

**PROCEEDINGS  
of the  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
WEAKFISH MANAGEMENT BOARD**

**November 17-21, 2002  
Williamsburg Lodge  
Williamsburg, Virginia**

**TABLE OF CONTENTS**

*Approval of the Agenda* .....3

*Approval of the August 2002 Proceedings*.....3

*Public Comment*.....3

*PRT Reports, State Compliance and FMP Review*.....3

*Review of Amendment 4 Public Comment*.....6

*Review Amendment 4 and Select Management Program* .....9

*Other Business* .....65

## **ATTENDANCE**

### **Weakfish Board Members**

Paul Diodati (MA)  
Bill Adler (MA)  
Gil Pope (RI)  
Ernie Beckwith (CT)  
Gordon Colvin (NY)  
Pat Augustine (NY)  
Bruce Freeman (NJ) (proxy for Robert McDowell)  
John DePersemire (NJ) (proxy for Assemblyman Robert Smith)  
Tom Fote (NJ)  
Roy Miller (DE)  
Marvin Kahl (DE) (proxy for Rep. John Schroeder)  
Eric Schwaab (MD)  
Pete Jensen (MD) (proxy for Richard Colburn)  
Bill Goldsborough (MD)  
A.C. Carpenter (PRFC)  
Jack Travelstead (VA) (proxy for Bill Pruitt)  
Pres Pate (NC)  
Melvin Shepard (NC) (proxy for Rep. David Redwine)  
Damon Tatem (NC)  
John Miglarese (SC)  
David Cupka (SC)  
Susan Shipman (GA)  
Gil McRae (FL) (proxy for Ken Haddad)  
Anne Lange (NMFS)  
Jaime Geiger (USFWS)  
Bill Cole (USFWS)

### **Technical Committee Representative**

Rob O'Reilly (VA)

### **Advisory Panel Representative**

Wayne Lee (NC)

### **Law Enforcement Committee Representative**

Joe Lynch (NC)

**ATLANTIC STATES MARINE  
FISHERIES COMMISSION**

**WEAKFISH MANAGEMENT BOARD**

**Williamsburg Lodge  
Williamsburg, Virginia  
November 17-21, 2002**  
---

The meeting of the Weakfish Management Board of the Atlantic States Marine Fisheries Commission convened in the Tidewater Room of the Williamsburg Lodge, Williamsburg, Virginia, on Wednesday, November 20, 2002, and the meeting was called to order at 2:45 p.m. by Chairman Gordon C. Colvin.

**CHAIRMAN GORDON C. COLVIN:** Good afternoon, everyone. I want to thank you for being with us at the Weakfish Board and for returning so promptly from the luncheon. We have quite a bit of business.

I am informed by staff that we are not encumbered by any post-meeting gatherings or social occasions; nonetheless, there have been certain members who have threatened to beat me if we are not out of here by 6:00 or 6:30, so I will make every effort, with your cooperation, to get us to that point.

The agenda for today's meeting has been distributed. I do want to make a couple of comments on the agenda before I entertain suggested additions or changes.

Under the items 6, 7, and 8, the Technical Committee is represented today by Rob O'Reilly from Virginia. Our chairman, Dr. Des Kahn, unfortunately suffered a family tragedy and was not able to join us this week. We miss Des and I miss him.

He has done an extraordinary amount of work to help us get to this point. I will have more to say about that hopefully at the end of the day, but he deserved to be here and help us and unfortunately that was not able to happen.

And our vice chair, Jim Upoff, who we thought could

pinch-hit for Des, I guess, had back surgery this week, and we are, therefore, very pleased and thankful that Rob, a former chairman of our Weakfish Technical Committee and one who I remember doing a truly outstanding job at this point in the history some time ago, has been good enough to join us.

I just want to ask everyone to remember that Rob got pressed into duty on short notice; and while I have extraordinary confidence that he'll be able to help us with most of the questions we throw at him today, please recall that he is pressed into duty on short notice, and we'll all do the best we can. I'm sure we'll get great service from Rob.

The Technical Committee and the Advisory Panel and the Law Enforcement Committee will present most of their reports not during the agenda as indicated, but as we develop and review the various sections of Amendment 4.

There will be a brief report from Wayne Lee on behalf of the Advisory Panel on non-Amendment 4 issues at that point; otherwise, those three items will be taken in the course of the review of the various issues under Amendment 4.

**Approval of the Agenda**

That said, let me ask are there any other issues that folks would like to have added to the agenda of the meeting? Is there objection to approval of the agenda as I've indicated? Without objection, we'll adopt the agenda and proceed.

**Approval of the August 2002 Proceedings**

The next item on the agenda is approval of the proceedings from the August 2002 Weakfish Board meeting. Mr. Augustine.

**MR. PATRICK AUGUSTINE:** Thank you, Mr. Chairman. I move that we accept the proceedings as presented today, assuming that all corrections have been made.

**CHAIRMAN COLVIN:** Moved by Mr. Augustine, seconded by A.C. Carpenter. Is there objection to the motion? Without objection the proceedings are adopted. Thank you.

**Public Comment**

At this point in the meeting, we have on the agenda an opportunity for public comment. We will, of

course, take comments from any of our guests who wish to make statements at the time action items appear later on the agenda.

That said, is there any public comment at this time to come before the — is that Captain Jim Ruhle I see back there? Thank you, Jim. Come on up and please state your name for the record for Joe.

CAPTAIN JIM RUHLE: Thank you, Mr. Chairman. My name is Jim Ruhle, commercial fisherman from North Carolina. My comments pertain basically to some of the options in the public hearing document; and if it's appropriate, I'd like to offer them at this time, sir.

CHAIRMAN COLVIN: We'll certainly hear them now; or if you prefer, we can hear them when we take them up later, Jim, it's your choice.

CAPTAIN RUHLE: Well, I think it may influence the way your discussions may go.

CHAIRMAN COLVIN: Go for it.

CAPTAIN RUHLE: First off, before I even start, I haven't had the opportunity to address this group. I serve in another position was originally supposed to be part-time and is becoming a full-time job. I don't even need to acknowledge what that is at this time, but commercial fishing is why I'm here to present these comments.

I would like to state for the record that your choice of an executive director is probably the best move that this commission has ever made. I think you'll notice as time goes on that the abilities of your executive director are exceptional.

I've had the privilege to work with him for 25 years; and better than that, I've had the honor to call him a friend, so congratulations on your choice. You've got an excellent man there.

My main concern with the Weakfish Plan is, as you well know, you are managing a stock that you've aided in the recovery of, and you've done just about as good a job recovering the weakfish as you have striped bass, and they're both a major pain in the ass to me as bycatch problems.

We're targeting -- traditionally we targeted mackerel and squid and herring in the trawl fish fishery, but since the last four or five winters have been so mild, the abundance of warmer-water species has eliminated our ability to take the colder-water species, so we've been dealing with croakers, which is another species that you all are in charge of. And seeing as you're not doing too much with it, just keep doing what you're doing because they're doing great on their own.

I mean, they are at exceptionally high biomasses. Take all the credit for it that you want, but in a year or two when their cycle turns and they disappear, don't say you weren't warned.

But this is a perfect example of how a market can control a species management, and that is exactly what has happened with croakers. The market is so limited that there's only a handful of vessels out of the possible boats that could work that even touch the fish.

Other countries -- we have gone from a country that uses a significant amount of fresh fish in different ethnic groups -- we've lost what we used to call the "hucksters," the small operations that deal with a handful of fish here and there, but there was a pickup truck on every corner.

And we've lost that ability so in turn we've lost a big chunk of the marketplace and haven't had anything to take its place. But, croakers are exceptionally abundant right now, all different age classes, all different sizes.

And the problem we have in the trawl fish fishery, when you're targeting these croakers, is the bycatch of weakfish. It's usually not any significant numbers, but the catches of croakers can be extremely high.

We've taken -- an average tow would be 10 to 20,000 pounds, but we see a lot of 50 and 60,000 pound tows, and once in a while a 100,000 pound tow, and that's in 20 or 30 minutes towing time.

Just the sheer number of that amount of fish makes it impossible to get you a good cull when you're starting to grade any bycatch issues. The problem that I have, personally, in North Carolina -- I do live

in North Carolina and hail out of North Carolina, but I haven't used Oregon Inlet since Mr. O'Shea set buoys in there back in 1983.

And they weren't exactly where I thought they were going to be and I ended up aground, and it had nothing to do with Vince, but -- (Laughter)

No, no, Vince was the only Coast Guard man that ever put the buoys where we told them. Come to find out, we told them to put them wrong. (Laughter)

But, anyway, I don't use that Inlet. 90 percent of my fish are packed right here in Hampton. As a matter of fact, the boat is being unloaded now.

We just got in a few hours ago with 30,000 croakers.

We packed Saturday with 40,000. The problem I have is Virginia has not been very workable as far as its tolerances on undersized fish. We're using a gear, a cod-end size that's three-quarters of an inch higher than the regulated size.

The regulated mesh for trout is three inches in Virginia. We're using three and three-quarter because it gives us better selectivity. But when you get these big catches, you just can't physically get all the fish out.

And we've been challenged for the last four years, at least once or twice a year, with a violation from what we affectionately call the "Sea Monkeys" out of Virginia. And it's just a big hassle.

I mean, the percentages of less than one-tenth of a percent of what's aboard. It's physically impossible for three men to get every piece of fish of an undersized species out of a catch of fish. It's physically impossible.

Right now, again, at the dock that they're unloading us, there's 27 men unloading that boat that the three of us put the fish aboard with.

So when it comes time to considering the options for the trawl fishery, I would hope that you would give some consideration to a tolerance for the undersized portion as well as an increase in the bycatch.

The undersized is where we have our biggest problem because that presents the hardest fish to pick up and just physically handle. We don't usually deal with any significant amount of poundage, but the

numbers can be up there, the numbers of actual fish.

You can exceed 100 and still not weigh but 30 pounds or 40 pounds, you know, these little tiny fellows. Again, we're doing the best we can to get them out, but we've had zero tolerance on the side of enforcement, and we're trying to address the problem through this group.

Virginia has said that it was the only method -- the only way they had the flexibility to change the regulations was through a change in the plan itself, so that's what we're here for.

The other fisheries in Virginia that take trout have some exemptions because of gear modifications. I guess I should say what makes our situation unique is there is no trawl fishery in Virginia waters; yet our fish are caught in the EEZ but they're landed in Virginia.

What we do on a traditional trip is if we haul back with a catch and it exceeds what we consider to be a limit of allowable bycatch or trout, if they're legal size fish, we just put them on the boat and take them to North Carolina or to New Jersey, if it's an open season.

But Virginia doesn't have that option for us, so we're in a situation where a lot of times we'd let the net go and release the fish alive. The problem is you have very few minutes, if not seconds, to make that decision.

We're out there to catch fish. We're certainly not out there to kill anything that we can't sell. We're not asking for an ability to sell any of these undersized fish, just to possess them and have them weighed when we get in and have it associated with a percent on board.

I think if you notice, as you go forward with any bycatch provisions, that is an excellent way to prevent abuse and to eliminate the possibility of creating opportunities for someone.

If in fact there is a significant amount of a targeted species aboard and there's some other species mixed with it, it's a lot easier to understand that was not the targeted species if it is associated with a percentage.

So, therefore, again, the comments I have at this time are to consider an undersized tolerance that we can take back to Virginia and have some sort of option put in that gives them the flexibility.

I think North Carolina has done an excellent job with the way they have the provision -- I don't know what exactly the number is, but we don't seem to have this problem down there. So for the sake of myself, this is strictly a personal issue, but there's not too very many vessels in Virginia that do target these croakers right now.

There's only a very few, two or three, and it's not a tremendous amount of fish that we're talking about by any means, but we do need some flexibility to allow us to go forward with the fishery. The fishery is very important to us. Thank you for your time.

CHAIRMAN COLVIN: Thank you. Is there any other public comment at this time? Seeing none, we will proceed, and we will, of course, look to the public during our deliberations later.

The next agenda item is the PRT report on state compliance and the FMP review. Carrie.

**PRT Reports, State Compliance and FMP Review**

MS. CARRIE D. SELBERG: The Plan Review Team met via conference call on September 25<sup>th</sup> of this year. The Plan Review Team has produced two reports for your review. One is the state compliance report and the second is the FMP review.

I'm going to review the highlights of each of them, starting with the state compliance report. If you don't have copies, there are some on the back table. They were on the briefing CD.

As far as state compliance, the Plan Review Team would like to raise two issues to this board. The first is the PRT reviewed the MRFSS length-frequency data for weakfish to evaluate the percentage of sub-legal fish landed in state during 2001.

Both Maryland and Virginia had percentages of sub-legal fish that concerned the Plan Review Team. In Maryland 28 percent of the fish landed in 2001 were sub-legal. And because the minimum size changes in Virginia by season, the Plan Review Team reviewed the data by wave.

During Wave 5, 32.4 of the fish landed were sub-legal. The Plan Review Team recommends that the states of Maryland and Virginia address this problem of sub-legal fish compromising a high percentage of their landings.

The second issue that we would like to raise regards de minimis status. The states of South Carolina, Georgia and Florida requested and meet de minimis status; however, the state of Rhode Island did not apply for and would no longer qualify for de minimis status.

And in addition to the minimum size limit, the Plan Review Team believes that Rhode Island should have additional measures in place to reduce their fishing mortality rate, including closed seasons.

Because Rhode Island is above the de minimis threshold for the second year in a row, the Plan Review Team believed these measures should be put in place no later than the 2003 fishing season. Those are our two recommendations regarding state compliance.

CHAIRMAN COLVIN: Thank you. Gil.

MR. GIL POPE: Yes, thank you very much. Sorry that the other two are gone here, and I'm not that familiar with the Weakfish Plan, but I've been doing some calculating, and you're right, it is about 1.5 percent.

So it's not something that's really, in my mind, would be a big deal, but it is over the 1 percent. And my question is are there other plans where the de minimis is more than 1 percent or are they all 1 percent?

MS. SELBERG: Most are 1 percent.

MR. POPE: Most are 1 percent. Okay, thank you.

CHAIRMAN COLVIN: Are there any other questions or does any board member want to address any of the recommendations of the Plan Review Team? Pat Augustine.

MR. AUGUSTINE: Thank you, Mr.

Chairman. Is the Plan Review asking us to take action on any of these states or is it going to be incumbent upon the staff to inform those states in another form or have a conversation with them, if you will, to see what their action will be to come within compliance?

CHAIRMAN COLVIN: Well that's certainly something the board could do. I would point out that the two issues that have been identified are somewhat different in terms of their applicability to the FMP.

The issues with respect to size limit compliance are not, strictly speaking, specified compliance measures in the FMP, but they are a concern and an issue of concern that the PRT is raising to the board's attention.

The issue with respect to Rhode Island is a suggestion that there is a compliance requirement for a state that is not de minimis, and has exceeded that threshold, to institute certain actions after exceeding the de minimis threshold for two successive years. It may be that the board would want to ask Rhode Island to get back to us by a date certain and indicate their intention, and we could certainly take such action if we chose to do so. Eric Schwaab.

MR. ERIC SCHWAAB: Well, I just wanted to comment regarding this minimum size problem that has been brought to our attention. This was brought to our attention in advance of the board meeting. That did give us some time to begin to investigate what exactly is going on.

We have had conversations with our enforcement people, both with respect to looking back to find out what happened, as well as looking forward. Those conversations are still ongoing.

We believe that, in part, this might be the result of the existing split in minimum sizes between Maryland and Virginia, and we might be dealing with some Virginia-caught fish that are landed in Maryland.

We don't know that for a fact at this point, but that's one of the reasons, frankly, that we're interested, as we move into this amendment process, of eliminating some of those kinds of differences.

MR. JACK TRAVELSTEAD: We, too, were made aware of this problem before today, and we think it's pretty obvious why this is occurring in Virginia. We are one of those states that has one bag size during one part of the season and another bag size limit during yet another part of the year.

And Wave 5, where you see the problem, is the time when we move from the 12-inch minimum size to the 14-inch minimum size. And, quite frankly, it doesn't work. It doesn't work. We spend an enormous amount of money and time trying to educate our anglers about what the rules are.

And they get used to 12 inches all summer long and they forget it goes to 14. I think the data are obvious and we need to fix the problem.

And so this is a subtle hint to the board that on Page 25, when we get to this issue in Amendment 4, that you need to take the appropriate action to make sure that problem is fixed.

CHAIRMAN COLVIN: That was subtle. It was almost as subtle as Mr. Schwaab was. Mr. Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. The final comment on Rhode Island now no longer qualifies for de minimis are we going to assume that by virtue of reading the minutes of the meeting, that they will be aware of the fact that they do have to fill our proper paperwork for 2003, or will there be a letter coming from the staff?

I know the PRT went on to say that if those issues were addressed, then the PRT does not recommend finding any states out of compliance. It sounds like Virginia is going to take action, but how about Rhode Island?

CHAIRMAN COLVIN: The chair's opinion would be that it would be most helpful for the board to take action of some sort with respect to Rhode Island, action that communicated to Rhode Island the board's determination and expectations for action. Go ahead.

**MR. AUGUSTINE: A follow up, Mr. Chairman, then. I recommend or I move that the**



**staff draft a letter to the state of Rhode Island highlighting the issues that we're concerned with, particularly that they no longer qualify for de minimis status; and that by date certain that the measures be put in place no later than the beginning of the fishing season 2003. Is that adequate?**

CHAIRMAN COLVIN: Seconded by Bill Cole. Discussion on the motion. The motion suggests a date certain. I think that it could be determined, if it could be left to the staff, to discuss with Rhode Island an appropriate date that would reflect the status of our final action later today and the commission's action on Amendment 4, because there will be a connection to Amendment 4 potentially.

MR. AUGUSTINE: That's acceptable, Mr. Chairman.

CHAIRMAN COLVIN: And I think that's implicit in the motion. Mr. Pope.

MR. POPE: Thank you very much. I'm sure that we will do whatever we have to do as far as seasons and so on. It should be no problem at all.

CHAIRMAN COLVIN: Thank you. Further discussion on the motion? Seeing none, is there any objection to the motion? Seeing none, in the opinion of the chair, the motion carries. Are there abstentions? The FMP review, Carrie. Susan.

**MS. SUSAN SHIPMAN: Do we need to reaffirm the de minimis status of the three states that have requested it? If so, I would like to move that the board grant the de minimis request for the states of Georgia, South Carolina and Florida.**

MR. DAVID CUPKA: Second.

CHAIRMAN COLVIN: Seconded by David Cupka, moved by Susan Shipman. Discussion on the motion? Is there objection to the motion or abstentions? The motion carries.

Is there a need for us to accept the report of the PRT? Bob says no. Is there anything further on the PRT report? Then we go to the FMP review. Carrie.

MS. SELBERG: The FMP review is also on the briefing CD and is in the back of the room. In the interest of time, I'm not going to step through the whole report.

I will note that it discusses status of the plan, status of the stock, status of the fishery, status of research and monitoring. It has the research needs list which is the same list, which is in Draft Amendment 4 -- state-by-state implementation assessment and ends with recommendations. That's where I'm just going to spend a little bit of time.

The Plan Review Team has two recommendations. The first is that all states provide recent information and data about changes in their commercial fisheries since the 1990-'92 or '89-'91 base period to the Technical Committee so that the closed season strategy targets the significant commercial fisheries.

The Technical Committee should determine what is "significant" and outline to the board changes and what fisheries should be using the closed season strategy.

The Plan Review Team thinks it's a good idea just to go back and make sure that there aren't significant changes. Perhaps some of the gears that had very low landings might have expanded in recent years, and we think the Technical Committee should take a look at that and recommend any changes.

The second is the board move forward with the approval of Amendment 4 with revised overfishing definition, recreational reference period and recommended biological sampling programs for the states.

**CHAIRMAN COLVIN: Thank you, Carrie. Are there any questions? Now this one I believe we do adopt? Yes. Motion to adopt, Pat Augustine; seconded, Dave Cupka. Discussion on the motion to adopt the FMP review.**

In the opinion of the chair, if the report is accepted, that recommendation would be made to the Technical Committee for their attention and action. Any discussion on the motion? Any objection to the motion; abstentions? The motion carries.

That brings us to the reports. As I indicated, the Technical Committee will report as necessary under Agenda Item 10, and that takes us to the Advisory Panel. Wayne has a brief report on matters not related to Amendment 4.

MR. WAYNE LEE: Thank you, Mr. Chairman. The AP met on November the 7<sup>th</sup> at BWI Holiday Inn. There were 10 AP members present, including myself. Carrie Selberg and Braddock Spear were there from the ASMFC staff.

Also, there were two members from the public, a commercial fisherman from Virginia and Michael Doble from the Recreational Fishing Alliance.

The AP reviewed all sections of Amendment 4 document that contained options starting with Section 2.6.1 and finishing with Section 4.5.3. The AP also reviewed the issues paper prepared by the PDT and the Technical Committee at the direction of the chair, which addressed concerns raised by New Jersey and Delaware. And, Mr. Chairman, I'll present the recommendations of the AP when we get to each section.

CHAIRMAN COLVIN: Thank you, Wayne. Any questions on those comments to this point? That brings us to Agenda Item 9 and shortly thereafter to Item 10.

Agenda Item 9 is the review of the public comment at the public hearings and the comments received by commission staff. I'm going to ask Carrie to go through this and then ask her for any questions that relate specifically to the public comments, at which point I will then proceed to Agenda Item 10, and I will have something to say at that point about how I would like us to conduct the discussion, deliberations and decision-making on Amendment 4.

For the time being, let's confine ourselves to a review of the public comment and to any clarifying questions we may have with respect to the nature of the public comment itself. Bill.

MR. WILLIAM A. ADLER: Yes, Mr. Chairman, are we moving our Law Enforcement Report a little later or something?

CHAIRMAN COLVIN: My understanding

is that Law Enforcement will report its recommendations on Amendment 4 issues as we bring them forward.

#### **Review of Amendment 4 Public Comment**

MS. SELBERG: I'm going to briefly step through the public comment. We received extensive public comment during our public comment period in October. All of that public comment has been distributed to the board and is located on the back table.

We have summaries of all the hearings that were held and a summary of the written comment, as well as a copy of each public comment that we received via fax, mail and e-mail. Obviously, it's difficult to summarize the amount of public comment that we did receive but I'm going to do the best I can.

I'm going to first start by going through the public hearings. I'm going to do a slide on each public hearing. Again, it's difficult to summarize an entire public hearing in just one slide.

If you would like more information, that is in the packet. There is pretty much a statement-by-statement of all the statements that were made at these various public hearings.

Starting out with New Jersey, the comments that were made at the two New Jersey hearings were fairly similar so I combined them into one. The state of New Jersey, the New Jersey commissioners and the recreational fishing public outlined their concerns with Amendment 4 during those hearings.

Generally those concerns included: they were concerned with the significant reductions in the recreational fishery with low fishing mortality, increasing SSB. They were concerned there were no reductions in the commercial fishery.

There were concerns raised that they were already facing reductions in other fisheries. They believe that Amendment 3 is working and the ASMFC should maintain status quo. And if you need to reduce bag limits, only to a 10-fish bag limit.

Moving on to Delaware. Some discussion took place on the recreational management measures. There was varied input on the recreational management measures, including support for the status quo under

Amendment 3, support for Option 4, which is a seven-fish coast-wide bag limit, concerns that savings will go to the commercial fishery from the reductions in the recreational fishery.

They think the 10-fish bag limit is reasonable. There was concern that the reductions are disproportionate and impact New Jersey and Delaware unfairly. For commercial hook-and-line, there was support for the same bycatch as other gear.

Briefly, in Maryland, as far as recreational management measures, there was varied support for different options, some support for Option 4, the seven-fish coast-wide bag limit and support for Option 3 with the regional splits to be within Maryland at the Chesapeake Bay and the Southern Region.

As far as bycatch, there was support for both Options 1 and 3 for the bycatch allowance, which means status quo as Option 1 and the sliding scale of 250 pounds as Option 3.

There was support for requiring escape panels in pound nets and not support for the tolerance for undersized weakfish in trawls. There was some concern expressed that habitat was not incorporated into the management decisions for Amendment 4.

Potomac River Fisheries Commission, as far as the recreational management measures, there was support for the regional line being drawn with the Chesapeake Bay in the south. There was considerable discussion on the escape panels for pound nets, support an incentive-based program.

The discussion outlined that these work well in some areas, and the incentive-based program works well for PRFC, but is not a “one-size-fits-all” issue and that they may not be suitable in other areas.

In Connecticut, the recreational measures, there were concerns expressed about the reductions with the belief it was arbitrary, the levels that were chosen. There was also support for Option 1, which is the coast-wide option, and support for a maximum creel limit.

As far as bycatch, there was support for status quo for the commercial hook-and-line and for the overall

bycatch allowance and varied opinions on where escape panels for poundnet regulations should be required.

In New York there was considerable input from the commercial hook-and-line fishery. There was support for Option 2, which was the same bycatch allowance as other fisheries. There was a lot of discussion about the wording.

Instead of calling it a “bycatch allowance”, they believe it is more of a “closed season allowance.” They would like the same opportunities as other gear types. There was support for an increase of the bycatch allowance to 300 pounds while there was other support for status quo.

As far as the recreational management measures, there was support for Option 4, which is the seven-fish coast-wide bag limit, with the split occurring within Maryland.

In Florida, for the recreational management measures, support for both Options 2 and 3, which were regional splits; and for the shrimp fishery, support for Option 3, and some support for undersized weakfish allowed in shrimp bycatch.

There was considerable discussion about whether Florida weakfish are actually sand sea trout, and there was also considerable discussion about using undersized weakfish bycatch for charity and food banks, and this board has received information about this in the past from the individual who attended the hearing in Florida.

There were hearings held in Virginia, North Carolina, and Rhode Island. There were no comments made at these hearings. Most of them did not have public attendance. At some, written comments were submitted and they’ve been summarized in the written public comments section.

Moving on to written public comment, the majority of the comments were from the recreational fishing public or their representative groups. We received a large volume of comments supporting the JCAA, RFA and CCA positions.

The states of New Jersey and Delaware also submitted written comment. Both of those letters

were forwarded on to the board and have been included in the comment packages, but are not included in the summary. I believe Gordon Colvin will be addressing those letters after I finish the summary.

We received over 160 comments, written comments. Overall comments and then comments on targets and triggers, there were 20 individuals who asked to keep status quo of Amendment 3 until new recreational management measures are developed or further study on the weakfish stocks are done.

There were a few comments that the weakfish program should be adjusted if the F threshold is exceeded in any one year. Another comment is that if SSB falls below the threshold, rebuilding should occur within four years.

There was also some concern expressed that options should have been included for fishing mortality rates. For the recreational fishery, overall, we received 86 comments that it was unfair because the recreational fishery is bearing the brunt of regulations under Amendment 4.

Of the tables that were included in the public hearing draft, Option 4, which is the seven-fish coast-wide bag limit with the regional split, received the most support in the written public comment with 39 people writing in supporting that option.

As far as the various minimum size bag limit options, which include angler choice, season and area, most of the public supported one bag limit/minimum size combinations and having no variations by season, area and day.

As far as the regional measures and where to draw that regional line, there was no support for including Virginia in the southern region. Bycatch, shrimp bycatch, there was minimal written public comment on this topic, but the comment that we did received supported allowing the same bycatch as other fisheries.

As far as overall bycatch allowance, the most support came in for the option which is 10 percent of your catch can be bycatch up to 150 pounds. There also was support for status quo, which is the absolute amount of 150 pounds.

As far as commercial hook-and-line, there was the most support for no bycatch allowance for the commercial hook-and-line; with less support, but we did hear some support for the same bycatch allowance as other gear types.

As far as escape panels for pound nets, we heard the most comment supporting for escape panels being required in all pound nets. And as far as tolerance for undersized weakfish in trawls, we received the most support for no tolerance. And that concludes my summary of the public hearings and the written public comment.

CHAIRMAN COLVIN: Thank you, Carrie. Are there any questions for Carrie on her review of the public hearings and the public comments? Bruce Freeman.

MR. BRUCE FREEMAN: Thank you, Mr. Chairman. Carrie, you may have mentioned it and I may have missed it, but there was comment made at New Jersey public hearings for retaining the 150-pound bycatch limit. You may have mentioned and I may not have just heard it, but there were a number of people made that comment.

CHAIRMAN COLVIN: Anything further? Let me, then, just briefly retrace with the board a couple of the events that Carrie alluded to that occurred subsequent to the public hearings.

On October 24<sup>th</sup> I sent a memo to the members of the Weakfish Board that outlined issues that arose with respect to comments from two of our members subsequent to public hearings in their states.

Letters were received from the state members from Delaware and New Jersey, copies of which were transmitted with my October 24<sup>th</sup> memo, outlining several areas of concern that had arisen and occurred to those states' members as a result of the public comment and public review of Amendment 4.

In addition, the members of those states requested an opportunity to discuss with myself and the commission chair their concerns and to have that opportunity to do so by conference call at around the time their letters were sent.

A conference call was held. It involved members of the staff, myself, the commission chair and representatives from Delaware and New Jersey. At that time, the concerns that were referred to in the letters that I sent you all on the 24<sup>th</sup> were reviewed in detail, and we discussed with the representatives of New Jersey and Delaware our proposed response actions to the concerns that they had raised.

Let me say at the outset that I expressed appreciation then and I want to reiterate my appreciation now for the board members making those concerns known to us in the fashion that they did early on, immediately following the public hearings in their states, rather than waiting until today to bring these very strong concerns and these complex questions forward.

In doing so I, as board chairman, the staff and all of our support structure had an opportunity to consider those concerns and to attempt to see how they might best be addressed and the issues framed and presented properly for decision-making by all of us here today.

So let me say to our commissioners and our members from New Jersey and Delaware, again, thank you for bringing those concerns forward and giving us that opportunity.

The basic strategy was to present the questions that had been raised via a written charge, which I sent to both our Technical Committee and to our Plan Development Team, for them to address the issues and questions that had been raised, the Technical Committee to review and respond to the technical issues that were embraced in those concerns, and for the Plan Development Team to assess the options and to make recommendations to the board on how those issues might be disposed of.

We had to rush that process on a pretty unreasonable, frankly, time schedule in order to have the PDT and the Technical Committee reports available to our Advisory Panel so that when they met, they would have the benefit not only of the public comment but also the reactions of the Technical Committee and the PDT to the concerns raised by two of our members.

Let me say that the Technical Committee and the PDT did a terrific job in responding to the charge that I gave them on very short notice. I asked that their

responses be, to the extent possible clear, complete and unambiguous and, boy, they did a great job.

Those responses have been presented to you. They're part of your package. I'm not proposing to review them, but they are part of the background that is available to all of us, as it was to the Advisory Panel, for our deliberations.

Before we went on to a discussion of the FMP itself, because this was kind of an extraordinary and unusual post-hearing situation, I wanted to make sure that I had a chance to tell all of you in person, face to face, how these issues came forward and how they were handled and to ask you at this point if there were any questions or concerns about that process that anybody wanted to communicate now before we plunge in. Tom Fote.

MR. THOMAS FOTE: I would just like to thank the chairman, the executive director and the chairperson of the Atlantic States Marine Fisheries Commission for giving New Jersey and Delaware this opportunity to discuss this matter and basically to put it forth for the PDT and the Technical Committee.

It was greatly appreciated, the time and effort that went in and the extra work that went in, and no matter how the outcome comes out, we basically appreciate and really respect that hard work that was done. Thank you very much.

CHAIRMAN COLVIN: Thank you, Tom. Roy.

MR. ROY MILLER: I'd just like to echo the same sentiments.

**Review Amendment 4 and Select Management Program**

CHAIRMAN COLVIN: Thank you. That said, is there anything further on this agenda issue relative to the public review comment process and the response to comments? If not, I think we're ready to have at it.

I need to point out a few things to us before we start about what we need to do and what the process is going to be, after which we'll entertain questions on that before we begin.

There are, of course, a series of specific issues that Amendment 4 was developed to address. And for those issues, there are a series of options that were presented to the public and which are available today for us to select as the final option to be brought forward in the amendment.

I want to emphasize that based on our overall action plan and the expectations of the staff and the commission leadership, that we hope to bring Amendment 4 to the commission for final adoption at this meeting, i.e., tomorrow.

As a consequence, the expectation would be that we will present each of the issues, discuss the options, select an option by motion of the board; and having gone through that, I will then ask if there are any motions that reflect any other changes to the text of the amendment beyond the options motions that we have passed; and, lastly, look for a motion to recommend adoption of the amendment by the commission with latitude given to the staff to make the final changes to the text consistent with the motions and the options that we have selected, i.e., we're not bringing this one back in three months if we can help it, if that's all clear.

Now, in order to do that, the process I would like to follow is as follows -- and I think this will be most efficient -- initially we will address, as I said, the various issues and the options thereunder in sequence from beginning to end.

I will ask Carrie to frame each option, to outline what the issue is and what the options are. I will then ask Wayne for recommendations, if any, from the Advisory Panel. I will ask Joe Lynch for his recommendations, if any, from the Law Enforcement Committee.

We will hear if there are any further issues that the PDT would like to make us aware of; and then having received those pieces of advice, I will look initially for a motion from a member of the board to adopt an action, and we will proceed to debate and vote on motions.

I would prefer to have motions up front. I think it will result in a more efficient and orderly decision-making process. Are there any questions or concerns about that process? Bruce Freeman.

MR. FREEMAN: Thank you, Mr. Chairman. There is an issue, several issues, in fact, that New Jersey and Delaware and the Technical Committee had been dealing with over the last month or so, in fact going back into October.

And as a result of those discussions, we saw a number of items, which we looked at very differently in the public information document and the draft amendment. I'm just curious, Gordon, if that issue or those issues would be raised at this time?

For example, the need for the catch limits, the concerns that we have and the public has is that reading the original documents, the reasons that were given for changes in the bag limits we're finding now are very different than in fact what the apparent reason is.

And then, also, there has been a recalculation of the bag limits, which I'm assuming the other states have been privy to, but we have received copies and they are different than what was received by the public. And my concern --

CHAIRMAN COLVIN: With respect to the two issues that you raise, Bruce, they both bear on the issue of the revised recreational creel limit and size limit tables, and I would expect that they would arise during the presentation and board debate on that issue.

Indeed, you are correct, there is an additional option for coast-wide creel limits and size limit combinations that was an outcome of the Technical Committee's response to the charge it received from me as I outlined previously, and Carrie will present that when she gives us the background presentation on that issue. They can be debated at that time.

There were also elements of the issues that were raised in the New Jersey and Delaware letters that are not specifically on the table, were not during public hearings, and are not necessarily today on the table as issues with options available, particularly as they relate to commercial fisheries.

And, as I indicated, we will be open, after we go through the various issues and options in the FMP, to any additional motions members want to make with

respect to the content of the FMP, apart from the issues of record.

And it may well be that at the conclusion of the discussion on Amendment 4, that folks would want to bring these others issues up even in an additional context as follow-up issues, and that would be fine, you know, depending on how you want to proceed as a result of the advice we got back from the Technical Committee and the PDT on those issues.

I do anticipate that folks might want to bring them up and that's when I would think they would be most appropriate to bring up. Any other discussion on the process? Let's plunge into it, then, Carrie and begin at the beginning.

MS. SELBERG: I'm going to review quickly the goals and objectives of the plan as we get started. The goal of Amendment 4 is to utilize interstate management so that Atlantic Coast weakfish recover to healthy levels, which will maintain commercial and recreational harvest consistent with a self-sustaining spawning stock, and to provide for restoration and maintenance of essential habitat.

There are several objectives, seven, total. I'm not going to review each one, but they do talk about establishing and maintaining an overfishing definition with both a target and threshold fishing mortality rates and a threshold spawning stock biomass.

I'm looking at the age and size structure, restoring weakfish to their previous geographic range, talking about research, habitat and determining standards and procedures for the implementation of Amendment 4.

Section 2.5 talks about definition for overfishing. Again, there aren't any options here, but I wanted to make sure we're all on the same page. Draft Amendment 4 proposes the following overfishing definition with an F target of 0.31, an F threshold of 0.5 and a spawning stock biomass threshold of 31.8 million pounds.

Okay, Section 2.6.1 is the first section where there are some options presented. The first part deals with the fishing mortality target. There aren't any options in this section but I did want to review it.

If the fishing mortality target is exceeded in any two consecutive years but neither threshold is exceeded, the management board must adjust the weakfish management program to reduce the fishing mortality rate to a level that is at or below the target. The board must establish a program for this reduction to happen within one year.

Okay, the second one is fishing mortality threshold. If the fishing mortality threshold is exceeded in any "x" — see below — year, the management board must adjust the weakfish management program to that which is required to rebuild to SSB to 30 percent of an unfished stock within -- and the timeframe will be determined under the SSB threshold section -- with a fishing mortality not to exceed 0.2. I believe the AP has a recommendation for this.

CHAIRMAN COLVIN: Okay, the first action item, then, relates to the fishing mortality threshold for stock rebuilding. Wayne, the AP has a recommendation for us on this one?

MR. LEE: Yes, I do, Mr. Chairman. The AP recommends that the trigger for a fishing mortality threshold be Option 2, if the threshold is exceeded in any two consecutive years. They supported this option because of their concerns with the retrospective bias of the stock assessment.

CHAIRMAN COLVIN: Carrie, is there anything further the PDT has for us by way of background on this? Is there a recommendation from the board? Pat Augustine.

**MR. AUGUSTINE: Thank you, Mr. Chairman. If there are no further recommendations from the Technical Committee or the PRT, I would suggest we accept the Advisory Panel's recommendation to accept Option 2.**

CHAIRMAN COLVIN: Pat Augustine moves Option 2; seconded by Susan Shipman. Is there discussion on the motion? Any public comment on the motion? Are you ready for the question? Do you need a moment to caucus? No? All in favor please signify by saying aye; opposed, same sign; abstentions; null votes. The motion carries. Okay, Carrie.

MS. SELBERG: The next section is still in 2.6.1 and it's the spawning stock biomass threshold. If the SSB falls below the threshold in any given year, the management board must adjust the weakfish management program to rebuild SSB to 30 percent of an unfished stock within "X" years.

Option 1 is within 10 years plus a generation time so 14 years. Option 2 is within 8 years or less, and Option 3 is within 4 years or less. Again, I believe the AP has a recommendation on this.

CHAIRMAN COLVIN: Wayne, the AP recommendation.

MR. LEE: Yes, Mr. Chairman, the AP recommends that the SSB be rebuilt within four years or less if it falls below the threshold, which is Option 3.

Some AP members indicated that the fecundity of the species would allow rebuilding within this timeframe; and that if the SSB falls below the threshold, there must be significant problems.

CHAIRMAN COLVIN: Carrie, was there anything further from the PDT on this one? No. Action from the board. Pat.

**MR. AUGUSTINE: Mr. Chairman, I would recommend that we accept the recommendation from the AP and we accept Option 3, rebuild schedule -- I'm sorry, spawning stock biomass threshold within four years or less.**

CHAIRMAN COLVIN: Moved by Pat Augustine, second by Bill Cole. Discussion. Paul Diodati.

MR. PAUL DIODATI: I can't recall what the rebuilding schedule was, how long has it taken us to rebuild this stock? Is this doable in four years?

MS. SELBERG: I'm going to refer you to some language that's at the beginning of Section 2.6. Because we're not considered overfished and we're not overfishing at this time, this is not something that would be put in place unless we drop below our spawning stock biomass threshold. The Plan

Development Team does think Option 3 is realistic, within four years or less.

CHAIRMAN COLVIN: Susan.

MS. SHIPMAN: And I think the measures in Amendment 3 went in in '96 and we got a pretty quick turn-around. I would say a generation time is realistic. We have rebuilt it by about the year 2000.

CHAIRMAN COLVIN: Pete.

MR. W. PETE JENSEN: Just for clarification, what is the start time of the four-year period? It is at the time regulations are put in effect? Is it the time that the board makes the decision to do it? What is it?

CHAIRMAN COLVIN: We believe it would be when the board started the clock. I thought I saw another hand. Pres.

MR. PRESTON PATE, JR.: Thank you, Gordon. I don't have any particular objection to the recommendation that the Advisory Panel has made, but I'm a little bit at a loss of what we would do in case we had to implement additional measures to begin rebuilding; and by "additional measures", I mean beyond those that we have already done, which were particularly draconian to some fisheries.

Those fisheries, most notably, was the closure of the flynet fishery south of Hatteras, which resulted in about a 42 percent reduction in the landings of undersized weakfish in North Carolina, and, undoubtedly, that contributed significantly to the rebuilding of this stock.

And it's not likely that those restrictions are going to be changed in the future, at least not to the extent that there will be any significant landings or undirected mortality to undersized weakfish, so to do anything more than that is going to be very, very harsh to all fisheries to rebuild it within one generation time would be my expectation.

I don't know if the Technical Committee examined this option with regards to what would have to be done, but if they have, I would like to hear what their opinion is on it.



CHAIRMAN COLVIN: Okay, Tom Fote.

MR. FOTE: After listening to what Preston basically said, I'm also thinking about one of the draconian measures with New Jersey is when we basically raised the size limit and did away with the whole Cape May Commercial Fishery, which was really a nine-inch fish.

That's one the reasons we rebuilt this fishery fast because we basically built the size limits in and we started reproducing real fast because we basically did away.

If we have a catastrophic collapse of the stocks -- I don't think that's going to happen, but I'm trying to figure out what would go in place of that, how we would put measures in, because we basically have raised those size limits above, you know, where the fish spawn at least once or twice before we start catching them in most states except for a few small incidental catches of small fish any more.

I don't really object to the four but I'm trying to think of what measures we would have to put in place then. As Preston says, it would be really different, a whole different set of regimes to basically bring us back.

CHAIRMAN COLVIN: Rob is going to take a shot at Preston's question.

MR. ROB O'REILLY: I think Susan, in her comment, had the right idea, but the timeframe, if you look at page 4 in the draft amendment, you can trace the spawning stock biomass. Really, it was fairly flat from the late '80s through about 1992-1993, and then the threshold was achieved right around 1994-1995, and then since then there have been marked increases.

So that gives you an idea that with the management measures that were available back in that time period, which were not as extensive as they were by the time, you know, the ACFCMA came into place, the rebuilding did occur fairly rapidly.

The Technical Committee did not tackle this as an issue in particular as to one or two generation times. I think there were some good comments given the life history of this species that, you know, definitely a

ten-year rebuilding scheme that you find with other species is probably too much, but at the same time I think you have to consider what Pres said as far as what else would be done, so it's a matter of looking at the measures you have now, and what should be done, really, is you have a target fishing mortality rate.

You will be looking at that on an annual basis; and because you're doing that, you'll also be looking at the SSB. It's difficult to project backwards when you have a spawning stock biomass that's listed as high as it is right now.

CHAIRMAN COLVIN: Thank you, Rob. Susan.

**MS. SHIPMAN: Yes, I'll be glad to put a motion on the floor just so we can get something going. I'd like to move that we adopt a generation and a half, which would be six years, which I think in light of Rob's comments and pointing out the graph to us on page 4 would be realistic.**

CHAIRMAN COLVIN: I think that's offered as a substitute motion?

MS. SHIPMAN: Yes.

CHAIRMAN COLVIN: Substitute motion for a generation and a half. Is there a second to the substitute motion? Seconded by Paul Diodati. Any discussion on the substitute motion? Bill Adler.

MR. ADLER: Thank you, Mr. Chairman. If I could just ask the AP chair here if he felt that would be acceptable to the Advisory Panel? I mean, that wasn't listed in one of the things but do you think that would be reasonable? You do?

MR. LEE: If I understood the question, are you asking if the AP thinks this would be reasonable?

MR. ADLER: Yes.

MR. LEE: I would think so. We had a number of discussions. I think the primary thing is that none of us at the AP level really feel that we're going to get to the point where we have to activate these options because of the current high level, as

Rob said, of the SSB where we're at right now, the low fishing mortality rate. We're up there in a range that's extremely high; so unless something very critical happens, this will never come into play.

MR. ADLER: No, I just think it would be a little bit more ease if we have to.

MR. LEE: Yes.

MR. ADLER: Okay, thank you.

CHAIRMAN COLVIN: Further discussion on the motion? Pat Augustine.

MR. AUGUSTINE: With those comments and clarification, I was going to ask the Technical Committee rep if this seemed logical and reasonable. It does sound it. And if it is acceptable, I'd like to call the question.

MR. O'REILLY: Yes, this does seem reasonable.

CHAIRMAN COLVIN: The question at this point is whether to accept the substitute as an amendment for the main motion. Is there any last discussion on that question? Is there a need to caucus on that question?

Seeing none, all in favor, please signify by saying aye; opposed, same sign; abstentions; null votes. The motion carries.

The substitute motion is now the main motion. Is there further discussion on the main motion as amended? Is there a need to caucus? Let's take the question. All in favor, please signify by saying aye; opposed, same sign; abstentions; null votes. The motion carries. Thank you.

MR. JENSEN: Do you need a motion to adopt the objectives and overfishing definition at this point to complete that section?

CHAIRMAN COLVIN: I don't think we do, Pete, because when we take the one big motion at the end, we will take everything that we haven't changed or selected, hopefully.

MS. SELBERG: The next set of options are in Section 3.0 which is monitoring program,

specifications and elements. It's the second page of that section and it talks about -- it starts with "for all states that land at least 150,000 pounds", and there's a set of two options and there's three sections. It's for 150,000 to 500,000 pounds to a million pounds.

And the options, the first option in each of the sections indicates the states will be required to collect at least 100 otolith ages and 300 lengths.

The second option is highly encouraged. And as we move down the sections, it increases the number of ages and lengths that would need to be collected, either required or highly encouraged.

These sections were put in at the recommendation of the Technical Committee for their need for more information in order to conduct the stock assessment. I know the AP has a recommendation, and I'm sure Rob could speak further if anyone has any questions about the need for this information.

CHAIRMAN COLVIN: Right. Thank you, Carrie. AP, Wayne.

MR. LEE: Yes, Mr. Chairman, the AP recommends that the states be required to collect the otoliths and length data, Option 1, for all three of the landing amounts specified.

They feel that this data is necessary to manage the resource; however, there was one AP member that had concerns about the cost to the states for such a requirement and for mandating it.

CHAIRMAN COLVIN: Thank you, Wayne. Anything further from the PDT on this one, Carrie? Rob, did you want to address the Technical Committee's concerns?

MR. O'REILLY: I think most of you know from Des Kahn that one of the drawbacks to the assessment that was done was that there was a lack of biological information in some of the states. For example, you know Virginia data was used for some of the other northern states.

It can be better than that. I think 100 otolith ages and 300 lengths seemed reasonable to the Technical Committee when we discussed this. And then the only other thing I would bring up, I don't know

where it stands at this time, but for several years, for probably three years Charlie Wenner from South Carolina, had a cart blanche offer to all the states under I think a grant through Sea Map, but I may be mistaken, and he accepted all otoliths.

Virginia took advantage of this. I don't think other states did so, but certainly there should be some direction to answer the AP concern that perhaps there can be some funding made available and that states will take advantage of this.

I don't know at this time who would be the collector of those otoliths and the readers, but at that time it was Charlie Wenner.

CHAIRMAN COLVIN: Thank you, Rob. Discussion on the motion? I guess I need a motion, don't I. Jack Travelstead.

**MR. JACK TRAVELSTEAD: Mr. Chairman, I'd like to move Options 1 in each of those three sections, to require each state to collect the designated number of otoliths.**

I hope that we will recall Desmond Kahn's description of the problem and the need for each of the states to collect this type of information, that the stock assessment on weakfish is relatively atrocious.

We have this problem where the values out of that stock assessment don't converge until you're ten years back. The only way that problem is going to be solved is if we require all of the states to collect the kinds of data that we need.

I know that budgets are a problem in all the states right now. There's no state that's suffering a budget problem more than Virginia, I think. But if we don't start to require these kind of things to be done, we're never going to get to where we need to be.

CHAIRMAN COLVIN: Thank you. Seconded by John Miglarese. Discussion on the motion? The motion is to go with Options 1 in all three cases. Pete Jensen.

MR. JENSEN: A question for clarification. The language doesn't say it, but it implies that these are collections from the commercial fishery. Is that intended or can they be from recreational and

commercial?

MR. O'REILLY: Generally the commercial fishery has been used, but I don't think that that was ever addressed, if there could be, you know, specimens from the recreational fishermen and those do occur.

MR. JENSEN: Yes. So the 150,000 pounds, for example, is referenced to commercial landings as opposed to total landings, right?

MR. O'REILLY: Really, the more recreational samples we could get, the better off the assessment would be because of the targeting of larger fish.

CHAIRMAN COLVIN: I think ultimately the states and the Technical Committee is going to want to see samples that are truly representative of the length and age distribution in their waters, and I think that's what's going to prevail.

And we are taking otoliths here, not scales, so it presents a different set of circumstances that we have to address the practicalities. Bruce Freeman.

MR. FREEMAN: Thank you, Gordon. Do we have the same opportunity through South Carolina to get those aged? Is that something, Rob, you can address?

MR. O'REILLY: I'm not certain where that stands right now because this year it was not available. I don't know whether Louis Daniel, who is here, has an idea as to whether anyone is accepting otolith samples.

CHAIRMAN COLVIN: John is going to respond and then we'll turn to Louis.

DR. JOHN MIGLARESE: He answered the question. It was available. The grant is not there anymore so I'll have to check with Charlie and just see what we can accept.

CHAIRMAN COLVIN: Okay. Louis, anything further that you can help us with that? Are you volunteering?

DR. LOUIS DANIEL: Just that we -- yes,

we are.

CHAIRMAN COLVIN: Good.

DR. DANIEL: And we can do some of them. I think Cynthia Jones out of ODU is taking otoliths. I mean, weakfish otoliths are very easy to process. They're very easy to read. You can process and age a couple of hundred in a day.

So if you can just get the samples, process the samples, they're the easiest ones to sample. Get them to us and then we can facilitate the readings and get them to the Technical Committee or the Stock Assessment Subcommittee.

CHAIRMAN COLVIN: Thank you very much. The Technical Committee, needless to say, we will turn to them to help coordinate and assist the states in taking everybody up on these very generous offers to pursue this assistance with aging. I appreciate that. Pres.

MR. PATE: Thank you, Gordon. I just hope everybody will remember North Carolina's magnanimity about an hour from now.

CHAIRMAN COLVIN: Now, that's the third one, guys, and they're getting less subtle as time goes on. Bill.

MR. WILLIAM COLE: Thank you, Mr. Chairman. I think if you may recall last year we had a proposal that we're still trying to work through ACCSP for some aging centers. I don't know what the status of that is right now, but I will check on it.

But this was one of the kinds of situations that those centers were designed to assist with, and I think that some communication, once we get through this, a communication from you to ACCSP in some manner would be appropriate.

CHAIRMAN COLVIN: Thank you. I appreciate that, Bill. A. C.

MR. A.C. CARPENTER: In light of the answer to Pete's question, should the document refer to all states that commercially land so there is no confusion when we start getting recreational landings in the 150,000 pound category, and somebody comes back and says, does this -- because no where in the

document does it clearly say whether it's commercial or recreational or it's combined. Okay, it does say up in a leading paragraph?

CHAIRMAN COLVIN: We have it covered. Gil.

MR. POPE: Thank you, Mr. Chairman. The only problem that I have is with that first one because we're hovering right around that 150,000 pound, which we were de minimis but we're not one year and so on and so on.

And when I look back at some of our recreational landings, like in the year 2000, it was 664 fish out of maybe a 2 million-pound recreational landings for that year. So I don't know exactly how to speak for David or the rest of the state or the Technical Committee and so on and so on, but if I had to pick something that would probably help us out just a little bit on this, it would be I'd like to see Option 2 for the 150,000 seeing as how that's hovering right around that 1 percent of the landings figure.

And as far as Option 1 on the other two, I could see where that would be important to have Option 1 on the 500,000 and a million pound, but that 150 is hovering right around that 1 percent de minimis status. Thank you very much.

CHAIRMAN COLVIN: A. C.

MR. CARPENTER: Mr. Chairman, it says the samples should come from the commercial landings, but I think it still raises the question is the combined total landings of a state 150,000 pounds recreational and commercial, do they now have to collect samples?

CHAIRMAN COLVIN: Yes, that's how it reads and that's clear. It doesn't say commercial. It doesn't say that lands commercially or that lands recreationally; it says "that lands", period. So that means both together. Bruce Freeman.

MR. FREEMAN: A question to Rob O'Reilly. Relative to the MRFSS survey taking length samples of each fish that they encounter, was that considered adequate sampling from the recreational side and what we needed was length samples from the commercial? Is that the reasoning?

MR. O'REILLY: I think that's generally the approach. What you would hope for, though, that if there are some fish of the larger size from the commercial sample, so that when you use the age-length key, that it will match up because that is the way it's done right now. The recreational lengths are converted to an age-length from the commercial data.

MR. FREEMAN: Rob, let me ask one other question. It's important to us in this instance because as our comments leading up to this amendment was we certainly see the need to doing this, but with our manpower requirement and our budgetary concerns, we want to make certain we wouldn't be deemed out of compliance, because we are a major player in this fishery.

If we got sufficient samples in aging, be it from the recreational or the commercial, would that make a difference? In other words, let's say we're required to take 600 samples, if we got them over a large size distribution, from very small to very large fish, would it matter whether it came from the commercial or recreational?

MR. O'REILLY: No. And, again, the data are pooled, anyway, towards the end. I think the big problem is that the pooling now is a big stretch and states are missing.

And even a state which might be hovering around 150,000 pounds, if they're not going to provide some otoliths, then all the discussions this board had about restoring through the range and getting that size structure and age structure restored, we won't know. That's one problem.

MR. FREEMAN: All right. Mr. Chairman, the reason this is very important to us is because we may be able to much more easily get samples from the recreational fishermen than the cost of getting it from the commercial.

If that would be acceptable, it would be a great asset to us because we believe through the cooperation, we can get a very, very good size distribution from very small to very large, 12 pound fish, and that would overcome this problem or help and then this would be much more agreeable to us.

CHAIRMAN COLVIN: Thank you, Bruce. Susan Shipman.

**MS. SHIPMAN: Yes, on Page 17 of that first full paragraph on that, I think we need to strike the word "its commercial landings" and just say "a state must sample its landings for biological information" and insert after that "the sample should be representative of the state's fishery."**

CHAIRMAN COLVIN: Is it your intention that be offered as an amendment to the motion?

MS. SHIPMAN: Yes, I would move to amend the motion.

MR. TRAVELSTEAD: I'll accept that as a friendly amendment.

CHAIRMAN COLVIN: I thought you might. John, acceptable as seconder? Bruce, does that address the issue that concerned you?

MR. FREEMAN: Yes, that would be very helpful.

CHAIRMAN COLVIN: Thank you. Is there any further discussion on the motion? Melvin, I never did get back to you.

MR. MELVIN SHEPARD: That's fine, thank you.

CHAIRMAN COLVIN: Thank you. Seeing no further discussion, are you ready for the question? Is there a need to caucus? I don't think so. All in favor, please signify by saying aye; opposed, same sign; abstentions; null votes. The motion carries.

MS. SELBERG: All right, now we're moving on to Section 4.1, which is the recreational fishery management measures section. We're first going to be looking at -- I'm first going to be reviewing each of the management measure options.

There are four options that are included in the public hearing draft. I'm going to review each of those options, and then I'm going to talk about two additional options that have been brought forward by the Technical Committee and the Plan Development

Team.

The first option in the draft amendment is -- actually, I'm going to step back really quickly. For those of you who would like to follow along on paper in front of you, all these options are listed in the Plan Development Team report that was submitted to the board.

It's also on the back table. So the four options that were included to go to public hearing as well as the two additional options are in that document so you can follow along with what's up on the screen.

Option 1 is coast-wide regulations with a baseline creel limit of four fish at a 12-inch minimum size; Option 2, regional regulations with a baseline creel limit of four fish at a 12-inch minimum size with the northern region and the southern region.

And you will notice here it says "Maine through Maryland" and "Virginia through Florida." These are the slides from before so that should actually be "Northern Region" and "Southern Region", as it is in the paper in front of you.

Option 3, again, it's regional regulations. This does not start with a baseline of 12 and 4, but just a baseline minimum size of 12 inches. Regional regulations, again, that should just be "Northern Region" and "Southern Region" as it reads on the paper in front of you.

Option 4, regional regulations with one bag limit, the seven fish coast-wide bag limit with a minimum size of 12 inches in the Southern Region and 14 inches in the Northern Region.

Now, Option 5 and Option 6 are two additional options that have been developed by the Technical Committee and forwarded to you by the Plan Development Team.

Option 5 is coast-wide regulations starting with a six-fish bag limit at 12-inch minimum size. Now if you have questions, Rob O'Reilly can outline how this table was developed, but instead of starting with the 12-inch minimum size four-fish bag limit, as was done in the other coast-wide option that went out for public hearing, this does not start with that 12 and 4, and that is why you see slightly higher creel limits on

this coast-wide option.

The Technical Committee has developed this option and the Technical Committee has reached consensus that they are comfortable with this option and that it will meet the conservation goals outlined in Amendment 4.

The final option is another regional split. At the last board meeting, there were proposals from the management board to move the line from where it originally had been. Originally that line had been drawn between Maryland and Virginia.

There were proposals to add additional options, to move that line between Virginia and North Carolina, and additionally to move that line in the middle of Maryland with the Chesapeake Bay in the Southern Region and the Maryland Coast in the Northern Region.

However, if you move that line, the tables change, so this table outlines what the regional regulations would be if the line were at the Virginia-North Carolina border.

Again, it starts with the 12-inch minimum size, four-fish bag limit and goes from there. The Northern Region and Southern Region, that would be the line between Virginia and North Carolina.

Option 5 and Option 6, I do want to clarify, did not go out for public hearing and were not included in the public hearing draft. The Plan Development Team did discuss that and wanted to note that for the board.

The board will need to decide if you're comfortable with going with an option that did not go out to public hearing. It is the same management scheme that was sent out for public hearing with slightly different numbers. Those numbers, for the most part, are more liberal than the numbers that went out for public hearing.

CHAIRMAN COLVIN: Carrie, thank you. We'll now take the report of the Advisory Panel on this issue. Wayne.

MR. LEE: Thank you, Mr. Chairman. By way of clarification, what the AP did was we took this in really three increments. The first increment

was to address the options that were given in the public hearing amendment, so that was Options 1, 2, 3, and 4.

After we discussed that, then we went to the options presented in the PDT options paper; and then after we discussed that, we have an additional comment we'd like to make. So if I could, I'll start with the options in the public hearing draft.

A majority of the AP, if we only have to consider those four options, would support Option 4, the regional regulations with a bag limit of seven with a minimum size of 12 in the south and 14 in the north.

One AP member, only, supports this if the line is drawn between Maryland and Virginia. A minority of the AP members support Option 3. One AP member only supports this if the line is drawn between Maryland and Virginia.

With regard to the PDT options paper, a majority of the AP supported Option 5 with a minority supporting Option 3 if the line is drawn between Maryland and VA. However, some AP members did not support any of these options.

Some AP members had concerns that Option 5 did not go to the public hearing. And then, additionally, the AP was not satisfied with the options in the public hearing draft and the PDT options paper. The AP has the following new recommendation:

The AP would like to see a coast-wide ten-fish bag limit with a 12-inch minimum size. If the board would like a regional split, the Northern Region would have a 14-inch minimum size with the line between Maryland and Virginia. One AP member did not agree and believes it's late in the process to bring forward an additional option and is concerned that the Technical Committee finds this option likely to exceed the proposed target fishing mortality.

The balance of the AP indicated that the SSB is at very high levels, that fishing mortality is at low levels and that the stock size is 3.5 times higher than when Amendment 3 was implemented.

The AP also noted that the recreational catch-per-unit effort is very low and no one envisions a significant change even with a ten-fish bag limit.

CHAIRMAN COLVIN: Thank you, Wayne. I believe there is a Law Enforcement recommendation on this issue, Joe.

MR. JOSEPH LYNCH: Yes, thank you, Mr. Chairman. The Law Enforcement Committee feels that Options 1 through 4 are all enforceable when they remain unchanged with one size limit and one creel limit in the specified area; that is to say, each state.

It is simple to understand, easy to articulate to the fishing public. However, Option 4 is the preferred Law Enforcement option because it's the most consistent throughout the coast. I would point out, though, that when these discussions took place, Option 5 and 6 were not on the table.

CHAIRMAN COLVIN: Thank you, Joe. Carrie, is there anything further from the PDT?

MS. SELBERG: I'm just going to review some information that is in the Plan Development Team report that was submitted to the board a couple of weeks ago.

New Jersey had public comment have questioned the need for reduced bag limits when the fishing mortality estimates are below the proposed target and SSB estimates are above the proposed threshold.

In their report to the board, the Technical Committee has reported that an incorrect methodology was used to estimate the creel limits under Amendment 3 that resulted in the adoption of overly liberal creel limits.

The Amendment 3 creel limits were excessively liberal due to the method used and not the reference period. The Plan Development Team concurs with the findings of the Technical Committee and feels that many of the current bag limits are unreasonably high; and that as the weakfish population expands, the high creel limits at some minimum sizes are going to lead to fishing mortality exceeding the proposed target.

These proposed reductions are a proactive measure to address concerns that have been raised at the Technical Committee, the Plan Development Team and board level in the past.

CHAIRMAN COLVIN: Thank you. At this point, we're looking for a motion on the recreational measures. Roy.

**MR. MILLER: Mr. Chairman, I would move that the board accept Option 5.**

CHAIRMAN COLVIN: Jack.

MR. TRAVELSTEAD: Second.

CHAIRMAN COLVIN: Seconded by Jack Travelstead. The motion is for Option 5. Discussion on the motion? Jack.

MR. TRAVELSTEAD: Thank you. Virginia is right in the middle of this issue on recreational size and bag limits, and we have noted that because of the nature of our fishery, when you place us to the south, the southern states benefit; on the other hand, when you place us to the north and start drawing these lines, the northern states benefit, as well.

And, quite frankly, we don't like being put in that position. And, as a result, we can't support any motion that's going to start drawing lines between states. The Technical Committee tells us there's no biological justification for drawing a line anywhere.

The good news is the Technical Committee has risen to the occasion for us on this and provided us with a good option, I think, Option 5, that doesn't require us to start drawing lines and creating situations of the "haves" and the "have-nots."

The option is a coast-wide regulation. It allows for conservation equivalency, and for states to choose options that will meet their needs, and we can all walk away from the meeting working from the same table. I certainly hope it will be the pleasure of the board to support Option 5.

CHAIRMAN COLVIN: Thank you, Jack. Susan.

MS. SHIPMAN: I just wanted to comment to the question of whether or not, since this didn't go to public hearing, that the board would feel comfortable addressing it. If you compare this with Option 1, which did go to public hearing, basically

you've got the same minimum sizes there and the creel limits are more liberal, less restrictive.

So I think we're on firm footing to adopt something that would be less restrictive than what went to public hearing. I think Option 5, if we elect to go that way, we have good rationale to do it.

CHAIRMAN COLVIN: Thank you. That's particularly good to hear coming from the chairman of the commission. I appreciate that, Susan. Pres Pate.

MR. PATE: Coming from the chairman of the commission who also doesn't have a real big dog in this fight, I appreciate that, also. Thank you, Mr. Chairman.

You may recall that it was North Carolina's initiative that brought forth Option Number 4 to try and resolve the potential conflict that we saw growing as these options were being developed and debated by the commission.

And I appreciate the way that the chairman and the Technical Committee have responded to our request by including that option in the public hearing document. I've taken the opportunity this morning for the first time to skim through the public comments.

I'm going to make a generalization that does not reflect the totality of the positions that are represented in the many comments that were mailed in, but in general those that commented on a preferred option for the recreational measures chose Option Number 4.

That was reflected in the summary that Carrie gave in saying that there were I think 39 comments received, and those were a mixture of comments from all of the states, from North Carolina throughout the northern range of this species.

But I find myself here today looking at an option that's going to be different from the North Carolina perspective in that the bag limit that we will be held to, if this option passes, is one fish less than what was taken out and very strongly supported in our state by the people that participated in discussions about this option.



And even though there were not many people that showed up for the public hearings, there were written comments, and particularly from my Marine Fisheries Commission, that strongly supported Option Number 4.

So we've got a state that initiated the alternative that was going to solve a lot of the objections initially being penalized by having one fish less; and the states that were raising all the hell -- excuse my French -- about the restrictive bag limits in the original set of three being rewarded by one additional fish.

There's something wrong with that picture. I have concerns, in spite of what Chairman Shipman said, about adopting something that has not been available for review by the interest in North Carolina.

The comments that have come in this morning from the Advisory Panel are clearly in support of the initiative that we created to have a more liberal creel limit in North Carolina. The comments from the Law Enforcement Committee support that.

They have not had a chance to look at Options Number 5 and Number 6, so there's no way to gauge what that source of review and conclusion will be relative to those options and the comparison to the original four.

And I know, in a practical sense, if you look at the average catch per angler throughout the range of this fish, that a five or six or seven fish bag limit is very liberal.

The actual average landings is about 2.5 fish per trip. But there's a matter of principle here; there's a matter of public perception that concerns me a great deal.

**I'm interested in providing a substitute to the original motion that will read exactly as it does except that it amends Option 5 by including in the bag and creel tables a 12 and 7-fish limit -- 12-inch, seven-fish limit. I do offer that as a substitute motion, Mr. Chairman.**

CHAIRMAN COLVIN: The substitute motion has been offered as a motion to amend the main motion to revise the minimum size line on the

table to read "seven" where it now reads "six." Is there a second to the proposed motion to amend? Seconded by Susan Shipman. Discussion now please only on the motion to amend. Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. On the motion to amend, I just need to reflect back on Option 4 where the comment from the Technical Committee specifically said had we gone with Option 4, which was at 12-7, that it appeared that the fishing mortality target may be exceeded.

I'm wondering if we would not be faced with the same situation if we did amend this motion to go 12 and 7, and I wonder if the Technical Committee could respond to that, or do they need some time to figure out whether that would happen or not?

CHAIRMAN COLVIN: Rob, do you have an opinion for us there?

MR. O'REILLY: My apologies, but I was conferring right then. Would you mind restating the question?

MR. AUGUSTINE: Yes. The question, simply stated, would be, Option 4, the reaction to the Technical Committee was that if we adopted four as it had originally been presented, the fishing mortality target rate may very well have been exceeded.

The question is if we change with this substitute motion to a 12 and 7, which was Option 4, would we still be faced with that particular situation where the fishing mortality target may be exceeded?

MR. O'REILLY: That was the Technical Committee's finding. There was probably support for the original Option 4 when we had our conference call, to some extent, but in the end run it was decided that it would not meet the objective, that it could lead to an exceedance of the target.

More importantly, rather than to pinpoint just that aspect, if you look at Option 5, the way Option 5 was developed and the reason that it's late in coming before you is because it was noted to the Technical Committee Chair, Des Kahn, that really the 12 and 4 was a default measure which was left over from Amendment 3.

Twelve and four did not have the same basis or criteria of a similar reduction that the commercial measures had. When Des Kahn looked into that, by the time we had our next call, that's where it was clear that you could have the six fish.

Now the six fish, if you look at that table, there's a little bit of give there because it's 30.9 percent compared to the 32 percent, which was desired. So if there is give there, I hope that will tell you about the seven fish. And that's just from the technical viewpoint.

MR. AUGUSTINE: Thank you for that.

CHAIRMAN COLVIN: Ann.

MS. ANNE LANGE: I just have a clarification question here. I'm not sure if I'm making things worse. My understanding is the current plan or Amendment 4 is looking at a target fishing mortality rate.

What Rob just raised about it being 30.9 for six fish versus the 32 percent reduction, how does that Amendment 3, 32 percent reduction in previous harvests, relate to the target fishing mortality rate?

I mean, do we even care about the 32 percent anymore? I mean, is that a valid thing to have been looked at or is it the target F that we should be looking at now?

MR. O'REILLY: I think that we care by the process that the Technical Committee has met several times by phone conference and twice in the last year and a half on deliberations of, first of all, the commercial management measures that have been in place.

The conclusion of the Technical Committee was that they should not be changed. Concerning the recreational measures, I think there has been a lot of misinformation which has been circulated about Amendment 3 and erroneous ways of calculating those bag and size limits, which could be cleared up fairly easily, but it's really no different than the board was told all along about the recreational measures.

I think you have to look at this 32 percent reduction now from '81 to '85 on a relative basis, and I think

what you have to do is realize the comments of Jack Travelstead concerning ADAPT, concerning what you have been told by Des Kahn about ADAPT, what you've heard about the retrospective bias.

And when you put all that together, it's a question as to whether you just want to say, okay, that target is absolutely it, we're putting all our faith in it.

There have been other ways to look at this situation and, you know, generally we're somewhere at target no matter who looks at the information or who analyzes it. The 32 percent, I think, is just a relative scale.

I think the real issue is in the document on the recreational information -- and Carrie read part of it - - and what it indicates is that there should be some adherence so that the recreational fishery does have more conservative bag limits than it really would have using the same analysis of Amendment 3.

But I think what it doesn't say -- and if I could magically pull to that page if you give me a second so I can direct your attention to it. I've got little cheat notes here. Okay, it's going to be on Page 22.

I was impressed in reading this a few times because it does capture the information about the recreational management measures, and it starts in Paragraph 2 and takes you through the timeline of what has been developed.

And then in Paragraph 3, it talks about facing reductions in creel limits than what is currently in place and the reasons why that's occurring; a different reference period, a reduced fishing mortality target from 0.5 down to 0.31, population changes.

I think what it doesn't indicate there, which also has been part of the Technical Committee deliberations, is to maintain high bag limits into Amendment 4 is an invitation, to at some point, maybe even relatively quickly, exceed the target and definitely shift allocation even further.

There is no doubt about that. If you're going to have 10 fish at a size limit -- you think about the other species that we manage -- then how long would it be before this allocation is shifted?

Now the Technical Committee did not comment on that in terms of allocation other than in conference. So the answer is the 32 percent makes sense from where we move from Amendment 3.

CHAIRMAN COLVIN: Carrie would like to contribute some background also for us that will help us with this issue.

MS. SELBERG: I want to step through a couple of things because these options were developed at different times; and I think if I step through when they were developed and what Technical Committee conversations took place when they were developed, it might answer the question that Pat Augustine raised earlier about Option 4 and Option 5 and the note that went under Option 4 when it went to public comment.

As you will remember, at the last board meeting, Option 4 was brought forward and added to the amendment as long as the Technical Committee signed off and said we think this will meet the conservation goals of Amendment 4.

The Technical Committee was given this option and a day later they had a conference call, and they were asked to make that determination at that time.

In that very short timeframe, the Technical Committee was awfully split in answering the question, will this option meet the conservation goals of Amendment 4.

And there were some Technical Committee members who raised concerns that they were not able to do any analysis to determine whether or not this would meet the conservation goals of Amendment 4.

Some Technical Committee members based their concern on the fact that they had to review that quickly without analysis to back it up, and they were not comfortable with that.

Option 5 was developed after the public hearing process, and it was developed when the Technical Committee -- again, was short on time, but did have more than a day to develop this and it has technical backing to it. This was developed by Des Kahn. The Technical Committee supported this option because they had an opportunity to review the

analysis that went into developing this table.

So while you can see that they do look similar, I think that some Technical Committee's reservations were based on the fact that one has a technical backing to how it was developed, and one was developed and the Technical Committee was asked to comment awfully quickly on it. I hope that clarifies why there is a disclaimer on one and not on the other.

CHAIRMAN COLVIN: Pete.

MR. JENSEN: This may not solve the problem, but this is a North Carolina issue. If I look at the recreational catch, they only catch 10 percent. If I look at the total catch, the recreational catch in North Carolina is only about 2 percent.

I don't know how many people catch the difference between six and seven, but it would be acceptable, from our point of view, if North Carolina was allowed a seven-fish creel and everyone else had a six.

MS. SHIPMAN: My question for the Technical Committee would be would we know what we might gain to offset that seven-fish creel at 12-inches if we held the 14-inch minimum size at seven creel, so in essence from 12 through 14 inches you would have a seven-fish creel rather than eight. See, the combination with 14 inches is eight and would you gain anything?

MR. O'REILLY: We'd have to look, and we did just start that. Jim Upoff was just starting to look; because with all these options, when you're talking about a certain creel limit, what you really have to look at is the effect of those limits in terms of number of fishermen who attain that creel limit or higher, so that has started to be looked at.

We can't tell you right now what the tradeoffs would be, but we can tell you that at least it can be analyzed. And then the other part is that I'm sure the board will be looking at the recreational fishery, just as it will the commercial fishery, on a yearly basis even though the assessment is going to be a two-year lag.

CHAIRMAN COLVIN: Tom Fote.

MR. FOTE: I understand North Carolina's

dilemma because presently they're at four fish at 12 inches; and under this table, they would basically be allowed to go to either six fish or seven fish at 12 inches, so it would be an increase of either two to three fish.

What I'm looking at is New Jersey, where we're at a 14 and 14 limit, and under this plan, we actually do a reduction of six fish. So instead of gaining three fish at a 12, we go to a reduction of six fish.

When you basically now put a table in there that says if I go to 12 inches, I get seven fish; and if I stay at 14 inches, I get eight fish -- I mean, are you going to go to nine fish at 14 inches then?

I mean, I look at these tables and I see where states are taking -- saying more liberalized so they go to increase in fisheries where we're going into a decrease in fisheries, and part of the savings is coming from the decrease in the fisheries in those particular states.

And, you know, this is not making warm feelings. I can understand your problem, Preston, but you've got to understand mine when I'm looking at a six-fish reduction when I'm coming out from a state -- and your concern is more liberalization from where you are at the time. It just makes it very difficult to live with.

CHAIRMAN COLVIN: Bruce.

MR. FREEMAN: Thank you, Mr. Chairman. This issue really is the heart of our concern. We have expressed, through our letter to the commission, our apprehension over this entire issue.

Originally, when we looked at size and bag limits, we were faced with a tremendous reduction in our bag limit relative to a 12-inch fish, which we knew would destroy the existing recreational fishery; and as a result, moved up in size to the detriment of our fishermen, but we felt we absolutely needed to in order to get a larger bag limit, and that happened to be 14.

We used the table. When we saw the new tables in Draft Amendment 4, it greatly concerned us because we are convinced that our fishery, particularly in

Delaware Bay, would be greatly diminished and had sufficient testimony at our public hearings to reinforce that.

We had more than 135 people at our public hearings, all of which but one opposed the increased restrictions. And in conversation with the Technical Committee numerous times, through our representative, we essentially learned that the real impact on this reduction really comes from the calculation of the catch size limit table in Amendment 3.

And the way it's changed, or at least the indication as was indicated by the technical people and Carrie, the way it's calculated now in Amendment 4, that really leads to the difference.

In fact, we spoke against the new reference period with the understanding that was creating the tremendous impact. And to our astonishment, after we got into the details of this, by changing the reference period back from '81 to '85 actually gives a slightly higher catch rate.

And we found it has nothing to do with the size of the fish, nothing to do with the length of the fish, the reference period only looks at catch effort data. And so many revelations occurred relative to the calculation of the original table.

And as we understand it, that those calculations, rather than having a 32 percent reduction in the recreational fishery, only had an 18 percent reduction. And so what the new table does is try to bring the recreational fishery in parity with the commercial fishery.

Now the difficulty we face is the continuing reduction. As Tom has indicated, even if we move to an eight fish on a 14-inch size -- and we certainly believe we could not go to a lower size limit because the bag would be too small -- would still be about a 40 percent reduction.

And it will cause tremendous economic hardship, in fact, loss of some businesses as in Delaware Bay. At least there is testimony at the public hearing, and we're convinced that testimony was very appropriate.

When we looked at this new Table 5, quite frankly,

we were encouraged because prior to that we're looking at a four-fish bag limit at 14 inches, so certainly from four to eight is an improvement.

Nevertheless, if we endorse the Option 5, it's still going to have a very great impact upon our fishery, particularly in the southern part of the state.

And this issue has been elevated to the governor. We have several elected officials, senators and assemblymen in the state that are very concerned about this; and as the commission understands, we also had inquiries from our congressional delegation.

So this issue in New Jersey is a very, very important issue and actually a very serious issue. Knowing all the information now, the difficulty is when we went to public hearing, that information was not available and that greatly concerns us because the public's perception of what we're advocating and how we got there now is very different than what we understand.

I would suggest, in order to extricate ourselves from this issue, with the understanding that despite the difficulties now with Amendment 3 that is in hindsight, we are certainly well below the fishing mortality level.

The spawning stock biomass is orders of magnitude higher than the target -- I'm sorry, than the threshold level. The resource is doing quite well. The issue now is can we keep it moving that way and keep expansion improving.

I would suggest, at least for the next two years, of allowing an eight-fish bag limit of 12 inches in the southern -- well, I don't want to call it a "southern area" because I, quite frankly, would like to see a coast-wide -- an eight-fish bag limit in the southern tier and a ten-fish bag limit in the northern area for a two-year period and then drop back to Table 5 which would give us a smaller bag limit in order to bring this back into place.

And my reason for doing this is to try to moderate the impact we know that will occur. We feel that moving from a 14-fish bag limit to a 10-fish bag limit certainly will have an impact but we think it is a responsible position we could support.

But moving lower than that at this point, we have

great apprehensions that it would create a tremendous economic hardship, particularly of people in the southern part of the state.

In Delaware Bay, in the summer, weakfish is the fishery. We used to have a fishery for summer flounder; but because of increased size limits in Delaware Bay, those fish simply are not available to anglers until you get almost to the mouth of the Bay.

And there are no striped bass during the summer. It's really a spring-fall fishery. Bluefish are relatively minor importance. This particular fish carries that entire recreational fishery, and the extremely low bag limits would essentially end that fishery. So I would offer -- I'm not sure we have a substitute motion--

CHAIRMAN COLVIN: Bruce, before you put it in the form of a motion, I'm going to suggest to you that I appreciate what you want to do, and I don't think this is the moment in which to do it because I don't think that can be made as an amendment to the substitute motion, the motion to amend that's here.

What you might want to do is wait until we act on that, and then I'll recognize you to put forward yet a further motion to amend consistent with what you just suggested.

MR. FREEMAN: All right.

CHAIRMAN COLVIN: So what I'm looking for now is any further comments that address Pres Pate's motion to amend, please. Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman, one further question for the Technical Committee. Let's assume that we went ahead with the seven fish from six to seven -- and it's an awful difficult question, but I would beg you to try to come up with an answer -- how would it affect the rest of the creel limits from 13, 14, 15, and 16 inches?

It's a loaded question because it appears by going to the seven fish, that it's already going to put us in an extended situation where fishing mortality target rate may be exceeded at going to seven, but could you give us a number, or is that even a question we should answer at this time?

CHAIRMAN COLVIN: My understanding

is that the intent of the motion is not to change the table values for those other creel limits.

MR. AUGUSTINE: Thank you, that's fine.

CHAIRMAN COLVIN: Roy.

MR. MILLER: Mr. Chairman, two of my questions were just answered. I just wanted to confirm with Preston Pate that in fact your present size limit is 12 inches and your creel limit is four; is that correct, Pres?

MR. PATE: We have sort of an unusual situation where we have a dual size limit where the angler can pick between 14 and 10 or 12 and 4.

MR. MILLER: In any given day?

MR. PATE: In any given day.

MR. MILLER: Okay.

MR. PATE: Which has -- well, I won't get into that. It's not an optimal solution. We did that out of not desperation but frustration in trying to solve the problem that we have in North Carolina with an abundance of small fish and trying to meet the needs of the angler. And those needs exceed a four-fish bag limit at 12 inches, and we're just trying to offer them a good opportunity for a quality fishing experience, and our current regulations are not doing that job, but this will.

MR. MILLER: And, Mr. Chairman, I just have one short statement relative to the process, and I will give you an opinion in this regard.

Notwithstanding some of the issues that Tom Fote and Bruce raised, many of which we're in agreement with, I'm not convinced at this point in time that our Delaware Bay fisheries will lose business as a result of adoption of Amendments 4 or Amendments 5, because if the same size and creel limits are offered in New Jersey and Delaware and Maryland, I think that will offset any potential loss of business.

There may be a short-term loss, which I believe will recover fairly quickly, once all the states have comparable size limits. That's my personal opinion. Thank you.

CHAIRMAN COLVIN: Thank you. Susan Shipman.

MS. SHIPMAN: Just for clarification, Pres, my understanding is if we were to go with something like this, you will go with one size limit, one creel limit and get away from your dual situation?

MR. PATE: That is correct.

MS. SHIPMAN: And I think there is some real merit to that. I also think there's some real merit to going with a coast-wide creel bag. I think we need to get away from this north-south split if we can.

CHAIRMAN COLVIN: Thank you. Anything further from the board before I go to the public? Public comment? Dick.

MR. RICHEN M. BRAME: I'm Dick Brame with the Coastal Conservation Association. In an effort to educate our members about Amendment 4, we prepared an angler's guide to it which, unlike the striped bass one, we did not distribute to them, but we made it available to them through the various websites.

And based on the comment I got back, the vast majority of them received it and read it. I don't even know how many comments I got, it was dozens if not hundreds. There was not a single one that asked for more than the -- most supported the Option 4.

Nobody said that was an inadequate number of fish to have more than that amongst the people from Massachusetts to Florida that commented. Most of them supported that, and they liked the idea of a coast-wide sort of creel limit. But we got absolutely no indication that they would be unhappy with six, seven or eight fish. Thank you.

CHAIRMAN COLVIN: Thank you. Is there any other public comment on the motion to amend? I will go back when we get on our main motion. Any further comment from the board on the motion to amend? Let's take a moment to caucus on this one, please.  
(Whereupon, a caucus was held.)

CHAIRMAN COLVIN: We are ready to

take the motion to amend? This is on Preston Pate's motion to amend the main motion to substitute seven for six in line one of the table, Option 5 table.

All in favor, please signify by raising your right hand; opposed, same sign; abstentions; null votes. The motion carries.

MS. LANGE: My concern was based on the Option 4 being a concern to the Technical Committee as far as whether it would exceed the target F, I think this is less restrictive and my concern was that it might more likely exceed target F. That's why I was opposed.

CHAIRMAN COLVIN: Thank you, Anne. We are now back to the main motion as it has been amended, and I indicated that I would recognize Bruce Freeman at this point.

**MR. FREEMAN: I would offer a substitute motion that the board accept an eight-fish bag limit at 12 inches with a maximum of a ten-fish bag limit at 14 inches and greater for a two-year period, at which the board would then reevaluate the bag size.**

**It was just pointed out that we probably should have a category for 13-inch fish. We kind of skipped over that. I would make the 13-inch fish, eight-fish creel.**

CHAIRMAN COLVIN: I'm going to make sure we have the motion completely written before I ask for a second.

MR. FOTE: Tina, that would be after the limit of 12 inch, then comma, 13 inch with an eight -- I'm sorry, with a seven-fish bag. Tina, it should be eight fish at 12; nine fish at 13 -- you're not going to have a smaller bag limit at 13 inches -- and ten fish at 14.

CHAIRMAN COLVIN: Bruce, is the motion on the screen the motion you're offering as a substitute for the main motion?

MR. FREEMAN: Yes, that's correct.

CHAIRMAN COLVIN: There is a motion by Bruce Freeman to amend the main motion by

substituting the motion that appears on the board. Is there a second to the substitute motion? Pat Augustine seconds the substitute motion. Discussion on the motion. Pat.

MR. AUGUSTINE: Question for the Technical Committee. It's obvious that although we've just switched some things around a little bit, in total we've increased the total number of fish in each one of these categories with the exception of 16 and larger.

I guess I need the reaction from the Technical Committee. I'm not a rocket scientist on this but I at least wanted to support the motion to get discussion on it. Thank you.

MR. O'REILLY: The risk is much greater and the chances of exceeding the target are much greater.

CHAIRMAN COLVIN: Dave Cupka.

MR. CUPKA: Thank you, Mr. Chairman. Realizing we do have the capability I guess to go in under the plan amendment and modify the bag limit to a framework, it still seems to me that we're just pulling numbers out here, and I really have no way to evaluate what the impact of this proposed motion is other than what Rob has just indicated to us. I think it's more risk-prone and I just can't feel like I could support this motion, Mr. Chairman.

CHAIRMAN COLVIN: Tom Fote.

MR. FOTE: Let's look at actually what this motion does. When we started the discussion on bag limits, it was started by the AP about three or four years ago because they were concerned that if you had a 16-inch size limit, that there was no bag limit.

I remember Bob Pride and Wayne bringing these facts up to some of the northern states because they had a 16-inch size limit, and the fish were growing, that we needed a bag limit in place because some of the states did not have that.

So that is where the discussion started and went to the Technical Committee to look at doing an amendment to the plan to correct that problem.

When the Technical Committee started looking at the plan, they discovered other things and they decided that we need to constrain the recreational fishery so it didn't grow or basically take more of the commercial fishery than they thought that we should be allocated, so they basically kept us within a percentage, because that's what the plan basically does.

It doesn't put a quota on the commercial fishery; it doesn't restrict the commercial fishery. It just basically, right now, as far as it does right now, it basically allows that commercial fishery to grow without restricting the recreational.

Having said that, the reason I'm looking at this as a possible -- let's look at the real savings. You are now going from where New Jersey is at a 14-inch and a 14-fish bag limit. That's how we've been rebuilding this fishery.

What does this actually do? It basically cuts New Jersey's catch, which is a big player in this game and catches a lot of weakfish, by four fish. It does a four-fish bag limit reduction.

Now, as we all know with bag limits, that sometimes when you go from ten fish to eight fish, there is not that much of a change. We've seen it in summer flounder that in order to basically accomplish those reductions in bag limits, we have to really raise the size limits.

We can actually -- if we wanted to basically go back to a 14-inch size limit on fluke, we'd have to reduce the bag limit to two fish or one fish and it might not accomplish it. We really need to raise the size limit. If you left the existing motion in place that basically was just passed at seven fish at 12 inches, you know what's going to happen? I'm better off in New Jersey to go to seven fish at 12 inches, which means I'm going to kill more fish than I'm killing right now.

What I'm looking for is a compromise situation that lets me do a four-fish reduction and a ten-fish bag limit, which actually is what the AP advised, because the AP advised for a ten-fish bag limit at 12 inches. That's not what we're saying.

We're also not allowing the bag limit to exceed ten fish. And that was the primary concern of the AP a long time ago, that you wouldn't be catching a whole

bunch of fish when they were about eight or nine pounds, and we would be protecting the breeder.

That is where this amendment started from. I was around for that, saw it go through the process, attended the AP meetings when they discussed it. Was does it mean to savings? It's going to make a huge savings. And right now are we exceeding F?

No, what the Technical Committee says that if we don't put more restrictions on that we could exceed -- we could exceed. We're not exceeding. We could exceed the 31 percent or the 32 percent, whatever the figure is now.

That's what they're saying. What we're saying is let's see what happens in two years. This is a four-fish reduction in New Jersey and Delaware. I mean, it's a simple fact. And it will basically have economic hardships on our states; yes, it will.

As a matter of fact, the Delaware Bay and the -- it's not only Delaware Bay, it's the Barnegat Bay, it's the Great South Bay, any of those in the southern end of the state will be affected by basically reducing bag limits or going to a size limit.

I don't want to go to a 12-inch size limit, but if you're leaving it from a seven fish to go to eight fish, then I'm better off going to a 12-inch size limit according to -- and my people might direct me to do that.

What I'm looking to do is stay at 14 inches, allowing those fish to spawn once or twice; and by going to ten fish, I can do that. I mean, the only reason we said eight fish was because we figure we're going to raise them when we raise the other one.

I have no problem if the states that want to stay at 12 inches are more comfortable with seven fish, then we would basically be willing to go to the seven fish. But that's what I'm looking for.

I'm looking to basically allow my state's -- because we really are the ones that are being penalized here. None of the other states that are basically in there are going to take the hit that New Jersey and Delaware are basically going to take on this plan.

So what I'm saying, we'll take a hit. We'll take a hit



by four fish. But let's look at it, come back and try to be fair to my people. Thank you for the patience.

CHAIRMAN COLVIN: Ernie Beckwith.

MR. ERNEST E. BECKWITH, JR.: Thank you, Gordon, a couple of comments here. First of all, I've heard a number of people saying we're not exceeding F, and I'm not really sure where we are with the stock size and the F.

I know there was the issue of a retrospective bias and I knew that Des and other people were working on it. Rob, could you give us an update on where we are with the best, latest estimate of F and stock size?

MR. O'REILLY: Well, the latest assessment is through year 2000, and it was a very low fishing mortality rate but, as you mentioned, when the committee looked back at the 1996 terminal F, they saw that increased about 72 percent over the time so the idea is there's retrospective bias.

The F is low no matter where you look, and the committee has tried to look at other situations, another model. ICA showed higher Fs than ADAPT but still under target. Vic Crecco ran a simpler way of looking at this issue through a relative exploitation, and his conclusions were that still we're somewhere around 0.3, maybe a little bit higher, somewhere in that range.

The spawning stock biomass is very high, over 100 million pounds for males and females combined. However, I did see, again, some work done by Jim Uphoff where he tried to look at the retrospective bias and put that in context of how it affected the spawning stock biomass.

There is definitely an increase but whether it's as large as is shown since 1997, at least Jim's conclusion -- and he introduced to the Technical Committee -- was that it may not have grown as much. These are slippery slopes right now.

The track record is that we had a very high F from 1994 that was given to you in 1996 as 1.87. F did fall. By the time the SARC looked at this species in 1998, the F was about 0.24. There were some concerns over the information we have.

We don't have commercial discards, so F is low. I mean, no matter where you look, we are close to the target. Spawning stock biomass is high. I think it remains to get 2001 in there, and the board just has to monitor like they always do, you know, the updates.

MR. BECKWITH: Gordon, I have a second part.

CHAIRMAN COLVIN: Just one thing I would like to point out, too, Ernie. When asked this question in the past, I think it's fair to say that Des has expressed, I don't know if concern is the right word, but it is pointed out to the board that there is some interest in the Technical Committee in understanding why both commercial and recreational landings have declined in the last two to three years, which is inconsistent with what we might assume would be going on as a result of the assessment. I think he has pointed that out to us very clearly in at least our last two board meetings.

MR. BECKWITH: Okay, the second part of what I was going to ask was this motion is a substitute motion and it's for a two-year period.

My question is what happens after two years; because the way I read this motion, there is nothing on the table after two years. We would have to start over with.

And let me just make my final comment and people can respond to that if they so choose. Yes, I think things probably look okay. We're not really sure where we are. I voted for the first substitute motion. It was a little bit of a stretch. Now we're stretching even farther, and I'm not sure where we are.

I'm not totally certain where we are in terms of the stock. It looks promising, but I'm not certain. And I'm not certain what this motion could do to the status of the stock, so I probably don't think I will support this motion.

CHAIRMAN COLVIN: Bruce, I want to ask you for the moment, please, would you just address Ernie's question with respect to what, if any, the intent of the motion is with respect to what would be in place at the end of the two-year period. I want to make sure we have a clear record on this point.

MR. FREEMAN: One is, as indicated, the motion just previous to collecting both lengths and age information, which is greatly lacking. One of the aspects that has been pointed out by the Technical Committee is a lack of very large fish.

Our information is, at least from our experience, that there is not a lack of large fish, but there essentially is a lack of otoliths and lengths for those large fish are simply not appearing, but yet we're seeing them easily taken both in the commercial and recreational fisheries.

But the issue is we're not sampling those fisheries. And based upon the information that we will be required to collect, I think we'll have an answer to some of the questions that are being posed. Let me just also --

CHAIRMAN COLVIN: I'd rather not just yet, Bruce.

MR. FREEMAN: All right.

CHAIRMAN COLVIN: I'll come back to you in a moment. I have other people who had their hands up first, but I want to get a record clear on this point. The record then should show that it is the intent of the motion not to impose any kind of a default creel limit at the conclusion of the two-year period.

Therefore, if this motion were to pass and be incorporated as it stands in Amendment 4, the board would have to create a new management program via probably a plan addendum in time to impose at the end of the two-year period embraced by the substitute motion. I want the board members to be clear on that point.

MR. FREEMAN: Gordon, two ways it could work. It's true, it could be done by an addendum. We have not used frameworks in the commission, although it's common in the council.

If we can derive some way at the end of two years without going through an addendum process, we could change the bag limit if in fact it's needed or necessary. I have no apprehensions about doing that, it's just that we haven't to date. But if there's some mechanism where we could simply make a statement

we would do that at that time without having the addendum process, that would certainly be satisfactory to us.

CHAIRMAN COLVIN: Well, Number 1, the motion doesn't create any such mechanism. Number 2, just discussing with staff, there is no mechanism available to the commission in absence of something stated specifically herein other than the addendum or the amendment process, so the assumption is that if this passes as it stands, that's what we're left with.

We're left with no measures after two years so we would have to create them. The only way to create them is either through an addendum or an amendment. That's why I wanted to get the record clear on this point.

MR. FREEMAN: All right.

CHAIRMAN COLVIN: Now, as I implied, a motion could be crafted that included a default, but that's not what we're looking at now.

MR. FREEMAN: Well, I'm just thinking of changing some words in there to make this motion do that. At the very second to last sentence, where it begins "period, after which the board would reevaluate and determine appropriate size and bag limits."

CHAIRMAN COLVIN: That doesn't change anything. That simply results in the same outcome that I just expressed, which is fine. I'm just trying to make it clear on the record what it does, not to challenge it, only to make sure that we all understand it. To that point, Susan.

MS. SHIPMAN: To that point. I think 4.6, which talks about the general procedures for the adaptive management, is what we would default to. It would have to be done by an addendum. I mean, it's very clearly spelled out here of what we would do after we evaluated this.

CHAIRMAN COLVIN: I'm back to my list. The next person is Anne Lange. No, you had your hand up while ago, Ann, before you went to the back of the room and came back. No. Okay, A. C.

MR. CARPENTER: The effect of this motion essentially puts a maximum creel limit of ten, and that is one of the subjects that was taken out to public hearing and a reasonable maximum creel limit, and I would just like the AP and perhaps Carrie to comment on the public's response to this ten-fish maximum up and down the coast before I vote on an issue that I haven't heard.

CHAIRMAN COLVIN: Carrie.

MS. SELBERG: A.C., I think you're misinterpreting that set of options. The maximum of ten fish doesn't mean up to ten fish. It means that anything above ten fish will be capped at ten.

MR. CARPENTER: Which this motion effectively does, sets a maximum creel limit of ten.

MS. SELBERG: However, the public was looking at it in relation -- for example, if you looked at Option Number 1 that went out to public hearing, coast-wide regulations, when I explained this to the public, the 12-inch minimum size, 13-inch minimum size, 14-inch minimum size, 15 and 16 all would remain the same as far as a four-fish bag limit, and then the only numbers that would change is the 12-fish bag limit and 15-fish bag limit at the minimum sizes of 17 and 18 fish would be capped at ten.

So you see the lower bag limits that all of those other minimum sizes, it just caps it at ten. And from that perspective there was support from the public for a ten-fish cap.

MR. CARPENTER: But that's exactly what this motion does. From 14 up, it sets it at ten fish.

CHAIRMAN COLVIN: Yes, it would have that effect, although that wasn't intended to address that issue.

MR. CARPENTER: It wasn't intended, and that's what my point. My question was what did the public say about that particular issue because the effect of this motion deals directly with that issue?

MS. SELBERG: It does cap it, but when the public looked at it, it was looking at a cap at the higher minimum sizes, at the 17- and 18-inch minimum size level, and it was with the expectation

that the lower bag limits would still be in place for the lower minimum sizes.

CHAIRMAN COLVIN: A.C., I think in effect the answer that Carrie gave suggests that the public may not have looked at it this way when they gave the answers they did, and it may not be helpful to you. Roy.

MR. MILLER: Mr. Chairman, since Option 5 did not go out to the public in time for comment, I'm torn with levels of discomfort. Frankly, Preston Pate's amendment gives me a small level of discomfort.

This particular amendment gives me a greater level of discomfort from the standpoint that the Technical Committee has not reviewed this particular option that New Jersey proposed, although the Technical Committee representative feels that they probably would not approve this particular motion as meeting the conservation intent of the plan, so it's a matter of increasing discomfort.

And the further we get afield from the Technical Committee representative's recommendations, the more discomforted I get.

CHAIRMAN COLVIN: Bruce Freeman.

MR. FREEMAN: My original comment was to the issue raised by South Carolina and Connecticut. If you look on page 5 of the draft plan, it essentially has a graph of the fishing mortality levels over time, since 1982 to 2000.

And the issue here is this motion will result in a reduced catch over what it is now. The fishing mortality, as demonstrated in Figure 2, is what is occurring now; considerably below target. As Rob O'Reilly indicated, the terminal F through the VPA for 2000, I believe, was 0.14.

Now assuming that terminal F is a low estimate, double that -- and the experience has been in the past it has gone up between 70 to 80-88 percent. But let's double it. Let's say it goes up 100 percent.

It will be 0.28, certainly less than 0.3, still considerably below the target. So the fear of exceeding the catch today simply doesn't exist at the

catches we're talking about.

The other point, if we look at Figure 1, go to page 4, spawning stock biomass, again, seeing an increase in the biomass, the biomass considerably above the 40 million pound threshold. We're up to almost 120 million pounds, three times that.

So people are concerned about collapsing the stock. With the information we have at hand, that simply is not a real issue at this point.

CHAIRMAN COLVIN: Tom Fote.

MR. FOTE: Again, it's perception and reality. Reality is that we're going to go -- we're putting a cap of ten fish. When we went out to public hearings, that's what the AP recommended, ten fish at 12 inches. What we're saying is 10 fish at 14 inches.

There is no place in this document that I can see that it will basically -- we are reducing the catch. Understand where we are right now. If you have a 16-inch bag limit, you have -- most states, you don't have to have a 16-inch size limit, you don't have to have a bag limit at all.

This will cap every state at a ten-fish bag limit so it's going to reduce the catch down from all those states that didn't have a bag limit. I would really like to see the success rate of what goes on, the difference between ten fish and eight fish.

I know what it is for summer flounder. I guess I'm a little lax in my homework here. I should have that success rate here because sometimes it's only minus that much difference, a very little difference between ten and eight fish.

But the perception to the public is that we are going from -- if I go down to eight fish, I am losing six fish of my current bag limit while other states are actually liberalizing their bag limits. That is what's going on there and that's a very difficult sell.

Whatever you look at, we're still going to save fish. I mean, I would amend this to, you know, the two-year limit that basically would say something to the effect that basically at that time, if this stock did not meet the requirements of the plan, that we were still

within the parameters of the plan, then we would be status quo.

If it did not, then we would have to do an addendum to the plan, so basically that's one way of addressing what Ernie's question was before. I mean, that's a simple -- if we found out that two years from now the Technical Committee which says -- you know, and two ways I'm looking at this, they're saying that they're concerned because the catch is going down.

So maybe that's the reason why the stock -- yet we're putting in more restrictions in size and bag limits to make sure the catch goes down. So then they'll come back in a year or two and say, well, see, I told you so, the catch went down.

I mean, that's what we wound up with bluefish when you basically wound it up on a catch, and we wound up reducing the commercial fishery on bluefish until now you're transferring from the recreational fishery because we're not sure what's going on.

I mean, that's my concern. And, again, you will have to go to your states and do what you have to do. I have to go to my state and explain why I'm receiving a four-fish reduction.

I think I can do that with the understanding that we're not liberalizing most states up greatly and we are restricting other states, and it is being done equally coast-wide.

That's the real perception, so it's being done fairly and equitably and giving us a chance to all doing this. I mean, it's easy for South Carolina and some of the other states that really -- as Preston said, don't really have a dog in this show. They don't have to go back and defend this.

That happens to be an important fishery in our state that many livelihoods depend on -- and it's not just Delaware Bay. Again, it's Barnegat Bay. It's also the Great South Bay. That's what I'm concerned about. Thank you for your patience.

CHAIRMAN COLVIN: I have Pat, A.C. and Roy.

MR. AUGUSTINE: Thank you, Mr. Chairman. I seconded this motion because I wanted to get an idea as to where we were coming from and

going to.

The response I have from the Technical Committee early on in this discussion made me give second thought to my seconding it for discussion purposes, but I think it accomplished what I was hoping to have accomplished.

It appears it may be a good approach; however, it doesn't appear that it will meet the requirements of the plan and what we're trying to accomplish. Similarly, comments that were made around the table relative to moving the six-fish bag limit to a seven-fish bag limit, as we did in the previous motion, raised some consternation and concern.

It just appears at this particular point in time I have two options. One would either be to withdraw my second; or, secondly, would be to call the question, so whichever is the best way to address this issue, I would like to go forward with that.

CHAIRMAN COLVIN: Well, I'm not ready to take the question, Mr. Augustine, so if you would prefer to withdraw your second, we can do that.

MR. AUGUSTINE: Yes, I would like to withdraw my second at the moment.

CHAIRMAN COLVIN: Is there a second to the motion? There is a motion to amend the main motion via the substitute motion. Is there a second to the substitute motion? I see no second to the substitute and the chair rules that the motion is defeated for a lack of a second. Mr. Goldsborough.

MR. WILLIAM GOLDSBOROUGH: Mr. Chairman, would another substitute motion be in order at this time?

CHAIRMAN COVLIN: Well, where we are is we are back to the main motion as amended, and that question is before the board; and if it is the intention of any board member to offer further amendments or substitutes, they would be procedurally in order at this time.

MR. GOLDSBOROUGH: In that case I would like to offer a substitute motion and ask the board's indulgence with the exact wording so that what I'm about to put on the table can be worded in

such a way that it would be an appropriate substitute to the main motion.

Where I think we are in this discussion, to find a solution that's as workable as possible for the needs of the various states and yet as close as possible to the technical guidance that we have gotten would be a 12-inch minimum size and a seven-fish creel in North Carolina South and a nine-fish creel and a 14-inch minimum size from Virginia north.

Recognizing there is some discomfort with drawing a line, the Technical Committee actually has indicated that if you were to do, that would be the most biologically defensible place to do it.

And yet while this is somewhat liberal relative to our technical guidance, it's I think acceptable given the flexibility therein that we've heard, so that's what I'd like to offer, Mr. Chairman.

CHAIRMAN COLVIN: We are offered a substitute motion by Bill Goldsborough. Bill, I'm going to ask, I'm going to actually ask that we take about a two-minute break and maybe you can get with Tina and try to get that up on the screen consistent with your ideas, but let's just try to hold this to just a couple of minutes while Bill does that.

(Whereupon, a recess was taken.)

CHAIRMAN COLVIN: Let's reconvene, please. While we were on break, the proposed substitute motion has been wordsmithed a little bit further and so the further revisions are still going up. Bill, do you want to address the adjustments that have been made to the substitute motion while we were on break?

MR. GOLDSBOROUGH: Yes, Mr. Chairman. Roy Miller came up with what essentially amounts to a friendly amendment to the substitute motion, but my motion was putting a little bit of priority on geographic uniformity, and Roy's compromises that objective a little bit to achieve a little more state's choice or flexibility of choice, and I'm willing to make that compromise and accept the friendly amendment.

CHAIRMAN COLVIN: All right, Bill, can I ask you to read that, then, please, for Joe, as it's up on the screen.

**MR. GOLDSBOROUGH:** Move to substitute the main motion by modifying the table with a 12-inch minimum size limit and seven-fish creel; 13-inch minimum size limit and eight-fish creel; 14-inch minimum size limit and nine-fish creel; 15-inch minimum size limit and ten-fish creel; 16-inch minimum size limit and ten-fish creel. That's the motion, Mr. Chairman, and noting that this is consistent with the maximum size limit or maximum creel limit of ten which was offered to the public and widely supported.

CHAIRMAN COLVIN: Thank you. Seconded by Roy Now we have a new substitute motion. Discussion on the new substitute motion? Tom Fote.

MR. FOTE: I wish to thank the board for its indulgence. I think New Jersey can live with this motion. I'm going on the record saying we could. It basically puts it more fair and equitable.

Yes, we're going to cut back in New Jersey and we'll do that. We're a big harvester of the fish. But at least it's coast-wide and it's the same bag limit up and down the coast. So we in New Jersey, as far as I can see, I can support this motion.

CHAIRMAN COLVIN: Gil.

MR. POPE: I'm just curious as to why it stops at 15 and 16. I realize the ten fish, but in a way that stops the conservation equivalency at 15 inches.

We've been at 16 for a long time, and we're now going to have to go into a situation where we're no longer going to be de minimis so we're going to have to start looking for -- later on in the document in 4.1.1, I think it talks about conservation equivalency.

I realize that there's a call coast-wide for a ten-fish limit, but at the same time what ends up happening is say we would like to go to 17 or 18, which might be good for the fish; there may be no good reason at all to be going any higher than maybe 15 as far as how many times a fish is going to spawn, but we need to know -- on conservation equivalency I'd like to know the reason why it would stop here at 15. Is it just because of the ten-fish limit or is that even really

important? Thank you.

CHAIRMAN COLVIN: Anne Lange.

MS. LANGE: I'll defer to the Technical Committee on how correct I am, but if Option 5, as written and evaluated by the Technical Committee just barely meets the target, how can adding an extra fish at each of the smaller sizes, 12 to 14, meet the goal? I mean, to me this looks like it's not going to.

MR. O'REILLY: In reading the table, what I see is what is barely met is the 12-inch with six fish. What's indicated there is that it's a 30.9 percent reduction. There is not information as to where seven, eight, ten and twelve fall out.

I don't have those percentages in front of me. My assumption would be that seven, eight, ten and twelve are falling out very close to 32; because the adjustment that was made by the conference call, after our first conference call, was to adjust from the twelve and the four.

And from 38 percent down to 32 percent, five gave you more than enough; six gave you a little less than 32, so I can't tell you definitively but I suspect seven, eight, ten and twelve on the bag limits or the creel limits for the corresponding sizes do meet the target.

Now the other thing I could point out would be that it hasn't been looked at, but you can certainly see that there has to be some gains associated with a ten-creel limit at 16. Is it enough to offset the losses that you would get with an extra fish at 13 and 14; I don't know.

CHAIRMAN COLVIN: Follow up, Anne?

MS. LANGE: Yes, just briefly, how often are more than ten fish at 16 taken? Is it restrictive now at all; at this point in the population?

MR. O'REILLY: Yes, but to the extent we don't know. Jim Uphoff, after our last phone conference in early November, he had started to explore number of fish in the creel. I don't have that information with me. I can tell you that my recollection is that it was on a state-by-state basis. Virginia and North Carolina were excluded because they have split options.

Lou Daniel may have this information, as well, at hand, but I believe New Jersey, if they went to what was proposed in the earlier option, there was concern about a 65 percent reduction. I think the actual reduction for fish in the creel was more on the order of 28 percent.

Maryland's, if they had to follow suit, would have been a 5 percent reduction. And, of course, New York was listed as no reduction because New York has been at 16 and six probably for a dozen years.

So we haven't pursued fully that information, but we have started and, yes, there are some fish above ten. To what extent I can't tell you.

CHAIRMAN COLVIN: Bill Goldsborough.

MR. GOLDSBOROUGH: I just wanted to answer Gil's question, Mr. Chairman, as to why this motion stops at 16 inches, and that's simply because all this is, is an offering of substitute creel limits for the table in Option 5, which stops at 16 inches. And, of course, Table 5 was the object of the main motion for which this is a substitute.

MR. COLE: Rob, when you go back and look at Option 4, which has a seven at 12 in part of the range and seven at 14 in the northern area -- now I recognize that the amendment we're looking at does not have a north-south split, but basically to me if Option 4, which has certainly a little more -- has an equal harvest at 12 inches and a little more conservative harvest at 14 was, as the Technical Committee says, slightly risky, then would not the way the table would be reconfigured with this amendment be likewise risky?

MR. O'REILLY: Yes. But, again, the only thing I can't tell you is how risky. In other words, if we knew -- I know how much six fish at 12 inches is. It's slightly risky because it's under the 32 percent. We don't have the percentages for the other, but relative to 4, yes, Option 4, yes.

CHAIRMAN COLVIN: Bruce Freeman.

MR. FREEMAN: The issue is raised over what impact would occur in the larger fish. Let me just indicate that the major fishery in New Jersey is

in Delaware Bay, both for small fish and there is a spring-summer fishery for large fish.

Most of the large fish fishery occurs at night. That is not sampled by MRFSS. Those people go out on the water after dark. They return after dark, often leaving at 9:00-10:00 o'clock at night and getting back 2:00 or 3:00 in the morning.

That fishery is predominantly for large fish. It is not sampled by MRFSS, so is there an impact? From our information, definitely an impact. To what degree, we cannot tell but we will be doing sampling on our recreational fishery to collect the information as to the size of the fish.

Just based on our information of understanding the fishery, there definitely will be a decrease in the harvest of larger fish. But that's the difficulty with the MRFSS, it does not sample the fishery as it exists.

CHAIRMAN COLVIN: Paul Diodati.

MR. DIODATI: Mr. Chairman, even though this motion, if it passes will require Massachusetts to change its regulations and decrease down to ten fish, I'm willing to support this motion, even though we've -- and I envy the incredible amount of discretion and flexibility that the board has shown our partners on this particular action.

But I'm willing to support this motion because I want to support my partners in New Jersey who seem to be willing to live with this motion; my good friend from North Carolina who also gets a little something out of this motion --

CHAIRMAN COLVIN: There is no black sea bass discussion scheduled for this meeting, sir. (Laughter)

MR. DIODATI: And I notice that as the size limits go up, the numbers of fish increase. I like that concept. It's a basic concept in fisheries biology that we'll be visiting again in February with another species. I'd like to move the question.

CHAIRMAN COLVIN: If not in December.

MR. DIODATI: I'd like to move the

question.

CHAIRMAN COLVIN: Actually I had Tom Fote's hand up for a while.

MR. FOTE: Rob, we keep talking about tables and charts. Realistically, I'm looking at if you have a bag limit of seven fish at 12 and a bag limit at eight fish at 14 because that's what -- if we don't pass this motion -- and New Jersey goes, instead of going for an eight-fish bag limit -- I'll just leave it at that.

CHAIRMAN COLVIN: We'll take that as no question, just a rhetorical question, Tom. Gil Pope.

MR. POPE: Thank you very much. And to Paul's point and to the point that I was trying to get across earlier is that if you end it at ten fish, you've ended conservation equivalency on anything over 15 inches basically is what you've done, because then all of a sudden at 16 it's ten; 17 it's ten; 18 it's ten.

So, in other words, if we wanted to go with something to where we wanted to have it bigger, it would still stop at ten. And, from what I understand in talking to Rob, there is also not going to be conservation equivalency allowed in the commercial fisheries as well, if I got that right. Did I get that right?

MR. O'REILLY: I think all I was letting you know was that Rhode Island would need to implement some type of seasonal closure and also gear restrictions as the other states have. That's all I was indicating.

MR. POPE: Yes, and I have no problem with that. I'm just talking about 4.1.1, which is right below, where we're headed here, states that, "however conservation equivalencies for minimum fish sizes larger than 12 inches will be allowed."

I'm just saying that if this motion passes, that anything above 15 is -- in other words, conservation equivalency ends at 15 inches, and is that the intent of the motion?

CHAIRMAN COLVIN: Yes, the effect of the motion. Anything further from the board? We'll go to the public. Bill, you've been very patient.

Thank you.

MR. WILLIAM WINDLEY: Thank you, Mr. Chairman. In your package you will find a position paper that the RFA provided you, and I'm, to much to everyone's relief, not going to read that to you today.

I would like to point out that we did take this paper to all of our chapters coast-wide and had it voted on. The amendment that's currently on the board is very close to the one that they ratified at all of the chapters coast-wide so I would just like to add that the RFA would strongly support the amendment that is currently before the board. Thank you.

CHAIRMAN COLVIN: Thank you, Bill. Any other public comment on the motion, the substitute motion? Yes, sir.

MR. BRUNO VASTO: I'm Bruno Vasto. I'm the president of the Maryland Saltwater Sports Fishermen Association and I would go along with the same thing as Bill has said from the RFA. We could live with this very easily. Thank you, sir.

CHAIRMAN COLVIN: Thank you. Any further public comment? Seeing none, I will ask the board, are you ready for the question? Let us take one moment to caucus, please.

(Whereupon, a caucus was held.)

CHAIRMAN COLVIN: I think we're ready. All in favor, please signify by raising your right hand; opposed, same sign; abstentions; null votes. The motion carries.

That motion substitutes the new motion for the main motion. We are now to vote on the new main motion which we just substituted. Is there any further discussion on the main motion? Bill.

MR. GOLDSBOROUGH: I just want to note, Mr. Chairman, that my personal willingness to offer and support something that was slightly more liberal than the option that had been constructed by the PDT and Technical Committee was that I was, frankly, swayed by arguments around the table, particularly from New Jersey, that the circumstance we're in right now very likely does allow us more



flexibility with the stock at this time. Thank you, Mr. Chairman.

CHAIRMAN COLVIN: Thank you. Is there any further comment on the motion as amended? Melvin.

MR. SHEPARD: Let's call the question, Mr. Chairman.

CHAIRMAN COLVIN: The question having been called and no objection being noted, is there need to caucus or did we just do that? It looks like we're all set.

All in favor of the motion, please signify by raising your right hand; opposed, same sign; abstentions; null votes. The motion carries. All right, Carrie, so much for that, we're on to the next issue.

The next issue is the location of a border between the North-South split. I believe that the effect of the last motion was to make that moot and unnecessary for further consideration at this time.

I see the board members nodding in agreement so we're on to -- the next issue is the reasonable maximum creel limit, which I believe the last motion also rendered moot and therefore we are on to multiple creel limit/minimum size combinations within a state.

It is not moot, I believe. It's not moot; it's still an available option, I believe. How so, Gil?

MR. POPE: Thank you very much. Even though we voted for the motion and it stayed 16 inches at ten, it doesn't talk about 17 inches. It doesn't talk about 18 inches. It doesn't talk about 19 inches.

It didn't say "16 and above", so it's 16 at ten with the presumption that later it was going to be 16 and above at ten inches, which it doesn't say.

CHAIRMAN COLVIN: Roy.

MR. MILLER: To address Gil's concern, my resumption was that just as all the other options tables were constructed, the larger size limit constituted the bag limit that would follow for --

well, I'm not phrasing this correctly. With a creel limit of ten, any size limit greater than 16 would also have a creel limit of ten.

MR. POPE: Then we should go back and say that's exactly what we mean and not what we intended later.

CHAIRMAN COLVIN: I'm going to look to Bill Goldsborough and ask with respect to the motion, as the maker of the motion, was it the intent that the options at the top end of the size range be 16 inches and higher, Bill?

MR. GOLDSBOROUGH: Yes, Mr. Chairman. As I indicated, a consistency with the reasonable maximum creel limit of ten, that would have been the intent.

CHAIRMAN COLVIN: Now, that being the intent of the motion, let me ask at this point whether it is sufficient for the purposes of our record, for the record now to reflect that is in fact how the creel limits for size limits at 16 inches and above would be reflected and represented in the final version of Amendment 4.

We can make a motion on this or we can agree that's what we just did. Is there objection to proceeding as I just outlined and tabling all size limits 16 inches and higher at a maximum creel limit of ten? You object? Then let's make a motion; let's make it clean. Pat Augustine.

MR. AUGUSTINE: So moved. I mean, I would like to go back to Bill Goldsborough's motion and -- can we do that or do you want a fresh motion?

CHAIRMAN COLVIN: I want a new motion.

**MR. AUGUSTINE: Okay, move that we apply a creel limit maximum of ten on all fish in excess of 16.**

**CHAIRMAN COLVIN: Or 16 inches and higher, I believe.**

**MR. AUGUSTINE: And higher, yes.**

MR. SCHWAAB: Second.

CHAIRMAN COLVIN: Seconded by Eric Schwaab. Discussion on the motion. Is there objection to the motion? The motion carries with one no vote. Tom.

MR. FOTE: Going back to the next option that we were just about to discuss, I don't think it's clear whether we can have two size limits in the state. I had been thinking about it that where I could basically have a 12-inch size limit in the Delaware Bay and a 14-inch size limit in the Raritan Bay so I would make a motion because Law Enforcement, Rob Winkel, will beat me over the head all times.

CHAIRMAN COLVIN: Not ready for a motion yet, Tom. First we've got to let Carrie tee it up and get the AP recommendation. That's okay, I appreciate trying to move us along. Pete.

MR. JENSEN: A question. Have we moved by the reasonable creel limit, maximum creel limit?

CHAIRMAN COLVIN: We just did.

MR. JENSEN: Well, I know but I think we probably should not because unless you make the assumption that you can make changes under adaptive management under some other part of the plan, then we should not ignore the statement in Option 1 that says it can be adjusted in the future under adaptive management based on changes in catchability. That's a fairly specific statement that we should not move by lightly, I don't think.

CHAIRMAN COLVIN: Pete's point is well taken. The maximum creel limit issue could in fact, if Option 1 were adopted, be adjusted in the future to have a lower maximum creel limit than ten.

MR. JENSEN; Yes, otherwise, we find ourselves in the same situation we discussed earlier; and that is if we want to change it, we might need an addendum. I think if we can adopt this; that precludes that possibility.

CHAIRMAN COLVIN: Okay, go ahead, Joe.

MR. PATE: Mr. Chairman, while he's doing that,

could we put the previous motion back up on the screen, please.

CHAIRMAN COLVIN: You mean Bill Goldsborough's motion?

MR. LYNCH: The one that Pat Augustine just made.

CHAIRMAN COLVIN: Yes.

MR. PATE: It seems to me that speaks to Option 1 and substitutes the language in Option 1 with a clear ten-fish cap and doesn't offer the opportunity to adjust it in the future under adaptive management.

CHAIRMAN COLVIN: Okay, let me see if where we are then. Where we are is that unless we take further action under Option 1 as it is stated in the public hearing draft, the motion we just passed prevails and there is no adaptive management based adjustment possible so we're talking about a plan amendment, right, except that bag limits are on the list of adaptive management measures categorically, so I suspect taking further action here is moot. Are you convinced, Pete? Okay. Multiple creel limit-minimum size combinations within a state, Carrie.

MS. SELBERG: Under Amendment 3 some states have elected to have multiple creel limit-minimum size options within their state. For example, a state could have a different creel limit-minimum size combination in different areas of their state, different seasons, or allow their anglers to choose on any given day.

Draft Amendment 4 asks the board to clarify if this is allowed seasonally, by area or by angler choice. Option 1 for each of them indicates that this is allowed to have different combinations; and Option 2, for each of these indicates the states may only have one creel limit-minimum size combination in their state. I believe there's both AP and Law Enforcement input on this measure.

CHAIRMAN COLVIN: Yes, there is. Wayne, could you give us the AP real quickly.

MR. LEE: Yes, Mr. Chairman. Under the seasonal choice there, the majority of the AP recommends Option 2, states may have only one

combination. A minority recommended Option 1. The minority spoke in favor of flexibility for states while the majority felt it led to confusion.

Under the area option, the AP was evenly divided between the two options. Under the angler choice, the AP recommends Option 2, states may have only one combination, and expressed concerns with angler's culling.

CHAIRMAN COLVIN: Thank you, Wayne. Joe Lynch, Law Enforcement Committee.

MR. LYNCH: Thank you, Mr. Chairman. Under seasonal, the preferred law enforcement option is Option 2, simple for officers, public, and the courts to understand and support. Option 1 was not preferable.

Law enforcement has experienced public confusion, officer confusion, very little support in the judicial system for these types of splits. It requires extensive public relations and education campaign to gain compliance and acceptance from the public and from officials.

On the area, Option 2 was the preferred law enforcement option. Option 1, very difficult to enforce as areas are often adjacent to one another. Officers must prove where the fish were caught.

Courts generally have a difficult time with convicting someone under these rules. Officers will not write violations unless they can prove the area of origin.

And under angler choice, again, Option 2 was the preferred law enforcement option as it is simple for all to understand and accept. Option 1, the committee feels is very difficult to enforce, requires further regulations to describe where the creel would be kept, different rules for two or more persons fishing together, whether they're on a boat, a dock, a shoreline, et cetera. May be confusing and would require extensive public relation and education initially.

CHAIRMAN COLVIN: Thank you, Joe. What I'd like to do is take these issues in sequence and would look for a motion first on the seasonal options.

**MR. CUPKA: Mr. Chairman, I'd like to make a motion that we adopt Option 2 under the seasonal.**

CHAIRMAN COLVIN: Moved by Dave Cupka; seconded by Susan Shipman. Discussion on the motion? Seeing no discussion, is there objection to the motion? The motion carries. Is there a motion on the area? Pat Augustine.

**MR. AUGUSTINE: I move that we adopt Option 2 under area, states may only have one creel limit-minimum size combination.**

CHAIRMAN COLVIN: Seconded by Bill Goldsborough. Discussion on the motion? Tom Fote.

MR. FOTE: The only reason I'm asking this question is I was going to make the motion, but I was thinking of Maryland and I wanted to make sure that Maryland doesn't have a problem with the ocean fishery and the bay fishery. That's the only question I have or concern because I know in certain species they do have a problem like that.

CHAIRMAN COLVIN: Is there further discussion on the motion? Are you ready for the question? All in favor, please signify by saying aye; opposed, same sign; abstentions; null votes. The motion carries. Angler choice. Pat.

**MR. AUGUSTINE: Thank you, Mr. Chairman. I move that the board adopt angler choice Option 2, states may only have one creel limit-minimum size combination.**

CHAIRMAN COLVIN: Second, Dave Cupka. Discussion on the motion? Is there objection to the motion? Without objection, the motion carries. Thank you and we're on to the next one, Carrie.

MS. SELBERG: Okay, we are now moving to Section 4.2, which is the commercial management measures. I will be beginning in Section 4.2.1 dealing with bycatch. Under bycatch there are several different sections.

The first set of options looks at overall bycatch allowance or a sliding scale for bycatch. There are four options. The first is status quo, which is an

absolute amount of 150 pounds.

The second is to increase bycatch. It's an absolute amount of 300 pounds. The third is a sliding scale of bycatch which would be 10 percent of the catch per trip up to 150 pounds. And, finally, a sliding scale, 10 percent up to 300 pounds.

CHAIRMAN COLVIN: Thank you. Wayne, can you help us with the AP recommendation.

MR. LEE: Yes, Mr. Chairman. The AP was divided between Option 1, 150 pounds; and Option 2, 300 pounds. Those in support of Option 2 did not believe the increase would lead to a directed fishery, expressed concern with regulatory discards and felt an increase would lead to more information on bycatch for the Technical Committee.

Some in support of Option 1 did not feel that the commercial bycatch should be increased while the recreational fishery is facing reductions. The AP does not support a sliding scale of bycatch for reasons, including people may waste resources by catching fish they do not want to increase the weight of their landings.

CHAIRMAN COLVIN: Thank you. Joe, law enforcement.

MR. LYNCH: Option 1 and Option 2 were both considered reasonable to enforce. That's the status quo or the increase to 300 pounds. Option 3 and Option 4, the sliding scale of bycatch up to 10 percent of the catch not to exceed 150 or 300 pounds, respectively, these would both be difficult to enforce, would require officers to know or obtain the total weight of the catch if under 1,500 or 3,000 pounds, respectively.

Officers are not equipped to do this unless they use landing information from the buyer which may or may not be available without a warrant. Options also restrict enforcement to dock-side only.

Enforcement would also recommend that language be present in the plan to ensure that bycatch does not become the targeted species.

CHAIRMAN COLVIN: Thank you. Do I have a motion? Jack.

**MR. TRAVELSTEAD: Mr. Chairman, I would move Option 2, an increase in bycatch by an absolute amount of up to 300 pounds;** the reason being that we know biomass is now substantially higher than it has been.

We've already heard one report from a captain at the beginning of the meeting that bycatch is a problem. I don't believe that this insignificant increase would cause any harm for the stock.

CHAIRMAN COLVIN: Moved by Jack Travelstead; seconded by Pres Pate. Discussion on the motion? Melvin Shepard.

MR. SHEPARD: Mr. Chairman, I'm wondering if the maker of the motion would allow a friendly amendment that would say something to the extent to cover what Captain Ruhle said, that maybe there can be a 1 or 2 percent allowance of undersized because we --

CHAIRMAN COLVIN: That comes up later.

MR. SHEPARD: Does it come up? I'm sorry, I wanted to make sure he was covered. Thank you.

CHAIRMAN COLVIN: Is there further discussion on the motion? Bruce Freeman.

MR. FREEMAN: Although it doesn't indicate in this particular motion at 300 pounds, I would like it to be specific to not only a trip but a day.

There may be a situation where people could take advantage of 300 pounds by going out a short distance from the harbor, catching 300 pounds, bringing it in, going back out multiple trips as long as it's -- most vessels would deal with it on a trip basis, and there would be no problem, but I don't want to see that abused so that the motion would be interpreted as a trip limit, and there would only be one trip per day.

CHAIRMAN COLVIN: Bruce, the language in 4.2.1 now refers to any one day or trip, whichever is the longer period of time. Does that address your

concern? Thank you.

MR. FREEMAN: Yes.

CHAIRMAN COLVIN: Roy.

MR. MILLER: Mr. Chairman, I'm thinking about our own fisheries during our mandatory closure periods which take place in the months of May and June, and that's how we're meeting the intent of the previous amendment with commercial reductions.

We're primarily a gillnet fishery state. If our fishermen are allowed to keep 300 pounds, if they're purportedly setting that for bluefish or croaker or spot or what have you, the definition of a directed and non-directed fishery becomes very fuzzy for us, and I'm not sure if this will not erase the benefit of the closure days that we currently have in place.

CHAIRMAN COLVIN: Tom Fote.

MR. FOTE: After what Roy says, I have the same kind of problem because a lot of us, a lot of the trips are very short, outside the inlet and back in the inlet, and there's not a lot of gas because it's mostly a gillnet fishery, so now it becomes a directed fishery.

And for 300 pounds it's worth going out to do that. The other concern, again, is we were concerned about the stocks and, yes, I know this is not going to be any great increase, but as we're cutting back bag limits and size limits on the recreational side to basically do more restrictive, even though the perception out there is we're basically increasing the commercial bycatch and allowing other loopholes in there, that's why in my state, most of the comments we've had, would only support the 150, status quo. Thank you.

CHAIRMAN COLVIN: A. C.

MR. CARPENTER: Well, I'd like to remind Roy that even if the plan allows 300 pounds, the state can always be more conservative and you can stay at 150.

For example, we only allow the bycatch provision to those pound netters using cull panels. There is a zero tolerance for the pound netters with no cull panels. We enforce that regulation right now on the

Potomac.

MS. SHIPMAN: Did I understand you to say that the wording that's up in the paragraph would be inserted here where it would say "per day or trip, whichever is longer"?

CHAIRMAN COLVIN: I think what I'm suggesting is that statement up in the paragraph governs the applicability of whatever option is selected, ultimately.

MS. SHIPMAN: So if it is a multi-day trip, is it still a trip limit of 300 pounds?

CHAIRMAN COLVIN: That's correct.

MS. SHIPMAN: Okay. I just wanted to make sure. I wouldn't want to see multi-thousand pound trip limits.

CHAIRMAN COLVIN: No, no. That's the intent. Bruce Freeman.

MR. FREEMAN: My comment was the same as A. C.'s. You could essentially -- a state could have something more conservative. The plan sets the limits for the maximum, but anything less than that a state could put in place.

CHAIRMAN COLVIN: Melvin.

MR. SHEPARD: Mr. Chairman, on this issue of directed fishery, what happens now in a gillnet fishery is these fish are caught; and unless they come ashore and be counted, we never see them and never know what the count is.

Generally in the gillnet fishery in North Carolina, as these fish come aboard, they've been out several hours overnight when the water is cold enough and/or they're coming across a reel to be shucked out as they come across the reel and don't survive.

My personal reason for wanting to see this in here is I want to account for what we're doing; and without this, I don't believe we're going to account for what we're doing.

CHAIRMAN COLVIN: Any further comment on the motion? Seeing none, we're ready for the question. Do you need a moment to caucus?

I think we do.

(Whereupon, a caucus was held.)

CHAIRMAN COLVIN: Ready to go? Will all in favor, please signify by raising your right hand; opposed, same sign; abstentions; null votes. The motion carries. And we're on to options for commercial hook-and-line.

MS. SELBERG: We're still in Section 4.2.1, the bycatch section, but moving on to options for commercial hook-and-line. There are three options.

The first is status quo, which is at no time will the commercial hook-and-line fishery be permitted any bycatch allowance of weakfish during any otherwise closed season.

The second, the commercial hook-and-line fishery is permitted the same bycatch allowance of weakfish as other gear types during the closed season.

And, finally, the commercial hook-and-line fishery is permitted a bycatch allowance of 20 percent of their total landings in weight per day, not to exceed 150 pounds during a closed season.

CHAIRMAN COLVIN: Thank you. Wayne, the AP recommendation.

MR. LEE: Yes, Mr. Chairman. A majority of the AP supports Option 1, status quo, with a minority supporting Option 3. Some of the AP members supporting Option 1 believe that this is a bycatch allowance and not closed season allowance.

Members in support of Option 3 believe that these commercial fishermen should have an opportunity to be a part of the fishery during the closed season and this option allows this in a limited manner.

CHAIRMAN COLVIN: Joe, did we have a comment from law enforcement I think on this?

MR. LYNCH: Yes, Mr. Chairman. Option 1, the status quo is enforceable. Option 2, same bycatch as other gear types, it's enforceable regardless of whether it's in pounds or number of fish; however, law enforcement does not believe there is a need for bycatch in a fishery where fish can be released immediately back to the water.

Option 3, bycatch allowance of 20 percent by weight not to exceed 150 pounds, we feel it's difficult to enforce, requires additional time to conduct an inspection as well as the purchase of equipment; for example, scales and containers to separate and calculate bycatch.

CHAIRMAN COLVIN: Thank you. A motion. Pat Augustine.

MR. AUGUSTINE: Thank you. All that having been said, I would still move that the board adopt Option 3, the commercial hook-line fishery be permitted a bycatch allowance of 20 percent of their total landings in weight per day not to exceed 150 pounds during a closed season.

CHAIRMAN COLVIN: Is there a second to the motion? Is there a second to the motion? The motion fails for lack of a second. Pres Pate.

**MR. PATE: Thank you, Mr. Chairman. I'd like to move adoption of Option 1.**

MR. BECKWITH: Second.

CHAIRMAN COLVIN: Seconded by Ernie Beckwith. Discussion on the motion. There's no discussion on the motion? We'll take the question. All in favor, please signify by raising your right hand; opposed, same sign; abstentions; null votes. The motion carries. Options for the southern penaeid shrimp fishery.

MS. SELBERG: There are five options under this section. This was put in to clarify the language that was in Amendment 3. The first option is at no time will the shrimp fishery be permitted any bycatch allowance during a closed season.

The second is at no time will the shrimp fishery be permitted a bycatch allowance. The third, the shrimp fishery is permitted the same bycatch allowance as other gear types.

The fourth is permitted 150 pounds of weakfish as bycatch allowance; and, finally, possession of weakfish aboard a shrimp vessel is limited to the state's per person creel and size limits with no sale allowed.

CHAIRMAN COLVIN: Thank you. Wayne, the recommendation from the AP.

MR. LEE: Yes, Mr. Chairman. The AP recommends Option 4, that the shrimp fishery is permitted 150 pounds of weakfish as bycatch.

CHAIRMAN COLVIN: And I don't think we have a law enforcement recommendation, do we Joe?

MR. LYNCH: That's correct, Mr. Chairman.

CHAIRMAN COLVIN: Do we have a motion from the board on the penaeid options? I have to ask you guys, is there a penaeid fishery other than the shrimp fishery? I was just curious why we had to call it both. Susan.

MS. SHIPMAN: I have a question. I assume along with this is that -- well, I guess that's in the next motion with regard to the size of the fish.

**Well, I would move adoption of Option 4 and I'd be glad to state my rationale if you'd like.**

CHAIRMAN COLVIN: Okay, seconded by Dave Cupka. Susan.

MS. SHIPMAN: I think in order to be consistent -- obviously, this is a net fishery. You've got bycatch; it's dead. This is very different from the hook-and-line fishery where, as we just said, you can release it overboard alive.

These fish are dead, and we might as well be consistent with the pound net fishery and allow them to land them. And if a state wants to be more restrictive and we have the bycatch reduction devices, that's fine, too.

CHAIRMAN COLVIN: Further discussion on the motion? Vince.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: I don't see the same description of whether this is a trip or a day that we had in the other bycatch discussion.

MS. SHIPMAN: That is an excellent point

and I would amend my motion to add that language in, if it's in there.

MS. SELBERG: I believe, because it's in the same section -- we can clarify that to make sure, but it's still within the same bycatch section underneath the same paragraph.

MS. SHIPMAN: Per day or per trip, whichever is longer.

CHAIRMAN COLVIN: And that's consistent with the intent of the mover. Paul Diodati.

MR. DIODATI: Just a question, is that fishery -- did you say it employs bycatch reduction devices for groundfish, like a grate?

MS. SHIPMAN: Very much so. And our fishery, multi-million dollar shrimp fishery, and they would tell you they have suffered tremendous economic strife because of bycatch reduction devices.

CHAIRMAN COLVIN: Roy.

MR. MILLER: Just a question directed to Susan. Susan, for the purposes of the next section that we're going to vote on, do you consider a shrimp trawl the same as a weakfish trawl?

I assume you don't, so what I'm getting at would any size limit we imposed on the trawl fishery also apply to bycatch landings from the shrimp fishery?

MS. SHIPMAN: I don't know that it would because I don't -- I'd have to defer to the fish trawl areas. We don't have fish trawling down our way, it's simply a shrimp trawl.

The fish trawls, I don't know that they're required to have the bycatch reduction devices. I really couldn't comment on that. I was looking at the shrimp trawl fishery in my motion.

CHAIRMAN COLVIN: Pres.

MR. PATE: Thank you, Mr. Chairman. They are two separate issues. The considerations for the southern penaeid shrimp fishery were for 150 pounds of legal-sized fish that could be landed and

sold. The next one is for consideration of undersized -- a tolerance for undersized fish to be landed, if that helps.

CHAIRMAN COLVIN: That's my sense of it, too, how we intend to proceed. Roy.

MR. MILLER: May I follow up with another question? Should there be a minimum size on weakfish that are landed as bycatch in the shrimp trawl fishery?

MR. PATE: It's 12 inches. It would be whatever size limit there is in the state.

MS. SHIPMAN: Which in Georgia is 13 inches.

CHAIRMAN COLVIN: Anything further on the motion? Are you ready for the question? We have comments from the public. Dick Brame.

MR. BRAME: Dick Brame with CCA. I just feel compelled -- and this may go back to my old hat when I was executive director of CCA North Carolina. The first one which you have already passed, the 300 pounds, we would be much more comfortable with this if there was some way to say that they could have 150 pounds of weakfish in the shrimp fishery if they had shrimp on the boat.

We had a case in North Carolina where we had the area closed to flynetting and we had a group of guys say they wanted to go shrimping in the closed flynet area. And they whacked a bunch of weakfish.

You know, surprisingly, I don't know how it happened, they didn't have any shrimp in the net, and it was legal. So, on the first one where you have a 300 pound bycatch, I wish there was some way you could say in a general sense you have an equal amount or some -- I don't know how you would do it for law enforcement but you could -- in the first one you can go out and target in a closed season 300 pounds of fish under what you wrote and a shrimp fishermen could -- 150 pounds is probably not enough for them to target, but they could target these fish in Pamlico Sound and not catch a single shrimp. I just wanted to raise that issue.

CHAIRMAN COLVIN: Thank you, Dick. Yes, Pres.

MR. PATE: Mr. Chairman, we did fix that problem. We have defined "bycatch" in the shrimp fishery as the requirement that you have at least as many pounds of shrimp on board as you do fish in order for it to be considered a bycatch fishery for the purposes of limiting the landings of weakfish.

CHAIRMAN COLVIN: That's your state regulation, correct, Pres?

MR. PATE: That is correct.

CHAIRMAN COLVIN: I guess the question it raises is whether or not this plan should have something similar to that. Susan.

MS. SHIPMAN: I'd be glad to accept that as a friendly amendment. Dick's point is very good. I do remember when that came up, and it is certainly my intent that the targeted catch be shrimp and that there be shrimp on board. So if Pres wants to offer the North Carolina language, I'd be happy to accept that.

MR. PATE: I don't know if I'm going to state it exactly as it appears in our regulations, but it has the effect of requiring that if you -- as I stated earlier, I don't know of any better way or simpler way to state it.

You have to have at least as many pounds of fish on board as you do shrimp in order for it to be -- or vice versa, I'm sorry, reverse those -- in order for it to be considered a penaeid shrimp fishery, for purposes of landing a bycatch allowance of weakfish.

CHAIRMAN COLVIN: We'll take some comments while we're trying to get those words exactly up. Tom.

MR. FOTE: Yes, this makes me a lot more comfortable. It would also make me a lot more comfortable if we had added this language to the original -- the top of the motion which basically would cover all the fisheries that we're discussing here, that would basically say you have to have, you know -- and maybe in some of these fisheries it has to be more than the pounds of shrimp because shrimp is -- I understand there is always a low relationship between pounds of shrimp and weakfish.



But in some of those fisheries maybe it's got to be two to one. Other than the shrimp, it has to be two to one so I just think we should -- and that makes me a lot more comfortable. I don't know if that would be here or a separate motion to affect the top of the motion, Mr. Chairman.

CHAIRMAN COLVIN: We'd have to do it separately but we'll go back and provide that opportunity if this passes. Let me recognize Melvin.

MR. SHEPARD: To that point, Mr. Chairman, it would seem to me to cover all the possibilities, that we ought to go back to the first paragraph under bycatch where we talk about a directed fishery as defined by the Interstate Fishery Management Program Charter, and ought to say anything we need to say at that point because that's our definition of bycatch.

CHAIRMAN COLVIN: That may require a great deal of wordsmithing and you're getting dangerously close to going back to those sliding scale options, so we need to be cautious about how we do it or we're going to get really wrapped around the axle. Let me begin by asking Susan whether the language that's up there now is acceptable as the mover.

MS. SHIPMAN: Yes, it is, and Option 4 does cap the amount of weakfish at 150 pounds.

CHAIRMAN COLVIN: And, Dave Cupka, as seconder, that is acceptable. Susan, can you read the amended motion, please.

**MS. SHIPMAN: Yes, sir. Move to adopt Option 4 for the southern penaeid shrimp fishery, Section 4.2.1, provided that there is at least an equal poundage of shrimp as weakfish on board the vessel.**

And the intent is that the catch limit is per day or per trip, whichever is longer.

CHAIRMAN COLVIN: Thank you. Is there further discussion on this motion? Seeing none, is there a need to caucus on this motion? It appears there is not. Will all in favor, please signify by raising your right hand; opposed, same sign; abstentions; null votes. The motion carries.

Now, let's pause and ask whether the board does want to revisit the question with respect to the overall bycatch allowance options. We passed Option 2, which is an absolute amount of 300 pounds per trip of weakfish as an allowable bycatch during a closed weakfish season. Jack Travelstead.

**MR. TRAVESTEAD: Well, since I was the maker of that motion, I think it is a good idea that we go back and adopt the additional language that Susan had added to her motion to make it clear that you have to have at least the same amount of other species on board the boat to be entitled to the bycatch, up to a maximum of 300 pounds of bycatch.**

CHAIRMAN COLVIN: So we have a motion to modify the option as Jack has indicated requiring at least an equal amount of other species of fish as to the legal-sized weakfish up to a maximum of 300 pounds. Pat Augustine seconds the motion. Is there discussion on the motion? Tom Fote.

MR. FOTE: I remember of a situation of people landing fish that had real no economic value, but they said as long as they had 300 pounds of fish on board -- we have to make that a little clearer, I mean, because I remember a situation when they landed fish that was of no economic value, but it matched the 300 pounds so how do we address that solution?

CHAIRMAN COLVIN: Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. I think in response to the comment or observation you have of New Jersey, what it does for us in New York is finally puts an absolute cap on.

Some of our folks who have been using this as a caveat to basically go out and land 150 pounds of fish; and if this is the only way we can do it at the moment, it seems to make sense and I think it will satisfy our hook-and-line folks at the same time and satisfy their need for being treated a little more equally than with not having any allowance at all during a so-called closed season. Thank you.

CHAIRMAN COLVIN: I'm going to ask Wayne, I know the AP report had a comment on this issue in the sliding scale option. Perhaps, Wayne,

you could reiterate that for us.

MR. LEE: Yes, Mr. Chairman, the AP was very concerned about having any type of a sliding scale from a law enforcement standpoint and from the other standpoint we heard from our commercial fishermen; that creates a real problem for them.

So I'm just wondering if the wording that you are modifying here, it puts it into that category of a sliding scale because you're saying so much. Anyway, that's the AP's concern.

CHAIRMAN COLVIN: Jack.

MR. TRAVELSTEAD: It's not my intent to really move to this sliding scale option. Of course, the effect of the motion up to 300 pounds is a sliding scale. If you have 200 pounds of spot and croaker on board, you're only going to have 200 pounds of weakfish bycatch. But beyond 300 pounds, you're still limited to the 300 pounds of bycatch.

CHAIRMAN COLVIN: Understood. Any further discussion on the motion? A. C.

MR. CARPENTER: Just a suggestion, that in that leading paragraph, you do refer to the ISFMP Charter as you used the word fishing defined -- excuse me, you referred to the definition of a directed fishery.

If you likewise referred to the definition of the bycatch, I think that would nail this section down and we wouldn't have worry about target species and all. I think if you relied on the definitions that you have already in place, I think it would cover that.

CHAIRMAN COLVIN: Is there further discussion on the motion? Ready for the question? Is there a need to caucus on the motion? It does not appear there is.

Will all in favor, please signify by raising your right hand; opposed, same sign; abstentions; null votes. The motion carries. Okay, 4.2.2.

MS. SELBERG: 4.2.2, minimum fish size. The options in here are related to a tolerance for a trawl fishery. The first is status quo, which is undersized weakfish in the trawl fishery cannot be landed.

The second is a tolerance for undersized weakfish, 1 percent of the trawl catch can be undersized weakfish not to exceed 300 pounds. These fish can be landed but not sold. And, finally, a tolerance, which is 1 percent not to exceed 300 fish, again, landed but not sold.

CHAIRMAN COLVIN: Thank you. Wayne, can you help us with the AP recommendations.

MR. LEE: Yes, Mr. Chairman, the AP recommends Option 3 which is a tolerance of up to 300 fish; however, the AP recommends eliminating the percentage and just including the limit of 300 fish.

CHAIRMAN COLVIN: Thank you. Joe Lynch.

MR. LYNCH: Thank you, Mr. Chairman. The Law Enforcement Committee recommends Option 1. That's the preferred law enforcement option, status quo, no undersized weakfish can be landed.

Option 2, 1 percent undersized tolerance not to exceed 300 pounds was not preferred. Very difficult to enforce. An officer must know the total poundage of the catch which requires access to scales or buyer information. It's time-consuming.

The tolerance percentage restricts enforcement to dockside. Fishermen will have to separate undersized fish from the catch to ensure that they are not sold. Law enforcement believes that landing undersized fish will create or enhance the market for undersized fish.

In Option 3, the 1 percent undersized tolerance not to exceed 300 fish, also not preferred. Difficult to enforce. Tolerance percent restricts enforcement to the dockside. Fishermen will have to separate undersized fish from the catch to ensure they are not sold.

Also, it's very time consuming, requiring that the total catch be counted to arrive at a percentage. Counting thousands of fish to determine if a fisherman is in compliance is not reasonable given

the limited staff available to enforcement. And as with Option 2, we believe that landing undersized fish will create or enhance a market for undersized fish.

CHAIRMAN COLVIN: Thank you, Joe. I'm looking for a motion here. Pres Pate.

MR. PATE: Gordon, if I may, before I make my motion, I'd like to ask Joe if he would share with us his opinion on the recommendation from the Advisory Panel that Option Number 3 be modified to remove the 1 percent tolerance and be limited to just 300 fish?

CHAIRMAN COLVIN: Yes, that's a good question. Does that help it any, Joe?

MR. LYNCH: That would help a great deal as far as determining what you need to get a violation, but it doesn't address at all the feeling that the landing of undersized fish is going to create or enhance a market for undersized fish.

CHAIRMAN COLVIN: Thank you. Pres, a motion?

MR. PATE: Yes, Mr. Chairman, I'd like to move for adoption of Option Number 3, with the clear statement that none of the 300 fish that are allowed to be landed can be sold, no percentage. Yes, I'm sorry, yes, with -- can I start over again?

**I'd like to move for adoption of an option that would allow the landing of undersized weakfish taken in trawls, provided that the number of fish do not exceed 300 and that none of those fish could be sold.**

CHAIRMAN COLVIN: There is a second by Jack Travelstead to the motion by Pres Pate. I want to just clarify one other thing that came up a minute ago. Pres, this applies to any trawl, I assume, a fish trawl or a shrimp trawl?

MR. PATE: Yes.

CHAIRMAN COLVIN: Okay. With that clarification, a motion is up. Discussion on the motion. Pete Jensen.

MR. JENSEN: Joe, I have a question. You had indicated a problem of sorting out the fish at the dock and markets, and so my question is do you anticipate that if all these fish are not sorted out and as they move on to the next person, somebody is going to be found in possession of undersized sea trout? Is that a concern of the enforcement people?

MR. LYNCH: Yes, sir, that's correct. That's what we meant when we said a fisherman would have to sort them out before he sold them. If he doesn't do that, he's risking selling the fish which the statute prohibits.

MR. JENSEN: Yes, I think that's a problem that has to be fixed. I don't quite know how to do it, but I think the issue is if they aren't all sorted out, then the next person in line that gets them is in jeopardy of having undersized fish.

CHAIRMAN COLVIN: Jack.

MR. TRAVELSTEAD: Perhaps Captain Ruhle could comment on Pete's concern, but my understanding is when a trawler comes to the dock and starts to sell his fish, those fish are sorted pretty closely because they are being sorted by market size, in many cases, not to mention species, so it would seem strange to me that fish are going to be sold in bulk and suddenly there are going to be some small weakfish snuck in there, but I don't know every operation, obviously.

This was an issue that was raised by Virginia some time ago and you heard from Captain Ruhle. What you didn't hear from him was that in four or five instances, where we've had this occur in Virginia, where a trawler has come into the state and had some small amounts of undersized weakfish on board, our marine police officers have written summonses to them in every case.

We're required to enforce this management plan and that's what we're doing. In every single case those summonses have been dismissed by the court. You know, is Virginia now in jeopardy of being out of compliance with the management plan because the courts are not allowing us to enforce the law? We continue to take the cases back to court year after year. It's our obligation to do so, but I think this option goes a long way to helping solve our problem.

It prevents us from having to take these things to court and, quite frankly, I don't understand why it's not happening in other states unless there is some reading between the lines, administrative tolerance that is being allowed in the other states that is not mentioned on the law.

And if there I is, if that's a way to solve it, then tell Virginia that they're entitled to do that and we'll be glad to take that approach. But we've not read the management plan that way, and we're going to enforce it to the letter of the law unless it's changed.

CHAIRMAN COLVIN: Susan.

MS. SHIPMAN: Okay, I want to make sure I understand what we are doing here. Now we're saying this is basically the option for a trawl fishery minimum size allowance, regardless of whether it's weakfish trawl, shrimp trawl, whatever.

So now above, where we've adopted the 150 pounds for the shrimp trawl fishery, now we've got 300 fish for the fish trawl fishery, any of them can be undersized, none of them can be sold. I'm pretty confused.

CHAIRMAN COLVIN: Yes.

MS. SHIPMAN: If I were law enforcement I think, you know, how are you going to tell whether -- you know, if I were a shrimp trawler I think I'd -- I don't know what they're going to do with all the fish.

I know what the folks in Jacksonville are going to do with them just from the hearing, but I don't know. I think if you're going to be consistent, you're got to apply it to the trawl fishery, period. I don't think you can segregate out the shrimp trawl fishery from the fish trawl fishery, but I'm troubled that we've got different poundages or poundage and fish.

CHAIRMAN COLVIN: Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. When Joe Lynch is available, I'd like to ask a question. I'm just wondering if he could give us an idea as to how the other states have handled this particular concern.

In other words, here in Virginia, they're very, very -- it's there, cut and dried, you know, bang, you've had it. Have you talked with other officers from other states to get a sense for how they're handling it?

MR. LYNCH: I hesitate to speak for the other states because, no, with the exception of Virginia -- and this particular motion, I wanted to know, you know, what prompted it, et cetera.

But I can speak for my own state, which is North Carolina. I'm chief of enforcement in North Carolina. We do not have a tolerance, a legal tolerance, but what we do have is guidelines for our officers to ensure that they are consistent in their enforcement.

And to date, I don't believe we've had any problems as far as this issue in North Carolina. When the officer cites a person, they've got a good, solid case. You're not talking about a few fish. I would hesitate to speak for the other states, though.

MR. AUGUSTINE: Thank you for that, it was very helpful.

CHAIRMAN COLVIN: Pres, do you want to make a perfection to your motion?

MR. PATE: Well, first I'd like to try and address Susan's concerns, and with an explanation that it's really apples and oranges in the penaeid shrimp fishery and a finfish fishery in the respect that the penaeid shrimp fishery has fish excluder devices, which are releasing the largest amount of the undersized weakfish that happen to be taken with trawl.

But even beyond that, any undersized weakfish that are put on board are usually culled at sea and not brought to the dock. So that's not the problem we're trying to address with this.

The problem we're trying to address is with those high volume finfish fishery that bring in, as Captain Ruhle said earlier in his comments, 25,000-50,000, and in some cases 100,000 pounds of fish without the practical opportunity to cull those fish at sea, so the only other option that they have is to bring them aboard.

So having this motion to allow the 300 fish for all types of trawl fishery, I don't think is going to be that big a deal. If there is concern about that and we can perfect my motion to address that problem simplistically, then I'm in favor for it, but I honestly don't think it's going to be a problem.

CHAIRMAN COLVIN: Tom.

MR. FOTE: In our state we also have guidelines for officers, and I think each state wants to do that. I really don't think we need a motion to tell the states how they direct their officers to basically enforce the laws in their state.

They have guidelines. They have been approved by their marine fisheries council and usually they're voted on or basically discussed there; and if it is basically unreasonable, they address it there.

This opens up another can of worms of saying how you enforce particularly -- I really think it's micromanaging the law enforcement in that state.

I think it should be up to your enforcement officers in that state, and the director that manages those enforcement officers how they basically accept -- what tolerance they want, whether it's 10 percent, whether it's 2 percent in their guidelines. But it should be in their guidelines and they should be making those decisions. Thank you.

CHAIRMAN COLVIN: John.

DR. JOHN MIGLARESE: Preston, would you accept a suggestion that we just get ride of "any type" and just put "finfish trawl fishery", and that is clarified?

MR. PATE: That will be fine. I have no objections to that at all.

CHAIRMAN COLVIN: Jack, do you agree with that? That's accepted? Okay, is there any further discussion? Susan.

MS. SHIPMAN: And I think that will help me with my concerns. At the Jacksonville hearing, I heard this situation where the shrimp trawlers wanted to land undersized fish for two purposes.

They wanted to sell them because pound net fish were being sold in Jacksonville, shipped in under 12 inches, sold. They didn't think that was fair. They also wanted to donate fish to a food bank that were undersized so I think it --you're going to have comingling and it's going to be very difficult to enforce this not being sold if you include the shrimp fishery in there. So I think this would help. We may need to define what the finfish trawl is, and it may be defined in this amendment already.

CHAIRMAN COLVIN: Further discussion on the motion? Bruce.

MR. FREEMAN: This has been mentioned before, but we have not encountered this difficulty, and it seems it should be up to each individual state on how it makes its case. And to give a directive which essentially doesn't apply to us, I think is not the best way to proceed.

If a state has a problem with bycatch, it needs to address it. The courts may look at it differently than another state, but each individual state knows what that limit is, and it is simply up to the agency and the law enforcement group to deal with that issue.

CHAIRMAN COLVIN: A. C.

MR. CARPENTER: I do have a comment now, and it's the same comment I had earlier that although the plan allows it, each state can be more restrictive if it needs to be.

CHAIRMAN COLVIN: Pres.

MR. PATE: Mr. Chairman, the problem is the plan says "no tolerance." And some of the states -- and North Carolina is one of them -- has taken it upon themselves to allow some consideration of the practical difficulties that certain fisheries have in meeting that no tolerance limitation.

And because of that latitude that we've taken with the plan, we've been able to avoid problems at home that Virginia has created with their stricter enforcement. I think there is a fine line that you walk in making those determinations unilaterally of what the plan will allow you to make.

The 300-fish limit will, if nothing else, at least impart

some consistency among the states of what is allowed and what level of tolerance the board has deemed acceptable within the constraints of the plan.

It may make our situation worse. It may mean that we're making more cases. I don't think so, but the ones that I have dealt with personally have involved just some very minor amounts of landings of undersized fish. We have made cases when the landings get up in the hundreds of pounds, of course.

CHAIRMAN COLVIN: Thank you. Further discussion on the motion? I'm going to go to the public, Jimmy Ruhle.

CAPTAIN RUHLE: Thank you, Mr. Chairman. I realize it's late in the day, and I know things have the tendency to move along. A perfect example of that I think at the New England Council meeting David Pierce went through dogfish in 8.5 minutes because it was the last issue on the agenda, and it was like 7:00 o'clock in the evening, and that just totally, just totally blew me away.

A couple comments here first. I was very disappointed in the summary that Carrie gave -- this is no reflection on your work, Carrie -- of the public hearing comments. She gave an exact summary of what took place.

I don't think the commission or the councils, either one, go far enough when they set out and initially hold the first round of public hearings, which is your scoping hearings, to let people know if the comments come in then, they've got to rewrite them and resubmit them during a public comment period.

And that's a mistake that the industry makes because they just don't follow through with it. I've written enough letters about this thing. I've been four years with this issue. What Jack is telling you, this is a personal issue with me.

This has got nothing to do with my ability to manage fish. This is a very, very personal issue because the five violations that Jack is speaking of have all been mine.

And I've beat every damned one of them and I'll beat every one that comes along because judges have enough common sense applied in something to

realize some things are physically impossible.

And this law enforcement officer's comments are perfect. It's labor-intensive. You're damned right it is and three men can't pick out every little fish. And the number, this 300 pounds is an issue. The first violation I had, which was, again, thrown out, was 480 fish for a total weight of 101 pounds. That's fish this long.

Some of those fish were in the gill plates of other fish. Now I'm sorry, sir, we cannot pull those fish out. We can't go through 50-60,000 pounds of fish and shake every one and get the damned fish that's hung in the gills out. We can't do it.

We've got a perishable item here. We're trying to do the best we can to put a good fresh product on the dock. I don't want to sell these little fish. I don't want to catch them, but that's the way it is. That's the way it is.

We're using bigger gear than we've ever used before and we're having to pick croakers out of every mesh. To define a finfish trawl as opposed to a shrimp trawl, you go by the cod-end size. A shrimp trawl is inch and seven-eighths. We're using three and three-quarter.

We're doing the best we can to get rid of them all, but when I jam 100,000 pounds of fish in a net in a ten-minute tow, very little escapes. It's up to me to make the decision, before I kill all of those fish, is there enough in there to get it to trip out and be reasonably legal or do I just turn it loose?

And if you turn it loose and make up your mind right then and there, those fish survive. That's the call that I make. That's my job.

We don't run into this problem very often, but you've got to understand, just like Pres has said and just like others say, there's zero tolerance in Virginia. That's like getting a 56 mile an hour speed limit ticket.

How many times are you going to beat it? But if everybody is going by the law, that's what comes out. That's where we're at. We're not asking you to do something that's going to increase the bycatch level or the mortality rates on weakfish.

This is currently taking place and it is very insignificant in the big picture, but it's not to me. I just happen to be the only boat in this whole area that is working on croakers right now. I have been for a few years. It puts me in a very awkward position.

Back to the public comments, I think that you need to express further to people that they do in fact need to make duplicate written comments and attend more meetings. I know where I was October 15<sup>th</sup> and 16<sup>th</sup>, why I didn't go to Newport News and why I didn't go to Manteo.

Whether you know it or not, there's a little issue going on at Woods Hole about a trawl wire that's really took an awful lot of my time since the first of September. And if I spend any more time in Massachusetts, I'm going to start paying state taxes up there.

But I can't make every public hearing, and evidently my comments did not get sent in. And you're right, Carrie, nobody showed up in Manteo. Nobody showed up in Newport News.

But these issues wouldn't have been included in the public hearing document if the public didn't bring them to your attention. Somewhere along the line we dropped the ball but I, as a manager, do not put a whole lot of -- I don't put all of my decision-making efforts on written comments.

I think it was this group in Philadelphia in the black sea bass, there was some written comments from a gentleman in New Jersey and he wanted a 700 percent reduction. Well, come to find out I did a little research on his e-mails.

This guy is locked up in a rubber room. This guy is, you know, he's in a mental hospital. He's locked up and yet his public comments, written comments, carry as much weight as mine. I have a problem with that.

When I look at public comments, written or testimony, I judge them for what I think the content is of it, and who is telling the truth and who is trying to do what's right and what's wrong.

So I don't put all my weight -- but I would suggest that you make an effort to let the public know that they have to follow up with the second round. It's

just something that's not really that well accepted.

And, again, I've been four years getting to where we are this afternoon with this issue, gentlemen, four years. And I've got other things to do besides this, and I applaud Jack. He has been great. Bill Pruitt has been great. But they have zero tolerance, that's it.

And they're doing -- their hands are tied. I'm asking you to untie their hands, and we're not talking about an excessive amount of mortality associated with these fish. It's not that way.

Don't think there's a charter fleet of vessels waiting to jump on this. You're just allowing the fishery to take place in a responsible way. We're doing the best we can with it but we just can't do everything.

And we can't turn every tow loose, that's not what we're there for. When you talk about bycatch, when you talk about -- there's ways to get around anything. I can't see a bycatch in a hook-and-line fishery. I have a problem with that one.

I mean, most of the time you reel in a fish, unless he's gut hooked, you can turn him loose. I'm talking about a significant amount of fish piled up on a boat where it's physically impossible for three or ten men to go through them. There's a difference.

But when you associate trip or bycatch limits, I know you're opposed to the scale because it complicates things, but that's how you designate a bycatch fishery not half bluefish, half trout. You make it a portion that's reasonable.

And it's very hard to do. It's very hard to do if you do it on a daily basis, because this guy can go out and set for croakers and catch nothing but croakers for a week in a gillnet, nothing, not a trout, and all of a sudden a few trout start showing up.

He goes back the last day, he'll have his 300 pounds of trout but he won't have any croakers. What is he supposed to do, throw them all overboard? That's the way it is written. That's what he has to do.

If in fact you look back and say this guy has actually been targeting croakers, then you have provided for a bycatch that was legitimate without providing

loopholes for people to get around them. I ask your patience in passing this.

CHAIRMAN COLVIN: Jim, thank you. I don't want to cut you off, but we're about to lose our AP chairman and I need to say something to him on the record before he goes. I do think Paul Diodati had a question for you. I think he wants to talk to you about that income tax offer.

MR. DIODATI: We will talk about that later, Jim. But, actually, I don't know Mr. Ruhle's personal situation with fishing, and this motion will not benefit the Commonwealth of Massachusetts, but I think it's critical that the commission recognize the practicality of operating our fisheries.

And I think that this is a pragmatic approach that addresses at least to some extent Mr. Ruhle's situation that he brings to our attention, and so I'm going to support this motion and I hope that helps my brothers in Virginia and my good, good friends in North Carolina, and the Commonwealth of Massachusetts will support this motion.

CHAIRMAN COLVIN: Thank you. Is there anything further on this motion? Anne.

MS. LANGE: Yes, I'm concerned about precedence that it may set. I fully understand the issues. My preference would be if Virginia were to be able to handle it the way the other states are. I'm going to abstain from this rather than voting against it, but I do understand the situation.

CHAIRMAN COLVIN: Thank you. Anything further? Need to caucus? All in favor, please signify by raising your right hand; opposed, same sign; null votes; abstentions. The motion carries. You need to go, right?

We're going to just divert ourselves for one moment, if we could. Wayne needs to leave us. He has family waiting for him and they've been waiting for him I guess a long time over in Newark.

But before he goes, Wayne, if you could give me one second, I just wanted to remind the board that we have tried, in the course of the development of Amendment 4, to make some modifications to the advisory panel process and the manner in which the

advisors assist the board in the development of this management plan.

And we'll learn in due time whether or not that was successful. I just want to share with you two perspectives that I have from the position of the chairmanship of the board.

The first is that I do believe that the Advisory Panel has been very effective and very helpful in bringing us to this point. And I very much appreciate their work, and I will appreciate their evaluation and their candid comments, Wayne, at the end of this process about their suggestions for continuing to improve the process of advisory panel participation and input.

The second thing I'll say is that if anybody wants to have an effective advisory panel process as they work to develop an FMP, get Wayne Lee to be the chairman of your advisory panel. He has just done a terrific job and I can't express my appreciation enough. (Applause)

MR. LEE: I apologize for having to leave.

CHAIRMAN COLVIN: That's quite all right; you've been more than patient.

MR. PATE: Goodness grows in North Carolina. (Laughter)

CHAIRMAN COLVIN: Thank you. Carrie, we're on to bycatch reduction devices?

MS. SELBERG: This is Section 4.2.8. There are two sets of options. The first one is options for bycatch reduction devices in pound nets. There are three sets of options.

The first is require escape panels in pound nets. The second is provide incentives for escape panels in pound nets; and, finally, a penalty for lack of escape panels in pound nets. Do you want me to do these?

CHAIRMAN COLVIN: I'm going to ask Carrie to relay the AP recommendation.

MS. SELBERG: The AP recommends Option 2 which is provide incentives. A pound net fishermen from Potomac River Fisheries Commission, who uses these escape panels,



explained that he used the panels and found them to work well for him.

He explained the PRFC incentive program and thought it was successful. He indicated he thought it was critical that this be an incentive-based program rather than required because these panels need further testing in other areas and may not be suitable for certain areas or fishermen.

A New York pound fisherman concurred and indicated that these would be problematic for his fishery because they would let many of the fish he is targeting escape. He added that they do not have as many smaller weakfish in their area.

The AP recommends that if these were to become required, that they only be for the states south of New York, which is the second suite of options.

CHAIRMAN COLVIN: Joe, there's no enforcement recommendation, am I right?

MR. LYNCH: No, sir, there's not.

CHAIRMAN COLVIN: Okay. Is there a motion on this particular one? A. C.

**MR. CARPENTER: Mr. Chairman, I'd like to move that we adopt Option Number 2 of the bycatch reduction in pound nets; and if I can get a second, I'd like to explain my motion.**

CHAIRMAN COLVIN: Seconded by Jack Travelstead. Go ahead, A. C.

MR. CARPENTER: We strongly encourage that this be a voluntary program with incentives. These device do work very well in limited areas where pound nets are set. Pound nets are a multi-species fishery in the sense that whatever swims by gets caught.

These don't work in the fall of the year after the trout have left and they're trying to catch eels. It would completely eliminate that portion of their catch. In the very early spring of the year, the herring run, and these would impact that.

And my third reason for having them to be voluntary with an incentive program is that, quite honestly, it is very, very easy for them to circumvent a requirement

by simply putting a smaller piece of net over top of the thing.

You attract more flies with honey than you do with vinegar. And this is an incentive program, and we would find that I think it would work well and may lead the industry in not only this fishery but other fisheries as well.

CHAIRMAN COLVIN: I just want to see if there's opportunity to clarify one point. When we speak of a voluntary incentive program, do we mean voluntary on the part of the fishermen that would participate; do we mean voluntary on the part of the states in terms of whether or not they choose to develop such a program, or both?

MR. CARPENTER: Let me say that our program is voluntary on the part of the fishermen. As I explained earlier, in the case of weakfish, if you have these devices put in your net and their nets are certified as fishing properly with them, then you are allowed up to the 150 pounds of bycatch.

If you do not choose to put these devices in your net, you have a zero bycatch allowance during the closed season. Likewise, our incentive program on the minimum size requirement, we do allow a very small percentage of undersized weakfish to be mixed in with the legal-size fish before they would be getting a ticket if they have the cull panels installed in the net.

I just want to see if there's opportunity to clarify one point when we speak of a voluntary incentive program, do we mean voluntary on the part of the fishermen that would participate? Do we need, mean voluntary on the part of the states in terms of whether or not they choose to develop such a program or both?

MR. CARPENTER: Let me say that our program is voluntary on the part of the fishermen. As I explained earlier, in the case of weakfish if you have these devices put in your net and their nets are certified as fishing properly with them, then you are allowed up to the 150 pounds of bycatch. If you do not choose to put these devices in your net, you have a zero bycatch allowance during the closed season. Likewise, our incentive program on the minimum size requirement, we do allow a very small percentage of undersized weakfish to be mixed in

with the legal size fish before they would be getting a ticket if they have the cull panels installed in the net.

It is my intention that this would be voluntary on the basis of both the state and on the — the state could then choose to make it either voluntary for each individual fisherman but it would be an incentive-based program.

CHAIRMAN COLVIN: Thanks, A. C. I think that clarifies that the intent is that it be flexible enough to be both and that will be consistent with what the charge goes to the Technical Committee under this option. Any further discussion on the motion? Need to caucus? Yes, Melvin.

MR. SHEPARD: It seemed to me that A. C., in choosing Option 2, also chose Option 2 in the bottom. Is that what the understanding is? He said south of New York.

CHAIRMAN COLVIN: Go ahead, A. C.

MR. CARPENTER: The AP said that, not A. C. I'll address that issue in just a moment.

CHAIRMAN COLVIN: Thank you. Is there any further discussion on the motion? Is there objection to the motion? Without objection, the motion carries. Go ahead, A. C.

MR. CARPENTER: With regard to the second part of that, I think that is now a moot question since it's voluntary coast-wide.

CHAIRMAN COLVIN: The chair agrees. Is there objection to that interpretation? Seeing none, we will proceed accordingly to the next section.

MS. SELBERG: The next section is 4.5.3, de minimis. There are two options for de minimis. The first is states may apply for de minimis status if for the last two years their combined average commercial and recreational landings by weight constitute less than 1 percent of the annual coast-wide commercial and recreational landings for the same two-year period.

The second option has a fixed amount, for the last two years their combined average in commercial and recreational landings constitute -- and there's a typo,

it should be less than 97,176 pounds.

The AP has a recommendation for de minimis status. The AP recommends Option 2 and believes it should be rounded to 100,000 pounds. They prefer the fixed amount.

CHAIRMAN COLVIN: Law enforcement? Okay, is there a motion? David.

**MR. CUPKA: Thank you, Mr. Chairman. I'd like to move that we adopt the AP recommendation, although I think either one of them would actually work.**

I know from the standpoint of reporting it used to be a problem because the landings data was not always available at the time our report was due, but then we moved the reporting date to take that into account. It would be somewhat easier, I think, just to go with the AP recommendation.

CHAIRMAN COLVIN: AP recommendation is moved. Is there a second? Seconded by Pat Augustine. Discussion on the motion? Susan.

MS. SHIPMAN: My only concern with that is the MRFSS estimates sometimes, depending on what those standard errors are, those numbers are out the roof. They're huge. I mean, you can have a minuscule fishery and they might still report that you caught close to 100,000 pounds so that concerns me.

I think the 1 percent is more consistent with the way we've handled the other plans. That's my preference. I mean, if the board wants to go with the 100,000, I'll go along with it, but I do have that concern because of the MRFSS.

CHAIRMAN COLVIN: Further discussion? Go ahead, Susan.

**MS. SHIPMAN: I'll offer a substitute motion to adopt Option 1 for the 1 percent.**

CHAIRMAN COLVIN: We have a substitute motion seconded by Eric Schwaab. Is there discussion on the substitute motion? Gil.

MR. POPE: Yes, very quickly, one of these days I'd like to have discussions on the de minimis, that 1 percent to possibly even being more 1.5 percent, because in some fisheries you are going to have that problem with the MRFSS data, so we may want to look at having just a little bit more leeway on that de minimis because we're running into that problem. Thank you.

CHAIRMAN COLVIN: I predict that if we raise it to 1.5, you'll get to 2, Gil. That's just a prediction. Call the question. Is there any further discussion? Need to caucus?

Is there objection to the acceptance of the substitute motion? Without objection, the substitute motion is approved and we'll now take it as the main question. Is there discussion on the main motion as amended by the substitute? Pete Jensen.

MR. JENSEN: We have a recommendation to the Secretary, Mr. Chairman. It has to be included, right?

CHAIRMAN COLVIN: Right now we're voting on whether or not to accept the substitute then I think that's our next one. Oh, no, we won't forget recommendations to the Secretary. Anything further on the motion to amend? Is there objection to the motion? Without objection, the motion carries.

MS. SELBERG: The next section is Section 4.9, recommendations to the secretaries. There are two options. The first option has a whole suite of recommendations. I'm not going to read through each one.

The second is recommend to the Secretary that any weakfish harvested in the EEZ be landed in an ASMFC state in accordance with the laws of the state in which they are landed.

The AP's recommendation is -- the AP recommends Option 2 but suggests adding additional language to read, "Landings in a de minimis state must be limited to the closed season bycatch allowance", which would be 300 pounds as discussed earlier today.

CHAIRMAN COLVIN: Joe, the law enforcement recommendation.

MR. LYNCH: Are we on 4.6?

CHAIRMAN COLVIN: We are.

MR. LYNCH: Yes, okay. Sorry.

CHAIRMAN COLVIN: No, it's 4.9. It says 4.6 in your report.

MR. LYNCH: Okay. Law enforcement would recommend that weakfish -- that it would assist law enforcement and the weakfish fishery if the fish caught in the EEZ are required to conform to the rules and regulations of the state in which they are landed.

This would relieve the officer from the often difficult task of having to prove whether the fish came from the EEZ or from adjacent state waters when preparing a case.

CHAIRMAN COLVIN: Thank you, Joe. Paul Diodati.

**MR. DIODATI: I'd like to make a motion to approve the AP recommendation with their additional language.**

I'd like to also ask a question of Commerce. I've been waiting four and a half hours for this one. Is Commerce going to have any administrative problems with enforcing this rule if this motion passes?

MS. LANGE: Should I respond?

CHAIRMAN COLVIN: Let me first record a second to the motion by Tom Fote and then ask Anne Lange to respond.

MS. LANGE: I'm not sure. My attorney has left. The only concern I have is the issue of what happens while they're in the EEZ. If a fisherman or a commercial or a recreational is in the EEZ and has a fish that's smaller than the size limit of the fish where they're planning on landing it, how is the law enforcement person to determine where they are planning on landing?

So I'm not sure of how complicated it would be. It was easier for us when we could actually have the 12 inch -- a specific size limit and a specific mesh size

and that type of thing coast-wide.

It opens up issues, also, of equity, similar issues to what we would have with striped bass if just straight landing laws apply. So I'm not sure of the bottom line, but it will take some time to evaluate it, I believe.

CHAIRMAN COLVIN: Further discussion on the motion? Dick Brame.

MR. BRAME: Dick Brame with CCA. We supported Option 1 just because we felt much more comfortable with the rules and regulations spelled out rather than assumed.

It actually may be no different, but we were just much more comfortable with that regulation up and down the East Coast, especially the one about the flynets.

CHAIRMAN COLVIN: Bill Cole.

MR. COLE: Thank you, Mr. Chairman. I am a little bit concerned because normally the commission makes recommendations to the secretaries, but this one it limits itself to the harvest of weakfish.

Normally the rules are written for possession in the EEZ, not the harvest of, so I think this thing is confused. I think you've got the wrong word here, Mr. Chairman. I really believe that Anne's approach is right. It's going to get real complicated, because the word harvest here implies that somebody has to prove harvest.

CHAIRMAN COLVIN: Bill Goldsborough.

MR. GOLDSBOROUGH: I was going to make a similar point, Mr. Chairman. I mean, my reading of it, more from a state perspective, is that this one is written such that these fish simply need to be landed in accordance with the laws of the states where they're landed, and it says nothing about the way they're harvested.

And I think the way, again from the state perspective, notwithstanding Bill's federal perspective, that it might be changed to read "Any weakfish harvested in the EEZ be done so in accordance with the laws of

the state in which they are landed."

CHAIRMAN COLVIN: Eric.

**MR. SCHWAAB: I'd like to offer a substitute motion that we adopt Option 1.**

CHAIRMAN COLVIN: We have a motion to adopt Option 1 as the substitute to the main motion. Is there a second to the offer of the substitute motion? Seconded by A.C. Carpenter. Discussion on the substitute? Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. I would like to reiterate what Mr. Cole mentioned about the word being "harvested" as opposed to being "possessed", and I would ask for a perfection of that, to have the word "harvested" changed to "possessed" in two of the instances noted.

The second item is require weakfish recreationally "harvested" to be "possessed" in the EEZ; and the next line, "require that weakfish commercially possessed in the EEZ be landed in accordance with".

CHAIRMAN COLVIN: Susan.

MR. AUGUSTINE: If the maker of the motion agrees.

MS. SHIPMAN: If a state has more restrictive measures, for instance, a higher size limit, would those fish have to be landed in conformance with the more restrictive measures? We want to make sure that --

CHAIRMAN COLVIN: Is the intent of the substitute motion to require compliance with more restrictive measures? I believe that it is, because it says "require that weakfish commercially harvested" et cetera "be landed in accordance with the landing laws of the state in which they are landed" period.

I mean, it doesn't suggest that has to be only if they are the same as, not more restrictive, so I think that silence does imply that --

MS. SHIPMAN: Okay, I just want that clarification. I would want the more restrictive measures to prevail.

CHAIRMAN COLVIN: And the mover clarifies that's consistent with the intent. Pres Pate.

MR. PATE: Thank you, Gordon. As a concern that just was exposed with this last-minute review of this proposal and it's relative to the flynet closure south of Hatteras, I'd like a little bit of discussion on it for the purposes of making the record as crystal clear as we possibly can that the third bullet under Option Number 1, or the language that's in Option Number 2, in no way compromises that flynet closure in that there is no opportunity for a non-North Carolina boat to come into the closed area south of Cape Hatteras and harvest weakfish with a flynet and land them in New Jersey, just because New Jersey doesn't have a regulation that closes the area south of Cape Hatteras.

CHAIRMAN COLVIN: Well, I believe that is consistent with the intent, and I believe that to some degree that is what motivated the change to Option 1, because of the fifth bullet, which I think covers that point completely, unless I'm missing the point somewhere.

MR. PATE: Okay.

CHAIRMAN COLVIN: Correct?

MR. PATE: I think you're correct, yes.

CHAIRMAN COLVIN: Okay, we're getting affirmative indications. Is there further discussion on the motion to substitute? Jack Travelstead.

MR. TRAVELSTEAD: Just a question, Option 1 says require a minimum weakfish size at 12 inches total length. How does what we did on the tolerance apply under this Option 1?

CHAIRMAN COLVIN: Well, there's a question hanging out there. I'll let it hang for now because there's an off-the-record answer. Pete.

MR. JENSEN: Well, Mr. Chairman, I think this Option 2 was added based on my motion when we went through, and my reason for doing that was I think we need to really, strongly resist the situation we got into with summer flounder where you end up

with joint regulations where decisions can't be made timely.

And I think this would start to lead us down that path because one of the things that you're going to do is if you adopt Option 1 is the Service is now going to have to apply the National Standards to everything, and that's just going to be an endless process.

I think we ought to avoid that at all costs, that we invite them to start imposing their standards on what has been a very successful program up to now.

CHAIRMAN COLVIN: Anne.

MS. LANGE: I'm not sure that this is the same -- in fact, I know this is not the same situation as with summer flounder. This is not a joint plan with the councils. There are currently EEZ regulations in place that are almost identical to what is in this motion in Option 1.

Our hope would be to be able to maintain the regulations as they are or as close to what they are as possible. I don't think there's any intent to go through and make additional changes.

As they are now, they meet the National Standard Guidelines and they're in place. It's not looking at making the joint commission-council plan so I think it's a different issue, Pete.

CHAIRMAN COLVIN: Bill.

MR. COLE: Mr. Chairman, I think the word "harvested" here is still confusing. If I can make a simple suggestion, it is that we change Option -- and to try to accomplish what I think Pete wants to do -- is to recommend to the Secretary that any weakfish possessed in the EEZ be in accordance with the minimum standards of this plan, which would be 12 inches, 150 pounds or 300 pounds, those kind of minimum standards.

That's what he's after. Because it's not a question -- because the way this is worded, we've got to prove that it was harvested. You can still possess in the EEZ. I think the plan, if you want to let the landing law apply, let the EEZ be a possession argument and then let it meet the minimums of the plan.

CHAIRMAN COLVIN: Tom.

MR. FOTE: We do have catcher boats working in New Jersey that basically just bring in fish, they get unloaded from other fish, so they're not even harvesting. They're just possessing fish from one place to another from another boat so this would -- that way what Bill said would basically cover that.

CHAIRMAN COLVIN: Susan.

MS. SHIPMAN: Bill, I know where you're trying to get, but my concern is this minimum standards issue because you've got the fish trawl allowance now with undersized fish that we just sort of alluded to earlier. I think it's a can of worms. I think you're going to have to be either real specific or -- and I understand where Pete is coming from, as well.

CHAIRMAN COLVIN: Further discussion on the motion to substitute. Tom.

MR. FOTE: I think, as Jimmy Ruhle said, that most of these -- the law enforcement officers are not going to go through 100,000 pounds of fish to find out there's 300 and 350. I think it has to do with just prime examples of what's going on.

CHAIRMAN COLVIN: Further discussion on the motion? Are you ready to take the question on the motion? Melvin.

MR. SHEPARD: Mr. Chairman, I want to direct us back to what Bill Cole was saying. It seems to me that what he is saying, if they comply with the ASMFC Weakfish Management Plan, then that takes care of worrying about somebody getting a ticket for one or two little fish, and it also embraces whatever that state's regulations are under the Weakfish Management Plan. I think Bill's right.

CHAIRMAN COLVIN: Well, we have a motion and I don't see any hands to change it; so if there are no further proposals for modification, we're going to take the question on the motion that is on the board.

Do you need a moment to caucus? Let's take the question. All in favor, please signify by raising your right hand; opposed, same sign; abstentions; null

votes. The motion carries. Roy.

MR. MILLER: Mr. Chairman, at the risk of raising the ire of everyone who has been tolerant of this process -- and I commend everyone's patience -- there is an issue that apparently we, I don't know whether it was intentionally or unintentionally, have skipped over and that was the concept raised by Delaware and New Jersey in regard to commercial caps and/or triggers.

Since the Plan Development Team dealt with that rather extensively, devoted a page and a half to that, I think we would be remiss to not have some discussion on that idea.

CHAIRMAN COLVIN: And as I indicated earlier, the place to do that is at the end of our discussion of the options that are in the plan and we are just about there. That was the last one.

MS. SELBERG: Wasn't that a substitute motion?

CHAIRMAN COLVIN: No, that's right, we're not quite done with that one yet, but when that -- what we voted on was to accept the substitute motion. We now need to vote on the motion as substituted for. It's getting late and I'm getting tired.

Is there any further discussion on the motion as amended? Seeing none, we'll take that question. All in favor, please signify by raising your right hand; opposed, same sign; abstentions; null votes; two abstentions; null votes. The motion carries.

Okay, now that concludes the walk-through of the options in the FMP. As I indicated, what we now need to do is address any needs to add or modify text.

And there is one issue that we must address -- initially I'm going to ask Carrie to lay it out -- and that relates to the schedule for implementation.

There are a couple of issues. I'll come back to Roy and I believe Gil Pope has brought an issue up and Susan, so we have some other things, plus we have a housekeeping thing to do on the supplemental text. Carrie.

MS. SELBERG: Section 5.1.2 is the

compliance schedule. The board needs to determine the dates; first, the date that states must submit programs to implement Amendment 4 for approval by the management board; and, second, states with approved management programs, the date by which they must implement them by.

It was the intent, with the schedule that staff laid out for this board about a year ago that the regulations for Amendment 4 be in place by next year's season. You might want to keep that in mind as you make recommendations for dates. Also, there is a February board meeting coming up that the Weakfish Management Board has the opportunity to meet during.

CHAIRMAN COLVIN: Well, I guess what that implies -- let me see if I got it right, Carrie -- is that there is a staff suggestion that state programs to implement the provisions of Amendment 4 would be provided to the board in time for the February meeting and in place by April 1, 2003; is that correct?

MS. SELBERG: Correct. And one additional step, my assumption is it would be appropriate for the Technical Committee to take a run through these so the dates by which you would need to submit the reports would need to give the Technical Committee enough time to review them before the February board meeting.

CHAIRMAN COLVIN: Well, there's a recommendation from the staff on implementation dates. Anybody want to make a motion? Jack.

**MR. TRAVELSTEAD: So moved.**

CHAIRMAN COLVIN: Moved by Jack; seconded by Pat Augustine. Discussion on the motion?

MS. SELBERG: The first date would be, you know, sometime in January. For example, January 15<sup>th</sup> would give the Technical Committee enough time to review those plans, approve those plans. At the February board meeting the board would approve those plans, and then the date for implementation could be April 1<sup>st</sup>.

CHAIRMAN COLVIN: And I'll point out that because we don't have complex conservation

equivalent options in this plan, that I'm sure states can get their implementation plans done very quickly, and they will not have to generate 30 or 40 options and run them through public comment. Susan.

MS. SHIPMAN: But implementation is a whole nother matter for those of us who've got to go through a legislative session. And those sessions, many of them start in January and some don't start until April; and I think to have an April implementation date is a little bit rushed.

That makes me nervous. And as Paul said earlier, I hardly have a dog in this fight; but if I'm going to try to change some bag limits, I'm going to have to go to the legislature.

CHAIRMAN COLVIN: Make a change, offer an alternative.

**MS. SHIPMAN: I'd ask everybody that's got to go through their legislatures what date we collectively want. I would rather have a July 1 or something at least to let us all get through our sessions.**

CHAIRMAN COLVIN: Susan moves an amended implementation date of July 1. Is there a second to that amendment? Pres Pate, you're not seconding?

MR. PATE: Oh, I don't mind seconding, Mr. Chairman.

CHAIRMAN COLVIN: I thought so.

MR. PATE: I had a question.

CHAIRMAN COLVIN: All right, we'll get to you.

MR. PATE: The question is a matter of clarification, and Susan has described the worst-case scenario where she has to go through her general assembly to get these bag and size limits changed.

There are those of us that have the luxury of not having to go through that arduous task; and particularly with regards to the recreational limits, those will be beneficial to us and I'd like some way to implement those as soon as possible and not be

delayed because another state has a more arduous process to go through.

MS. SELBERG: The language in the second date section says "States may begin implementing management programs prior to this deadline if approved by the management board" so the management board meeting, if you stuck with the schedule, it would be the February board meeting.

CHAIRMAN COLVIN: The suggestion from Susan was to change the April 1 date to July 1. Let me ask if that's acceptable to the mover, Jack? It is. The seconder, Pat Augustine, it is so we'll accept that as a friendly amendment. Discussion on the motion as amended. Tom Fote.

MR. FOTE: I'm just looking at -- because of what goes on in the holidays and because we're going to be away at meetings on striped bass and, what is it, summer flounder, it's getting late, I'm just looking at the fact that in my state they might want to take one or two of the options that are on the table, and we won't have time to really get that out to the public to find out what they want by January 15<sup>th</sup>.

Can we just put in two or three options from the table to be approved by the Technical Committee, because that basically follows the plan, and be allowed to pick one or two of those options?

CHAIRMAN COLVIN: Do we have any further discussion or an offer of an amendment or anything else? Bruce Freeman.

MR. FREEMAN: Relative to Tom Fote's concern, the timeframe is going to be tight, particularly January, but we could essentially at that time offer three or four alternatives and simply pick from the table; so if we do that now, it's not going to be a problem.

CHAIRMAN COLVIN: Further discussion on the motion? Roy.

MR. MILLER: January 15 does not give me enough time to schedule a hearing on the size and creel limit options, so I won't be able to assess the opinions of our anglers in time to meet a January 15<sup>th</sup> submittal simply because of constraints on public notices and that kind of thing. I would probably need

until February 15<sup>th</sup>.

CHAIRMAN COLVIN: The next board meeting after February is not until June. Let me suggest that states have available to them a practice, which we avail ourselves all the time in these circumstances, and that is to bring to the board more than one option that we feel will ultimately prove acceptable for implementation within our states.

I refer you back to the discussion at the beginning of this week on tautog where many of us brought multiple options and they were approved by the board. I think that's available to us.

MR. MILLER: Thank you, Mr. Chair.

CHAIRMAN COLVIN: Okay, any further discussion on the motion? Need to caucus? Is there objection to the motion? Seeing none, the motion carries.

We can begin to move on to the other issues that have been suggested that need to be addressed in the text of the FMP. I'm going to recognize Roy Miller who brought up the issue of whether the FMP or the board should somehow otherwise address the issue of commercial caps.

MR. MILLER: Thank you, Mr. Chairman. This particular topic was included in both the letters from New Jersey and a letter from Delaware. Both states received public input at their hearings that there was nothing in Amendment 4 that capped or otherwise constrained commercial fishing further while there were additional constraints suggested in the options in Amendment 4 for the recreational fishery.

And one suggestion that we propose is that there be some sort of trigger. If the percentage of commercial landings begins to creep upward, a trigger would be pulled at some arbitrary yet to be determined level that would trigger board action to prevent a shift in the fishery grossly in favor, for instance, of commercial fishing as opposed to recreational fishing.

I had suggested in my letter -- I was using the last three years -- if the commercial fishery exceeds 65 percent of the poundage landed, that would be an



appropriate trigger.

I noticed that the Plan Development Team suggested using the period 1981 to 2001, and during that time period the commercial landings accounted for 72 percent of the total harvest in pounds.

I don't feel strongly as to which one of those is preferable. I had suggested the 65 percent level because it's more in tune with the three most recent years, I believe.

Anyway, I wanted to throw this out there for discussion. At this point in time, I don't know if there is any sentiment in favor of something like this on any states other than Delaware and New Jersey. Thank you.

CHAIRMAN COLVIN: Thank you, Roy. I know that the Advisory Panel did express an opinion on this general subject, and I wondered if Carrie could review that for us.

MS. SELBERG: I reviewed the Plan Development Team paper with the AP, and we did discuss these sections, and this falls underneath the allocation section.

And the AP's recommendation in regards to allocation reads: "The AP does not believe allocation should be addressed in Amendment 4 and does not believe the ASMFC should begin work on an addendum to address allocation.

"AP members expressed dissatisfaction with other fisheries that are managed with quotas and caps and do not believe allocation is a concern that needs to be addressed for weakfish."

CHAIRMAN COLVIN: Is there any desire to put a proposal on the table or to discuss this issue further tonight? Tom.

MR. FOTE: I'd really like to thank the board and the chairman, especially, and everybody else that worked so hard to basically address some of the concerns. And somebody said to me, well, you must be happier than a pig in crap about what happened. And I says, why should I be happy? I mean, basically I'm going back to my state and telling my

state they will be taking a big reduction in bag than they are existing right now. But what I can tell my state is that everybody else is on an equal playing field and that's basically what I can walk back and say.

And we all took the same hit and we all have the same options; and if we basically wanted to go to a smaller fish, you can do that and get the same benefit North Carolina or any other state is doing, so that was fair.

But the overall question that I was asked at our public hearings -- and it actually was made in a speech by the governor the other day in discussing the weakfish management plan -- was that he is afraid of what will happen if we basically change the allocation and without a cap on the fishery, without some regulations, whatever benefits that the recreational sector basically imposed can be basically allowed for the commercial fishery to grow at the benefit of the recreational.

You say, well, that doesn't happen. Well, we see what happened with the bluefish. That's what people in my state are looking at, where the bluefish you basically -- we basically told people to catch and release so they release now over 50 or 60 percent of the bluefish they catch.

And what we do is transfer allocation over to the commercial side. That's what they're afraid is going to happen here. We are going to change the allocation process; whereas, no longer is the bluefish according to the plan going in a 73-18 split or 73, 72-18, it is now 50-50 catch. That's what their overwhelming concern is.

I don't see that addressed in this plan. We addressed being equitable in the recreational fishery up and down the coast, but we haven't addressed the other concerns of the anglers in my state and the governor. I just want to put that on the table; the same concern the state of Delaware has.

CHAIRMAN COLVIN: Roy.

MR. MILLER: Maybe to get the ball rolling on this so we can get out of here, I'll offer a motion and we can either vote it up or vote it down.

**Why don't I move that if the commercial fishery exceeds 75 percent of the coast-wide harvest in pounds -- exceeds 65 percent of the coast-wide harvest in pounds, that it would trigger board action through the addendum process to prevent further shifts in that percentage.**

CHAIRMAN COLVIN: Roy, could you state the percentage again.

MR. MILLER: Sixty-five.

CHAIRMAN COLVIN: Sixty-five. Okay, we didn't hear it. Bruce, is that a second?

MR. FREEMAN: Yes.

CHAIRMAN COLVIN: Thank you, so we'll get that up on the screen now. That's being offered as an addition to Amendment 4 as a trigger to -- in the commercial management section as a trigger to initiate development of an addendum if that trigger is exceeded. Is that correct? Discussion on the motion? Pres Pate.

MR. PATE: Thank you, Mr. Chairman. I'm going to speak in opposition of the motion not on the basis of disagreeing strongly with what is being proposed, but out of uncertainty at this point in our discussion as to exactly what it means.

That's a pretty substantive measure to put on the table at quarter to eight when we were supposed to have finished at 6:30, and it is something that wasn't included in the public hearing document.

I personally disagree with the need to go to another cap specifically allocated fishery out of fear that we get ourselves into the same quagmire that we are with fluke and striped bass and many others. I think that the risk of getting into that quagmire needs to be more carefully evaluated than what we're capable of doing now.

CHAIRMAN COLVIN: Gil Pope.

MR. POPE: Thank you. I'm in total agreement. Also, when I look at my state's records and it's 189,000 commercial and 667 pounds recreational, I mean, I don't know what the 0.00 percent is that's commercial to recreational here, but

I don't want to all of a sudden change something that in my state may be a whole lot different than is in North Carolina or that's in New Jersey and whatever and go by a coast-wide average. That would throw us into total disarray with what we have in Rhode Island, so I strongly disagree with this.

CHAIRMAN COLVIN: Susan.

MS. SHIPMAN: One possible option and later on -- hopefully in a very few moments -- we're going to come back to adaptive management and measures subject to change, and one possible option would be to add in there just catch allocation as something we could come back and look at through adaptive management and not specify any particular amounts.

I agree with you all. It's a late hour and I think we need to know the implications of this before we would stick something like that in here. But I think we could just put in simply catch allocation under adaptive management and give ourselves the option to come back to it.

CHAIRMAN COLVIN: Preston.

**MR. PATE: Then, Mr. Chairman, I'd just offer a substitute motion to effect the suggestion that Susan just made, that we put in catch allocation as an adaptive management measure.**

CHAIRMAN COLVIN: All right, I'll accept that as a substitute motion. Is there a second for that offer of a substitute? Seconded by Jack Travelstead. Discussion on the offered substitute? Tom Fote.

MR. FOTE: I hear we don't want to set up an allocation, but if I remember the words of the Technical Committee, the reason we were putting in reducing the bag limits and basically reducing the recreational catch is to make sure we didn't have an allocation. It was one of the comments I heard earlier today. We can go back to the tape from the Technical Committee.

CHAIRMAN COLVIN: Bill.

MR. GOLDSBOROUGH: I think my question was answered, Mr. Chairman, but I was going to ask if in the absence of this motion there

would be anything that would stop us from adopting an addendum to address an emerging problem like that. It sounds like there would be but that this substitute motion would allow an addendum to be done; correct? I'm happy.

CHAIRMAN COLVIN: I think the intent of the substitute motion is to include the underlying issue among the list of issues that can be addressed through the addendum process; whereas, otherwise it might be perceived as requiring a full amendment. Bruce Freeman.

MR. FREEMAN: Gordon, I seconded Roy's motion, but I think this would meet our needs. And let me just indicate the concerns that we have. Roy and I have been talking. Historically, the weakfish fishery has been primarily on the commercial side a small-sized fish that dominated.

It was primarily a mobile gear fishery. We restricted the size, put a size limit in place. Over the last ten years or so it has gone from predominantly a mobile gear, small fish fishery, to a gillnet larger fish fishery.

Concern is from the recreational side, particularly for southern New England, in order for them to have what they perceive as a normalized fishery, they need more larger fish. Small fish simply don't migrate to that area.

So the recreational fishermen have been asked to forego some of their catch, which tends to be larger fish, in order to generate more larger fish to move into southern New England.

The concern is if in fact now the gillnets start concentrating on all these larger fish, any benefit derived from the recreational side is simply going to be harvested by the commercial side.

And with the restrictions we do have in monkfish, the closure of the spiny dogfish gillnet fishery, the closure of the directed ocean fishery for shad, there could be redirection of effort towards whatever is available, one of which will probably be weakfish.

So there is concern that benefits derived from catches that are foregone by the recreational side are essentially picked up by others, and that creates some philosophical problems.

But I think so long as we look at this, if we see this occurring, we have concerns with it, we take action, if at any time the board can do that, then I think that will satisfy our needs. But we do have concerns we're going to see a redirection of effort and we want to make certain that if that occurs, we take action.

CHAIRMAN COLVIN: Thank you, Bruce. Any further discussion on the motion to substitute? Rob has a comment. Thank you, Rob.

MR. O'REILLY: Tom, the Technical Committee, to talk to your point -- I want to have a perfect day -- indicated that allocation could shift and they talked about that, but earlier the Technical Committee said that was not one of the points that was advanced in support of the bag limit analysis.

CHAIRMAN COLVIN: Anything further? Then let's take the question. Is there a need to caucus? All in favor of accepting the substitute motion, please signify by raising your right hand; opposed, same sign; abstentions; null votes. The motion carries.

MR. PATE: Mr. Chairman, just for the record, that was my motion and not Susan's; not that I care a whole lot but --

MS. SHIPMAN: That's true; it was Pres' motion.

CHAIRMAN COLVIN: Beg your pardon, and the record will so indicate. We are now voting on the substitute motion offered by Mr. Pate and seconded by Mr. Travelstead.

Any further discussion on the now amended main motion? Seeing none, we'll take the question. All in favor please signify by saying aye; opposed, same sign; abstentions; one abstention; null votes. The motion carries.

Okay, we have a couple of more issues. I'm going to recognize Susan Shipman.

**MS. SHIPMAN: Thank you, Mr. Chairman. I've got two items I'd like to move be added into 4.6.2, measures subject to change. The first is specification of management unit and the**

**second would be de minimis criteria.**

And even though there is under subparagraph 18 it says, "Any other management measures currently included in Amendment Number 4" -- I'm not sure those two items would be "technically measures."

My rationale for the management unit is the fact that Florida has an extensive genetic project underway to determine whether their sea trout are sand sea trout or weakfish, and it could well be that the majority of those fish come back being sand sea trout, and they may well have good rationale to be exempted from this plan.

CHAIRMAN COLVIN: It's a motion by Ms. Shipman; seconded by Jack Travelstead. Discussion on the motion? Seeing none, we will take the question. Is there objection to the motion? Abstentions? The motion carries.

Okay, we have another issue that has been brought up by Gil Pope with respect to Section 4.1.1, minimum fish size, if you would turn to that. Gil.

MR. POPE: Yes, thank you very much, Gordon. I know it's late and I'm tired, too. The first sentence about the minimum size, I really have no problem with, but the next two sentences where you have "however conservation equivalency for minimum fish sizes larger than 12 inches will be allowed."

Well, basically what happened was is we went to 15 inches, ten fish; 16inches, ten fish; and so on and so on, so conservation equivalency really doesn't really exist any more in the recreational fishery.

In general, conservation equivalency would allow for a longer fishing season or increased possession limits with a larger than 12-inch size limit. When I go back and I tell them, I said, look we're at 16, let's go back to 15 at ten, why go that extra inch, so there's absolutely every reason in the world for us to drop our size by an inch and go with the ten inches rather than staying at 16 with ten.

I mean, I didn't really see the point in that at all, that if we want to go to 17 or 18 for the good of the fishery someday, we want to be allowed to do it, but a the same time why should we if there is a constraint

at ten fish? Something just doesn't make sense to me there. Thank you.

CHAIRMAN COLVIN: Well, I'm not sure that this isn't really the reasonable maximum creel limit issue and not the 4.1.1 issue, Gil. I'm tempted to say asked and answered, I'm not sure. I mean, yes, you have that option, and I think the problem is we decided that hours ago. That's my sense of it.

MR. POPE: Conservation equivalency basically is no more, then?

CHAIRMAN COLVIN: That's not quite true, either. Roy.

MR. MILLER: Gil, notwithstanding whether you have the option for conservation equivalency with regard to this issue, you certainly have the ability to be more restrictive than the plan, just as we agreed that that principle applied to other sections of the plan. In other words, if your state chooses to be more restrictive, have a higher size limit, you certainly have that option.

MR. POPE: Yes, you're right, we have always had that option because we thought we were doing what was right for the fish, but all of a sudden now why do it now?

Why be at 16 at ten rather than 15 at ten? It would be better for the recreational anglers. How come all the rest of you are at 12 , 13, 14 inches? I don't understand that.

CHAIRMAN COLVIN: Is there any further specific proposal to amend the text of Amendment 4 as presented for public hearing that any member wants to bring forward at this time? Bill.

MR. GOLDSBOROUGH: May I ask for a clarification on the intent of some language in the text, on page 14? This should be very quick. 2.5, definition of overfishing, the last paragraph. It reads, "This amendment proposes an overfishing definition" et cetera, et cetera. Do we understand, then, that the word "proposes" means "adopts"?

CHAIRMAN COLVIN: Go ahead, Carrie.

MS. SELBERG: Staff will be going through

the entire document and changing things like that. This document was intended to go to public hearing with the proposals, and then we'll have to change language like that that says that the overfishing definition for this amendment is.

CHAIRMAN COLVIN: And I'm about to ask for a motion that carries forward this board's recommendation for adoption of this plan with that latitude given to staff to make such editorial changes. And, in fact, Bill, thanks for bringing that up, because I think such a motion is in order at this time.

**MR. PATE: So moved.**

CHAIRMAN COLVIN: Moved by Preston Pate; seconded by Eric Schwaab.

MR. AUGUSTINE: Call the question.

CHAIRMAN COLVIN: And called the question by Pat Augustine. I do want to make it clear on the record that the document that we will be bringing forward is the public hearing draft as it was taken to public hearing, with the changes and incorporating the motions we have made today and, in addition, the supplemental text that is distributed today, entitled "Supplement to the Amendment Number 4 to Interstate Fishery Management Plan for Weakfish, November 2002", so that that is clear on the record.

Is there discussion on the motion? Is there objection to the motion? Are there abstentions? Let the record show the motion carries unanimously. Mr. Pate.

**Other Business**

MR. PATE: Mr. Chairman, I would like to thank you from the bottom of my heart for a job well done. (Applause)

CHAIRMAN COLVIN: Thank you very much. And that does bring us to the close of the agenda, but before we go, you will regret having thanked me because I'm now going to ask you to stay here for another couple of minutes while the chairman, whose tenure as chairman expires at the bang of the gavel tonight, addresses some thank-yous of his own.

And let me first say that turnabout is fair play, and I'd like to than Pres who, as the past chairman, got

this issue teed up very nicely for me and the folks on the commission staff who walked into this process and were able to carry Amendment 4 to the commission, hopefully tomorrow, successfully.

A few other people I want to recognize, and first and foremost, though Brian isn't here, I think I just will reminisce for one minute and mention to you that for those of you who aren't aware of it, this is my second time around on weakfish.

When I started in this current position, I attended my first Atlantic States Marine Fisheries Commission Annual Meeting in 1983. I believe it was in Maine. And during that meeting, one Senator Owen Johnson from New York made a speech about weakfish and how they had disappeared from New York waters and how upset our anglers were about it.

And before the dust settled and I knew what hit me, I was made the chairman of something called the Sciaenid Board that existed at that time, and was handed the prospect of developing the first fishery management plan for weakfish.

And, Pres, you will appreciate this, I was told not to worry because all I needed to do was turn to the Weakfish Technical Committee that was chaired by one Dennis Spitsburgen, and who would take care of the whole thing for me. And he did; he took care of me but good. (Laughter)

So, we did develop a weakfish management plan that at that time, of course, initially was primarily a data collection plan and has lead through many iterations to having us where I think is on the brink of having finally restored and recovered this fishery and responded to Senator Johnson's long ago plea of some 20 years; and hopefully by the 20<sup>th</sup> anniversary of that plea, we'll be able to have as productive or nearly productive a fishery in his district waters of Great South Bay as was enjoyed prior to the 1980s.

Let me thank the people that I think were most indispensable in getting us here. I want to particularly reiterate what I said earlier about Wayne and all the members of the Advisory Panel. They did a terrific job.

I hope that we will -- and I look to Damon who was kind of the person who suggested strongly that we use this Weakfish Amendment 4 as the trial for

improving our advisory panel process.

I thank him for suggesting that. I thank Tina for kind of helping shepherd that process. And I'm hopeful that we'll find that it worked, and that we'll further, importantly, we'll identify ways to do it even better the next time.

I want to express my thanks to the Plan Development Team, and let me mention the members of the Plan Development Team lest we all forget who worked hard on this: Russ Allen from New Jersey; Louis Daniel from North Carolina; Jim Kirkley from VMS; Wilson Laney is there when he's not on from U. S. Fish and Wildlife Service; John McLain from New Jersey; Stuart Michaels from Delaware; Carrie; Brent Stouffel from Rutgers; Andy Strilchek from Florida; Jim Uphoff from Maryland; and Alice Webber from our staff in New York. My thanks to the Plan Development Team. They did a great job.

Let me also, again, turn to the Technical Committee and express my deepest appreciation -- I have talked to Roy about this -- to Des Kahn for the terrific job he did and the amount of time and effort he put in and awful lot of energy that you all don't know about in the time since the public hearings to try to help troubleshoot the problems and concerns that arose that we talked about earlier.

Des, among other things, that you don't know about, gave his time, and I guess he collared Jim Uphoff as well to go sit down and meet with many of the recreational fishermen and the fishing interests and try to provide them with as much information as he could to help them understand how we got here, and I really appreciate that.

I think it was very effective and it was a unique and remarkable effort on his part and I do appreciate it. Jim Uphoff, as the previous Technical Committee Chair, and as the incoming Technical Committee Chair has also been very helpful to us in this process, and we appreciate Jim's work.

Lastly, our staff coordinators have done a great job. Carrie walked into this, and I want to give her a round of applause because you don't know how hard she has worked and how much of her heart she put into it, but it's been a terrific effort and we do thank you. (Applause)

As I had a good jump start from Pres, Carrie had a good jump start from Heather. And, Heather, as in so many cases did a great job of getting us off and down the right road on this and I do appreciate that.

And if I've left anybody out, I'll use the excuse that it's late, but I think that we've really had a great effort from a lot of important supporters on this and I appreciate it.

And with that unless there's anything else to be said tonight I suggest that we stand adjourned.

(Whereupon, the meeting was adjourned at 8:05 p.m., November 20, 2002.)

---