

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

**Crowne Plaza Old Town
Alexandria, Virginia
August 19, 2009**

Board Approved November 3, 2009

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INDEX OF MOTIONS

1. **Motion to approve agenda by Consent** (Page 1).
2. **Motion to approve proceedings of February 5, 2009 by Consent** (Page 1).
3. **Move to accept the Stock Assessment Report and Peer Review** (Page 19). Motion by Louis Daniel; second by Pat Augustine. Motion carried (Page 19).
4. **Move to initiate a fast-track addendum in response to the Weakfish Stock Assessment. The draft addendum will include the following options; one, a complete harvest moratorium; two, a recreational possession limit of one and two fish; three, a commercial possession limit of 50 and 150 pounds. The draft addendum will be developed for board review at the annual meeting** (Page 20). Motion by Tom Fote; second by Dr. Rob O'Reilly.

MOTION REWORDED ON PAGE 29: **Move to initiate a fast-track addendum in response to the Weakfish Stock Assessment. The draft addendum will include the following options: one, complete harvest moratorium; two, recreational possession limits of one or two fish and commercial possession limits of 50 or 100 or 150 pounds. The TC and PDT will also develop options for recreational management to achieve a range of reductions through bag limits, closed seasons, and size limits. The draft addendum will be developed for final board action at the annual meeting.** Motion carried unanimously (Page 30).
5. **Move to approve the 2009 Weakfish Sampling Plans** (Page 31). Motion by Robert Boyles; second by Bill Cole. Motion passes by consent (Page 31).
6. **Motion to adjourn by Consent** (Page 31).

ATTENDANCE

Board Members

David Pierce, MA, proxy for P. Diodati (AA)	Ernie Bowden, VA, proxy for Del. Lewis (LA)
Dave Simpson, CT (AA)	Dr. Louis Daniel, NC (AA)
Jim Gilmore, NY (AA)	William Cole, NC (GA)
Pat Augustine, NY (GA)	Mike Johnson, NC, proxy for Rep. Wainwright (LA)
Brian Culhane, NY, proxy for Sen. Johnson (LA)	John Frampton, SC (AA)
Tom McCloy, NJ, proxy for D. Chanda (AA)	Malcolm Rhodes, SC (GA)
Tom Fote, NJ (GA)	Robert Boyles, SC (LA)
Craig Shirey, DE, proxy for P. Emory (AA)	Spud Woodward, GA (AA)
Roy Miller, DE (GA), Chair	John Duren, GA (GA)
Bernard Pankowski, DE, proxy for Sen. Venable (LA)	Rep. Bob Lane, GA (LA)
Lynn Fegley, MD, proxy for T. O'Connell (AA)	Jessica McCawley, FL (AA)
Bill Goldsborough, MD (GA)	Steve Meyers, NOAA Fisheries
Russell Dize, MD, proxy for Sen. Colburn (LA)	Jaime Geiger, USFWS
Rob O'Reilly, VA, proxy for S. Bowman (AA)	A.C. Carpenter, PRFC
Catherine Davenport, VA (GA)	

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

Ex-Officio Members

Russ Allen, Technical Committee Chair	Jeff Brust, SAS Chair
Pat Sullivan, SARC Chair	

Staff

Vince O'Shea	Chris Vonderweidt
Nichola Meserve	Robert Beal

Guests

Desmond Kahn, DE DFW	Arnold Leo, E. Hampton, NY
Phil Kline, Greenpeace	Ken Hinman, NCMC
Frank Kearney, CCA VA	David Nobles, CCA VA
Charles Hitchinson, MSSA	Wilson Laney, USFWS
Robert Geisler MSSA	William Windley, MSSA
James Price, CBEF	Loren Lustig, PA

CALL TO ORDER

CHAIRMAN ROY MILLER: Okay, if we're about ready, I would like to begin. By way of introduction, I'm Roy Miller. There may be a few in the audience that are wondering didn't he retire, and the answer is, yes, he did. However, Dr. Targett decided that academic duties were interfering with his participation on the commission so he resigned from the commission, and that left an opening.

Delaware's governor appointed me to be his appointee and the senate confirmed it and here I am today. So without further ado, what I would like to do is begin the discussion on weakfish. This is a species that I think you'll hear today needs our attention, and so we need to focus all of our energies on it.

APPROVAL OF AGENDA

First of all, I would like to start off with soliciting any public comments on items that are not on our agenda today. Before I do that, we should have approval of today's agenda. Has everyone looked over the agenda? Are there any additions or corrections to the agenda? Seeing none, I will again solicit any public comment at this time? Is there any?

Seeing none, we will move on. The public will have an opportunity to comment later in the agenda if there is any possible action to be taken by this board with regard to weakfish this morning. So, moving on to Item 3, which is public comment, on your meeting CD there are 19 letters and Nicholas informs there were six additional letters that have come in since the CD was burned.

Hopefully, you have had a chance to look through those and at least gotten the gist of the letters. I think they will give us a little guidance for later in our proceedings. Does anyone have any questions or comments about that particular agenda item, any of the public comments? Seeing none, I will come back to that.

APPROVAL OF PROCEEDINGS

The proceedings from February 5, 2009, need to be approved. Do I have a motion from anyone to approve? Bill Cole; is there a second? Robert Boyles. Is there any objection to approving the minutes as sent to us? Seeing none, the minutes are approved.

PUBLIC COMMENT

Okay, again, coming back to public comment, is there any comment from the board on some of the 19 letters that were on the CD and anything that is being passed around this morning?

2009 WEAKFISH STOCK ASSESSMENT

Seeing none, we will move on to Item 4, the 2009 Weakfish Stock Assessment, and the folks I am going to call upon will be Jeff Brust and Russ Allen. Jeff was Chair of the Stock Assessment Subcommittee and Russ is Chairman of the Technical Committee. I presume, Jeff, you're going to lead off.

MR. JEFF BRUST: Yes, Mr. Chairman, thank you very much. Good morning, everyone. I was the Chair for the 2009 Weakfish Stock Assessment, so I'll just give you a quick summary. Hopefully, it won't be as long as the last few that you've received. We do have a little bit of good news. I do want to want to start with a bit of history to go over what we have been through in the last few years.

You may remember back in 2004 we were scheduled for a peer review through the SAW. While we were developing that assessment, we came across some unexpected modeling results; and depending on the data we used they were conflicting. Either the stock was at record high levels or the stock was at record levels. That sort of slowed us down, and we weren't able to complete the assessment in time.

We did get approval to go through the SAW as a work in progress. We got some good comments from that Peer Review Panel; and within the next year we were able to complete the assessment. What we found was pretty unconventional as far as stock assessments go within at least the ASMFC arena and actually within the United States. Most stock assessments are based on a single species and the effects of fishing only on that stock.

What we found was that there were external factors involved; other species, environmental effects that were driving the weakfish stock. We were still just looking at the weakfish stock but how things other than fishing were affecting the stock. What we found was that an increase in predation or competition was increasing natural mortality and that fishing mortality was not the driving force.

The ASMFC External Peer Review Panel did not agree with that finding, and you might remember that the technical committee had to do some scrambling

to develop something that gave the board some solid ground to base management on. After the ASMFC Peer Review, we pretty much started right away developing the current assessments. Originally it was supposed to be completed in 2008, but it got pushed back about six months so that we go through the Data Poor Stocks Workshop in December 2008 – a couple of months ago.

This was, again, a work in progress, a review of the work in progress, and I believe it just gave the committee a course correction. We had had some problems with previous assessments being accepted and being completed on time, so this allowed us an interim review to make sure we were on the right track. Pretty much the same story; we were finding that fishing mortality wasn't excessive and that natural mortality had increased.

The panel was more accepting of the findings, but did note that we needed to find some empirical evidence to support these conclusions. Between 2004 and 2008 we went through three peer reviews. We incorporated the comments from all of these peer reviews into the final 2009 assessment. As I just said, we had the same conclusions, but we just got better at telling the story and had better data to support what we were finding.

That brings us up to the beginning of the '09 assessment. At the time we had data through 2007, so we updated the datasets we had from 2004 to 2007; the same cast of characters as usual, commercial harvest and discards, recreational harvest and discards, survey indices, plus one index from the recreational fishery. We used the same methodology we have been using for the last few assessments; an age-structured VPA, a couple of surplus production models and an index-based model as well; as well as looking at the effects of fishing on the stock.

We were also looking at trophic effects, predation, competition, prey availability, things like that, as well as environmental effects. Up here we see the fishery removals. For the time series that we have, the red line is recreational harvest, the blue line is commercial harvest, the green line is commercial and recreational harvest and discards combined.

You can see that throughout the time series, early in the time series it dropped pretty drastically. It bottomed out around 1990, '91, somewhere in there. It started to rebuild somewhat and then for some unknown reason it just started to drop off again. You see in the most recent years we're at record low harvest.

MR. DAVID G. SIMPSON: Just so I understand, the green line is supposed to be the sum of the other two?

MR. BRUST: Plus discards, yes.

MR. SIMPSON: Can you explain how in '91 it's only slightly above the commercial harvest?

MR. BRUST: There is probably an error is the best explanation I can find. Well, you also look at the recreational harvest in '91, it was pretty low. I will have to check that, but it is supposed to be the sum. You can see in the most recent years we're at record low harvest levels. I think in 2007 we harvested – including discards, the total removals were about 900 metric tons compared to over 12,000 metric tons in the early parts of the time series.

We had four adult indices; only one of them extending back the entire time series, but you can see from about 1992 on they all show a similar trend. They start at pretty low levels; they increased for a few years; and then since the late 1990's they've all been sort of tailing off. New Jersey did have a couple of good years in there, but the three others certainly are declining pretty quickly.

Juvenile indices, there are eight of them; four on the top on the left, four on the bottom on the left. It's kind of noisy but the figure on the right is all eight of them combined into a single index. You can see that it has actually been increasing over the time series, which is one of the signals that gave us some concern. If landing are going down and we have good recruitment, what is happening in the stock here?

The first model that we looked at was the ADAPT VPA. This is the, quote, approved methodology, and by approved what I mean is it is the most recent method that has gotten accepted by a peer review panel, and that was actually done back in 1998. Although it is the approved method, the technical committee does have concerns with some of the assumptions that are used in that model.

Specifically in this case the way the model uses natural mortality information affects the results for fishing mortality, and we weren't comfortable with how it did that. We had some concerns with the estimates of fishing mortality, particularly in recent years. But given the data that we had and the assumptions that we were running under, we did multiple runs with different tuning indices, different variations of the data, and pretty much everything we

did with the data we got the same answer through 2003, which is pretty good.

We wanted that; that shows that the model is stable at least in the early years. Unfortunately, for the most recent four of five years we've got a severe retrospective pattern, which shows that the recent year estimates are not really reliable for management purposes. Depending on the data you use and how many years you use, the recent estimates are going to change, which makes it hard to manage if the numbers you're using are changing.

The technical committee recommendation is that ADAPT was not appropriate for management purposes. We move on to an Index-Based Model. Just to explain this a little bit, fishing mortality is essentially calculated as the total harvest divided by the total abundance. Unfortunately, we don't know the total abundance, but the surveys give us an index of abundance. They should be following the same trends as total abundance.

What we did is calculated relative F, which is the total harvest divided by some index of abundance, and then we rescaled those to absolute values of fishing mortality, using some information from the converged portion of the VPA, the years where we think it is stable. It is a very simple model, but it can be very useful in certain circumstances. It is very easy to calculate and I think it should be pretty easy for you guys to understand.

One benefit of this model that we followed through with is that it is not constrained by assumptions about natural mortality, which is different from the VPA. This is one reason that we went with this model. Unfortunately, it does not provide estimates of natural mortality. We also looked at two different biomass models or two configurations of a biomass model, surplus production model.

This also circumvented some of the concerns with the ADAPT Model, and it also allowed inclusion of additional sources of mortality, looking at some of the predation and competition effects on the weakfish stock. All of the models that we looked at – that includes the ADAPT, the Index-Based Model, and the two surplus production models. All showed similar trends in total mortality and stock biomass.

As far as total mortality is concerned, all of the models were showing a drastic increase over the last decade or so. ADAPT was attributing this to an increase in fishing mortality. As I just mentioned, the committee had concerns with the assumptions of how

the model deals with natural mortality and how it calculates fishing mortality; that we didn't think those estimates were accurate.

The three other models that we looked at showed that fishing mortality was actually very stable in the last ten years or so; and if total mortality is increasing and fishing mortality is stable, that is leading us to believe that natural mortality is increasing. We also provided multiple analyses to support this, including increases in predator abundance or competitor abundance, changes in prey availability and strong correlations with environmental parameters. I'm going to steal a little bit of Dr. Sullivan's thunder here.

The Peer Review Panel reviewed everything that we threw at them, all four models. They did a bang-up job getting through all the material that we presented to them. They agreed with the committee that the ADAPT estimates were unreliable and not useful for management purposes. They also agreed that based on the available data, natural mortality had been increasing and had been a strong influence on recent stock dynamics, but they were a little hesitant to point their finger at any single cause of why natural mortality was increasing.

That left us with the Index-Based Model, which was really just an estimate of harvest divided by an estimate of abundance and not pointing any fingers at what was the cause. This graph shows just a summary of what the Index-Based Model showed. The blue line shows fishing mortality, and you can see that over the last ten years or so it has been kind of noisy, but it has been pretty stable around 0.5, which is not really excessive.

You can see in previous years levels around 0.5 or so were allowing the stock to rebuild. We've got levels 0.5 around here, and the stock is rebuilding at this time; keeping it around 0.5 and the stock has dropped off. Although fishing mortality has been relatively constant, the abundance in the red here were at record low abundance levels.

In terms of stock status reference points, most reference points that we deal with at ASMFC are based on equilibrium conditions. Apparently we are not under equilibrium conditions so these equilibrium reference points don't really have any value for us at this point. We did make some attempts at least with biomass reference points just for academic purposes, and I believe Dr. Sullivan will go into that.

The bottom line is that the stock is well below the threshold. No matter what threshold we use, we are at record low levels, and the stock is way down. There is no other way to say that. At this point stock rebuilding should be a main concern. Unfortunately, the fishing mortality is a relatively small proportion of total mortality, and so the leverage that managers have for rebuilding the stock is pretty low.

I do have a projection here. This is actually one of the rosier projections. The blue line shows what would happen if we continued fishing. That's the bottom line there on the right. The red line is if we went with a full moratorium. We did several runs of these projections with varying levels of natural mortality. This was a moderate level of natural mortality. If we used a higher level of natural mortality, which we think it might be more accurate, that red line would actually be much closer to the blue line.

Even with a moratorium, rebuilding would be slow and what we really need is a substantial decrease in natural mortality to give the managers more leverage in rebuilding the stock. Just one last summary slide; the stock biomass is very low. The fishing mortality does not seem to be excessive. It appears that changes in natural mortality, increases in natural mortality are driving the stock dynamics and that rebuilding is required, but it would be difficult to rebuild the stock without a substantial decrease in natural mortality.

CHAIRMAN MILLER: Thank you very much, Jeff. I'm wondering if before we should entertain comments or questions on Jeff's presentation, maybe we ought to call on Russ; or if anyone has anything burning for Jeff right at this moment. Vince.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: That was a great report, Jeff, thanks very much. Could you go back to the landings' slide or the removals? Did the stock assessment process look at any potential regulatory effects that might have occurred over this time period that could have driven the landings to the low numbers, that these landings could have been a response to regulatory changes?

MR. BRUST: We did to some extent. Most of the severe management actions that were taken by the ASMFC occurred in the early to mid-1990's. Most everything had been done by this peak right here. Regulations haven't changed since the stock has – well, these are removals but they reflect the actual stock biomass, also. No significant regulatory changes have occurred here, since this point here.

One thing we did look at and that several of the previous peer review panels have suggested is that total removals have actually been increasing through increased discarding in the stock. What we found is that we would need levels of discarding about four to – I think it was like four to twelve times what is actually being seen, or some sort of removals, missing harvest, missing discards.

It would have to be astronomical, which would suggest a complete failure in the management process as well as the compliance process. It's not being picked up in the landings; it's not being picked up by our conservation officers; management efforts have not been able to constrain removals of weakfish at all. It just was not a likely scenario.

EXECUTIVE DIRECTOR O'SHEA: Just a followup, then; what about observer data?

MR. BRUST: We did have observer data; we used it to develop the discard estimates. Unfortunately, the number of trips observed every year with weakfish discards is actually pretty small. It is not one of their key species. We did use what we had and it didn't support the claim that discarding had been going through the roof.

CHAIRMAN MILLER: Russ informs me that the presentation by Jeff covers his aspect of that as well. We will come back to Russ a little later in the program for more from the TC, but I saw additional hands go up. Pat Augustine.

MR. PATRICK AUGUSTINE: As usual, Jeff, a wonderful presentation, very clear and very concise. It just seems like all the assessments that you've done all focus on what isn't and what hasn't models and so on. The bottom line is all the fingers point towards natural mortality. The question is without going into more survey data, more observations, more data collection, more otoliths and that sort of thing, is there a plan somewhere in the near future to look at what is the specific nature of the natural mortality?

It seems to me that we're talking about predator/prey relationships. I'm kind of dumb because I'm old, but the reality is that it seems to me that we have a whole bunch of fish up here eating on these little critters down here. Until we point to those fish that doing most of the damage; and either, one, I'll use the word "control" those quantities or stock sizes – and I'm going to say the nasty work "SP", striped bass, and now fluke and anything else that predates on juvenile weakfish, it leads me to another question that only –

well, it's this – if we have a minimum threshold and a maximum threshold for SSB, has anyone determined what the surplus above the SSB has and its effect, and particularly on weakfish fish? That's not too complicated; is it?

MR. BRUST: Oh, no, not at all! I want to go back to the earlier aspect of your question, and you might have to restate the second aspect. In terms of are there any plans for dealing with some of these, quote, unknowns, well, the answer lies in your hands. As I said, this is one of the first in the country, certainly the first on the Atlantic Coast that deals specifically with the effects of multi-species on a single stock.

Where the commission goes with this, it does lie within the stock assessment committee or the technical committee; it goes with the board. And, certainly, we might be on the verge of a new era here. We did talk about, at the technical committee – and Russ is going to elaborate on this – one of the recommendations from the technical committee's conference call we had just a couple of weeks ago is to set up a workshop within the next couple of years to investigate some of these things; what are the causes of weakfish natural mortality, is there a better model out there that we could use that could incorporate all the information that we have and give us a better understanding of the data that we already have?

Essentially we just opened a brand new door that no one has ever looked behind. We've been dancing around it for years, and I think this is probably one of the first assessments that kind of starts kicking at the door. I hope that gets to the first part of your question and maybe not the second.

CHAIRMAN MILLER: Are you satisfied, Pat?

MR. AUGUSTINE: Well, it does. I think the second part of the question might lie in looking at Fish and Wildlife's Survey Work. Dr. Wilson Laney and that group have done stomach content analyses, and it seems like there has got to be a connection sooner or later between that stomach analysis work they do when they're doing their survey work and at least a starting point to give us an idea which particular species of fish are preying upon it. Thank you, Mr. Chairman.

MR. BRUST: The surplus production models that we have do look into things like how much weakfish would a striped bass have to eat to actually make an effect, so we do have some estimates. Unfortunately, weakfish isn't a major part of a striped bass diet, and

so we would have to collect lots and lots and lots and lots and lots of striped bass stomachs to see just a handful of weakfish.

That could be one of the aspects of the workshop that comes up, hopefully that we can get through in the next year or so. I guess to get to the second half of your question, we have looked at estimates of how much we think the predators might be removing and how we could adjust that and what would it take to minimize their removals, but that doesn't lie in hands. That lies at this level.

DR. DAVID PIERCE: Just a clarification regarding one of the figures that you showed; it was that important projection figure in the stock assessment, the projection for 2020 of the total weakfish spawning stock biomass. I think I had misunderstood what you had said, but then I went to the figure and let me make sure that we're all drawing the same conclusion from this particular project.

With this projection, we have an assumed natural mortality rate of 0.25 all the way from 1981 through 1998, and something happened in 1998. According to the model and the collective wisdom of the assessment scientists, the natural mortality then shot up from 0.25 to about 0.75. Here it says 0.65, but it says 0.75 in another part of the document.

Actually it says in one of the SARC documents, "Recent levels of natural mortality seem to have stabilized around levels of 0.75." Okay, so these projections for 2020 are based on the assumption that we will continue to have a high natural mortality rate of 0.75 or so, which is incredibly high. That's my interpretation; I assume I'm correct. If I'm not, please tell me otherwise.

The next question is to what extent – through the SARC and then through technical committee work, to what extent do those who have been involved in the calculation of this natural mortality feel that is the value? In other words, how uncertain is this value of natural mortality? I mean are we really going to be assuming it's 0.75 from now until 2020 or whenever we get some additional information to suggest otherwise? I mean could it be 0.25 still; could it be 0.50; how uncertain is that estimate?

MR. BRUST: The first part of your question; you are correct, this assumes 0.25 up until 1998. This projection was done based on 0.65. The SARC document does say 0.75. That was something that they came up with. Our estimates are very uncertain. We don't know. We would have to do a pretty extensive tagging study to find out the true number,

but some of our estimates go up much higher; actually up above 1.0.

The SARC conclusion that it is around 0.75, that was nothing that the subcommittee had any input into. That's what the SARC Panel came away with from our presentation. Depending on which analysis you look at, we have estimates of natural mortality up above 1.0 or 1.2 in recent years, but it is very uncertain. This is based on the data that we have and our understanding of the stocks that are involved, but we don't know.

DR. PIERCE: Okay, so to calculate that natural mortality rate, I assume that the assessments just calculated total mortality, estimated fishing mortality, and then subtracted the fishing mortality from the total to come up with natural mortality. Was that how it was done or was there a more sophisticated way in which it was calculated?

MR. BRUST: That was one way that it was done. I think that might be how the SARC came up with the 0.75. ADAPT gives us the total mortality. We know what we put in for – and we have the Index-Based Model for the fishing mortality. You subtract those two and it comes out to above 0.75.

The other models actually incorporate the removals by predators based on their abundance as well, and that helps to calculate the natural mortality estimate. For some models it is based on the total and the fishing mortality, and some models it's based on the abundance of predators as well as the fishing mortality and other information that we have.

MR. TOM FOTE: When I keep hearing about, well, it's maybe because of the increase of one species over other species and the stock is declining because of that, I think it would help us at some time if we basically put the graphs on the abundance of, say, bluefish, striped bass, croaker and weakfish on a table, and you would see at certain times that all three species were at highs and certain times all three species were at certain lows.

I mean, I remember when we started this plan; striped bass was down and so was weakfish at the same time so that both stocks were down and bluefish was heading in the other direction, also. So, it might be also interesting to graph, if you're going to do this and we start looking at the causes of the increased of forage species, the different types of forage species that are being harvested and forcing prey to move to other species, to look at that.

I mean, there is a combination factor. If you put croaker on there, the giant rise in croaker basically when we started seeing this huge population, also coincided to basically the drop in weakfish. I don't know what the cause is, but we're going to start graphing, we should really put those graphs up showing all the species.

I would be interested in seeing it myself because I know there are times, as I said, that there was plenty of bluefish, there was plenty of striped bass, and there was plenty of weakfish, and what has it basically done to do that. Some of think it's habitat, some of us think it's systems inside the bays and estuaries, and so we really need to look at all those details and not just blame one species for eating another species because at certain times they were all in abundance at the same time, and that didn't seem to be a problem.

I just think we should basically be looking at a whole bunch of species. I mean, if you look at back in the nineties when we started increasing certain – harvesting of certain forage species, and, you know, then we started – but we should be looking at all those factors if we we're going to draft and start doing the ecosystem management of this species.

CHAIRMAN MILLER: Thank you, Tom, for that suggestion. Rob.

MR. ROB O'REILLY: Thank you for the presentation, Jeff, and I'm going to roll two questions together because there is probably going to be a lot of different questions and a lot of proceedings on this. The first concerns ADAPT, and it just seems a bit odd to me that one of the things that you said – and I've heard before – is the retrospective problem, but at the same time there is use of the converged area, I guess, of ADAPT – I forget which year that is exactly – as you go forward in your estimates of total mortality and also the way you used the relative index.

Would there be better certainty about the retrospective if some of the forward models were used, such as ASAP or statistical catch at age, and would that give us some better confidence about maybe the use of age-structured models in general? That's the first question for you.

MR. BRUST: I don't know how to start that. We did look at some of the other age-structured models such as the forward-projecting model you mentioned. Those also had some retrospective, but every peer review we've been through have said keep looking into it. Even if it doesn't give you a better estimate,

it could help you better understand the data that you have.

Each one has different assumptions associated with them that calculate some of the statistics slightly differently, and it might help us better understand the data that we have and why we're seeing some of these patterns even if it doesn't give us a better estimate of the stock biomass. Then, again, I'm going to refer back to this workshop that we're planning.

That was one of the original ideas is maybe there is another model out there that we don't know about that someone somewhere else is using for a different species and they're just not associated with weakfish, but the model they're using would be helpful to us. That was one of the ideas behind the workshop is gathering some of the real big guns in terms of stock assessments, getting them involved and maybe learning something from them.

MR. O'REILLY: Mr. Chairman, if I may have another question, it concerns recruitment, and I didn't hear you stress that specifically, but I assume you have in the past. One of the things from a couple of years ago was this bottleneck effect. Is that still something that is looked at for weakfish? You know, you see the zeroes; you really don't see the ones follow through as you would like to. That's part of what the committee has talked about still, I would think. I guess the idea is are the surveys in place adequate to track that effect, that bottleneck effect?

MR. BRUST: You are right; we are seeing good recruitment. I have it up here is that the coast-wide recruitment index has gone up for a few years. It has been stable for a few years, so we are seeing the good recruitment that you mentioned, and they just aren't showing up at the later ages. So, yes, it is some sort of bottleneck effect that we think is occurring. We do think the surveys that we have are sufficient to capture this.

One of the best surveys that we have is the Delaware 16-Foot Trawl Survey in Delaware Bay where a lot of the spawning occurs. That is one of the main surveys that we have. Most of the juvenile surveys that we have are estuarine, so we would hope to be picking up the signal. In terms of seeing them later at older ages, yes, we should be capturing them in the surveys.

They're the same surveys that we have been using forever. They went through peer review. We talked about every single one in detail. The ones that we

selected to include in the model, there were no major concerns with any of those in terms of not being representative of the stock. At least that was my take of the SARC Review.

CHAIRMAN MILLER: Before we go too much further, I did recognize that Jaime Geiger had his hand up and David Simpson called my attention as well, but I would like to urge the board that perhaps we call on Dr. Sullivan for the peer review report because I suspect that everything he'll tell us also will be of importance and relevant to our continuing discussion and questions. Unless, Jaime, you have a burning issue, why don't we come back to you and I give you another opportunity later and call on Dr. Sullivan for the Peer Review Panel Report. Dr. Sullivan.

PEER REVIEW PANEL REPORT

DR. PATRICK J. SULLIVAN: Thank you, Mr. Chairman. What has happened here is that an independent peer review panel has been asked to look at the weakfish. We were also asked to look at ocean quahog and tilefish, but what I'm going to present today is basically the weakfish component.

Just to set a bit of context, the SAW/SARC Process, the SAW Stock Assessment Workshop is followed by a SARC, which is the Stock Assessment Review Committee. It is part of the federal process for establishing quality assessments in order to have them peer reviewed. It is a four-step process, really, and in this instance the assessment team was the Weakfish Technical Committee, which did the assessment itself and then presented it to the External Peer Review Panel for scientific review.

This panel – I'll show you in a moment who the members were – was established by the Center for Independent Experts, which is an independent body, that brings experts from all over the world to come in and review these stock assessments. I want to point out that the emphasis that these review panels have and what they're supposed to look at is the science.

They're not really supposed to come in and make management recommendations. That obviously is your job, but our job as a peer review panel is to look at the science and see if the science is a high enough quality to base management on. The products that came out of this review are a reviewers' report and two science reports.

I was the chair and there were three independent reviewers. Each reviewer wrote his own review of

the assessment. I then took those reviews and made an overall review of the assessment. All of these reports are available on the Northeast Fishery Science Center's website. Those are there and if you want to look at these documents, although I'm sure you have access to them already, they're there and you can look in detail at our recommendations.

Subsequent to that, then, the peer reviews go to the managers and in terms of the federal system it typically goes to the SSC in terms of making acceptable biological catch recommendations, and then these are further developed by the technical committees and in the federal system, the PDTs and the SSCs.

You already know the Weakfish Technical Committee. I just put the names up here just so that we're reminded of everyone who was involved; a lot of different scientists from a lot of different agencies contributing to this. That is good news but it is a complication as well. The good news is we have a lot of eyes looking at this. The challenge is in terms of coordination.

The challenge for the review panel was a lot of different insights based on a lot of different models, but the models often made assumptions that were different from one another, and so it makes the overall picture a little bit more difficult to interpret. I just wanted to acknowledge that.

In terms of who the people were, there was me – I was the chair. I'm from Cornell University. I serve on the Northeast Fisheries Management Council's SSC. I chaired it for a number of years and now I'm sitting at the sidelines, which is nice, but contributing still, and we meet quite often. As you may know, the responsibilities of the SSCs have changed under the reauthorization of the Magnuson-Stevens Conservation and Management Act, and we now set ABCs as part of the overall management process.

Even though I'm in the New England Council, the New England and Mid-Atlantic Councils often share responsibilities, and I volunteered to take part in the review of the Mid-Atlantic species that we're looking at here. The three panelists that were hired by the CIE – this is the CIE that hires this group and not the National Marine Fisheries Service – Sven Kupschus, who is from Lowestoft Lab in the United Kingdom; Michael Bell, Heriot-Watt University in the United Kingdom; and Jamie Gibson, Nova Scotia and Canada.

Parenthetically, I am also on the steering committee for the CIE. I often help choose these people. I recused myself in this instance because I was going to be chair of this committee, but we look all over the world for the best people to come in and give us insights on these assessments, so these are top scientists coming in and helping us with this.

To go with the Weakfish Assessment, you have already seen some of this. This is just a reminder of what has happened in terms of harvest. We had some interpretation in terms of what degree of the change that we're seeing is due to management and what may be changing as a result of the changing stock biomass. We see a comparison of the weakfish stock biomass on the top and the commercial catch on the bottom.

I'm not really disagreeing with Jeff, but he mentioned a couple of times that F was not excessive. I would interpret that as meaning F is not large relative to M , natural mortality, but I think the removals are significant in terms of what the stock's biomass is. One of the difficulties that we're running into here, of course, is trying to define what the spawning stock biomass is, and the different models actually define it in slightly different ways. That makes it more complicated.

Some of the models include the one year olds, some do not, and so we need to take that into account. If we look at the biomass level in 2008, that was about 1,333 metric tons. If we look at the spawning stock biomass, the 20 percent level, that is 10, 179 metric tons. That level is based on the equilibrium assumption with M equals 0.25. If M is actually at 0.65 or 0.75, that biomass is actually much lower.

We have a kind of apples and oranges kind of comparison going on. There is not much we can do about it because we don't seem to be in an equilibrium kind of situation, but all indications are that we're in a bad spot. Okay, we've talked about the projections. Two projections were shown. Again, we would like to use an ADAPT or statistical catch-at-age model to do the full analysis, but with the retrospective pattern that exists in the VPA we can only trust the early part of the series and not the latter part of the series.

What we ended up doing is cobbling together the ADAPT approach to get what was going on with the early part of the series. Assuming that the index from the surveys is relatively reasonable, we tried to project what was happening over the rest of the series. Then we used a third model to come up with

what the projections were in the future. Then, of course, the projections are based on assumptions of natural mortality; and I understood that the assumed natural mortality was 0.25 for the projections; is that correct, Jeff?

MR. BRUST: For the early part of the time series, yes, so for the historic portion it was 0.25.

DR. SULLIVAN: For the projections from 2008 on; what was the M on that, if I may, Mr. Chairman?

MR. BRUST: We did three separate sets of projections that were presented to the SARC. The first one assumed M was 0.25 constant for all years. The second one assumed that M was 0.25 constant up until 1998 and increased to 0.65. Then there was a third one that said M was 0.25 constant up through 1998 and then increased to – I can't recall the number but maybe 1.0. So the three different sets had different –

DR. SULLIVAN: So these projections that are up here; do you know?

MR. BRUST: Those look about the same as the one that I put up, which is the one that you guys accepted was the 0.25 constant through 1998, increasing to 0.65.

DR. SULLIVAN: And 0.65 thereafter?

MR. BRUST: 0.65 constant through 2020.

DR. SULLIVAN: Okay. So one of the questions that was raised was what do we do in terms of M, and that's a big question. If M continues to stay high, 0.65 or 0.75, then the productivity of the stock is actually negative and it's going to crash. If, however, it goes back down to 0.25, then maybe there is some hope that the stock can recover some time in the future. Anyway, what you have is two possibilities, and you can see the impact of what you have control over, which is, namely, the F and what it might do to the fishery.

These are review comments on the assessment itself. We note that the methodology is index based, and it's based on relative abundance changes. This is not a VPA model by itself, and so we don't have the degree of formalism and understanding of what is going on with the system as we would if we had a fully structured model.

The guys are trying but it's a difficult population to be doing this with, especially with all of the

ecosystem predator or prey competition, prey availability things going on. The natural mortality rate has increased over time. I think this is a certainty. I think in previous reviews the reviewers were not sure whether this in fact was happening. I can tell you that this is happening. M has increased. We don't know why.

There may be eight or more different possible causes or multiple combinations of them that may be causing this M to increase. That is happening and it's causing the stock to decline rapidly. This decline is exacerbated by the removals from the commercial and recreational fishing. The current fishing removals are not sustainable as long as M remains high.

The stock is depleted well below any past or proposed biological reference points. As Jeff pointed out, we're not in an equilibrium situation. By that we mean something is changing. Specifically what is changing is M. In most of these models we typically assume that M is holding itself constant over time. This is not the case, so it makes our means of calculating the productivity which would go into the biological reference point calculations difficult to assess.

I mean if M continues to go up, you know, what do we do? It doesn't bode well. The projection results are a bleak outlook for the stock under any conditions; and as I said before, equilibrium-based biological reference points are not appropriate now. However, we are providing the SSB 20 percent threshold which assumes an M of 0.25 as at least some kind of tangible point that we can look at so that we can see what we would expect the biomass to be at if M were to return to 0.25.

Obviously, we've tried to construct things so that we have something to get our hands on in terms of making management decisions now, but we can look ahead in terms of the future. As I just got through stating, the SSB 20 percent is under an M of 0.25. I think we should use that as an interim biomass threshold and work from there and then keep an eye on the population and M to try to see what is going on.

We need re-evaluate the stock status again in the future and the biological reference points as well. As was mentioned by several questions already, I think we should be trying to figure out better estimates of M and what the causes are. We should also try to fine tune the predicted changes in the stock. Obviously, if the system is changing, even if it's just

M by itself, it is hard to predict what is going to happen in the future unless we can predict what is happening with M, and that's an ecosystem prediction, and that's very challenging.

I think we should continue to explore the causes. The review panel feels that we should continue to explore the causes of the changes in M, and it suggests using some more sophisticated approaches, time series approaches to looking at that. It is suggesting tagging studies for better mortality estimates as well as analysis of stock structure. As you know, there may be several stocks that are out there right now. We're sort of looking at it as a single stock kind of structure.

And then, finally – and this point was raised as well – we recommend using a likelihood-based age structure, a statistical catch-age assessment model. I think this can be done. It is a little bit more sophisticated than doing the ADAPT VPA. It may end up in the end, just to kind of warn you, having the same retrospective problems as the ADAPT would have, but it gives us a little bit more flexibility in terms of diagnosing what the causes are.

The panel would encourage the technical committee to continue to pursue this avenue. Even though it is technically challenging, I think it will provide insights as to what may be going on with this population. Thank you.

CHAIRMAN MILLER: Thank you very much, Dr. Sullivan. On behalf of the board, I would like to thank Dr. Sullivan and the rest of the peer review panel for doing a terrific job and for him taking the time to come here today and to share with us on behalf of the panel and his colleagues on the panel. Jaime Geiger.

BOARD DISCUSSION

DR. JAIME GEIGER: First of all, I appreciate Dr. Sullivan's input and, Jeff, excellent presentation. I think it would be valuable to have a chart prepared that basically assumes a total moratorium and look at a tiered approach on reducing fishing mortality to whatever it is, 0.75 down to a target of 0.25 and also try to get some estimate or the level of uncertainty with that reduction in fishing mortality.

I think that will give us much more options to look at for possible management options. The second thing that really strikes me with this presentation – and, again, for those of us who went through the striped restoration efforts in the 1970's and 1980's, I am

struck at the same point we are now in weakfish that we were in striped bass in the late 1970's and early 1980's. You're almost to a point we are committing to a long-term restoration program with a moratorium on the one hand and then on the other hand looking at other regulatory tools that may be employed with this particular species.

When I'm looking at other regulatory tools, I am mentioning the Endangered Species Act. Again, this is something that I think we need to review based upon what we did in the striped bass. We had those same kinds of discussions. I believe this group and other partners chose the long-term restoration rather than the ESA approach, but, certainly, the status of this stock certainly begs that question. Thank you, Mr. Chairman.

CHAIRMAN MILLER: Thank you, Jaime, and I was struck with the parallels as well with the striped bass situation. The one difference that jumps right out at me in this particular case is the fact that retrospectively we concluded that the striped bass were overfished at the time, and this appears to be a situation not caused by present rates of fishing. Although, certainly, as Dr. Sullivan pointed out, any fishing appears to exacerbate the present status of the stock in its low state.

MR. SIMPSON: The reason I asked the question about the slide was I'm interested in the discard component of the removals. I know you made reference to that, but you also acknowledged that there is a very low level of sampling. I think very little has been talked about in terms of discards in this fishery. At least at one time my understanding was that discards were fairly significant.

I haven't in my own mind been able to rule that out yet. I think that is a significant concern. I'm not sure that with the level of sampling we can conclude that one is off the table. I'm struck by the continued good recruitment – I think everyone is – increasing recruitment. Including up in Long Island Sound, our indices are two to three times in the last five years what the 25-year average is, and so somehow the stock is still able to produce young.

They seem to get through that first year of life, which you would expect would be the most vulnerable to predation; and then when they're reaching a size where they should be getting out of that high predation window, that's when we start to lose them. Hearing that striped bass is maybe not on the top of the list of likely predators, I guess I'm wondering

what other suite of predators are being considered as likely suspects here.

Again, I guess I'm asking for some more description of the lengths you went to exclude the likelihood that discard mortality is a significant factor in this fishery, which with a relative F of 0.5, that's a pretty substantial level of removals. It looks like it is even higher than that from the slide that Dr. Sullivan showed. More than half of the biomass being removed each year is higher than at 0.5 F.

CHAIRMAN MILLER: I don't know whether Jeff wants to address that or Dr. Sullivan.

MR. BRUST: You're right, Dave, the discards could be a significant portion. In the past there has been talk that they were substantial. You might remember that our assessment in 2004 was the first assessment to include estimates of discards. Janica DeSilva, who previously was with Florida, did the analysis for us. We keep including it but we haven't ever gotten a peer review panel to support the way that it is done.

The problem, as you mentioned, is the sampling is low, and so what we have to end up doing is combining all the years together, all the years of data together and coming up with like a single discard ratio. The way the SARC Panel put it is it smears the age class effect, so we don't know if in some years we're losing an entire year class to discarding.

The upshot is that we still need to do better with our discard estimates. We do include it. The information we have says that it is there but is only a minor portion of the total removals. To answer the portion of your question about how we determine that it is not really a significant factor in the stock decline, what we did is the surplus production models that we used included the predators, and we got a good fit to the trend in weakfish biomass.

Then what we did is we went back and said, okay, how much discarding or how much missing removals – if it is not predation or it is not competition, how much fishery removals would have to occur to get the same trajectory in stock biomass? Depending on the model you used and the different assumptions, you know, whether it is constant or has it been increasing gradually over time, total removals would have to be – I think the average was like seven times what is being captured right now in all of our datasets.

The commercial landings, the recreational landings and all the discards combined would have to be seven times greater than what we're actually capturing. It

just doesn't seem likely. That means that our reporting is poor. That means that our law enforcement agents are missing something. It just wasn't realistic.

I think there was a part of your question about if it is not striped bass – I guess it was why are they abundant at ones and not as older ages? It might not necessarily be direct predation. One of our hypotheses was that it could be competition. Striped bass and weakfish follow the same ontogenetic shift in prey selection. If striped bass are super abundant and selecting out or decreasing the availability of prey for weakfish, who are also trying to eat the same things, it might just be delaying their transition to a more optimal diet and holding them back, eating the invertebrates and other things that are not optimal for their growth and survival.

They shift from invertebrates to juvenile spot and juvenile menhaden at about the same time. If the striped bass are eating all the available prey, then the weakfish – and we have evidence of this, the weakfish are stuck eating the invertebrates. They're not growing, they're not surviving, it's not an optimal diet for the larger fish. But as Dr. Sullivan said, we can't at this point point the finger to any one thing, whether it's predation or competition or environmental shift or prey availability. It could any number of factors all working in concert and holding them back.

MR. SIMPSON: I guess to the growth, I didn't hear any discussion of stunted growth or low fitness indices, low weight per length. If you look at other stocks like haddock and when they have an extremely large year class as we did in, what was it, 2006, it is very clear that competition within that cohort causes the growth to be delayed substantially. I wasn't aware that was so evident with weakfish.

MR. BRUST: At this point it is not. We did look into it a bit with this assessment. Unfortunately, where the samples are coming from, it has only been since 2004 that we're getting good representation across all states. With weakfish samples, historically they have come from just one or two places, and it is not always consistently the same place.

We don't have good time series of size at age to track growth rates and things like that. It is one thing that I think we hope to continue looking into to see if there is some evidence of delayed growth. What we need is data back prior to 1998 when this change seems to have occurred, but really it has only been since 2004

that we have a good representative dataset. It could be there; we just don't have the data to support it.

CHAIRMAN MILLER: All right, I have a number of names yet, but I just want to remind the board while this is a very helpful discussion that we're having, we should allot more than a little time for a discussion of what the next steps might be for this board and what this board should do about this particular situation. With that gentle warning time-wise, I will recognize Tom Fote.

MR. FOTE: Mr. Chairman, I listened to Jaime Geiger comparing striped bass and weakfish. The differences on weakfish and striped bass – I'm looking at our three southern members here, Georgia, Florida, and South Carolina. During that period of time when we started doing the weakfish plan, they had a shrimp fishery that we were estimated was bycatching 50 percent.

It is one of the reasons they are always sitting at the table. They put in measures with fish excluding devices and everything else that corrected that major bycatch of what went on there. We also, in that same period of time, were fishing on six- and nine-inch fish and basically eliminated that fishery altogether.

We also had a dragger fishery and this is when I think the model gets lost in the history of what we did on this plan. We basically eliminated that fishery. We eliminated North Carolina through their due diligence and eliminated the fly fishery. We cut this fishery down dramatically both recreationally and commercially, raised size limits until every fish was sexually mature, and basically thought we were on the right path.

So, there is a difference when we basically look at striped bass where we allowed overfishing and overfished and fishing pressure and we were fishing the fish before they were spawning. The females had to be like 32 inches. So there is a real different problem here that we're dealing with. I'm not saying that we don't need to do certain steps at this time. As a matter of fact, Mr. Chairman, when you're ready I have a motion prepared to make that motion when we start moving forward.

But, let's remember the history and what the states from Georgia, South Carolina, Florida and North Carolina did in that period of time, and even New Jersey because we eliminated the dragger fishery in that fishery, too, that was very important to Cape May. There were a lot of steps taken.

DR. PIERCE: After listening to the presentations that have been provided and all the discussions that have occurred as a consequence of that presentation, I find myself drawn back to the projection table and I find myself reflecting on the point made by Dr. Sullivan, and that is the stock has crashed.

I look at the projection table that I referenced before that Dr. Sullivan showed, and I see that we really have few options. I see, however, that with a moratorium we double the current biomass with this projection by 2015, so we doubled the biomass with a natural mortality rate of 0.65 assumed over that course of time.

If we have a moratorium we double the biomass and we get approximately, well, a little over halfway towards our target spawning stock biomass. If natural mortality decreases for any good reason, then obviously we will be rebuilding faster than the projections indicate. So it's easy for me to say – the state of Massachusetts being on the northern edge of this resource with landings being relatively low, it's easy for me to say that a moratorium seems to be the right way to go, but that's the conclusion I draw.

We have nothing before us except uncertainty. We have speculations, but we have a projection that came out of the workshop and that has been accepted by the technical committee. I believe they participated in developing it. This is what we have to use. I look forward to continuing discussions by this board regarding the merits of a moratorium to get ourselves back on track.

Otherwise, with the projection we see before us, we stay crashed through 2020, and that certainly is not an acceptable outcome. So in keeping with your statement earlier on, Mr. Chairman, I look forward to the response options that Bob Beal is going to offer up for this board's consideration.

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, I thought we were still asking questions of the report that we had here, and I had two questions of Dr. Sullivan. I add my thanks for coming, Dr. Sullivan. The first would be I think you had a slide up there that said the removals would exacerbate the trend. I was just wondering if you could elaborate that a bit. You had that in one of your slides. Then I had a second short question to follow up if I could, Mr. Chairman.

DR. SULLIVAN: As has been pointed out, it appears that mortality other than fishing is high and that this is probably the principal contributor to the

decline. However, we are removing fish and really any fish that get removed will continue to add more misery to the stock. On the one hand, F isn't maybe the principal contributor and so the management body such as this one is doesn't have as much leverage over what is going to happen in the stock in the future as it might under other circumstances. The striped bass was mentioned. However, it is a contribution and it would seem to me that would be the one thing that this body had some control over.

EXECUTIVE DIRECTOR O'SHEA: And so what I understand you to have said by leverage, you're meaning if you reduce that it might not have as much effect as it would in other circumstances, but it doesn't mean it would have no effect.

DR. SULLIVAN: That is correct, yes.

EXECUTIVE DIRECTOR O'SHEA: And my quick question was the SARC conclusion that the stock assessment was adequate to be used for management advice?

DR. SULLIVAN: Yes, that's a good question. Typically we would have a single model and we would approve that model and everything else would be based on it, the historical picture, projections and all of that. We don't have a single model nor do we have a situation where things seem to be in equilibrium, so that's a downside from two different perspectives.

One is we're not sitting on as solid ground as we would like for assessing what the stock currently is, and we don't really have solid ground for saying what it is going to be looking like in the future. However, the review panel looked at all the work that the technical committee did, and they did a lot of work looking at things from lots of different perspectives, and they did a good job of addressing the questions that the previous review panels had had for them.

However, our panel was reluctant to say that you had nothing to base anything on. In fact, I think we do have something to base things on. The surplus production model certainly was showing that M was having an effect. The VPA, we couldn't use it for recent years, but it is fine and sound for looking at what is going on in the past. The index is a good method except it doesn't give us absolute abundance.

We were able to take the different pieces and put them together and say, well, if we took early parts from the VPA and use that to anchor what the index

was going to say and use that to lead us to what is going on currently, then we can say what is going on. Basically we can conclude that natural mortality is changing, it is having a deleterious effect on this population. Beyond that we can't say too much more.

That tells us that the stock is in poor condition. That is a conclusion I think that we can't get away from. What is going to happen in the future, though, is uncertain. It is uncertain because the discards are difficult to estimate, and the panel was not really happy with not – I mean I think the technical committee was trying to do their best in terms of assessing what the discard rate was and all of that, but the data just isn't there for dealing with that, so some additional work needs to be done in that area. A model needs to be pursued even if it might not be fully usable in the future. I think the analysis is good, but there are a lot of uncertainties associated with it.

DR. LOUIS DANIEL: First, I would just say thanks to the technical committee and the reviewers. I think they have done an outstanding job putting all this information together. From a North Carolina perspective, I have real concerns about the striped bass hypothesis because it doesn't bear out in North Carolina.

I think what we're seeing is a dogfish problem off of North Carolina. There is some evidence of that in the nets being fished offshore of North Carolina and the dogfish actually following the nets to the boat eating the weakfish out of the nets. We have actually had some net reels come in full of macerated fish from the dogfish following them to the boat.

We have also got a pretty robust population of bluefin tunas that are in that area where the weakfish are, and we know they're eating them, too. I agree, I think there is a combination of competition and predation that's creating this problem for us. I did want to discuss, though, and bring up some points about the discards. I don't believe it is a problem, at least not where the primary fisheries are being prosecuted.

Our fishermen are still using the 3-3/4 inch tailbags. They're still using the 2-7/8 inch minimum mesh size on their gillnets at least. Some of them are bigger than that. We've got the ten-inch exemption in inside waters, and we've got the escape panels in pound nets, et cetera, et cetera. We're at the dock pretty much every time these guys come in, and we're not seeing the discards in our fisheries.

I can't speak for Virginia, but I think they're probably in the same situation. I just think we're losing those fish at age one when they move out. We're seeing them move out. North Carolina, and I don't know if you guys are using it yet or not, but we have got our independent gillnet survey. I know Lee has told you about that. That is a good multi-age survey as well. It's not as long a time series as the Delaware data, but we're starting to – we have got about a five- or six-year time series now on that independent gillnet survey inside, and so we are picking those fish up. I'm confident, based on all the independent information that we have got, that what the technical committee is presenting to us as the reasoning is sound. From our perspective I appreciate the time.

CHAIRMAN MILLER: I had three more hands. I had A.C. Carpenter, Robert Boyles and Craig Shirey. I would just remind the board, once again, that I wanted to call on Russ to finish the technical committee report, and Russ may begin us down the path of a possible path forward for the board as well. Do those people want to hold off on their questions until Russ talks about the TC report a little more? Is that okay with the folks? A.C., do you want to say something at this point?

MR. A.C. CARPENTER: I've got a question for Dr. Sullivan. In all of your experience and the wisdom of the review team, what experience do we have on any species anywhere with an increasing natural mortality in the past? Have we ever seen this before and what examples can we look at in other fisheries around the world to see if this is something that – It is new to me, and the idea of an increasing natural mortality in the absence of a known disease or a known predator seems to be one of the stumbling blocks of the early peer reviews. The peer reviewers refused to accept it, so can you give us any guidance in that regard?

DR. SULLIVAN: Sure, I can try. I was the stock scientist for the International Pacific Halibut Commission for ten years. Halibut are a major predator on a lot of the species, in particular pollock in the Gulf of Alaska. Currently one of the things that is done in the pollock assessment, which the pollock fishery is obviously the biggest U.S. fishery that we have, is they would take the assessment of what the halibut abundance was and they would feed that into the pollock assessment as an indicator of what mortality is likely to be.

In that situation, as the halibut abundance was going up and down so would natural mortality. That's sort of one specific example of what might be done.

Obviously, people are looking at that in a lot of different areas. Dogfish was mentioned here. It is a concern in New England as well and people are trying to figure out, well, maybe we should fish harder on dogfish or something like that.

Another concern is raised with herring, lower trophic level, should we be fishing on it when it is feeding upper-level species and so forth? So, this question of changes in natural mortality and its effect on the fisheries is people are becoming more aware of it. The problem is that it is difficult and challenging to deal with. First of all, in most of the assessment models that exist estimating natural mortality is very difficult to do in the model.

Typically natural mortality is fixed at a specific level and it is held constant over the entire time period. We all know that is quite often incorrect and it is only in situations like this one where it is changing so dramatically that we try to go against sort of the nature of these statistical models and have something that allows for change.

Now, technically it is possible in like a statistical catch-age model to allow for time-varying natural mortality, but that tends to make the model, statistically speaking, relatively unstable. So it is not like there is a technical solution for this, a readily made one, and so it tends to suggest to scientists and statisticians like myself that we need to go back to the source and try to figure out, first of all, what natural mortality is; and, second, what the costs are. Unfortunately, there is no simple solution for this. The typical approaches for dealing with this are like tagging studies or some other direct indicators of what total mortality is and then we try to parse out what the fishing versus natural mortality can be. So, the shorter answer is there is not a simple answer. The long answer is that people all over the world are trying to deal with this in various ways, and so there are lots of possibilities for these guys to explore in terms of trying to get a handle on this. I hope that answers your question.

CHAIRMAN MILLER: I think Robert indicated that we could perhaps move on to Russ' discussion. Craig, did you want to hold off or do you have a question right now?

MR. CRAIG SHIREY: Just one quick question. The projection indicates there is an increase in stock size either with or without a moratorium. Is that somewhat of a rosy picture or is that due to the increase in recruitment that has been observed over the last few years?

MR. BRUST: That seems to be an artifact of when the data ends and when the projection begins. We have data through 2007; the projection begins with like 2009. I have never seen a projection that doesn't kind of bounce up at the beginning there. I think the take-home picture is that after that slight bump it's flat, and that is probably an optimistic picture.

I don't know why it happens but it just always seems like no matter what you do, that first projection increases for the first year or two, and I think it's just an artifact of when the data ends and when the projection begins.

CHAIRMAN MILLER: And, Jaime, did you want to hold off or do you have something we need to discuss right now?

DR. GEIGER: Mr. Chairman, a quick comment. I appreciate Tom Fote's reminding us of the great efforts in North Carolina, South Carolina and Georgia took in 1995 to eliminate bycatch and improve the fishery, but I also want to remind everybody again that overfishing wasn't the defined hypothesis that we thought was affecting striped bass.

The Emergency Striped Bass Act had nine hypotheses out there, including overfishing, habitat destruction, contaminants, competition, productivity, and each one of those hypotheses got considerable scientific study and reports; and only after that was concluded did we come to the conclusion that overfishing was the primary cause affecting striped bass but not the only cause.

CHAIRMAN MILLER: Thank you, Jaime. I think I'm going to call on Russ now.

TECHNICAL COMMITTEE RECOMMENDATIONS

MR. RUSS ALLEN: You guys have all seen the dire predictions of weakfish, and you're not going to see much from me but I don't have any graphs to throw in there. I just wanted to say that the technical committee and the stock assessment subcommittee met via conference call on August 4th. I'm going to go through a few slides. Then just remember any of the comments that I go through for the TC and stock assessment, it's all one. I'm just going to say "TC" from now on.

Overall, I would like to join the band wagon in thanking Dr. Sullivan and the peer review panel. The technical committee was very pleased with the outcome of this peer review. It has been a long time

coming. There is a lot of vindication for a lot of things we've been saying for a lot of years and that is attributed to the open-mindedness from that panel. We can't say enough about that.

Pat mentioned it earlier, there were many hands in the mix of this stock assessment, a lot of different people writing it all the way through, so their difficult task is well received on this end. We did see some discrepancies within their reports, but they were so minor that we're not even – it's not going to take anything away from that outcome that you guys see in front of you.

What I would like to do first is just start out from some of the quotes that came from the SARC Report. The first one, the SARC Panel agreed with the conclusion that weakfish abundance has declined markedly, total mortality is high, non-fishing mortality has recently increased and that the stock is currently in a depleted state. I don't think we can say that enough, that it is in a depleted state.

The key here is that mortality is extremely high and it is depleted. The TC is very concerned over the latest estimates of stock biomass. They have been quoted already here so I don't need to go through that. We haven't seen any problems in recruitment until possibly 2008. That data is all being worked up now, and we're going to see that at our next meeting. Some of the indices that I know already as far as recruitment are very low in 2008.

It is something to keep in mind and we'll hopefully have some updates on 2009 and 2008 at the next meeting. The second thing from the peer review was that the weakfish stock decline is clearly based on the change in natural mortality. That is something that we have been discussing for years, and it finally came out that this is exactly what we thought.

It is likely further exacerbated by the continued significant removals of the commercial and recreational fisheries. The exact mechanism of all that is unclear but the stock is depleted and any removals from fisheries are making the situation worse. I think that can't be stated enough. Another thing that the panel said was that they considered the assessment model, the index-based modeling as representing a valid basis for development and management advice despite the uncertainties mainly because the state of the stock is so critical.

I want to make sure that sinks in; we can't say it enough. The SARC Panel made multiple modeling recommendations on how to move forward and we're

going to talk a little bit more about that. Jeff had mentioned a workshop. The technical committee had some conversations about that, and I'll talk about that in a minute.

The last thing I want to say is the stock projections that you saw suggests little stock growth is possible with current high mortality levels even under a harvest moratorium. This is because current fishing mortality represents a small component of the total mortality especially in the past. They're getting pretty close at this time.

That said, the TC discussion was any reduction in fishing mortality, whether it be a reduction completely for a moratorium or just a small reduction has the potential to enhance a recovery should natural mortality decrease at any point in the future. This slide I threw up here, it's straight from the Weakfish FMP. It is where we are now as far as the stock assessment has been completed.

According to Amendment 4 of the Weakfish FMP, 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 six years. That is one and a half generations or less. Dr. Sullivan had noted earlier that we are not in an equilibrium status right now, so reference points are kind of inadequate for management.

Although we do know that the stock is depleted, something should be happening, I think the key is to bring the spawning stock biomass back up. A.C. asked a good question on other species where this may have been a problem where natural mortality is the main problem and maybe management hasn't worked because of that. In our conference call we talked about northern cod. I don't really know enough about it, but I assume that there are some problems there that are similar.

It doesn't give the board much leverage to enhance the stock, but I think before moving forward – I think that the board here and the TC agrees with what I'm going to say – is that the board should be thinking about the immediate management goals for weakfish. Jaime had already mentioned long-term restoration. I think it is the very key to let that sink in and what you want the goals to be for weakfish management because as a technical committee member I'm not real sure what the board is looking for, and I don't think many of the other ones are either. We're in a depleted state right not and there are only a few

options to go forward, but what is the board looking for us to do in the near future?

Just to give you a couple of options that the technical committee went through, it doesn't take much rocket science to figure this out. We either stay at status quo, we put a total moratorium in or something in between. You saw the stock projections of what a total moratorium would do for the stock, so any small bycatch or small size, bag, season limits for recreational fisheries isn't going to have as big an effect as that, but it will have some.

We did not have a consensus recommendation. As I said, we were kind of hoping that the board would give us some guidance on where they want to go before we give our recommendation. The main discussion was a moratorium is more than likely the best way to go at this time. Like I said, we didn't have a consensus on that.

One member had mentioned that management measures must be stringent in order to specifically measure any potential rebuilding. I just threw this up there to talk about some bycatch options. Right now we're in the middle of looking at some Virginia and North Carolina trip ticket information. We just got that recently. I haven't had a chance to fully explore it yet.

We're also going to be looking at some size, bag and season limits that can be developed from the MRFSS data. Jeff has taken a look at that already, but we don't have anything significant to throw out there at this time. Like I said, we only met a couple of weeks ago. I have been on vacation for a lot of that time.

We think it becomes a question of whether some sort of bycatch is allowable. You have to think of the immediate cost of the action to fishermen, the loss of harvest, the potential increase in discards, and does that outweigh the future benefit of weakfish stock and the potential for stock enhancement. This is where you guys are at this time. Then, finally, I would like to talk a little bit about the modeling workshop that we were talking about before.

The TC agreed that it would be a good idea to convene some sort of weakfish modeling workshop and maybe not necessarily weakfish as the name on that workshop but a modeling workshop to look at changes in natural mortality for species such as weakfish and make weakfish the poster child for that workshop and use that as the dataset so that maybe we can work on finding new models and moving forward.

That comes down to funding availability. Obviously, there is not much money going around, but most of the TC and the stock assessment people agree that this is what is needed at this time. The other things we need to talk about in the real near future is Dr. Sullivan had mentioned that it is an interim solution, this index-based model, so we really need to start working on the next modeling aspects for the next benchmark assessment. That modeling workshop gives us the tools to be able to do that.

In the meantime the board needs to think about whether or not you need us to update this interim model for 2010 just to keep things going. We have, in the past, kind of used that data as a springboard every January, looking at where we were going with the index-based modeling. This was stuff to throw out for the board, and I appreciate the time. I will take any questions.

CHAIRMAN MILLER: Thank you, Russ. Before we take questions for Russ and recognize Bob Beal who presumably will follow up on some of the potential options that Russ has already teed up for us, Vince, do you want to interject something at this point?

EXECUTIVE DIRECTOR O'SHEA: Well, a question on what we were just presented. I was wondering if you would – something Russ said about a condition of the management plan; if I could just ask him to clarify one point, Mr. Chairman. This slide was up before. My question is how many years have we now tripped that threshold requirement? I mean there is a difference between when was the board notified that we tripped it, but now that we have an assessment, looking back, so theoretically when should we have tripped this requirement?

MR. BRUST: Nichola has got the projection up and it looks like it was about 2000 or 2001. The problem previously is the last accepted peer review of the weakfish stock assessment was done in 1998, so we haven't had a, quote, approved stock assessment for management since 1998. This is the first time that the results of the assessment are considered appropriate for management. This is your decision but this is the first time we officially know.

EXECUTIVE DIRECTOR O'SHEA: But had we accepted the previous ones? It would have looked like the time that this would have been tripped would have been around 2000, something like that.

MR. BRUST: Right, yes, the first assessment would have been 2004 and it would have shown at that point that we were probably below the threshold.

CHAIRMAN MILLER: Before we move on, I would like to just take a moment to thank the stock assessment subcommittee and the weakfish technical committee for many years of hard work on this assessment. You did a fine job and on behalf of the board we're very appreciative of your efforts. I know that has been a long time coming, but congratulations.

MR. ALLEN: Thank you, Mr. Chairman, and I'll make sure that we pass that along to everybody that is involved.

CHAIRMAN MILLER: Okay, I think at this point perhaps it would be appropriate to call on Bob Beal at this point in time for some potential **response options** for the board.

MR. ROBERT E. BEAL: In the interest of time I'll go fairly quickly, but what I'll give a quick presentation on is really the process options and timelines that are available to the management board today. There are really three management options that are available; emergency rule; what we started to call a fast-track addendum; and a regular addendum.

There is obviously the full amendment always available to the management board that is used to do that, but is an 18-month to two-year process. I think from the discussions earlier and leading up to this meeting that seems like a pretty long response time to the stock assessment information that we do have.

Starting out with the emergency rule, this is simply the language out of the charter, "circumstances under which public health or the conservation of a coastal fishery resource or attainment of the fishery management objectives has been placed substantially at risk by unanticipated changes in the ecosystem stock or the fishery." Obviously, the decision is up to the board whether this definition applies in the weakfish situation that's in front of them now.

But a quick look, there are probably a lot of pieces of the weakfish assessment, as well as the news that we're getting out of that assessment, that does apply to this definition in the ISFMP Charters. The provisions for an emergency rule are that it requires two-thirds vote of the entire voting members of the management board. For this board there are 15 votes on there, so obviously 10 votes in favor would have to be cast to approve an emergency rule.

It is initially valid for 180 days and can be renewed for two one-year periods; so if an emergency rule is passed, it can be valid for a period of up 2-1/2 years. The extension is only available to the management board provided that an amendment or an addendum is being worked on during on during that time.

The idea is that an emergency rule isn't really a long-term management tool. Obviously, it is just something to hold a place or to take quick action while a longer-term program is developed. If an emergency rule is approved, take four hearings in the next 30 days, and it can be effective immediately or another date that is selected by the management board. I think there is discussion about timelines for states to implement changes that probably would have to occur.

Under emergency rules, if this was selected by the board, obviously, this could allow for changes in the late 2009 fishery. It could affect the landings for the remainder of this calendar year. It would allow time for the board to develop a long-term management program.

What we started calling a "fast-track addendum", the idea might be to initiate that today, have a special meeting, maybe a conference call sometime in September of this year, to approve that document for public comment. Public comment could occur in October with final approval of a fast-track addendum at the annual meeting in November up in Rhode Island. Then, obviously, after that approval occurs at the annual meeting, states would have to go home and implement those rules and that addendum, and it probably wouldn't be in place until early next year.

The regular timeline for an addendum would be to start something at this meeting; approve for public comment at the annual meeting in November; public comment in December/January, leading into next year; final approval at the winter meeting in 2010; and again final approval and implementation – or implementation by the states wouldn't occur probably until late spring/early summer of 2010.

The next couple of slides just highlight the landings' pattern of 2008. As you can see, this is the commercial fishery. The landings in pounds here – the months across the bottom – there is on the commercial side significant landings still – if this pattern holds up, which we assume it will, there are significant landings that would occur later in the year. October and November are the biggest months. September and December are pretty high as well

relative to the rest of the year. The vast majority of the landings for the commercial side are still to occur probably this year.

The recreational landings' pattern, waves across the bottom, the two-month MRFSS waves – Wave 4, which is July and August, the wave we're in right now, is the highest landing wave for the recreational fishery. Wave 5, which is September/October, is the second highest and obviously a very significant amount of landings. Wave 6, towards the end of the year the landings drop off pretty significantly.

I guess the take-home message from these last two slides is that there is a significant portion of the weakfish landings still to occur in this calendar year, assuming the landings' pattern hold up from previous years. If the board wanted to act quickly, they could affect those landings that are still to be caught this year. Again, that is a fairly quick summary of the process options and timeline options available to the board. I can answer questions if folks have any.

CHAIRMAN MILLER: Any comments or questions from the board? I would remind the board, for those who weren't in attendance yesterday for the Summer Flounder, Scup and Black Sea Bass Board meeting, that we did have an around-the-room assessment of the states' ability to implement emergency regulations. I would just remind the board my recollection was those mechanisms varied from 48 hours' notice to up to perhaps a couple of months. Robert Boyles.

MR. ROBERT H. BOYLES, JR.: Mr. Chairman, a couple of things. First of all, Dr. Pierce made some comments earlier; and I think from our perspective in South Carolina, I would just like to be on record that I agree with the comments that Dr. Pierce made. Clearly, something needs to be done. Despite the fact that we don't have the leverages as we have described here with management actions, I think inaction is certainly not an option.

I would like to point out to the board that in South Carolina we are hampered by a legislative process. I have been on the phone with our attorney this morning. I'm not sure that we're got congruence in terms of emergency regulatory to move as quickly as we would like, but I think that you have our pledge that we will move as quickly as we can with whatever prescription is agreed to by this board.

CHAIRMAN MILLER: Thank you, Robert. Nichola reminds me that it would be appropriate at this juncture to request a motion to accept the Stock

Assessment Report and the subsequent Peer Review. Louis, would you care to make that motion?

DR. DANIEL: I would move that we accept the Stock Assessment Report and Peer Review.

CHAIRMAN MILLER: Pat Augustine seconds. Rob, did you have a question?

MR. O'REILLY: It's not a question. I wanted to respond to what Bob Beal had to say and have a comment on the options.

CHAIRMAN MILLER: Can I come back to you with that, Rob? Let's dispose of the acknowledgement of the peer review and the stock assessment. It has been moved and seconded. Is there any disagreement; any disagreement, please raise your hand. Seeing none, **I'll assume the motion is approved as read.** Rob, back to you.

MR. O'REILLY: First of all, I think we probably just should have started the meeting with Bob providing that information since everyone is aware of the circumstances in depth and probably wishes that back the last time we set a cap a few years ago that we had done some other things as well, but that is behind us.

There is a small contradiction in something that's going on with the presentation from Russ. I just want to make sure that I understand from my own mind what it means that fishery removals are making conditions worse. When I think about that, recruitment has done very well. This is a species that has at least 90 percent maturity at seven inches, eight inches, around there, so it certainly has a lot of vibrancy to it as a species.

I don't know where things aren't going well, whether the forage aspect of weakfish won't be as good if there are fisheries or exactly what that might be. Would it be that there are not enough age five pluses in the stock for the recreational fishery. I really don't expect an answer to that. I just want to make sure everyone understands that we're talking about two things. We're talking about a depleted stock, but we're also trying to put a perspective on that it is not the fisheries. It is not F.

Given that, I'm going to spend just a minute here, if you don't mind, but on the moratorium idea I clearly remember in 1991 and the proposal of the technical committee to the management board was as long as you remove all the gear out of the water and do regional blocks of having gear out of the water a

moratorium will be very effective. There is also that backdrop to what a moratorium means.

In terms of Bob's comments I certainly support the second option, which would be a fast-track addendum, only the basis that I don't think we've really collectively looked at our situations. I know in Virginia we've looked at data from all the states on the recreational fishery, and what we find is that in a ten-year period the amount of angler trips is three times less in 2008 than it was ten years ago.

However, the effect of creel, 75 percent of anglers still take two fish. Previously we debated whether it should be six or four fish. I don't even think there is a debate on two fish now because if there wasn't a moratorium put in place and you wanted to have some effect on the recreational fishery two fish is probably not the way to do it. That has to be thought about on a state-specific level as well.

On the commercial fishery we all know, and it was said by Russ, that there will be discards. The technical committee weighed that aspect and, yes, there will be discards. If you look over time, at least in Virginia there are about eight species that are taken at various times in a mixed-species assemblage. Weakfish certainly has dropped quite a bit over the years.

The biggest statistic is back in 1994; 18 percent of the composition of the gillnet harvest was weakfish. When you jump ahead to 2008, it is about 5 percent. The pound net and haul seine are even less. That tells me there is a possibility that this bycatch of 150 pounds is something to work with to get smaller and really to place the emphasis on a stepwise approach here. That's all I have to say.

DISCUSSION OF FAST-TRACK ADDENDUM

MR. FOTE: Do you think this is the appropriate time to put my motion on the table? If we're going to get into this discussion, we might just as well go ahead and put a motion.

CHAIRMAN MILLER: I think we're ready for motions, Tom, if there is no disagreement among the rest of the board. I don't see any violent head shaking so go ahead.

MR. FOTE: There is only change. I would to make that for a fast-track addendum. I have "addendum" and that should be "fast-track addendum".

CHAIRMAN MILLER: Tom, do you want to state the motion because we can't all read it because it scrolls down too far?

MR. FOTE: **Move to initiate a fast-track addendum in response to the Weakfish Stock Assessment. The draft addendum will include the following options; one, a complete harvest moratorium; two, a recreational possession limit of one and two fish; three, a commercial possession limit of 50 and 150 pounds. The draft addendum will be developed for board review at the annual meeting.** If I get a second, I'd like to make a comment on this.

CHAIRMAN MILLER: Is there a second to this motion? Rob.

MR. O'REILLY: I second it, but I would like just one clarification, Tom. The 50 and 150, is that 50 to 150 pounds or is that something different?

MR. FOTE: What I'm meaning is 50 or 150.

MR. O'REILLY: Okay, second it.

MR. FOTE: Okay, the reason I'm not going for a directed moratorium at this time is because I always think this is a public process that we need to go through, especially since a lot of the public hasn't received this information to look at. I like the idea of having a September meeting and going out and be able to approve this at the annual meeting. When I look at emergency actions and listening to the discussion yesterday, there are a lot of states that have to do particular things to do an emergency action.

If we can get a fast-track addendum put in place by the annual meeting, which hopefully we can do – I think it is pretty cut and dried – then we can basically maybe catch some of this year but definitely for next year. I will leave it at that.

MR. BEAL: I think the last sentence needs a little bit of work. Tom asked me to draft this, and I was originally thinking a regular timeline for an addendum. I think the last sentence may be more consistent with the fast-track option if it read, "The draft addendum will be developed for final action at the annual meeting." It sets up the timeline consistent with what I think Tom has in mind.

MR. FOTE: Please reflect that change that Bob Beal recommended.

DR. PIERCE: If I may, Mr. Chairman, the motion is not clear to me. It seems to me that what you want to do, Tom – I think what you're trying to do is have two options. The first option is a complete harvest moratorium, and then the second option would be a recreational possession limit of one or two fish and commercial possession limits of 50 or 150 pounds. Right now they are not three options. Do you follow what I'm saying?

MR. FOTE: Yes. When I basically talked to Bob, what I said is it was going to be one option for a total moratorium, one option as one fish with a 50 pound – the same way we did it with winter flounder – a 50-pound trip limit, and then the third option would have been two fish with 150 pound trip limit. That's really what I had basically put up there first.

I didn't want to rewrite the whole thing so I figured the discussion could basically finalize this out and make that clear. That's really where I was coming from. If the seconder has no problem, I would change it to those three things. Would it make that clearer, Dave?

DR. PIERCE: Yes, it would make it clearer to me if it was to read "one, complete harvest moratorium; two, recreational possession limits: one or two fish; and commercial possession limits, 50 or 150 pounds." So the second option would involve serious restrictions on the recreational fishery and commercial fishery, with there being two options for both; one or two fish for the recreational fishery or 50 or 150 pounds for the commercial fishery.

I think that strategy is a sensible one and it is also very consistent with the actions that ASMFC took regarding winter flounder in response to the dire situation we seem to have with some of the New England/Mid-Atlantic Winter Flounder, but also consistent with the fact that it appears that much of the problem with that stock is perhaps environmental in nature, the increased natural mortality, so there is a little strong parallel here. That's my suggestion, Mr. Chairman, as to how the motion might be modified, if Tom is agreeable.

CHAIRMAN MILLER: Tom, are you agreeable with that?

MR. FOTE: Yes. I mean, that is all I basically wanted.

CHAIRMAN MILLER: The seconder of the motion, Rob, is that satisfactory to you?

MR. O'REILLY: Yes.

DR. DANIEL: Just to perfect the motion, I think when we go back and look – and the technical committee is going to be looking, they said, to the Virginia and North Carolina trip ticket information – I think what we're going to see is about 90 percent or more of the trips are going to be catching less than 150 pounds. I think there is going to be a big gap when you go to 50, so I would recommend just we can do the analysis, 50, 100 and 150. There may be such a disparate reduction between those two that you might want to have that middle one to consider at the board level at the annual meeting.

CHAIRMAN MILLER: How do the maker and seconder of the motion feel about adding the hundred as an option now?

MR. FOTE: I have no problem.

MR. O'REILLY: That's fine.

CHAIRMAN MILLER: Robert Boyles, did you have an additional comment?

MR. BOYLES: I did, Mr. Chairman, thank you. Again, my issue is back home. My question is, is the commission intending to declare an emergency here with this action?

CHAIRMAN MILLER: This is the fast-track addendum process as opposed to the emergency regulatory process. I guess you could say, if I may be so bold as to characterize it, that the board feels that there is urgency with regard to the weakfish population, but perhaps not to the level to declare the need for emergency action unless someone makes a motion to that effect.

EXECUTIVE DIRECTOR O'SHEA: I think maybe the chairman of the commission was seeking recognition, Mr. Chairman.

MR. GEORGE D. LAPOINTE: I'm a member of the public. I think it's easy for me to say because I don't have weakfish in the state of Maine. The board needs to consider whether saving that slug of fish in the fall is worth it and to consider an emergency. I just make the observation that we have 15 states and 15 different processes about the time we need, and we should recognize that but not be driven by it. If we're driven by it, it slows our whole process down. I think your action should do the right thing and then our response to the action should then recognize the

situations like Robert mentions. Then in terms of whether you do an emergency or not, those graphs Bob showed about whether the situation is dire enough to save those fish in the fall, there are a couple of options.

One is an emergency now along with this addendum or to be innovative and push up the fast-track addendum and declare an emergency when the addendum is done, too, so you could take action then in November, if in fact you want to wait, and have it effective so it doesn't – the fast-track addendum, that is going to be February or March; isn't it. Well, no, I mean that's when you approve it but then you go back to the states and they have to implement.

I'm just saying an option to consider rather than just waiting for this fast-track addendum, if this is what the board chooses, is to do the fast-track addendum but also at the next meeting, potentially moving up the meeting but declaring an emergency then after the addendum so that in fact you shorten the timeframe for implementation thereafter. Again, the board's decision is how valuable are those fish that would be caught this fall.

MR. FOTE: George, when I looked at this and after the discussion yesterday, for some of the states an addendum is actually easier to implement than an emergency action, so we could do either one of those when we come to the annual meeting. In the state of New Jersey it's easier for us. They can do it through the council system and put that in effect at a council meeting than trying to get an emergency action through governor's office.

I'm looking at whatever option you can have that basically fits the state where you can do that at the fastest time possible. I mean, I also think that we really need to do the public hearing process, so that's why I think this fast-track addendum – and I wasn't even thinking about it, but if we can get that done by the annual meeting, I think it is going to be – even with an emergency action right now it would probably take by the end of year to get it in effect in some of the states.

So I'm saying this will do it; and when you look at January and February and if you looked at those charts, there is not much of a fishery until you start April, and by that point everybody would have probably by January or February, have the regulations according to what the conversation went on yesterday, so that's why I looked at this way.

MR. O'REILLY: In response to George, I guess what is driving me is the need for everyone to understand the fisheries. For example, just for Tom's motion for the one or two fish, I mean that's provided with experience and understanding of what the fishery is doing to some extent but not exactly. I guess there are a few people in the room who know that 75 percent of angler trips result in two or one fish that do encounter weakfish.

That type of information the technical committee has to provide. In addition on the commercial fisheries you also have to have a better idea of what exactly the impacts are. I think I would like to know that. We didn't do that exactly when we set the caps, and we really didn't pay attention, me included, to that knife-edge drop from 2002 to 2003 in the landings; you know, more than half in both fisheries. I think it does take us a little bit to get the information together.

DR. PIERCE: I agree with Rob's perspective that he just provided. In addition, it's hard to justify this as an emergency action because we've known the status of weakfish for an awful long time, last year, the year before, the year before. There really is no surprise here. It's just finally we are in a position to have some stock assessment information that has verified what we have long suspected to be true. Now we can act with that good science or the best science – I'll put it that way.

The best science available indicates that now there is a strong foundation on which we can stand and move this forward. The analyses need to be done and we can do those analyses under the fast-track addendum process and be more informed as to the options that we need to select when next we meet to discuss what to do for the weakfish commercial and recreational fishery. I think this is a sensible approach. It is a defensible approach, and it is a very responsible action on the part of this board.

CHAIRMAN MILLER: Let me just request of the next three speakers; are you prepared to suggest an alternative to the motion that is on the board or any opposition to the motion that is on the board?

DR. GEIGER: Mr. Chairman, could I have the definition of an "emergency action" on the board, please? Mr. Chairman, to my point, we're looking at the definition of whether we call for emergency action. Certainly, I think none of us would disagree that the stocks are in very serious shape. However, Russ did mention something to me that triggered some additional concern.

Certainly, if recruitment is proceeding okay, then I would probably be hard pressed to logically say this is a true emergency. You also indicated that some of the recruitment indices that we should be having in the next week or two will show some significant declines. I don't want to misspeak, but could you answer that; is that a true statement?

MR. ALLEN: What I said was the ones that I know of have declined, but that could just be an environment fluctuation for one year. That's why we're kind of looking at maybe if we could figure out 2008 and 2009 together, if you get a couple of years like that. But if remember the graph that Jeff had up there, there was some wide variation over the last few years, so that's what we're kind of seeing right now. It gives us cause for concern as it is.

DR. GEIGER: Based on that response, Mr. Chairman, I think the proposed action is wise and prudent. Thank you.

DR. DANIEL: I can't believe we're having to do all this; it is so disappointing. My whole career has been focused in on weakfish and now we've made a big circle. I do want to say a couple of things from the North Carolina perspective. I do agree; I think we have to do something. I also refer everybody back to Russ' comments that really this is not so much of a necessary reduction as it is to get the harvest regulations in place so that if we do see a change in the natural mortality rates, that we will be poised to allow the stock to recover.

It may have no impact and we need to be prepared for that. I do have to say I do have a great amount of concern. A lot of you around this table recall the proposal to close the EEZ to weakfish harvest back in the mid-nineties. We vigorously opposed that suggestion because of the multi-species nature of the fisheries off North Carolina and I think some of the other states as well.

The concern that I have is that the fly nets will still be operating off North Carolina north of Cape Hatteras. The sink net fleet will still be operating in the same areas at the same time catching the same fish. They're just going to have to discard all the weakfish. That is going to confound, I think to some degree, our ability to assess the population because these are going to be unquantified losses.

We know from history that the fly net fleet at least can harvest 100,000 pounds of weakfish in a 30-minute tow. They have indicated to us in the past

that they can avoid those schools of weakfish. I hope they will, but there are also going to be some inside fisheries as well as gillnet fisheries that can have very high quantities of bycatch of weakfish unknowingly.

The last example I'll give you is the Valentine's Day Fishery back in 2002, I believe, when a group of about four or five sink net boats went about 30 miles offshore in 360 feet of water, fishing a large-mesh, six-inch gill net for large bluefish, and they all rounded off their boats with tens of thousands of pounds of eight- to fifteen-pound gray trout; very unexpected, unavoidable.

Those fish were all dead so they were brought to the dock, and they provided a tremendous amount of information on the age structure of that population. I just think that needs to be on the record, Mr. Chairman, those concerns. I hope we can avoid some of those issues, but we need to be aware that is going to happen.

CHAIRMAN MILLER: Thank you, Louis, I was wondering what happened to the large weakfish and now I know. David Simpson.

MR. SIMPSON: I guess Louis helped me a fair amount because going into this I thought that the range of options should be more general than what we have here. In other words, anything short of a total harvest moratorium might be a 50 percent reduction in fishing mortality or 75 percent, more general, which would allow consideration of closed areas and so forth.

The other thing he helped me with was, again, I have lingering concerns about discard mortality. When I hear that a fly net boat can catch 100,000 pounds of weakfish in 30 minutes, it just helps to confirm my suspicions that there could be a substantial amount of that activity going on. Nevertheless, I think the fast track is right to do. If the fifty to a hundred pound possession limit range – I'm thinking about ranges of alternatives, and there is always status quo. I suppose if we have anything from status quo to a moratorium when we go out to public hearing we can consider anything in that range. I think I'm all right with that.

CHAIRMAN MILLER: All right, perhaps we've reached the point for public comment. Tom, before I go to public comment, did you have something to add?

MR. FOTE: Yes, after listening to Rob, what I would like the technical committee to do for the public hearing document, because I think if you raise

the size limit recreationally and you look at what the 13 inch or 14, going to 15 inches, something like that, that would basically reduce the one fish or the two fish might make a difference, so we should look at that as one of the options when we will define that. We also should look at the size limits; and if you could give us that data from Virginia, it would probably be helpful to basically do that.

CHAIRMAN MILLER: Tom, it is one thing to suggest that we look at something, but I suspect that if it isn't in the wording there is no guarantee that it will be considered. Did you want to change your wording at this point in time?

MR. FOTE: Yes, after looking at what Rob is talking about, I'm saying that when we look at tables – I know the north has been at 16 inches. We, because of changes, went from 14 to 13; so if we go up to 15 or 16 inches in the states of Delaware, New Jersey, Virginia – and so I think a table should be put with a one-fish bag limit, looking at different size limits; and a two-fish bag limit, looking at different size limits and see if that would make any difference. I'm asking for suggestions because I'm not a technical person, and I'm only going on Rob's information, so, Rob, give me further clarification on this.

MR. O'REILLY: I guess back in 1995 there were tables that were started, conservation equivalency of size-bag limit tables or size-possession limit tables, and I think that is what Tom is talking about. At that time you could see that New York, for example, could have a 16-inch limit and X-amount of fish versus Virginia, for example, which if it had a 12-inch limit could have an X-amount of fish.

It ran the gamut from maybe 12 inches up to I guess about 16 at that time and then also folded in the possession limits to go along with it. It's a pretty standard analysis. I just don't think it has been done for a while; what does the conservation equivalency mean at this time? That may be something that has to be thought about because we're not trying to get, as we were then, a 33 percent reduction in fishing mortality rate. We're trying to get a very reduced fishery.

I don't know how that should be put in place for the addendum, but I do know that each state has intercept data that it could look at or could be looked at or we could provide that to the technical committee since we've gone through that for 2008, and it does show you angler trips, it does show you frequencies for fish from one up to ten fish. There are some cases where ten fish have been taken even in 2008. That may

need the technical committee to provide that information, to think about it.

MR. SHIREY: Currently in Delaware Bay recreational anglers are not catching one or two fish. They're not even fishing for weakfish. It's not a viable fishery. The commercial gill net fishers are not catching a hundred or 150 pounds; so besides the moratorium, this other option would have no impact on the landings in Delaware Bay.

CHAIRMAN MILLER: Thank you. I had A.C. Let's not forget, folks, we have a motion before us and we need public comment.

MR. CARPENTER: To the discussions about size limits, as I read the motion before us there is no change or suggestion of changing a size limit. You're just simply talking about a creel limit. If you want to change size limits in combination with a creel limit, I think it needs to be added to the motion. I don't see it there now.

CHAIRMAN MILLER: I agree with that. Louis Daniel.

DR. DANIEL: I just want to make sure that I'm clear. I think what Dave Simpson said made it sound like there was a status quo option in this and there is not. I just want to make sure we understand we're boxing ourselves into these two options, so we won't have any flexibility on either side of the moratorium. I just wanted to make sure that everybody knew there is not a status quo option in this motion.

CHAIRMAN MILLER: Vince, do you want to address that?

EXECUTIVE DIRECTOR O'SHEA: Well, one option you are going to have is to not pass the addendum. I don't know what the difference between passing an addendum with a status quo option to do nothing is versus not passing the addendum.

CHAIRMAN MILLER: Good point, Vince. Pat Augustine.

MR. AUGUSTINE: Mr. Chairman, having listened to the conversation around the table, it has just become more and more clear in my mind that the way the motion reads up there does not do the job. Rob O'Reilly was very helpful in mentioning a equivalency chart that was developed way back when.

It would just seem to me as opposed to looking at Option 2, recreational possession limit of one or two fish, that's just pulling a number out of the air. We have no idea what the significance of that is, but it would seem to me if we were to change that I would amend it to read the options as we have, but two would be "recreational possession limit to be derived from a conservation equivalency chart" – and I don't know whether to put in parentheses when it was created in 1995, whatever that number was – "to allow for selection of a 25, 50 or 75 percent reduction".

Those would be options that would go out to the public. If we had a conservation equivalency chart, it would then allow for the public to pass judgment on that conservation equivalency chart; should we go to one fish or two fish or whatever it happens to be. We do know that the fish vary in size from north to south. New York has had a 16-inch minimum for an awful long time – we rarely have folks catch the bag limit of six – whereas other states have a much smaller size limit. Accordingly, their bag limit may be larger I think on that part.

And then as far as the last part is concerned, "commercial possession limits of 50, 100 or 150", I thought we recently asked the states to reduce their commercial quota from 300 pounds down to 150 pounds. I don't know if that was a recommendation or we all agreed to do it, so that is buying us nothing if we reduce it to a fifty or a hundred, but to give the 150 option wouldn't cut it. So, Mr. Chairman –

CHAIRMAN MILLER: If I may clarify that, Pat, what we took action on was to reduce the bycatch allowance down to 150 pounds. It wasn't the commercial limit.

MR. AUGUSTINE: Okay, then I guess we can leave that as it is, but the one thing I would like to recommend a substitute is that Part 2. If I can get a second to that, I would like to see that expanded.

CHAIRMAN MILLER: Now, is this a friendly amendment?

MR. AUGUSTINE: Absolutely a friendly.

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

CHAIRMAN MILLER: All right, how about the seconder of the motion, Rob?

MR. O'REILLY: I think even though we talked about conservation equivalency, that was built at a time when the stock was not in the shape it is now. Back at that time period, fishing mortality rates were high but the plan was there to reduce the fishing mortality rate. I think it might be too complicated on the timeframe, especially having been on the technical committee in the past, to go through all this, and the result may not be worth it.

I think it might be more straightforward to realize that there would be nearly a 50 percent, not quite, about a 47 percent reduction coastwide by dropping to one fish. There would be a 25 percent reduction by dropping to two fish. Tom had it framed right with the numbers of fish. The other thing is each state has its own intercepts that they can look at. For example, Craig Shirey had mentioned hardly anyone is fishing, and that shows up in that about 86 percent of those in Delaware took just one fish; whereas, if you look at some of the other states, that changes. It might be less.

Maryland, 99 percent of the angler trips were one fish. Each state has a little variance there, but coastwide it is about a 50 percent reduction to go to one fish. I think maybe Pat's idea might be good later on, but for right now I think it is going to be a little complex. I don't wish to add that to the second.

CHAIRMAN MILLER: All right, so it doesn't meet the approval of the seconder. Pat.

MR. AUGUSTINE: Mr. Chairman, maybe someone else might want to second that.

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, friendly amendments are a slippery slope to begin with. They're not even recognized in Roberts and this is one of the reasons why. At this point I would suggest that if you want to pursue this, the way you're going to have to do it is with a motion to amend the original motion. Thank you.

CHAIRMAN MILLER: I agree with that strategy. Pat, do you wish to amend the original motion?

MR. AUGUSTINE: I wish to amend the original motion. Based on the extra input that we got from Rob O'Reilly, we have to play with the words a little bit. What I was trying to amend it to; could we put that up there? Rob indicated that one fish would be about a 50 percent reduction and that two fish would be a 25 percent reduction.

Could we not indicate a one, two or three fish – I'm thinking out loud – one, two or three fish option with in parentheses the approximate reduction in mortality that goes along with each one of those in this amendment. So it would then read, "Allow for the selection of one fish, parenthesis, 25 percent, whatever that is, 22, 24, or 27 percent; two fish would be – could we go that way?"

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, I'm objecting myself here. I'm getting nervous about what we're doing here. Maybe if I could suggest a slightly different direction, and that would be to capture in the motion the notion that the plan development team would come back to the board with a range of recreational measures that would give you an option of reduction in the recreational catch; I think that is the intent of what folks are trying to do here.

There are different ways of doing that. It is going to be a tradeoff in terms of how much time they have and how much work it is, but I think your intent is to get technical advice about what kind of measures you could implement to get a range of reductions in the recreational catch.

CHAIRMAN MILLER: My sentiments exactly; is that agreeable to you, Pat?

MR. AUGUSTINE: Thank you, Vince, I don't usually agree with you, but I agree with you this time.

CHAIRMAN MILLER: Tom, is that okay with you – head shake yes – Rob.

MR. O'REILLY: Yes.

CHAIRMAN MILLER: I think we're ready for public comment on the motion. Did we add any wording to address what Vince just suggested?

MR. BOYLES: Mr. Chairman, a point of order. Do we have a second to that substitute motion?

CHAIRMAN MILLER: No, we don't as of yet. Bob.

MR. BEAL: If it's okay with you – and you're going to public comment – if we work on a motion that tries to capture all these concepts and have that ready for when you're done with the public comment, would that be helpful?

CHAIRMAN MILLER: Very helpful, thank you. Is that Gina?

MS. LYNN FEGLEY: Mr. Chairman, I'm Lynn Fegley sitting on behalf of Tom O'Connell. I wanted to add that as we're looking at how that motion is worded and I'm imagining myself soliciting public comment on this, that we have one option that now states a total harvest moratorium and then the second one states specifically a 25 percent reduction in recreational harvest, and I think that is a very inconsistent and mixed message.

If I were sitting in the public and wondering, well, why would we want to have a total harvest moratorium or a 25 percent reduction; that doesn't make a lot of sense? I may misspeak but it strikes me that the reasoning behind a limited bycatch is because there will be unavoidable – we're going to catch weakfish as bycatch and we don't want that to become discard mortality.

I would just suggest for public consumption that maybe that second motion not contain that 25, 50 or 75 percent reduction because it is an inconsistent message. I think it is going to be hard to explain to the public why this problem has been brewing so long and a 25 percent reduction is equal to a moratorium. Thank you.

MR. CARPENTER: If we're going to direct staff to come up with reduction options, based on the information that Rob had, a one-fish creel limit is not going to do it in any substantial number when 99 percent of them only catch one. I think we need to add closed seasons in that range of options for us to look at.

CHAIRMAN MILLER: I think we have sufficient direction for staff to proceed while we take public comment. In the interest of time why don't we move to public comment at this point in time. Mr. McKeon.

MR. SEAN McKEON: Mr. Chairman, Sean McKeon, North Carolina Fisheries Association. I had a question. You had a projection slide up there; is there any way we could look at that again?

MR. BRUST: At this time Bob has got the computer with the motion; I'm sorry.

MR. McKEON: All right, the question I have, maybe you can answer it without having the slide up there. You also said that this is the first we have officially tripped the requirement of Amendment 4,

correct, and the requirement of Amendment 4 is a 30 percent chance in six years, right, of rebuilding; that's what you also said? You had a slide up there with the requirement that the Amendment 4 requirement was to rebuild the SSB to 30 percent in six years? Okay, in the projection slide you had the graph with the two bars going across. One was with a total moratorium and the other one was with fishing allowed; right?

MR. BRUST: That is correct.

MR. McKEON: Okay, with fishing allowed do we still meet the requirements of Amendment 4? Would we still in six years meet that 30 percent SSB requirement?

MR. BRUST: I think maybe I need to explain the requirement. The threshold is 30 percent of an unfished stock. We need the biomass that would get us to 30 percent of an unfished stock. We're at about 10 percent. With or without fishing, at the current natural mortality level we will not rebuild in ten years. It's probably closer to 20 – well, we didn't do the projections past 2020.

So with fishing or without fishing, at the current natural mortality level we will not reach the rebuilding goal within the next ten years.

MR. McKEON: Okay, that's kind of where I was headed. I was wondering and it sounds to me like there is – and I understand something must be done. I do understand that, but it seems to me that an addendum is sufficient. It seems that with or without fishing we're not going to get there. I do recall you also said that it is such a miniscule part of the overall puzzle, the actual harvesting, mortality F, so I would say that in order to get this right and avoid some of the discards that we may have in our state, I think that an addendum would allow the time needed to get this right to make sure that we have covered all the bases.

I think this discussion about whether or not to approve this motion or the substitute motion, I think it indicates that we really need not to rush into something. I do think something needs to be done as soon as possible, but I think an addendum is sufficient for the needs of this fishery, particularly with what you have just said, with or without fishing we're going to have the same problem. I don't think the fishing is exacerbating this problem whatsoever on the commercial side. Thank you.

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, since you're taking public comment on a motion that you asked us to perfect, it might be helpful for us to get this up for you to look at it before you take further comment.

MR. BEAL: What I did is I just added that new sentence that is highlighted there. It is added to the original motion that Tom Fote and Rob O'Reilly made, and it just adds that the TC and the PDT will also develop options for recreational management to achieve a range of reductions through bag limits, closed seasons and size limits. It is just adding those things in, and the TC will work with the available data and come up with what the expected reduction will be associated with a variety of combinations of season, bag limits, and size limits.

CHAIRMAN MILLER: How does that adjustment suit the maker of the motion, Tom Fote; and Rob O'Reilly, the seconder? Tom is saying yes; Rob, you're okay with that. Bill Goldsborough, did you have something to interject?

MR. WILLIAM GOLDSBOROUGH: I did, Mr. Chairman, but it would be just as appropriate to hold it until after we vote on the motion. Thank you.

CHAIRMAN MILLER: Okay, there was another hand out in the audience for public comment.

MR. GREG DIDOMENICO: Mr. Chairman, my name is Greg DiDomenico, Garden State Seafood Association. Without confusing the motion, I had just one observation or one question. Number 2 says the TC and the PDT would also develop a options for the recreational management to achieve a range of reductions. We would like that to apply to the commercial fishery as well; in other words, some range of reductions would be applied to the commercial fishery. It could be met through a number of ways, whether that is trip limits, seasons, et cetera, et cetera. We would like the motion to reflect that. Thank you.

CHAIRMAN MILLER: Thank you for that comment. I had one board member and then I will go back to the audience. I think David Simpson had a comment.

MR. SIMPSON: That was one of the points I was going to make, and the adjustment or perfection of the motion begs the question of what the target is. I think it gets back to that idea that I started with to achieve the 50 percent or 75 percent reduction. I think the comment was well taken that we have to

give some kind of clear signal to the public of our intention and including 25 says we don't know what to do, you know, everything from 25 to 75.

I would urge that we include – here is the dilemma – and this is why I didn't offer it before – I think the more alternatives you consider the more time that will require, and that conflicts with the concept of a fast-track addendum. If a significant amount of the commercial fishery occurs in federal waters, there is a limit to what we can do there without engaging the Mid-Atlantic Council and the National Marine Fisheries Service.

I guess I would still urge that the motion include measures to achieve – alternatives that include measures to achieve a 50 and 75 percent reduction in the recreational and commercial harvest. If there are some simple approaches that the public could bring to us on the commercial side, that would be really helpful. Anything more complex or involving action in the EEZ obviously will be problematic for us.

It is simple enough on the recreational side . You combine an area and a size limit – you know, a season and a size limit closure you can achieve those percentages. I think that is why we're including those. I think if we include the same language on the commercial side, Mr. DiDomenico and others may be able to give us some good guidance that we could quickly incorporate through the fast track.

Yes, I guess **I would offer to amend that the motion include that statement as recorded there, “alternatives that include measures to achieve 50 and 75 percent reductions in both the recreational and commercial fisheries”.**

CHAIRMAN MILLER: That is offered as an amendment to the main motion; is there a seconder to that amendment? Pat Augustine. Any discussion on the motion? I guess we should have an opportunity for public comment on the motion. Rob O'Reilly.

MR. O'REILLY: I guess on the commercial side it could be worked out by the technical committee, but what is occurring here is for states that have an open fishery and a bycatch fishery, the way the motion is it becomes strictly bycatch. It may be a little complicated to figure out how to get those specific types of reductions of 50 and 75 percent, but that's probably just a detail I guess that really is going to take a little effort.

The whole basis of my support of that motion was it strictly made a bycatch fishery, and Louis' comments

that we need to look at times when you do have the need for more than 50 pounds up to a hundred pounds, it seemed like that motion did it that way. I'm not sure you can put that on the same basis as a closed season, creel, size as you do for the recreational. Thank you.

CHAIRMAN MILLER: Could I ask a question of the author of the amendment? Was that a 50 to 75 percent reduction in landings or was it fishing mortality or something else?

MR. SIMPSON: Well, in fishing mortality, but given that we really don't know what the discard losses are, I think as a practical matter it's going to be monitored through harvest. Hopefully, the industry can come forward with some ideas that we can evaluate at least qualitatively in terms of their effectiveness in reducing discards.

Louis made the point that sometimes just reducing the trip limit just increases discards and worsens the assessment and it doesn't help the resource. I'm hoping that they can forward with some ideas that really do help us rebuild the stock most effectively if we choose something short of a moratorium.

CHAIRMAN MILLER: All right, I would remind the group that we're bumping up against our time limit and we do have one other agenda item. Tom.

MR. FOTE: I looked at this motion as to whether we had a moratorium or allowed a bycatch to be the same as Rob, and that is why the motion is crafted like this. I mean, this is that we don't regulatory discards that we allow for – and this changes the different philosophy, and I don't know at this time – then that winds up being a major – and this is trying a major addendum and I this is why I tried to fast track it and make it simple and try to keep it going through. If we get a lot of public comment and things, we can basically look at it when we basically come back. I mean, that's why the motion was crafted the way it was.

DR. DANIEL: Mr. Chairman, I think the original motion could have simply added "and size" to the bag limit analysis. You're running into some real problems here. I think Lynn brought up a good point. I don't really see a difference between her comments on 25 percent and having 50 percent up there. That sends us the same message that she argued against.

We need to have a bycatch provision year round. That's what we need, and so if you're going to start thinking about seasons and trip limits and all these

other things that are going to allow a direct fishery and then have more unquantified bycatch during this closed seasons, I think you're going down the wrong path. I can't support this. I think if you go this route then I think you need a full-scale addendum and not fast track it and give the technical committee the time that they're going to need in order to work all this out.

CHAIRMAN MILLER: Thank you, Louis. I think in order to move this process along we perhaps should vote on this particular amendment to the main motion at this point in time. Seeing no other hands to the contrary, I'll call for a 30-second caucus. Would the maker of the amendment care to read it?

MR. SIMPSON: It's move to amend to – actually, it would be a substitute motion, really, to keep it clean. It would be move to substitute to initiate an addendum –

CHAIRMAN MILLER: A substitute does away with the original motion.

MR. SIMPSON: To initiate an addendum? Well, if I include that in my substitute is there harm in that?

CHAIRMAN MILLER: That's why we're hesitating, David.

EXECUTIVE DIRECTOR O'SHEA: If I could ask Chris to scroll up just a second, Mr. Chairman, where you were was that was the motion that you were considering. We started down this path with commissioners attempting to amend that motion. We took a brief stand-down. The staff put together some suggested language about the PDT and the TC, which you accepted. That was the motion before you.

Then the issue that Mr. Simpson is concerned about was then raised. I think your first question is was that in the context of doing away with everything that's in front of you or adding Mr. Simpson's point into what is in front of you.

MR. SIMPSON: I guess I would keep through "will include the following options", and I would say "alternatives to reduce recreational harvest by 50 and 75 percent" and then retain "commercial possession limits of 50, 100, 150 and alternatives to reduce harvest in the commercial fishery by 50 and 75 percent."

If industry can come forward with a good idea that works better for them and is better for the resource, I want to be able to take advantage of that. The

recreational, the way it is now, including size, season and bag without a percent reduction objective is meaningless. It doesn't give any guidance to the technical committee and it won't help us at public hearings.

CHAIRMAN MILLER: I appreciate what you're saying but I don't see it up there yet. Pat.

MR. AUGUSTINE: Mr. Chairman, I'm now having difficulty after I've heard other presenters around the table describe how cumbersome this addendum has turned into; so with the added changes, I was looking for discussion on Mr. Simpson's motion. At this point in time, after hearing what I did, I can't second that motion. **I remove my second.**

CHAIRMAN MILLER: All right, the second has been withdrawn. Is there anyone else that wishes to second the motion at this time? Seeing none, then we will go back to the original motion. There was additional public comment. Dick Brame.

MR. DICK BRAME: I am Dick Brame with the Coastal Conservation Association. We hate that the stock has been allowed to slide into the condition it is in. It wasn't through anybody's direct action but often inaction. We did know about the technical committee problems with trying to discern what was going on, and this is the first time that an increase in natural mortality has caused this.

But to be indelicate, this stock is in the toilet and somebody's hand is firmly placed on the knob to flush it. We think that action sooner than later is warranted. We don't think half actions or part actions are warranted. I think a moratorium is called for. I like Commissioner Lapointe's idea of a fast-track addendum and then putting in a place an emergency action to try to save the fish.

The more fish you can save now the more you'll have later and the more we can get back to a better stock abundance. I think there is widespread public support especially in the recreational fishery for a moratorium. If you look at it they're not averaging one or two fish a trip now, so a one- or two-fish bag is not going to do much.

I'm fully aware that the fishing mortality reduction will not bring this stock back, but it will, as Dr. Daniel says, put us in a better position should we get recruitment. What we're hoping for is a big year class that makes it to age two and then we'll be on the way to recovery. The more we have to start that the better off we'll be.

I would remind you that when congress reauthorized the Magnuson Act they got tired of looking at a report from NOAA saying that the number of stock undergoing overfishing and overfished was not declining, so they put in place stringent measures to end overfishing and rebuild these stocks because they were tired seeing the dilly-dallying that was going on at the councils. Thank you.

CHAIRMAN MILLER: All right, is there any additional public comment that is substantially different from what we've heard thus far? Seeing none, are we prepared to take a vote on this motion? George.

MR. LAPOINTE: Sorry, Mr. Chairman, another comment, and I say this tongue in cheek. This fast-track addendum is kind of like saying my Toyota Prius is a fast-track car. I think we need to be cautious about adding too much to it. I had mentioned the potential for consideration of an emergency action after the addendum was done. I think it is worth considering for the board in our draft addendum – and I have another one here. We have a calendar because we want the public to know – to put in a statement and something in the timeline about the consideration of an emergency in November just so that people aren't caught by surprise by that discussion. That's just a suggestion for wording in the addendum if it is approved.

CHAIRMAN MILLER: Thank you; that will be so noted in the minutes. Spud.

MR. SPUD WOODWARD: Just for clarification, what would be expected of de minimis states with this process?

CHAIRMAN MILLER: I can't answer that off the top of my head. I will see if staff has any insights.

MR. BEAL: We usually define that in the addendum. As we go forward we can work on what exactly the de minimis states would be obligated to do and would not have to achieve.

CHAIRMAN MILLER: All right, are we ready for a vote on this motion? Let me try to do that. **Move to initiate a fast-track addendum in response to the Weakfish Stock Assessment. The draft addendum will include the following options: one, complete harvest moratorium; two, recreational possession limits of one or two fish and commercial possession limits of 50 or 100 or 150 pounds. The TC and PDT will also develop options for**

recreational management to achieve a range of reductions through bag limits, closed seasons and size limits. The draft addendum will be developed for final board action at the annual meeting. All right, are we ready for a vote? Let's have a 30-second caucus.

(Whereupon, a caucus was held.)

CHAIRMAN MILLER: All right, are we ready for a vote on the motion as read? All those in favor of the motion raise your right hand, please; those opposed, same sign; null votes; any abstentions. **The vote was unanimous.** All right, Bill Goldsborough asked me for a little bit of opportunity to address the board after this vote was taken.

MR. GOLDSBOROUGH: Mr. Chairman, I do think the motion just adopted is the responsible action in the short term, but I think it is important to put it in a broader context as we move forward; and to do that, that it's useful to quickly revisit that striped bass comparison. Obviously, the biggest difference between the two is the much larger role that increased natural mortality is playing for weakfish and the likely role that predation and competition are playing.

That suggests that for a longer-term, comprehensive recovery plan for weakfish, we're going to need a multi-species approach of some sort. In comparison with striped bass, with the benefit of hindsight, we used a single-species approach. I think what we've found is that that actually, even though we recovered striped bass, led to a trophic imbalance.

For example, I do believe that striped bass predation in weakfish is a likely factor in the circumstance with weakfish. Then that begs the question, well, why would striped bass be feeding on weakfish more than they apparently did historically? These are the kinds of things that we need to sort out with a multi-species examination and strategy for recovering weakfish in the longer term.

Even as I think this action is the right action for the immediate term, I hope that this board and, shall I say, the trophically related boards will put consideration of the major multi-species interactions on a bit of a faster track as well as we move forward. Thank you, Mr. Chairman.

CHAIRMAN MILLER: Thank you, Bill. We have one more agenda item. Specifically, it was approval of the 2009 Weakfish Sampling Plans.

2009 WEAKFISH SAMPLING PLANS

MS. NICHOLA MESERVE: Thank you, Mr. Chairman. I'm just going to give a brief review of the 2009 Biological Sampling Plans, which were included on your Briefing CD, along with a memo from the plan review team. The sampling requirements are provided in Addendum I and include six lengths per metric ton of commercial landings; three ages per metric ton of total landings, with a 1,000 age maximum; and a continuation of the 2005 MRFSS' level of sampling.

The addendum asks states to attempt to stratify samples by fishery, gear, market grade, and time of year. The procedure calls for the states to submit, the PRT to review, and the board to consider approval of the plans. That can happen at this meeting. The PRT will review the states' performance with the actual requirements in September after the compliance reports are received.

The 2009 projected requirements are based on preliminary 2008 harvest levels. This table provides the requirements by state. In total it is about 1,100 lengths and 1,400 ages. The de minimis states are not required to sample for weakfish or to submit a sampling plan. However, I would like you to know that South Carolina, which is one of the de minimis states, did submit a plan this year because landings have been putting the state quite close to the de minimis threshold.

In the memorandum there is a summary table of the plans. Each state did submit a report that describes the sampling plan and makes a commitment to attempt to complete the plan. There were several states this year that noted that they are having increasing difficulty in sampling weakfish because of the reduction in the landings.

The memorandum also includes a table that provides the states required and collected levels of samples since 2006. This is a table for the length requirements. You will see that since 2006 the states have generally been able to achieve the required number of lengths, just two states falling short of the length requirements in 2006 and 2007. In terms of otoliths three states have fallen short of the otolith requirements in those same years.

Again, the PRT will be reviewing the states' compliance with the requirements for 2008 when the compliance reports are submitted later this year. The PRT has requested that the states provide certain information in the sampling plans. That includes a

table that shows the previous year landings by strata on which the current plan is based, and six of the nine states did that in their sampling plans this year, so the PRT was happy to see that; and also for the reports to compare the year's target and samples by strata; and, again, more states in the previous year did that, so we're making some progress.

The PRT still encourages the states to include this information because it provides for a more instructive review of the sampling plans and how the states are performing with the requirements. Overall, the PRT recommends that the board approve the 2009 Biological Sampling Plans. Thank you.

CHAIRMAN MILLER: Any comments? We need to **approve the sampling plans**. Do I see a motion? Robert.

MR. BOYLES: **So move, Mr. Chairman.**

CHAIRMAN MILLER: Second by Bill Cole. Any opposition to the motion? **Seeing none, I assume the motion stands as stated.**

OTHER BUSINESS

Is there any further business to come before this board this morning? Bob.

MR. BEAL: Just a quick comment. As a reminder for this fast-track addendum to stay fast track, the board is going to have to get together somehow in September to approve the document for public comments, so we will have to work with the Board Chair and set up either a conference call or a face-to-face meeting of the board to approve this document for public comment. Following that, we will have to work with the states to set up public hearings prior to the annual meeting.

We're required to have a 30-day public comment period so we will need to work the timing so we have the full 30 days for the public to comment on this prior to the annual meeting where this board will meeting. Just as a couple of reminders, we need to make all those things happen between now and the annual meeting and we will have to work with the states.

ADJOURN

CHAIRMAN MILLER: Thank you, Bob. Any further business before this board? I'll entertain a motion to dismiss us. Pat Augustine makes the motion; second the motion by Bill Cole. Any opposition? Seeing none, we're dismissed.