: Seven opposed. Abstentions?

(Response.)

BOARD CHAIR PRESTON PATE: No abstentions. No null votes. The motion fails. Mr. Travelstead.

JACK TRAVELSTEAD: I would then move approval of Options 7 and 8, which have been approved or reviewed by the Technical Committee.

BOARD CHAIR PRESTON PATE: Is there a second? Second by Pat Augustine. Any discussion?

(No response audible.)

BOARD CHAIR PRESTON PATE: No discussion? Yes, Bob.

ROBERT PRIDE: I would like to offer a couple of pieces of information that might help with the decision here. Maybe needed, maybe not.
Number one, on the enforcement issue. We've clearly identified the bodies of water where these will be enforced. If I leave from the Chesapeake Bay and fish on the sea side, I can't bring 15 and a half inch fish back into the bay legally. It is a possession limit in the bay.

    If I fish from the sea side, I can't possess eight fish and go back to a sea side port. So, we've got that pretty clearly delineated. Our enforcement people understand it very well.

    As far as transfer of effort, one major barrier to that is a ten dollar toll on the Chesapeake Bay bridge tunnel. Actually, it could be as low at 16 now, because they got a discount if you do it within 24 hours. But that's still a pretty substantial financial barrier to transferring effort from area of the state to the other. To get to the eastern shore, you have to cross that bridge or go all the way around Maryland. So, it's a pretty big barrier to transfer effort. Thank you.

    BOARD CHAIR PRESTON PATE: Any further comments? Ernie.

    ERNEST BECKWITH: Just a question, so I understand what's going on here. Jack, you had
made a comment before about if one of the options --
I forget which one it was -- or combinations, didn't
pass, you might fall back on the statewide
alternatives, which is Options 1 and 2. You're not
asking for approval of 1 and 2?

JACK TRAVELSTEAD: You've already
approved 1 and 2. The Management Board approved 1
and 2 at the --

ERNEST BECKWITH: Okay.

JACK TRAVELSTEAD: -- last meeting.

And there's no change in how they're calculated
because they're statewide options.

(Motion as voted.)

{move approval of Options 7 and 8, which have been
approved or reviewed by the Technical Committee.}

BOARD CHAIR PRESTON PATE: Okay.

Then we'll take a vote on this motion. All those in
favor, signify by raising your hand.

(Response.)

BOARD CHAIR PRESTON PATE: Eight in
favor. Opposed?

(Response.)

BOARD CHAIR PRESTON PATE: One
opposed. Abstentions?
(No response.)

BOARD CHAIR PRESTON PATE: No abstentions. No null votes. That motion passes.

JACK TRAVELSTEAD: I appreciate that, Mr. Chairman. Thank you.

BOARD CHAIR PRESTON PATE: Thank you.

Now, Gordon, let's -- while that issue is still warm in our minds -- get back to your discussion and if you're willing to make a motion, we'll entertain that.

GORDON COLVIN: Does the Chair believe a motion is necessary to convey that instruction to the Technical Committee? I'd be happy to do so.

BOARD CHAIR PRESTON PATE: I think as a matter of clarity, I would prefer it.

GORDON COLVIN: Sure.

STEVE DOCTOR: Excuse me. I have some discussion that the Technical Committee went through that would be very relevant to this subject that we might want to consider before we go forward with a motion.

BOARD CHAIR PRESTON PATE: Okay.

That will be fine.
STEVE DOCTOR: Okay. At the last Technical Committee meeting, we had Alan Lowther and Tom Smkey from MRFSS came, and we went over a lot of items, including CV's, percent standard error, and the interchangeability of them.

What you get when you do a landings estimate from MRFSS is you get a PSE, which is a percent standard error. I'm going to run through an example to see what that actually means.

Say that you had an estimate of 100,000 fish that were captured and you have a CV -- you have a PSE of 25 percent. To get to the 95 percent confidence interval, that would mean that that estimate is good plus or minus two standard deviations. So, in this case, your standard deviation, your percent standard error, is 25 -- 250,000 fish.

So, a PSE of 25 percent would mean that that 100,000 estimate is plus or minus 500,000 fish. A 30 percent PSE would be plus or minus 600,000 fish. That's for a 95 percent confidence interval. A PSE of 20 percent would be plus or minus 40 -- 400,000 fish.

So, I think a lot of people thought
when you had a PSE of like 25, that meant it was
plus or minus 25 percent. But it's not. For a 95
percent confidence interval, puts you out two
standard deviations.

A lot of people that I work with use
an 80 percent confidence interval. An 80 percent
certainty interval would be plus or minus 1.3 --
1.3 standard deviations. So, I hope that adds some
light to the discussion.

MRFSS themselves uses a 20 percent
PSE for reliability of data. Mr. Lowther and
Sminkey were asked and they said they didn't see
anything completely objectionable with a 30 percent
PSE, but then themselves used a 20 percent PSE.

So, the PSE's that we use are
applicable to the landings data, but when we go
ahead and we craft regulation, we use a two-part
test, and that is also we use length frequency
charts that give you reductions as far as how many
fish are caught at different lengths.

Determining the appropriate use of
length frequency data has been a longstanding issue,
and as it is right now, we have no way of judging
the reliability of those size creel tables.
When we had the discussion, Mark Terceiro, we asked him what does NMFS use to judge a length frequency table or the reliability of a length frequency chart, and his suggestion was that they use 30 -- they try to capture 30 individuals from each age class. So, in the case of summer flounder, most of your harvest is within four age classes -- the first four age classes. So, to go along with that, you would probably try to get 30 individuals from each of those four age classes and you would make your length frequency chart robust.

As Gordon said, there's a lot of debate right now about breaking this stuff down to WAVE's, how to judge whether those length frequency tables are appropriate or not, and they're robust enough to use. So, that's what I have to add on that.

BOARD CHAIR PRESTON PATE: Thank you, Steve. Gordon.

GORDON COLVIN: I was wondering if Mark's recommendation on the number of measurements was, you know, per WAVE, per mode, per area -- management area per whatever. And then everybody stopped to think about it a minute. That's a lot of
What I'd like to do is offer a fairly simple motion and it may take some additional staff work to -- and Technical Committee work to really kind of define it, but I'd like to simply offer a motion that the Board charge the Technical Committee with the development of standards for the review of state-by-state conservation equivalency proposals for summer flounder and scup, and to address in the proposed standards the levels of assurance that if implemented and enforced -- the level of confidence that the proposals will attain the required state specific quota targets.

And let me say not part of the motion, that my intent would be that we would work with the Technical Committee to kind of iteratively and then on a back and forth discourse to develop those sorts of -- that sort of a guideline so that it can be applied for the specifications for 2003.

And that -- I mean, I didn't say this, but let me tell you that from experience one of the tough issues is going to be addressing the process by which we look backward when the time comes that we can relax our regulations. And while
Mike's working on this, let me reiterate what happened in New York this year with fluke, so that you have an idea where I'm coming from, because this is going to get worse over time.

When we confronted the prospect that we could actually consider relaxing our regulations and including lowering our size limit, it was immediately evident that we could not use the table that Chris Moore and our Commission staff have traditionally generated, which is the standard size limit, creel limit table, because that only -- that's only valid for the size limits that are higher than the one in place in a given year.

And as a consequence, we had to find some way to figure out how to look backwards. Ultimately, it was suggested to us -- and this Board approved -- that while the table that was prepared using 2001 data for application in 2002 couldn't be used, the preceding year's table could. And we did. And you approved a 16 and a half inch size limit option based on that, based on data that was derived from the -- in part, the length -- the measured length frequencies from MRFSS of summer flounder landed in New York in the year 2000 or two years
before the fishery that was being regulated is being prosecuted.

Now, does anybody think that the length frequency of fluke in New York in 2000 and 2002 is alike? Absolutely isn't. Not even close. And we've already seen big changes last year when we had the first year we went to 17 inches.

Now, to make matters worse, if we're fortunate enough to have the opportunity to further relax next year, we'll be yet another year further removed. And the only table that's out there is still the one from 2000. And now we'll be three years down the road. And on and on and on.

So, one of the things that we have not at all come to grips with is what's the right way and what's the right basis for determining with a reasonable degree of reliability that we can all feel good about, that we can roll back when the time comes, when the happy time comes. And I think it's going to come for many next year with fluke, hopefully for us again, and quite possibly, based on what Chris has been saying, on scup, as well -- very high apparent abundance of scup.

We've got to know how to do this, and
we need the Technical Committee to give us some
advice, because believe me, two-year-old tables is -
- three-year-old tables, four-year-old tables is not
the way to go.

BOARD CHAIR PRESTON PATE: Thank you,
Gordon. Is there a second to Gordon's motion?
Second by Mr. Travelstead. Bruce.

BRUCE FREEMAN: I was ask for a
modification of that motion, Gordon, to include sea
bass.

GORDON COLVIN: Sure.

BRUCE FREEMAN: You had fluke and
scup and I think we're going to get into this issue
with sea bass, as well.

GORDON COLVIN: Gee, you're making my
day, Bruce. Sure.

UNIDENTIFIED: (Inaudible.)

GORDON COLVIN: Not yet.

BOARD CHAIR PRESTON PATE: Okay. The
motion seems straightforward, so let's go ahead and
take a vote, unless someone really needs to discuss
it any further.

(Motion as voted.)

{that the Board charge the Technical Committee with}
the development of standards for the review of state-by-state conservation equivalency proposals for summer flounder, scup and black sea bass, and to address in the proposed standards the levels of assurance that if implemented and enforced, the level of confidence that the proposals will attain the required state specific quota targets.)

BOARD CHAIR PRESTON PATE: All those in favor, please signify by raising your hand.

(Response.)

BOARD CHAIR PRESTON PATE: Ten in favor. Opposed?

(No response.)

BOARD CHAIR PRESTON PATE: None. Abstentions?

(No response.)

BOARD CHAIR PRESTON PATE: None. No null votes. The motion passes. Thank you.

Steve, can you continue with the Technical Committee report, please?

STEVE DOCTOR: North Carolina brought forward -- their proposal needed to be amended because the opening date they weren't able to get it open by a certain date, and so they amended their
days slightly. The Technical Committee reviewed it, unanimously agreed that the proposal met the 32.2 percent required reduction recommended for approval by the Management Board.

Black sea bass shares? Would you like me to continue? Should the Board approve --

BOARD CHAIR PRESTON PATE: Okay.

Yeah, if everybody understood from Steve's explanation what the changes were in our regulations, that will be sufficient. Otherwise, I'll answer any questions that you might have.

Motion by Mr. Augustine to approve North Carolina's proposal for recreational harvest of summer flounder. Second by Mr. King. Any discussion?

(No response audible.)

(Motion as voted.)

{to approve North Carolina's proposal for recreational harvest of summer flounder.}

BOARD CHAIR PRESTON PATE: All those in favor of the motion, signify by raising your hand.

(Response.)

BOARD CHAIR PRESTON PATE: Nine in favor. All opposed?
(No response.)

BOARD CHAIR PRESTON PATE: No votes in opposition. Any abstentions?
(No response.)

BOARD CHAIR PRESTON PATE: None registered. Null votes?
(No response.)

BOARD CHAIR PRESTON PATE: None registered. Thank you.

STEVE DOCTOR: Black sea bass state shares. Should the Board approve state-by-state quota management for black sea bass? The committee may be asked to reevaluate state allocation percentages to account for any changes in landing data and effective historical regulations.

The committee reviewed a methodology that Doctor Pierce referred to previously developed by Massachusetts that adjust landings to account for different size limits in various states.

The consensus of the committee that if the adjustment of state shares is required, the methodology might be useful. Further discussion would be required, however, to determine how to best determine state shares.
Proposals for the 2002 recreational scup fishery submitted by the states of Rhode Island, Connecticut and New York were reviewed and recommended for approval by the committee. The proposal submitted by Massachusetts separated the scup recreational fishery by mode and WAVE.

The only criteria specified in Amendment 7 to the Summer Flounder, Scup and Black Sea Bass Fishery Management Plan is that the PSE's for mode specific landing estimates must not exceed 30 percent.

Massachusetts' proposal separates the party/charter mode from the remainder of the recreational fishery, then further separates landings estimates by WAVE. The PSE for the party/charter mode during WAVE 5 is 38.3 percent. This exceeds the 30 percent maximum PSE specified in Amendment 7. The Technical Committee did not recommend the Massachusetts proposal for approval by the Management Board.

Throughout the discussion, it became clear that many members of the committee are strongly opposed to splitting the scup recreational
fishery by mode. The primary issues expressed by
the committee included landings and landings share
shifts to the liberalized mode within the state, the
ability of the liberalized mode to capitalize on the
opportunity created and increase landings
dramatically, possible intrastate shifts in harvest,
enforcement of possession limits onshore and the
quality and quantity of the data available to
accurately evaluate the effect of area specific size
possession and season closure regulations within a
state.

One additional option was developed
by New York and review by some members of the
committee during a conference call on Thursday,
April 25th. Those members in attendance recommended
the proposal for approval.

BOARD CHAIR PRESTON PATE: Dave
Borden, you had a comment?

DAVID BORDEN: It's actually -- it
goes back to the previous agenda item, Mr. Chairman.
I just want to make sure that I understand that on
the black sea bass proposal that Mass. submitted, it
was not an endorsement necessarily by the committee
because of the word it said it might be useful.
STEVE DOCTOR: That's correct.

DAVID BORDEN: Is that correct?

Okay. Thank you.

BOARD CHAIR PRESTON PATE: David Pierce.

DAVID PIERCE: Yeah, two points. Regarding that analysis, I think it's almost moot now, because we went with percent shares that don't reflect any particular years. Therefore, what's to analyze? The analysis that we did was credible. It was good work by my staff. The Technical Committee gave it a favorable review, but did point out some need for improvement.

And the Technical Committee, as far as I understand it, was willing to pursue that if indeed the Board said state-by-state quota shares is the way to go, and certain years were picked. Well, that didn't happen, so it was a good exercise, but I don't think it needs to be pursued at this particular point in time, unless for some reason we decide to pick specific years to adjust percent shares. But I'm not so sure that's going to happen. If it does, then we can revisit that analysis.

So, a pat on the back for my staff
and thanks to the Technical Committee for taking the time to review it. We appreciate that.

With regard to the recreational fishery for scup in Massachusetts, specifically, our bag limit strategy, the 100 fish throughout the entire season, this summary of what happened at the Technical Committee is a bit misleading in that the analyses that we presented showed that the PSE for WAVE's 3 and 4 was less than 30 percent, so there was no problem with WAVE's 3 and 4. WAVE 5, 38.3 percent, we did it by WAVE just for -- to be as descriptive as we could possibly be. There was no requirement that we provide the data by WAVE. As a matter of fact, when you look back at the motion that was made at our last Board meeting about what Massachusetts needed to do to pass the test of 30 percent, there was no reference to WAVE's.

As a matter of fact, when we look at the data for the entire fishing season in Massachusetts, broken down for party and charter boat, you see that it's 19 percent. So, I would submit that we have indeed met the necessary requirement. It is a 19 percent PSE, below the 30 percent, hence, you know, there should be no problem
with the Board approving the Massachusetts measure
for this particular year, the 100 fish bag limit.

And with that said, Mr. Chairman, I
would like to make a motion that the Board approve
Massachusetts' bag limit strategy for this season --
this fishing season.

BOARD CHAIR PRESTON PATE: Is there a
second?

PAT AUGUSTINE: Question, Mr.
Chairman. And what is that? What is it? What was
the plan originally submitted to the Board -- or to
the Technical Committee?

DAVID PIERCE: Well, it was the 100
fish bag limit. We had to make sure that with the
strategy we submitted, which we did submit to the
full Technical Committee, that we would have our
landings -- projected landings for the recreational
fishery below seven percent, I believe, for the year
-- am I ahead of the game here? Did I make my
motion too early or -- maybe I did. God almighty.

BOARD CHAIR PRESTON PATE: We'll be
getting into that a little bit later.

DAVID PIERCE: Mr. Chairman, you
should have cut me off.
BOARD CHAIR PRESTON PATE: Well, I fell asleep at the switch.

DAVID PIERCE: All right. The report is here, but -- all right. I'll withdraw that motion until the appropriate time.

GORDON COLVIN (No microphone): David, that's the fastest preamble to a motion I've ever heard. You caught us all asleep.

BOARD CHAIR PRESTON PATE: Okay. If there are no more questions of Steve on the Technical Committee report, I'd like to move to agenda item number 6, which is the review and approval of proposals for the 2002 recreational scup fishery. Mike Lewis.

STEVE DOCTOR (No microphone): I had a few more (inaudible.)

BOARD CHAIR PRESTON PATE: I'm sorry, Steve. I thought you were through.

STEVE DOCTOR: The Technical Committee reviewed an analysis of the effect of quota rollovers between years in the summer flounder fishery performed by Mark Terceiro. At the request of North Carolina, his analysis attempted to determine the effect of rolling two percent of North
Carolina's quota from one year to the next. That is something that the Board had charged the Technical Committee with prior was the effect of rollovers, because it gets really tight towards the end of the year.

His determination, because of the amount of the fish was very low, the effect on stock would be inconsequential. However, because landings map into biomass on the one to one ratio increasing the amount of fish rolled from one year to the next would at some point maybe create a problem in that the F level in the second year that was mandated by the plan would be exceeded.

But the net effect as far as biomass was one to one, and therefore a small rollover of two percent or less was inconsequential. A couple other notes. The scup stock assessment is being done by Lauralee right now and it is up for review by the SARC this year.

The black sea bass stock assessment has been moved forward because the tagging study hasn't been done, so there will not be a SARC on black sea bass this year. And a black sea bass tagging study proposal has been developed and was
submitted and they're trying to attempt to get funding at this point. That's the end of my report. Thank you.

BOARD CHAIR PRESTON PATE: Okay.

Thank you, Steve. Pat.

PAT AUGUSTINE: Thank you, Mr. Chairman. Just a question. I was under the impression that no matter what we did in terms of rollover that the plan wouldn't allow that. Is that true or not? No matter what the conditions were.

BOARD CHAIR PRESTON PATE: That is correct.

PAT AUGUSTINE: Okay. Thank you.

BOARD CHAIR PRESTON PATE: So, we will have to include that as a provision in the next amendment. Okay, Mike. Pat.

PAT KURKUL: On the tagging study is, the Fisheries Service has actually just funded a tagging study for black sea bass through the MARFIN funds, and we have been talking with Commission staff about it. So, I think we were -- we wanted to make sure that there wasn't really a significant possibility that the tagging study could be funded through the Commission this year. That seemed to be
the case, so we went ahead and approved the MARFIN study. It's pretty much the same study.

BOARD CHAIR PRESTON PATE: Bruce.

BRUCE FREEMAN: Thank you, Mr. Chairman. Steve, based on the tagging study, how long is it estimated if the study got initiated this year we'd have to wait to get some results for a stock assessment?

STEVE DOCTOR: I don't know the answer to that question. Sorry.

BRUCE FREEMAN: If I may, it seems to me, Mr. Chairman, that we're talking a number of years. It's not going to happen immediately.

BOARD CHAIR PRESTON PATE: Bob.

ROBERT BEAL: The proposal in the last iteration I've seen -- I'm not exactly sure what has been funded, but the original proposal, I guess, was to fund two rounds of tagging, one this spring, coming out very soon, and the second one in the fall. So, the anticipation is that even the first -- let's call it useful data to come out of that won't be until this time next year, even a little bit later. You know, the fish -- a maximum of one year at large and we can study the effects on
the recapture at that time.

So but, you know, with all tagging studies, the longer the fish are at large and the longer we have to potentially recapture those fish is where you get the more robust evaluation of mortality.

So, you know, it is -- we'll get our first read in about a year, and then as time goes on, we'll get a better read of what's going on.

BRUCE FREEMAN: Well, the concern I have, it's going to take -- in my opinion, it's going to take several years and that means we're not going to have any stock assessment of sea bass. When we're hearing both from the recreational and commercial fishermen are just seeing larger and larger quantities continuously. And reviewing the struggle we just went through for Amendment 13, it doesn't bode well for the attitude of the fishermen.

ROBERT BEAL: Yeah, I agree, Bruce. The problem is there's no other data source for black sea bass right now. So, this tagging study is the only game in town, and if we start it as soon as we can, you know, we're doing everything we can, I guess.
But as far as the next peer review of the stock assessment, it was scheduled for this December. That's been bumped back one year. It will go -- it's scheduled anyway to go through the SARC in December of 2003. So, it's -- you know, it is pushed back and it's -- you know, we won't be able to use it for our quota setting purposes until August of 2004, just given the timing of everything. So, we are a little ways off from having a -- you know, a valuable stock assessment.

BRUCE FREEMAN: If we're all alive by then.

BOARD CHAIR PRESTON PATE: Dave.

DAVID PIERCE: Is that proposal available for us to take a look at? Just curious to see how it's been set up.

ROBERT BEAL: Pat, correct me if I'm wrong. The MARFIN proposals are public documents. We can definitely get them, no problem.

PAT KURKUL: Yes.

DAVID PIERCE: Okay. I'm particularly interested in how the tagging would be done with the pot fishery in light of the fact that because black sea bass like to be caught we can have
an artificially high fishing mortality rate created by repeated captures of the same tagged fish in short periods of time.

I would assume that the proposers have factored that into consideration since it doesn't really reflect increased mortality. It's just sea bass wanting to be back in the pot.

BOARD CHAIR PRESTON PATE: Okay.

Let's get Mike's report.

REVIEW/APPROVAL PROPOSALS for 2002 RECREATIONAL SCUP FISHERY

MICHAEL LEWIS: Thank you, Mr. Chairman. I know this is not typical for there to be a presentation of the proposals, but it seems that we have a tremendous number of them and I was hoping that perhaps having them up on the screen in front of everybody might speed the process a little bit.

I don't have a whole lot of detail. I don't have the methods that were used to generate these proposals. All I have is the results, the proposed regulations themselves, and anybody, you know, the director or if there's any tech committee representatives from each state available, I'm sure
they can fill you in on any details.

The first that I'm going to talk about is Massachusetts. Massachusetts was allowed under Addendum 7 to have a seven percent increase in their harvest. The first scenario generated by Massachusetts increases the daily possession limit for charter and party mode during WAVE's 4 and 5 from 50 to 75 fish, and reduce the other possession limit during WAVE 3 from 100 to 75 fish. The net result is a 75 fish possession limit, during all WAVE's, for the charter and party mode.

PAT AUGUSTINE (No microphone): And that's been approved?

MICHAEL LEWIS: Excuse me?

PAT AUGUSTINE: And that's been approved?

MICHAEL LEWIS: No, it has not.

PAT AUGUSTINE: Okay.

MICHAEL LEWIS: Scenario 2 is an increased daily possession limit for charter/party modes in WAVE's 4 and 5 to 100 fish. The net result of that being a 100 fish possession limit for charter/party mode in all WAVE's through October 6th. Excuse me.
So, David alluded to the whole situation with the approval or disapproval or recommendation thereof on the part of the Technical Committee. From what I was given by Paul Caruso, it was my understanding that WAVE's 3 and WAVE's 5 both PSE's were over 30 percent.

If you combined all modes, it was I think 19.6, but then broke -- excuse me, all WAVE's it was 19.6, but broken down by WAVE, WAVE 4 was I think 29.6 percent and WAVE 5 was 36.3 or 33.6. I can't remember what WAVE 3 was, but I am fairly sure that it was over 30 percent, but if you have the figures in front of you --

DAVID PIERCE: Below.

MICHAEL LEWIS: It was below. Fair enough. But that was what the Technical Committee used as their basis for not recommending the Massachusetts proposal for approval by the Management Board.

PAT AUGUSTINE: Mr. Chairman, are we going to go through all of these before we pass comment or make judgement on any of them?

BOARD CHAIR PRESTON PATE: How many do you have, Mike?
MICHAEL LEWIS:  We only have four.
BOARD CHAIR PRESTON PATE:  Let's go through them all.

PAT AUGUSTINE:  Thank you.

MICHAEL LEWIS:  It's important to note that a couple of them are somewhat lengthy. There are ten options, for example, for New York.

BOARD CHAIR PRESTON PATE:  Then let's take them one at a time, that being the case. Are you through with Massachusetts?

MICHAEL LEWIS:  Yes, sir.

BOARD CHAIR PRESTON PATE:  Okay. Is there a motion?  Pat.

PAT AUGUSTINE:  Mr. Chairman, I just wanted to ask what was going to be the alternative in view of the fact that the Technical Committee did not approve or recommend that we approve their proposal. I would hope that Massachusetts would have come forward with some other option.

DAVID PIERCE:  This is all news to me. I'm a bit surprised. Well, first of all, I received this document today, so it's a bit difficult to go over it now and to truly appreciate everything that's been said by the Technical
Committee, especially since the Technical Committee's review of the proposal is relatively short in duration.

As I said earlier on, we didn't have to break the data down by WAVE. We did. And for the first two WAVE's the PSE was less than 30 percent -- that's WAVE 3 and 4. WAVE 5 was 36 or 38 percent, I can't recall exactly what it was, but combined it was 19 percent.

So, we met the criteria for breaking down party and charter boat vessels the 30 percent criteria. We did that and we succeeded. And as far as I know, from talking to my staff, the 100 fish possession limit throughout the entire season does have us fall within the seven percent increase that we're entitled to.

So, I do not understand the decision of the Technical Committee relative to our proposal. It flies in the face of what I've been told by my staff.

BOARD CHAIR PRESTON PATE: Mike.

MICHAEL LEWIS: I am not sure how to respond, Doctor Pierce. Paul, of course, was there and worked with me in the development of the minutes
from the Technical Committee. He was certainly aware of the position the Tech Committee took. I'm not entirely sure how it -- the question.

DAVID PIERCE: Well, let me ask you, we have an attachment here, the full-blown analysis done by my staff, Proposed 2002 Recreational Scup Regulations for Massachusetts. And it indicates that -- on the results page, analysis of the scenarios we provided shows an expected increase in the total recreational harvest of five percent for a 75 percent fish possession limit, and a 6.77 percent for a 100 fish possession limit during existing open season. The effect of the proposed regulation of a 100 fish possession limit is thus less than the seven percent increase in harvest allowed under the approved addendum and should be approvable. So, why did the Technical Committee not approve this analysis?

BOARD CHAIR PRESTON PATE: Mike.

MICHAEL LEWIS: Mind you, I am not a member of the Technical Committee. I just reported. But from what I saw at the Tech Committee meeting, the Tech Committee wasn't entirely sure how to review the proposal aside from what was in Addendum
7. What was in Addendum 7 was a guideline with a 30 percent PSE or CV and if it did not meet that, the Tech Committee felt that that was they -- to only thing they really had to go on was that guideline. Because the proposal was broken out by WAVE and the regulations that would follow would be by WAVE, therefore, they felt as though the PSE by WAVE was applicable and so therefore they rejected it.

BOARD CHAIR PRESTON PATE: Steve, can you add to that?

STEVE DOCTOR: I tend to agree with Doctor Pierce in that the reason that the Technical Committee looked at it that way is because it was presented that way. But as far as reaching the 30 percent PSE as the mode, from what you're describing, it does meet that requirement -- and I tried to get a consensus from the Technical Committee if the 30 percent PSE was met whether they would approve the proposal. I didn't get any objections, but I didn't get a lot of concurrence either. There was kind of silence on that matter.

But as far as what you're saying as far as the 30 percent PSE by mode, it is met, except that it's presented by WAVE and that's why the
discussion came up. I hope that clarifies the issue.

BOARD CHAIR PRESTON PATE: Dave.

DAVID PIERCE: Yeah, if I may, Mr. Chairman, I would submit to the Board that we indeed have kept to within the seven percent with the 100 fish bag limit throughout the season, and for the entire season PSE for the party boat and charter boat fishery, we're at 19 percent.

I don't see it here. So, you're at a bit of a disadvantage because you're not privy to it, but I had Mike Armstrong of my staff -- actually two members of my staff go to the MRFSS database and look it up just to make sure, and it's 19 percent.

As I said, we submitted it WAVE by WAVE, just to be descriptive and to highlight the fact that it would be nice for us to have some increased samples of the party boat fishery in the fifth WAVE, and indeed that's what we intend to do this year.

We've already had a meeting of our staff to talk about sea sampling efforts for this coming season, and that's where we're going to put some of our effort.
But overall, for the entire season, I think we're quite consistent with the guidance provided by this Board -- the decision of this Board at the last meeting regarding the PSE and the party and charter boat fishery.

BOARD CHAIR PRESTON PATE: Gordon.

GORDON COLVIN: As I indicated earlier, one of the difficulties is that the Board passed a motion -- the Board frankly -- I'll speak for myself, but I suspect other Board members also probably didn't have it clear in their minds what they intended when they said we can have a separate regulatory scheme by mode if there's a 30 percent CV. Well, a 30 percent CV applicable to what? That's what we're talking about.

The motion perhaps wasn't as clear as it should have been. The intent of the Board on the record is not as clear as it certainly should be. And it darn well is an issue that we need to straighten out in the future.

Now, the impression I had is that -- and I'm getting a different impression today -- is that the reason that the advice came back to us that the 30 percent PSE was presented, examined by WAVE,
was that that's how the Technical Committee felt it ought to be done, including the representative from Massachusetts, who I was under the impression concluded before the Technical Committee that well, it looks like we don't make it.

The reason that this is important is that up to that moment in time, New York was prepared to put a proposal on the table for a 25 fish -- 50 fish party/charter, 25 fish all other modes, knowing that the party/charter season long PSE was under 30 percent for 2001, but when we looked at it by WAVE, it was not.

So, we didn't even put the proposal on the table after that discussion. So, I don't know where this leaves -- you know, this issue leaves us at this moment in time. Again, we're in a situation because of our own sloppy work. Period.

Now, I guess it would be helpful to me to get some clarification from somebody about whether I'm wrong. Is the record of the Board's action and the Technical Committee's recommendation here as fuzzy as it sounds about this question of whether the PSE is to be applied by WAVE? And Bob is nodding.
ROBERT BEAL: Yeah, Gordon. I mean, it's very fuzzy. If you go back to Addendum 7, which is supposed to give the states and the Tech Committee the guidance they need to put these things together. There's a short paragraph. No guidelines for separating the recreational fishery by mode have been established. It will be the responsibility of the individual states to justify their proposal as statistically sound.

However, the Summer Flounder, Scup and Black Sea Bass Management Board has set a 30 percent maximum coefficient of variation. And that's really all the guidance -- that is all the guidance that's included in this document to give the states as well as the Tech Committee -- you know, their direction on what to do with these things.

So, I think it comes back to your original point, which is okay, we set a 30 percent CV, but 30 percent applied to what? And you know, and that --

GORDON COLVIN: I mean, there was a time when I know that it was -- I was asking questions, it was unclear to me whether we
established that CV based on the 2001 MRFSS landings or some other year or years. I mean, it was that bad.

But the question at this point then is that does the Board -- should the Board construe the Technical Committee's recommendation on the Massachusetts proposal as a Technical Committee recommendation to the Board that the PSE be applied by WAVE? Is that not what we've got here, in effect, is the Technical Committee recommendation? Else why make the conclusion that they did?

BOARD CHAIR PRESTON PATE: David Borden.

DAVID BORDEN: Yeah, I mean, the whole discussion here is on page 31 and 32 of the minutes, for those that haven't read it. And just looking at the discussion, I think the staff had concluded that that was appropriate recommendation because that's what we had used in a case of summer flounder. And that references a third or fourth paragraph down on page 32 in the right-hand column.

In the case of summer flounder, let me ask this. Is it done on a WAVE by WAVE basis?

BOARD CHAIR PRESTON PATE: Steve.
STEVE DOCTOR: In the case of summer flounder, it's broken by mode and is not broken out WAVE by WAVE.

DAVID BORDEN: Not broken out by WAVE?

STEVE DOCTOR: That's correct.

DAVID BORDEN: Okay. So, to me the record then supports a position that it does not need to be broken out by WAVE's.

BOARD CHAIR PRESTON PATE: Dave Pierce.

DAVID PIERCE: Yeah, I totally agree with David, for obvious reasons. The record is clear. The vote that was taken and registered on page 33 of the minutes, I think, also is clear, not as crystal, but certainly clear enough.

So, I would move, Mr. Chairman, that Massachusetts 2002 scup recreational fisheries measures be approved.


DAVID BORDEN: Just a comment, Mr. Chairman. All of this goes back to highlight the
point that Gordon Colvin made so eloquently early on. We've got to get a system down that defines all of these things, so that we don't have these types of arguments. And especially if we move forward with some of these programs in the future. I intend to vote yes on the motion, Mr. Chairman.

BOARD CHAIR PRESTON PATE: Any further discussion? Bruce.

BRUCE FREEMAN: I'm just curious on the technique that was used. David, I see on private boat there's a 50 fish per day I guess per person, but not more than 100 fish per vessel, per boat. Was the fact that that catch was restricted gave additional credit to increase the catch in a party boat? Was that --

DAVID PIERCE: Bruce, I will admit that I haven't even read the analyses. I've just read the conclusions. I've got a guy who's an ace analyst and I have -- and he worked with other members of our staff on that analysis. So, when he gave it to me, I took it and I said fine. If he had come up with some other conclusions, for example, that we were 20 percent or whatever instead of seven percent, I would have bought into that, as well.
And paid the price, so to speak. So, I can't really -- I can't answer your question.

BRUCE FREEMAN: Steve, can you answer that? I'm just curious. Was the fact that there was a restriction on the private boat -- I mean, if there's more than one person -- or there's more than two people in a private boat the fish -- I mean, the vessel could have more than 100 fish. The fact that it was restricted, was that restriction used to increase the catch in some other mode of fishing, so far as the analysis was concerned? I'm just curious.

STEVE DOCTOR: The presentation was made by Mr. Caruso and as far as the methodology, there was no question from the Technical Committee. The only question that they had was of the mode separation.

BOARD CHAIR PRESTON PATE: Dave Borden.

DAVID BORDEN: Thank you, Mr. Chairman. Just one quick question for Dave Pierce or I guess maybe Mike. Can you put Scenario 2 for Massachusetts up, please, before I ask the question?

BOARD CHAIR PRESTON PATE: While he's
doing that, David Pierce, did you intend for your
motion to include both scenarios? We hadn't
discussed --

    DAVID PIERCE: No, it would only be
that which we have implemented for this year,
because the season is upon us, that would be the 100
fish bag limit.

    DAVID BORDEN: Okay. Then Mr.
Chairman --

    BOARD CHAIR PRESTON PATE: Which is
Scenario 2, which we --

    DAVID PIERCE: Right, right.

    DAVID BORDEN: Then just so I'm clear
on this second scenario, in all WAVE's through
October 6th how is the state of Massachusetts going
to enforce this relative to charter and party
vessels that fish outside of Massachusetts waters?
Is it enforced based on a possession limit then
anyone with a charter/party boat permit in the state
of Massachusetts can't possess scup after October
6th? Is that what -- is that the intent?

    DAVID PIERCE: The fishery is all in
state waters, Dave. There is no EEZ fishery.

    DAVID BORDEN: Your charter and party
boats frequently fish in Rhode Island waters at that time of year and they frequently fish just south of Rhode Island waters in federal waters at that time of year.

DAVID PIERCE: So, your question again was how would we -- they'd be ruled by our restriction.

DAVID BORDEN: Okay. But let me give you a specific example. A very short example, so it's clear. Charter/party boat with a Mass. license comes back to the dock on October 6th in Massachusetts and claims that all the fish are caught in federal waters. Is that a violation of what you're proposing?

DAVID PIERCE: They would not -- well, the season ends on that date, October 6th, I believe it is. So, they wouldn't be landing any fish regardless of where they catch them. It's not a regional that's specific to state waters fishing.

DAVID BORDEN: Okay. So, it's enforced based on -- and I'm not trying to be a pain here -- it's enforced based on possession?

DAVID PIERCE: That's right.

DAVID BORDEN: Okay. Thank you.
BOARD CHAIR PRESTON PATE: Bruce.

BRUCE FREEMAN: David, on October 6th

in the second scenario, does all the fishing close
or does the bag limit revert back to 50?

DAVID PIERCE: No, it's all closed.

BRUCE FREEMAN: For all modes or just

for --

DAVID PIERCE: For all modes. That's

the length of the season.

BRUCE FREEMAN: Oh, all right.

BOARD CHAIR PRESTON PATE: Any more
discussion on the motion?

(No response audible.)

BOARD CHAIR PRESTON PATE: All those

in favor --

UNIDENTIFIED: (Inaudible.)

BOARD CHAIR PRESTON PATE: You know,

if one of you all would leave, we wouldn't have to
do that.

(Motion as voted.)

{that Massachusetts 2002 scup recreational
fisheries measures be approved.}

BOARD CHAIR PRESTON PATE: All those

in favor of the motion, signify by raising your
hand.

(Response.)

BOARD CHAIR PRESTON PATE: Nine in favor. All opposed?

(No response.)

BOARD CHAIR PRESTON PATE: None opposed. Abstentions?

(Response.)


GORDON COLVIN: Just briefly, Mr. Chairman, I want the Board to know that the reason that I abstained on the motion -- the state abstained on the motion was that we are -- we continue to be uncertain and a little bit flummoxed about what happened here in terms of the Technical Committee review and deliberation on this issue of WAVE specific PSE's.

And it just left us unable to support the motion, but at the same time didn't want to vote against it, recognizing that there's validity -- great validity to what the Commonwealth has argued this afternoon.
BOARD CHAIR PRESTON PATE: Okay.
Mike, continue, please.

MICHAEL LEWIS: Thank you, Mr. Chairman. The State of Rhode Island had a -- was required to have a 35 percent reduction. The proposal that they brought forward to the Technical Committee for review, which to my understanding has been passed in the State of Rhode Island, is ten inches, 50 fish, open season of August 1 through December 31, and again the Technical Committee did recommend that for approval by the Board.

BOARD CHAIR PRESTON PATE: Dave Borden.

DAVID BORDEN: Quick comment, Mr. Chairman. The proposal that we put on the table is implemented by the Division and Department and we filed it with the Secretary of State's office and then quickly went out and started advertising it so that the constituents would know what the rules were.

We immediately ran into a buzz saw from our recreational fishermen up the bay. We had pretty -- the Division had pretty much predicted that this would happen, but the Council chose to
follow this course of action.

Last night they got together and requested that the Department take out another series of proposals on scup and our staff has had a chance to look at all those proposals, and all those proposals meet the ASMFC standards.

So, what I anticipate happening here is that at some point we will be coming back to you with a variation of this proposal that it would allow for a season to start in July, with a very low bag limit, and then this season that we open on August 1st would close probably after a month or two, in order to be within our time constraints.

What I would suggest here is that the Board make a motion to approve this proposal or an alternative Rhode Island proposal if submitted, subject to approval by the Technical Committee.

BOARD CHAIR PRESTON PATE: Ernie.

ERNEST BECKWITH: Yes, I have a question for David. Because of the issue that you just raised, Dave, it sounds like you're not going to move -- or you can't move right away to put something in place. When does your current season open this year?
DAVID BORDEN: The current season, according to the regulations, will not open until August 1st. That's already been promulgated. So, we have a closed season unless we come back, propose something to the Commission, get the Technical Committee to review it, and then go forward through our APA process and promulgate it.

BOARD CHAIR PRESTON PATE: David, were you making a motion?

DAVID BORDEN: I will make that as a motion, Mr. Chairman. I would move approval of the Rhode Island proposal or alternative submissions by the state subject to approval by the Technical Committee.

BOARD CHAIR PRESTON PATE: Second by Ernie Beckwith. Pat.

PAT AUGUSTINE: Thank you, Mr. Chairman. The proposals still have to come before the Board again or just go to the Technical Committee, if they review it and approve it, it's a done deal?

DAVID BORDEN: It's done.

PAT AUGUSTINE: Okay. Thank you.

BOARD CHAIR PRESTON PATE: Bruce.
BRUCE FREEMAN: I suggest that Rhode Island break this into two motions.

DAVID BORDEN: Perfectly all right with me, Mr. Chairman, if it makes Mr. Freeman happy.

BOARD CHAIR PRESTON PATE: So now we have two motions made and seconded by Mr. Borden and Mr. Beckwith. And we will take the vote on them separately, of course.

All those in favor of Motion Number 1, that the Board approve the Rhode Island proposal for the 2002 recreational scup fishery, please raise your hand.

(Response.)

BOARD CHAIR PRESTON PATE: Nine in favor. Opposed?

(No response.)

BOARD CHAIR PRESTON PATE: None opposed. Abstentions?

(No response.)

BOARD CHAIR PRESTON PATE: No abstentions. No null votes. That motion passes. The next one reads that the alternative submissions brought forth by the State
of Rhode Island be subject to approval by the
Technical Committee.

    DAVID BORDEN: I think the intent was
slightly different, that it be -- if we could have
this a little larger, it would help my -- yeah,
that's great. Thank you. Move that approval of the
alternative submission brought forth by the State of
Rhode Island -- yes, subject to approval by the
Technical Committee. That's fine.

    BOARD CHAIR PRESTON PATE: Okay.
Read it one more time just to make sure that the
record is clear. Move that the approval of
alternative submissions brought forth by the State
of Rhode Island be subject to approval by the
Technical Committee. Howard, do you have a comment?

    HOWARD KING: Just curious, is there
a precedent for this?

    DAVID BORDEN: Yes. We have done
this before.

    BOARD CHAIR PRESTON PATE: Bruce.

    BRUCE FREEMAN: The reason I asked
for the division of the motion was that this aspect
I have difficulty with. I don't like to preapprove
-- I think it's a precedent that once we get into
this mode it's going to come back and hurt us.

I could see the fact that the
Technical Committee could review this, but I would
ask for at very least a conference meeting of the
Board. I just see this as a dangerous precedent.

BOARD CHAIR PRESTON PATE: Mr.

Borden.

DAVID BORDEN: Mr. Chairman, if it
will aid the comfort level around the table, we will
try to craft our proposal and submit it to the
Commission prior to the May meeting. We won't be
able to take it out to public hearing and get
comments, but what I hope is that we will have a
position that everyone will agree to before the
public hearing and that the Board would be able to
look at and examine prior to the Commission meeting.

BRUCE FREEMAN: I would suggest,
David, even if you have some concerns, coming with
several proposals that you could get approved and
then implement which one works for you.

BOARD CHAIR PRESTON PATE: Any more
discussion on this motion? Gordon.

GORDON COLVIN: Just so the Board
knows what's coming, we're going to be in exactly
the same situation with a couple of our proposals, and I think maybe David's last suggestion is one that we could kind of work together on.

(Motion as voted.)

(Move that the approval of alternative submissions brought forth by the State of Rhode Island be subject to approval by the Technical Committee.)

BOARD CHAIR PRESTON PATE: Okay. All those in favor of the motion, please raise your hand.

BRUCE FREEMAN: Mr. Chairman, do we need this motion if they're going to come back with their submission? I mean, my objection was that it would be vetted through the Technical Committee and the Board would get to review it before we commented. If David indicates it will come back to the Board at our spring meeting, then do we need this motion?

BOARD CHAIR PRESTON PATE: I'll let Mr. Borden make the call. It's his motion.

DAVID BORDEN: I'm perfectly happy to submit a proposal that can be reviewed by the Board, but I'd ask Bob directly are we going to have time at the May meeting to do this?
ROBERT BEAL: Well, assuming everything's very straightforward and it's just you've changed the dates and size limits on the exact same methodology you're using now, and assuming what New York brings forward is a variation on the theme of what they've done or using similar methodology to what was approved by -- you know, under the Massachusetts proposal, I think it would be a very short meeting and maybe we can sacrifice a half an hour of our eight hours of striped bass time, or something like that, make this a slam dunk. I don't know if we can sacrifice that or not.

DAVID BORDEN: All right. So, we don't -- if that's the case and we're going to have a meeting, we don't need this motion then, Mr. Chairman. I withdraw the motion.

BOARD CHAIR PRESTON PATE: Ernie, is that okay with you?

ERNEST BECKWITH: Yes.

BOARD CHAIR PRESTON PATE: Okay, good. Okay, Mike, next proposal.

MICHAEL LEWIS: Thank you, Mr. Chairman. The State of Connecticut was required to achieve a 39 percent reduction in the recreational
harvest. They brought forth three scenarios. The first is preferred, but all three include minimum size of ten inches and a bag limit of 50 fish. Scenario 1 had an open season of July 13th through September 25th. Scenario 2 had an open season of July 14th to September 26th. And Scenario 3 had an open season of July 15th to September 27th. Thank you.

BOARD CHAIR PRESTON PATE: What was the Technical Committee's --

MICHAEL LEWIS: Excuse me, I'm sorry. The Tech Committee did recommend this for approval.

BOARD CHAIR PRESTON PATE: Okay.

Ernie.

ERNEST BECKWITH: Mr. Chairman, I'd like to make a motion. Move approval of Connecticut's proposal for the 2002 recreational scup fishery.

DAVID BORDEN: Second.

BOARD CHAIR PRESTON PATE: Second by Dave Borden. Discussion?

(No response audible.)

(Motion as voted)

(Move approval of Connecticut's proposal for the
2002 recreational scup fishery.)

BOARD CHAIR PRESTON PATE: All those in favor of the motion, please signify by raising your hand.

(Responses.)

BOARD CHAIR PRESTON PATE: Nine. Ten. Ten in favor. Any -- any opposed?

(No response.)

BOARD CHAIR PRESTON PATE: None opposed. No null votes. Any abstentions?

(No response.)

BOARD CHAIR PRESTON PATE: No abstentions. The motion passes. Mike.

MICHAEL LEWIS: Thank you, Mr. Chairman. New York has a lengthy series of options, was required a 15 percent reduction. The first five options that I have on the board right now all have the same minimum size and possession limit, but the only variation is an open season.

For Option 1, July 14th through November 17th. Option 2 is July 1 through October 24. Option 3 is May 18th through May 31st, then a closure, then reopening again on July 26th and remaining open until November 30th. Option 4 is
open from May 24th through June 14th, then closes,
then opens again August 1 through November 17th.
And Option 5 is open May 1 through May 14th, closes,
then reopens July 25th and remains open through
October 31.

It's important to note that in the
comments here for these options they wanted to leave
open the option to substitute any consecutive 14-day
period in May or June for Option 3 and 5, and any
22-day period in May or June for Option 4.

These options were approved or
recommended for approval by the Technical Committee.

Options 6, 7 and 8 also have
identical minimum size and possession limits of ten
inches and 50 fish. Again, the only variation is an
open season, July 15th through September 15th will
be open, a closure to reopen October 1 through
November 30th, for Option 6.

Option 7 is July 17th through
September 15th and October 1 through November 31.
Then Option 8 is July 17th through September 16th
and then October 1 through November 30. These, too,
were recommended for approval by the Technical
Committee.
Option 9 was presented to the Tech Committee after their meeting, a couple weeks ago. This was reviewed by a very -- a relatively small subset of the Technical Committee. They got a chance to look at this. The people who were involved did not have any significant problems with it, although there was some question as to the percent standard error associated, but the minimum size is ten inches with a 20 fish possession limit, open season is July 1 through September 8th. Then starting September 9th the possession limit increases to 50 fish and remains so until November 17th. Again, this has not been subject to a full Tech Committee review, but those present did recommend its approval.

Finally, Option 10, this has not been looked at at all by the Technical Committee or any subset thereof. The minimum size is ten inches, possession limit from July 1 through September 4th is ten fish, and then starting September 5th it goes to 50 fish and remains so until November 17th, at which time the fishery closes. Thank you.

BOARD CHAIR PRESTON PATE: Thank you, Mike.
MICHAEL LEWIS: Excuse me. I apologize. These were added just a few moments ago. And these, too, have not been seen by the Technical Committee or any subset thereof. Option 11, minimum size of 10.5 inches, possession limit of 50 fish. Open season is to be derived directly from Table 4 in Addendum 7. It has not been set at this time.

Option 12, minimum size is 11 inches, possession limit of 50 fish, and again open season is to be derived directly from Table 4 in Addendum 7. That concludes my review of New York.

BOARD CHAIR PRESTON PATE: Thank you now. Any questions of Mike or Gordon on these proposals? Dave Pierce.

DAVID PIERCE: Gordon, are you suggesting based upon previous comments you made that your options -- what was it, 9 through 12, be held until Technical Committee review consistent with what we're doing with the State of Rhode Island?

GORDON COLVIN: Yeah, I'm going to move -- and why don't I just do that and we'll get it started. I'm going to move Board approval of those options that have been reviewed by the
Technical Committee, which are Options 1 through 8? Which is 8 now? I'm actually going to move 1 through 9, and the reason I'm moving 9 is that although a full quote unquote Technical Committee review didn't occur, there was a Technical Committee conference call at which the proposal was discussed and -- you know, it was the same conference call at which the Massachusetts proposal was discussed, and as far as I know, there were not objections received subsequent to that via e-mail. And as of last night, I checked in on this one. Whereas, the next one has -- Option 10, has not been reviewed, although it was developed exactly the same fashion as Option 9.

I'm also going to have to add an Option lucky 13, which we'll get to, as a result of today's discussion. But right now, I'm moving the Options 1 through 9.

BOARD CHAIR PRESTON PATE: Is there a second? Second by David Pierce. Any discussion? (No response audible.) (Motion as voted.)
Options 1 through 9.)

BOARD CHAIR PRESTON PATE: All those in favor of the motion, please raise your hand.

(Response.)

BOARD CHAIR PRESTON PATE: Ten in favor. Opposed?

(No response.)

BOARD CHAIR PRESTON PATE: None opposed. Abstentions?

(No response.)

BOARD CHAIR PRESTON PATE: No abstentions. No null votes. Did you have another motion?

GORDON COLVIN: Again, I just want to alert the Board to the fact that there will be Option 13 that will involve a mode split with a 25 - 50 fish for party/charter, 25 for all other modes, and it will open I believe it's a July 1 opening, but I don't recall any more what the season closure date is, but that will be presented using essentially the same methodology that others have used and hopefully we'll be able to have it reviewed along with the Rhode Island proposals and the other three from New York and we can discuss them again in
May.

BOARD CHAIR PRESTON PATE: Bob.

ROBERT BEAL: Just to follow up on Gordon's comments and David Borden's comments, I guess given the fact that more proposals are coming forward with additional Tech Committee review, the staff will go ahead and work in a Summer Flounder, Scup and Black Sea Bass Board meeting for the May meeting. Before I half jokingly said about a half an hour long, but I think -- I think that's probably all it will take. Is there any -- does the Board feel comfortable with a relatively short meeting to approve these and get them finished?

GORDON COLVIN: It won't take long at all.

BRUCE FREEMAN: My only suggestion is do it just before dinner, and it definitely will go a half hour.

ROBERT BEAL: That's where we are now.

BOARD CHAIR PRESTON PATE: Mike, are you -- Gordon.

GORDON COLVIN: Yeah, you know, I apologize for the situation. This has been very
much, frankly, like the Virginia situation with fluke. We have not identified a single option that's acceptable from east to west, north to south, and anywhere else in New York's fishery. And I've kidded people that I feel a little bit like Andy Rooney in that I'm collecting scup options on my desk that I have here. And maybe I feel more like Jack Travelstead after today. It's just -- people just keep coming up with ideas that we keep running and I wish I could guarantee there won't be any more before all is said and done. This has been extremely difficult. And I guess that's, by the way, one little window of what state-by-state conservation equivalency is going to be like. We're going to be bombarded with proposals for designer regulations.

BOARD CHAIR PRESTON PATE: David Borden.

DAVID BORDEN: Yeah, I just want to follow up with Gordon. I also apologize, but I would just note, as he did not, that really this is a function of the way we're trying to deal with these things. We're trying to deal with them in a very short period of time and it's very difficult to
get a consensus out of a constituency.

We have -- in our case, we had two meetings with our recreational constituents, and we just didn't get adequate input from the bay fishermen for -- not because of a lack of effort on our part, but had we had a little bit more time, we would have had another meeting and discussed it, and we could have avoided this whole issue of Rhode Island coming in with a separate proposal.

So, somehow we have to figure out how to back off this thing and give the states a little bit more time to try to develop these proposals.

BOARD CHAIR PRESTON PATE: Ernie.

ERNEST BECKWITH: A question for Gordon. The same one I asked David. Gordon, when does your current season for scup open this year?

GORDON COLVIN: July 1.

BOARD CHAIR PRESTON PATE: Mike, are you through? That concludes all the proposals?

MICHAEL LEWIS: Yes.

BOARD CHAIR PRESTON PATE: Okay.

Then that concludes Item Number 6 and brings us to Other Business.
OTHER BUSINESS

BOARD CHAIR PRESTON PATE: Is there any other business members would like -- Pat Kurkul.

PAT KURKUL: Can I just go back a minute to the points that folks were making about the timing. I think part of the timing has to do with trying to time the federal requirements with the state requirements, and I fear we're already into a potential situation where if you're going to wait to do yours until the next meeting, we're going to miss being able to waive the federal requirements because you don't yet have state requirements to submit to us. So, that's part of the timing issue, and we should have a proposed rule soon. Maybe it will work out exactly right, given your upcoming meeting. But nothing so far this year has worked out very well, so I'm not sure I'd count on that.

BOARD CHAIR PRESTON PATE: Yes,

Gordon.

GORDON COLVIN: Yeah, Pat, that -- I'm glad you brought that up because I had almost forgot. There's an issue related to sea bass that I just wanted to throw out for everybody.

The federal proposed rule for sea
bass is not done. Going back to March and all
through April, some of our head boats started
calling us about -- you know, why hasn't New York
opened the closed sea bass season?

And I gave them a two-part answer.
Part one was that we hadn't gotten our rule in place
last year in time, and therefore I felt obligated to
keep it closed this year. But part two of the
response, what difference does it make? You all
have federal permits and the federal closure's still
in place.

And what I've been told is that there
is virtually no enforcement being undertaken of the
federal closure. I'm not being told that in a very
friendly way. This has been a real black eye for us
that boats from New Jersey and elsewhere, not
through any fault of New Jersey's, are able to fish
in the EEZ. They're not subject to any enforcement
either as they fish or when they land. Whereas side
by side they're fishing with New York boats that
have to throw all their sea bass overboard before
they sail home. We got to do better than that.

Now, that doesn't mean -- somebody
made the comment to me well, what -- why should the
federal government have done anything because, after all, clearly New Jersey and Rhode Island and our other neighboring states have their season opened and there's a clear intent, even though the proposed rule hasn't been published, to eliminate the federal closure, to which I responded sure, there's an intent also to raise the size limit a half an inch. Should that be enforced, as well, as a matter of intent? Something just doesn't add up here.

So, just want folks to know that we're really getting hammered on this. It's not pretty. And we really need to address that issue affirmatively.

BOARD CHAIR PRESTON PATE: Pat.

PAT KURKUL: Just to follow up quickly. Yeah, I mean, we have a terrible problem in these regulations with the timing issues. We don't even adopt recreational -- we don't even have the first discussion about recreational measures until December. It's completely infeasible the way it's currently designed, and so we have to think about redesigning.

And I know there was some discussion of that at a meeting that Council staff and my staff
had a few weeks ago on just process issues, but I
don't know whether there was any kind of
recommendation or resolution to come out of it. But
you know, the setup right now is no matter what, we
fail, because of the timing.

BOARD CHAIR PRESTON PATE: Howard.

HOWARD KING: I'd just like to add
that that is a big problem in Maryland, and Gordon,
the Coast Guard is enforcing this off the Maryland
coast.

GORDON COLVIN: Send them up to New
Jersey, will you?

BOARD CHAIR PRESTON PATE: Bob.

ROBERT PRIDE: I'd have to concur
with what Jack said. You know, we've got boats
fishing probably today since the weather's so nice
that are fishing in the EEZ for sea bass, not
realizing that they're breaking the law. We did a
very good job of promoting the specifications that
were passed, but they haven't been published yet.

And so I think if a fisherman in good
faith goes out in the ocean and catches fish and
gets caught, you know, getting convicted would be
very difficult. I mean, a judge is apt to throw
that out of court based on all the publicity associated with the specifications that we voted on in December at the Council level.

So, you know, I would like to resolve this problem in some way, but I'm sure Ms. Kurkul remembers the reason that we're in this position is because the August specification setting was such a marathon that everyone said we had to split it apart between recreational and commercial, and we did.

BOARD CHAIR PRESTON PATE: Any further business from the Board? Pat.

PAT KURKUL: That's actually not why it ended up in December. It ended up in December because people wanted to be able to consider WAVE 5 data.

BOARD CHAIR PRESTON PATE: Meeting adjourned. Thank you very much.

WHEREUPON:

THE MEETING WAS CONCLUDED AT 5:17 P.M.
COMMONWEALTH OF MASSACHUSETTS
COUNTY OF NORFOLK

I, PAUL T. WALLACE, a Professional Court Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the foregoing transcript represents a complete, true and accurate transcription of the audiographic tape taken in the above entitled matter to the best of my knowledge, skill and ability.

In witness whereof, I have set my hand and Notary Seal this 31st, day of May, 2002.

________________________________________
PAUL T. WALLACE, Notary Public
My Commission Expires
October 3, 2008

THIS FOREGOING CERTIFICATION OF THIS TRANSCRIPT DOES NOT APPLY TO ANY REPRODUCTION OF THE SAME BY ANY MEANS UNLESS UNDER THE DIRECT CONTROL AND/OR DIRECTION OF THE CERTIFYING REPORTER