SUMMARY MINUTES
OF THE

ATLANTIC STATES MARINE FISHERIES COMMISSION

ISFMP POLICY BOARD

DATE: December 15, 1994
TIME: 10:30 a.m.
LOCATION: Doubletree Inn
Military Circle
Norfolk, Virginia

REPORTED BY: Victoria L. DeBerry

ORIGINAL

LEWIS & DeBERRY
Reporting Service
CHAIRMAN COLVIN: Will the board come to order, please. Will the staff please call the roll of the ISFMP Policy Board.

MR. DUNNIGAN: State of Maine, Brennan?

MR. FLAGG: Flagg for Brennan.

MR. DUNNIGAN: New Hampshire, Mr. Nelson?

MR. NELSON: Here.

MR. DUNNIGAN: Massachusetts, Mr. Coates?

MR. COATES: Here.

MR. DUNNIGAN: Rhode Island, Mr. Borden?

MR. SISSON: Dick Sisson for Dave Borden.

MR. DUNNIGAN: Connecticut, Mr. Beckwith?

MR. BECKWITH: Here.

MR. DUNNIGAN: New Jersey, Mr. McDowell?

MR. FREEMAN: Mr. Freeman for Mr. McDowell.

MR. DUNNIGAN: Delaware, Mr. Manus?

MR. LESSER: Mr. Lesser for Mr. Manus.

MR. DUNNIGAN: Pennsylvania, Mr. Calangelo?

(No audible response.)

MR. DUNNIGAN: Maryland, Mr. Jensen?

MR. JENSEN: Here.

MR. DUNNIGAN: Virginia, Mr. Pruitt?

MR. TRAVELSTEAD: Travelstead for Pruitt.

MR. DUNNIGAN: North Carolina, Mr. Spitsbergen?

MR. SPITSBERGEN: Here.
MR. DUNNIGAN: South Carolina, Sandifur?
(No audible response.)
MR. DUNNIGAN: Florida, Mr. Conklin?
MR. CONKLIN: Here.
MR. DUNNIGAN: Legislature, Senator Gunther?
(No audible response.)
MR. DUNNIGAN: Georgia, Ms. Shipman?
MS. SHIPMAN: Here.
MR. DUNNIGAN: Governor's appointee, Mr. Cantwell?
MR. FOTE: Mr. Fote for Mr. Cantwell.
MR. DUNNIGAN: National Marine Fisheries Service, Mr. Schaefer?
DR. HOGARTH: Bill Hogarth.
MR. DUNNIGAN: U.S. Fish and Wildlife Service, Dr. Geiger?
DR. GEIGER: Present.
MR. DUNNIGAN: New York, Mr. Colvin?
MR. COLVIN: Here.
MR. DUNNIGAN: Mr. Chairman, you have a quorum.
CHAIRMAN COLVIN: Thank you.
MR. DUNNIGAN: Oh, I'm sorry, Potomac River Fisheries Commission, Mr. Carpenter?
MR. CARPENTER: Present.
MR. DUNNIGAN: And D.C., Mr. Palmer.

MR. PALMER: (Indicated.)

CHAIRMAN COLVIN: We have only a couple of business items on the agenda, but we will be under "Other Business" entertaining a report from Bill Hogarth on the proposed funding approach that NMFS intends to use with the Atlantic Coastal funding.

I’d like to indicate one thing, and I’ll do this at the next several meetings of the policy board. We have a separate agenda item listed for public comment, but it will be my intention as chair to entertain public comment during the discussion of any agenda item in which a member of the attending public wishes to be recognized and offer comment. At a time when we have a separate public comment item on the agenda, if there are issues off the agenda that a member of the public wishes to address, we’ll be happy to take those comments at that time. For issues on the agenda, we would prefer it, and it would be my preference as chair, to entertain public comment during that discussion item on the agenda. So rather than confine public comment to one sequestered corner of the agenda, it would be my intention to take it throughout the agenda as the topic arises. I don’t know how clear that was. It’s still early.

At any rate, we do have on the agenda a public comment item. And if there are public comments for
matters that are not on the agenda, I'd be happy to entertain
them now.

(No response elicited.)

CHAIRMAN COLVIN: Seeing none, we'll move on
to the first agenda item. And again, if there is public
comment as we discuss this item, we will take it.

MR. DUNNIGAN: Mr. Chairman, I'd like to
point out three items for the benefit of the policy board.

The first deals with someone who is sitting
at the table next to the chairman, many of you have known him
for some time, Mr. George LaPointe, who last week became the
director of the commission's interstate fisheries management
program replacing Paul Perra. George worked for the commission
before. I don't know whether it's his good judgment indicating
that he come back or not, but I think he certainly has learned
that in the intervening five or six years he's been gone,
things have changed a little bit around here. I think he's
looking forward to the opportunity of working with the
management boards and all of you in directing the ISFMP.

The second item is also another personnel
item. You'll notice that when I called George's name, late, I
didn't call Mr. Harris. Ms. Shipman is proxy. Georgia has
made a change in the principal state official designated to the
ASMFC. So Susan now comes to the policy board and management
board meetings in her own right as a full member.
The third thing that I would like to point out to you is that you notice we have a court reporter in the room with us this week for the management board meetings. I want to explain what's going on there.

A couple of months ago, we decided to try a pilot project so that we could improve the documentation in the minutes of the various management board meetings and the policy board meetings when it wasn't held at the annual meeting and the spring meeting. We did that by bringing in an additional staff person who came and sat at the table with us and had a computer and took a lot of notes. That system hasn't worked out as well as we wanted it to.

What we're finding is that for a clerical person who has not been actively involved in the culture of our business for a long time, there's just too much that happens and what happens comes too quickly for them to be able to keep up with it and take good notes. And it really wasn't making the process of getting our documentation out any more efficient or we weren't getting it done any better.

A couple of our staff people after the annual meeting were putting together minutes for the various management boards where we had a court reporter and they found that it worked very efficiently. They were able to take the transcript and work it down into a set of good minutes for the meeting a lot more efficiently than we were getting even having
our own staff person sitting here.

We’re somewhat concerned about the cost. But if you’ll look at the possibility of needing to do this for about 25 days worth of meetings a year, the cost of doing a court reporter and the cost of having a staff person here are about the same. So it’s not -- we don’t think it’s going to be that much more expensive. We haven’t made any final decision yet that this is the way we want to go over the long term. We’re still transitioning and practicing with different approaches. Staff would certainly be glad to have input back from any of the commissioners and board members about how you see the system working, because we’re here to try to make your life easier.

So that’s why we have a court reporter here today. We’ll continuing to experiment with different approaches. Bear with us as we try to improve the support for the management boards and the policy board. Thank you, Mr. Chairman.

CHAIRMAN COLVIN: Thank you. I know that we’re very glad to have George with us. Do you want to say a couple of things, George?

MR. LAPOINTE: Just a few. It is, I think, good to be back. It’s been a good eye-opener the last couple of days just to be here at the ASMFC week for a lot of the big changes in the commission and what people expect of the ISFMP.
And of course, that's going to be a rapid learning curve on my part. So I guess my only comment at this point is, I've gotten some good ideas from the discussions that have occurred at this meeting about changes people want or think should be made, and I really encourage people to contact me with good things, bad things, et cetera, because to improve the program, we need to know what people are thinking.

CHAIRMAN COLVIN: Shall we move on to the agenda then. The first item is the report from the weakfish board. I understand that will be coming from the new weakfish board chairman.

MR. FREEMAN: Whoa, I didn't take this new position until the end of the meeting. Forgive me, Mr. Chairman. You may have to help me because I didn't prepare for this report. I'll just try to recall the events that occurred over the last meeting.

The main topic dealt with the compliance of Florida relative to the weakfish plan. The policy board had previously taken action to vote Florida out of compliance with the plan. Since that time, Florida has taken a number of actions through its Marine Fisheries Commission to put regulations in place involving both the commercial and recreational fishery. The weakfish management board reviewed these yesterday and took action to rescind its original vote concerning Florida's compliance with the plan.
It did, however, request or require that the technical committee analyze Florida's actions to make certain they were in compliance with the provisions of the existing plan and report back to the management board as soon as possible. The vote essentially required this action by the technical committee by no later than the first week in January of next year. We anticipate that action. The board will meet in mid-January to take whatever action is necessary based upon that report.

CHAIRMAN COLVIN: Thank you. Are there any questions or comments relative to this report?

MR. FREEMAN: Susan reminded me there's another item, discussion of action, possible regulatory action in the EEZ. Bill Hogarth essentially brought this position forward under the interjurisdictional act, that the Fisheries Service can take action in the absence of the council's action. And there was discussion relative to the need for such regulatory measures to be taken in the EEZ, and the Fisheries Service was looking for guidance from the board to move forward in this direction since the Mid-Atlantic Council has indicated that due to other priorities, they would not take action, at least in the near future relative to weakfish. There was a motion passed that the policy board will evaluate the impact of the state's emergency actions that alter implementation of the state's approved plan. Good thing you're here, Susan.
MS. SHIPMAN: Good thing I brought my notes.

CHAIRMAN COLVIN: Are there any further discussion items relative to weakfish?

(No response elicited.)

CHAIRMAN COLVIN: Thank you for the report, Bruce. Sorry to put you on the spot.

MR. FREEMAN: Thank you, Susan.

CHAIRMAN COLVIN: And good luck.

MR. FREEMAN: I want to reconsider.

CHAIRMAN COLVIN: This now brings us to the "Other Business" section. The first item of other business will be the report from Bill Hogarth on the NMFS strategy for funding under the Mid-Atlantic Coastal Act.

DR. HOGARTH: Thank you, Mr. Chairman. I feel like everybody knows what I'm going to say before I say it, but I will go through the process here to let you know how we arrived at the conclusions we arrived at and I'll take any comments you have back. We feel pretty strongly that this is the way we should go this year, but we're willing to work for the funding in the future years and look at different ways of maybe distributing the money.

First off, I want to make sure that we understand the act, and I think all of you have. But in a couple of places in here, it talks about federal support. And it says the secretary, in cooperation with the Secretary for
the Interior, shall develop and implement a program to support the interstate fishery management efforts of the commission. The program shall include activities to support and enhance state cooperation in collection, management and analysis of fisheries data, law enforcement, habitat conservation, fishery research including biological and economic research, and fishery management planning.

So there's basically five areas that we need to look at. What we've tried to do internally is to look at those five areas with white papers as to where we're already trying -- what we're already doing and what we need to do to even enhance that support more.

Then if you look under Section 808 which is says "financial assistance," it says the secretary and the secretary of the interior may provide financial assistance to the commission and to the states to carry out their respective responsibilities under this act, including, 1) the preparation, implementation and enforcement of coastal fishery management plans; and 2) Such state activities that are specifically required within such plans. And then it goes on to talk about the authorization of appropriations.

As you-all are well aware now, there has been $3.5 million appropriated for this purpose. You-all at the meeting in Rehoboth talked about how the money should be distributed. We asked other agencies, federal agencies. And
the U.S. Fish and Wildlife said they thought the money should be distributed. And I'll go over what we have received and do some comparison of what you-all have recommended and what we're doing.

Basically they're appropriating, as I said, $3.5 million. The overhead from NOAA and NMFS is 7.4 percent, 5 percent going to the National Marine Fisheries Service, 2.4 percent going to NOAA, which is $255,000 leaving $3.2 million to be used.

The requests that have come forward basically have been ASMFC, $950,000. ASMFC for eligible states, and eligible states under the act is 17. That doesn't include the District of Columbia and Potomac River. That was $2.2 million. U.S. Fish and Wildlife asked for about -- they had several proposals for $1.2 million. And the National Marine Fisheries had about $669,000 which included -- this by the way is a mistake. It's not the Chesapeake Bay Lab. It's the Chesapeake Bay Program about $400,000. Basically they were studies based on what needed to be done, not that they would do them necessarily, but studies they felt like needed to be done.

So far of about $3.5 million, we have requests for $5.1 million. (\( \sum_{n=1}^{\infty} a_n \), \( \chi \), \( \nu \))

MS. SHIPMAN: Can you move that up?

MR. FOTE: Bill, do you have copies of that?

DR. HOGARTH: We can make you copies. We did
not distribute them today because we wanted to go through this
discussion first. If there's any changes, all you're going to
have is this, but we will get you copies of it.

MR. FOTE: This is not written in stone then?

DR. HOGARTH: It's 99.9 percent in stone.

Like I said, they were requests that have been made.

If we were going to discuss this further,
this is basically what we will be discussing. This is a
comparison of ASMFC and the fishery conservation management
group recommendations. The ASMFC said $950,000 plus $95,000
for the ASMFC operation. We agree to that. There's no
difference.

The 17 states was 2.21 -- $2.2 million and
ours is a little over $2 million. The difference is $165,600.

Federal agencies, ASMFC had left available
about $158,000. That request of the federal agencies is
$241,000 which there's $82,600 left.

And then both recognized the 5-percent
overhead for the National Marine Fisheries; however, you-all
did not recognize the overhead for NOAA, which is 2.4 percent
which is a difference of $84,000. So basically the two
differences here are the $82,600 for the federal agencies and
the $84,000 for NOAA, which comes to $166,000, which if you're
taking it for the 17 states, it comes to about $11,000 a state.

I have copies of this that we can get made
today. I will get them here if necessary for you.

This is my recommendation which, by the way, we worked on this recommendation internally, and I'll tell you how the process worked there. Paul, myself, Tom Myers and the other groups worked on it within NMFS. We have made a presentation since then to the senior management, including Raleigh Schmitten and Matlock, and they approved this distribution. Basically we saved 27.1 percent of the $950,000 for ASMFC and the 17 states, $2,050,000, which is $3 million, which is the total to the ASMFC and the states of $3 million which is 85.7 percent of the total amount.

The balance for NMFS and Wildlife, U.S. Fish and Wildlife, the group that we had, fisheries conservation management will be $22,000. Part of that is the additional expense of looking at compliance, the fact that we've got some travel and then the various groups who did the convention. You see the Northeast Region 5 and the southeast region where some of the stock assessment is being done is $15,600. The Chesapeake Bay Program is $3,500, for a total of $58,500.

The next item on here is set aside, we wanted to make sure this was looked at differently, is $82,500. This amount of money will be used to work with the states on the cooperative fisheries statistics workshop and planning session. We plan to pay for the states to attend the workshop and sessions. This money will be used directly for the states, not
something we will take and use at NMFS. It’s solely -- it’s for the states for the planning exercise to try to get the statistics program improved, try to come up with hopefully a uniform trip ticket system for the coast. There’s just a lot of different things we need to do in planning the workshops for the statistics. This money, the $82,500, could either go to ASMFC or to NMFS. We right now propose to keep it within our section to pay for the travel because we can do it cheaper than you-all can due to the contract. There was some question brought up yesterday, can we buy tickets for others. We were told we could, but we will reverify that.

But that money will be used -- well, for the Fish and Wildlife, it’s $50,000 for Region 4, and $50,000 for Region 5. So the grand total for the National Marine Fisheries Service and Fish and Wildlife Service is $241,000, which is 6.9 percent. Again the 7.4 percent is for overhead is the $500,000, which brings it to a grand total of $3.5 million.

MR. FREEMAN: Bill, just back up a minute. On that item where it says "Travel For Fisheries Management Planning," would you explain again what the Chesapeake Bay laboratory is.

DR. HOGARTH: It’s the Chesapeake Bay Program.

MR. DUNNIGAN: May I?

DR. HOGARTH: Yes.

MR. DUNNIGAN: The Chesapeake Bay Program is
in Annapolis. And they have Dr. Ann Lange working in there
now, and Ann's been very involved in a number of our technical
committees. I think what they're trying to do is make it
possible for her to get more involved as a scientist in the
technical program we have, especially given the priorities
we've place on some species like shad and river herring and
others for 1995.

MR. JENKINS: (Indicated.)

DR. HOGARTH: Pete.

MR. JENKINS: Can I just make a point,
Mr. Chairman, that that activity is part of that Chesapeake Bay
Program's expected responses, so I'm not at all in favor of
adding money to that program for that purpose.

DR. HOGARTH: The formula basically felt that
the formula that was used to distribute the money, again,
you-all have asked for $2.2 million basically with $70,000
going to the Potomac River and $30,000 to the District of
Columbia, the remainder for the 15 states was $2.1 million.
The distribution you-all had used was a third equally which was
$706,000, a third based on the average value of the commercial
and recreational fisheries which is $705,000, and a third for
unweighted plans. There's a number plans, and you're getting
so much for each plan that you're in.

Our formula that we arrived at -- I think you
heard Dick Schaefer at Rehoboth say that there was a real
concern about getting the money without some type of work analysis, that they’ve been doing that for the councils, but there should be some type of work analysis done.

We have basically $2,050,000 recommended for the states and ASMFC; the $70,000 going to the Potomac River; $30,000 to the District, leaving $1,950,00 for the 15 states. We did a fourth -- we said that there is a certain amount of work that all states have to do administratively. That was 25 percent. Another 25 percent based on the commercial and recreational fisheries. We were a little concerned about this one and we tried to go back in and to take out the value of just those that we had plans for, basically the 16 plans -- 17 plans. We tried to go back and get the values of those. I do not have enough faith in the data I was getting to think I could do that as reliable as this probably is so we didn’t do it. We just said 25 percent.

Then we weighted the plans and took half of it. We said with the work that’s associated, we felt like according to what the act said with the plans, the fishery management plans and the work associated with them, we felt like the largest amount of money should go to the plans and the work that had to be done in association with the fishery management plan. So we allotted 50 percent to the fishery management plans, which in that case is $488,000, for an equal $488,000 for the value, and $975,000 for the weighted plans.
This is probably where everyone has a
different opinion as to what to take. We tried to go through
the compliance schedule and look at exactly what was taken and
what it would take to do the work necessary for the plans.

We realized striped bass did not specify it
in the act, but most people feel like striped bass is still
covered by the act regardless. And the amount of work we take
to go with that we felt like was a rating of 4, weakfish, 4,
and you can see them all here. We did not have Atlantic
herring over here, Jack pointed that out to us saying that
basically for striped bass, the plan had been approved. So
Atlantic herring was added to the process.

Tautog is not because we have no compliance
schedule. We felt like the plan -- the process was just
beginning and you have basically 50 percent of the money for
equally distribution of the value of the fisheries, so you have
50 percent for those type things.

This is the weighting that we came up with
after looking totally at the compliance plan, trying to figure
how much work it would take the states to do it. That was
distributed among the 15 states, the $975,000. I guess the
bottom line --

MR. JENKINS: Bill?

DR. HOGARTH: Yes.

MR. JENKINS: Let me make sure I understand
those, the numbers under the "F/CM" column.

   DR. HOGARTH: Is the weight, yes.

   MR. JENSEN: The weight that you would assign
to each state that has that responsibility under those
particular plans?

   DR. HOGARTH: That's true. If you were in
striped bass or weakfish and northern shrimp, you get a weight
of 10.

   MR. CONKLIN: Question. How did you do an
analysis based on workload? Do you mean the complexity of the
plans, the value of the fishery, the --

   CHAIRMAN COLVIN: No. The value of the
fishery was -- we tried to look at the amount of work that's
required, the actual -- what the plan says as far as
compliance, what you have to do, how complex it is in the plan,
is there sampling required, monitoring required, this type
stuff.

   MR. CONKLIN: Well, wouldn't that vary in
importance depending upon the states, rather than the fishery
as whole? For example, I noticed --

   DR. HOGARTH: Yes.

   MR. CONKLIN: Because I note that a couple of
the fisheries that you put as Value 1 are extremely important
to Florida because they're a very large fishery and they're
very diverse, a lot of problems associated with them such as
Spanish mackerel and spotted seatrout. And I don’t know why
those would be 1 for us -- I don’t how understand how you can
do it the way you seemingly have done it because it’s -- state by
state it’s going to vary as to how difficult it’s going to be.

DR. HOGARTH: Well, what we did is -- let me
see if I have that with me. We went back to the compliance
schedule and looked at what a state had to do if you go into --
take menhaden, for example. Basically if you look in here, the
only requirement -- there’s really no requirement for the state
under menhaden right now. If a trigger is met, then something
has to be done. No states are having to do anything for
menhaden at the present time. It’s just if a trigger is met,
then you may have to do something.

If you look at croaker, there’s absolutely
nothing here for croaker to be done, nothing to be done for
spot. Now look at Spanish mackerel or flounder. The spotted
seatrout, I think the only thing you had to do there is
implement a size limit. That’s all the compliance schedule
required. Let me find Spanish mackerel. Spanish mackerel
requires that the state close when the quotas are met and that
you set a size limit and that’s it. That’s all that’s
required, to close and set a size limit.

Now, there may be other work you have to do,
but if you look over here as to what the plan requires --

CHAIRMAN COLVIN: I suspect people have a lot
of comments. What I'd like to do for the purpose of keeping
the flow going is to confine our present discourse with Bill to
questions and then we'll nail him with our comments when he's
done. Susan.

MS. SHIPMAN: I have a question. For
instance, this goes to the weighting. American lobster, as I
understand, is primarily a council plan. Spanish mackerel is
primarily a council plan. Why the difference in weighting
there? I agree. I don't understand the rationale for it.

DR. HOGARTH: As I said, Susan, this is the
critical part and it's something we're going to have to work on
between now and another year, but it's the best we could do
based on the compliance schedule. We felt each state was going
to have its own comments based on what it required. We do feel
like there is different weighting in the plan. I don't see
that all 16 plans require the same. There is no way it
requires the states to do the same thing for striped bass
versus spot and croaker for example or weakfish versus spot and
croaker. There is no way that happens.

This is the best we could do with it now and
in the time frame we had to do it with. Realizing this, we
looked at it very carefully and we made some changes after
talking to Jack, and Jack argued about some other things. We
just feel strongly that we need to get the money out so the
money is not rescinded and that we will work with ASMFC further
during the next coming year to look at a better way to
distribute the money.

MR. JENKINS: I'm going to ask this question
in a very blunt straightforward way. Why in the world did you
feel that you had to substitute the federal judgment for this
commission's judgment on what we thought was important to us?

DR. HOGARTH: Because we felt like that there
had to be some work analysis associated with it, that there
should be something based on the workload associated with the
money.

MR. JENKINS: Well, are you presuming that we
didn't do that?

DR. HOGARTH: Yeah, we felt like that all
plans were rated "1." Well, it wasn't.

MR. JENKINS: I find it very strange that you
feel it's necessary to substitute your judgment for the
commission's judgment.

MR. FREEMAN: Bill, over the course of these
plans as we've developed them and we implement them, some are
very complicated and after a year or two, they become routine.
Others which are relatively benign may be raised to a higher
leverage and require considerable amount of work. If in fact we
agree with your concept -- I'm using this as a hypothetical,
not indicating that we agree with your concept -- but over the
course of time, these numbers would change.
DR. HOGARTH: That's correct. That's correct.

MR. FREEMAN: And in your design, you would have the flexibility of changing those?

DR. HOGARTH: That's right. What we're saying is this is the system that we feel like, based on everything we had at hand this year, this is the way we would distribute the money. We're also saying that we are realizing there may be some differences among you-all's opinions, which is all we've got, we knew we would get that. We're willing to start to work immediately or as soon as we know what we're going to have next year to look at another way of distributing the money. We feel strongly that some type of work analysis has got to go with it. If this is not the way, if there's something else to look at or if it needs to be changed annually or if it needs to be changed every two years, that's fine with us, to change it even annually.

MR. FREEMAN: Just to carry that further. It appears that it's very subjective. Each state has specific workloads. And I was just mentioning to Susan, it seems like perhaps the best way to do it is the way they score in diving. We're all given cards 1 to 10, and for each of these plans, we put up what we think we're going to do, we'll throw out the highest and lowest and average the rest.

But it is very subjective. For one state, it
seems perhaps they could do the work, but for another it may
take a considerable amount. This money, this small amount of
money that we've been able to divide up is going to be very
critical in making these plans work. I think that's all our
concerns. I'll wait until the comments come in.

CHAIRMAN COLVIN: Did you have a question?

Ed, did you have a question?

MR. CONKLIN: No.

DR. HOGARTH: This is, I guess, the bottom
line and is what everybody will be looking for, is how that
does differ. We did put it here for everybody's comparison.
The first column is what you-all came up with I guess in
Rehoboth Beach. If you look at that, that is the distribution.

We feel like that is not correct for two
reasons. Number one is the $84,000 had to come out for the
NOAA overhead, so $84,000 would come out of that. The other
thing out of here is that we took the $82,500 which we'll use
for statistics. So basically we start off with ASMFC adjusted
$2,500,000 based on those two changes. And then the basic
difference between these two columns again is you-all's is a
third, a third and a third and that's 25, 25 and 50 percent,
and then ours has a weighting of the plans. Basically the
state that probably gets hurt the worst -- or does get hurt the
worst is Florida under this system, and then it varies up and
down the coast.
We did not touch the D.C. money and Potomac River because the only system we used was the weighted system, and the weighted system changed those quite a bit. And we felt like in the discussion we had was that we would agree to leave it as it is. That's the bottom line.

Now, what we plan to do is to let you know right now and this is — we plan on — we're in the process already and we hope that Raleigh Schmitt will sign the letter today or tomorrow. He's supposed to be in today. We hope to have the letter signed. It's gone through the grants; it's gone through all the attorneys. We expect to have the letter signed submitting this to the states and to come back with a response to Jack. We will get the $950,000 to ASMFC immediately. We will provide the $100,000 to Fish and Wildlife immediately. We will allocate the shares to NMFS. We will advise the states of this. We'll request the funding proposal for the 15 states, the District and Potomac River with priorities — we feel like these proposals should meet the act in those five areas for the work that's done and associated with the plans. The northeast region and the southeast region will be the ones to follow the grants through and go through Harry Mears in the southeast region.

And we are working with grants. We've had grants involved in every step of the way, for them to realize how important it is. Raleigh Schmitt has explained to him
how critical he feels like it is to get this money distributed.
So I think through Paul being inside with Tom Myers, they'll
probably walk it every step of the way through.

And we feel like the one thing that hasn't
been discussed in which we probably need your input is if a
state is not planning on using this money, what happens to that
money. Do you want to redistribute it to other states? Do you
want it to go into a proposal? I don't know of any state
that's not planning on using this money, but if that happens
and there's a certain amount of money left, how would we
distribute that money? Do we want to use this for a special
project or redistribute it or whatever? That's the only
question that's not been -- that we feel we have not covered at
this point.

I will be glad to, as I say, take back any
comments. We feel strongly that the critical thing this year
is to get this money out. If you feel like you positively
cannot live with what we've done, I guess there is an appeal
process. I would take it to Raleigh Smith himself. We have
made the presentation; he has approved it. We want to move it
on.

If you-all feel like you cannot live with it,
then you have the right to appeal through a response I guess
with Jack or we can try to hold that up so you can call now and
tell Dick Schaefer you're not happy and you want to appeal it.
But we just feel like it's critical to get the money out. We felt like there were certain things we had to do internally to make it such that Raleigh, if he had to go to the Hill to support it, this type of thing, that he had some work analysis and all associated with it.

We tried to keep it to a minimum amount that in-house needed. Out of compliance takes a lot of time, and we have not -- the compliance type stuff, if another state is out of compliance, it does take quite a bit of time and expense to process which was not taken into account in our budget. We feel strongly about statistics, and that's the reason that $82,000. That is the totally cooperative program with the ASMFC. It's not for us to use, not for the statistics group to use. It's for the cooperative program.

MR. FOTE: Bill, could you leave the states' distribution up there so we can look at it?

MR. JENKINS: Bill, I assume these will go through the usual NOAA grant process? As I understand it now, the processing time on that is what, four to five months?

DR. HOGARTH: No. No, no.

MR. JENSEN: What is it?

DR. HOGARTH: The maximum they could have is 75 days, isn't it? We talked to them about trying to speed that up.

MR. JENKINS: That's 75 days after you submit
it to them or we get it back to the grant office?

DR. HOGARTH: As soon as we get it --

MR. JENKINS: You get another 75 days on top of that?

DR. HOGARTH: Yes. But we've asked them to speed that up, and they've told us -- they've talked about 30 days, 30 to 45 days.

MR. JENKINS: Another question, Mr. Chairman. I'm not sure I understood what you were saying about unused money, but this money is going to come to us late in the fiscal year or the spending year. What are the carryover provisions.

DR. HOGARTH: It's your money, they can be carried over into another fiscal year?

MR. JENKINS: They can be carried over into another fiscal year?

DR. HOGARTH: Yes. What I meant there is that, say, that Virginia for some reason decided they didn't want its $146,000 or they only applied for $100,000, that $46,000 left over, do you all want to put it into a special project or redistribute it among the states? If there is any money the states don't use, what are you going to do with it?

MR. JENKINS: That's a good idea. We'll talk to Virginia about that. One more question, please. When we submit these proposals, is there going to be a judgment made at the federal level as to whether they're on target or what's fundable or not fundable? Is that the sense I get out of one
little bullet you had there?

DR. HOGARTH: Yeah. One thing that -- yeah, it will be looked at, but basically to see if it fits into one of these five areas that that talks about, basically that, does it fit into that area associated with the plans that are being done, anyplace they're being done.

MR. JENKINS: So it's our money, but you'll tell us how to spend it, right?

CHAIRMAN COLVIN: My sense of that would be that it would be probably a good idea for the grant proposals themselves to say how they relate to the overall stats.

DR. HOGARTH: You know, Jack earlier, when Jack put you-all's proposal together, he broke it down like statistics, fishery management plans and all. That's what we're talking about. Just break it down to how it fits into one of those five categories. I hope we don't get into you saying well you don't need this sample there, you don't need this sample there or you don't need it for that species. We were really concerned about how does it fit into those five big categories, law enforcement --

MR. JENKINS: I would simply make a point, Mr. Chairman. I hope you don't lose sight of the fact that even though we have a ranking of what some of the responsibilities are in the plans, there are a lot of things that we're doing to get ready for plans. I'll give you an
example, croaker. We've done a lot in our state on croaker, even though the plan doesn't have much in it. And you've got to give us some flexibility to do that kind of work.

DR. HOGARTH: Oh, yeah. Oh, yeah. No, we will not go back and look at these ratings that we put on. If he wants to use all his money on croaker and that only ranks 2 or 1, no, we will not do that, no. No, no, no.

MR. LESSER: (Indicated.)

CHAIRMAN COLVIN: Charlie.

MR. LESSER: How about reporting requirements, are they going to be abbreviated or do we have to go through all the monthlies and quarterlies and all that?

DR. HOGARTH: Paul, do you know what they said on that?

MR. LESSER: Are we going to be burdened with monthly reports?

MR. PERRA: Monthly reports?

MR. LESSER: Whatever. Other than annual.

MR. PERRA: Well, I think we're intending on following the same guidelines that you follow on the IJF reports. I believe that's only an interim report and a final report.

MR. FREEMAN: (Indicated.)

CHAIRMAN COLVIN: Bruce.

MR. FREEMAN: I want to get back to the
MR. PERRA: Bill, I think there's one thing that people should be aware of. The policy right now says we work to support the fisheries management programs and the plans, but it should be new work, not just substituting it for old work, work that's been carried on. The intent is to use the money to build a better program, not the substitute one.

CHAIRMAN COLVIN: That raises some questions. Let's just explore that for one minute and ask how NMFS intends to secure documentation on what constitutes new work, if that's your intent? That's a rather large issue.

MR. PERRA: I think it just ought to be stated in the grant documents. It would be the state's judgment as far as -- I think. I don't think NMFS has the staff to really know what's internally going on in the individual states. I think we would look to the grant document, the state and how it is new work.

MR. FREEMAN: (Indicated.)

CHAIRMAN COLVIN: Bruce.

MR. FREEMAN: Did you want to pursue this a little more? Because my issue is different.

CHAIRMAN COLVIN: Why don't you go ahead and we'll get back to this, I'm sure.

MR. DOUGLAS: Can I ask a question?

CHAIRMAN COLVIN: Go ahead, Jim.
MR. DOUGLAS: Thank you. A lot of states are going through reductions in their budgets. I mean, money has been given to them and the governor is pulling it back. And if the state is given up something but now is going to use this money to continue it, that's essentially going to be new work. Is that going to be acceptable in your opinion?

MR. PERRA: In my opinion,

MR. DOUGLAS: That's step one, Bill is going to be accepting your opinion.

DR. HOGARTH: What we were looking at --

MR. DOUGLAS: That's a real exercise the states are going through right now, seriously.

DR. HOGARTH: One thing that I think Jack pointed out and what he said to us is you-all are encouraged not to divert your money from present work you're doing over to this. This we hope will be to continue to gather the data necessary for new plans, this type thing, but don't divert your money from, say, croaker that you're doing now to something entirely out of the way and then put this money into croaker. What we're saying is we want it to still be on these 17 species and not divert all the money away and just replace it.

MR. DOUGLAS: I just wanted to point out this one little anomaly that is likely to come up on some of these things they we ought to get up front right now.

CHAIRMAN COLVIN: Thank you. I'm going to
work my way right up the side here beginning with Susan.

DR. HOGARTH: I'm going to sit down. I'll
answer your questions. I'm going to sit down so I can take
some notes.

MR. FREEMAN: Two issues, one that Jim just
touched on. When this money was originally -- we talked about
originally getting this money, there was a concern that if in
fact the states received a sum of money, then their legislature
or their administration would essentially cut their budget by
that amount to simply substitute this for existing money. That
was a concern that we all had. And my understanding originally
was that this was one of the reasons that the Fisheries Service
is trying to put some sort of qualifier to protect the money we
have and not essentially have our states take it away and just
leave us with a like amount. So I think that needs to be kept
in mind. It could be helpful to many of us.

My original comment, Bill, was the formula.
The difficulty I have, and this was an issue that was in my
mind at the annual meeting when this formula was discussed by
the policy board, it's very, very subjective to come up with
how much work is involved by a state in any specific plan.
Examples were given around here earlier. One state may do a
considerable amount of work because they feel they have to,
it's a very important fishery and they do quite a bit more than
another state.
And in the discussion, as I recall, what we simply do is we couldn't make that determination in a rational manner so we simply listed the plans realizing that some are much more complicated than others, but just the volume of plans perhaps was the best way to do it.

When there's the ranking given to them as you have done, it's very easy to argue you should have used a scale from 1 to 20 because bluefish is different than striped bass is different than northern shrimp, for example. There should be more latitude, because even on these high visible plans that take a lot of work, there may be more work in striped bass than there would be in bluefish, for example. Whatever you do, there's going to be controversy and people are going to feel they're being slighted.

And I thought the original proposal by with the commission was as probably as good as any. I thought the division was as fair as we could do it. By now making changes, obviously you're going to make a lot of people very unhappy. I know in our instance, we've already began the planning process with the original amount as a target. This is going to create difficulties if we go with this new formula. Again, we're threatened with, look, let's move on, we have a lot of things to do, accept this, maybe we can change it in the future. But in my way of thinking, it has created problems.

MS. SHIPMAN: I had a couple of questions.
Why was the NOAA tax, the 2.4 percent, I think the $84,030, only taxed against the states? Why was that not equitably applied to all of the parties?

DR. HOGARTH: I guess I don’t have an answer for that. I think what we did is not knowing how to distribute the money any different to the District of Columbia and Potomac River, we just felt like that -- that was arbitrarily chosen and accepted throughout. That’s the reason for that decision. That’s the only reason.

MS. SHIPMAN: Well, I’m not only alluding to D.C. and PRFC, but also NMFS, also Fish and Wildlife Service, also the commissions. The states took the hit. We’re the ones that took it.

DR. HOGARTH: Basically, if you look, we cut down what the NMFS people asked for quite a bit, even for travel. They did not get what they asked for by any stretch of the imagination, any group get what they asked for. So we cut that back. We’ve taken that to the very minimum.

We did not get any of that 5 percent, by the way. We cannot spend any of the 5 percent that comes in. That goes to where we’ve always spent in the past, we have to -- that goes to repay that. The NOAA 2.4 percent goes to administrative costs. We do not get any benefit of that.

I guess the concern we had was we felt like, and this is second-guessing, we just felt strongly that the
ASMFC needs the amount of money that they requested because we felt like there's got be -- the ASMFC has got to stay a little bit more on its feet for the future. We don't feel like the ASMFC can depend on states for everything. When you judge the states out of compliance, can you continue to expect those states to do it when the workload is coming? There's got to be some more stuff that ASMFC does on its own, and we felt like that that was probably the minimum money for the ASMFC.

I guess the problem we felt was the same as everybody else did, $3.5 million is not a lot of money. We wanted to make sure that the states and the ASMFC got the most of it, it got $3 million of it, and that's where we were coming from.

MS. SHIPMAN: May I ask just one other? Does the standard of supplantation, not supplanting current activities apply to the commission --

DR. HOGARTH: That's a good question.

MS. SHIPMAN: -- or to NOAA or any of the other parties or is that only being applied to the states?

MR. PERRA: It applies to NOAA and NMFS.

MS. SHIPMAN: Does it apply to the commission?

MR. PERRA: I look to you for that answer.

CHAIRMAN COLVIN: Paul, I'm not sure how you can say that. Quite frankly, Pete put his finger on something a little earlier that appears to me to be just that, that is
that some of the funding that was specifically discussed for
the Chesapeake program was funding that the sponsors of that
program expected to be undertaken out of its current resources.
I suspect that a lot of that travel money that I saw is money
that has been in the past provided through the operating
budgets of the northeast, southeast and central office of NMFS.

MR. PERRA: It's not supposed to be. It's
supposed to be for new, expended efforts.

DR. HOGARTH: Even John Merriner sitting in
the back of the room, they made a request for Doug Vaughn to
get some extra help for him for all the stuff he's involved in.
We were going to take all that labor money, but there's no
labor money in NMFS whatsoever. If you work on any additional
programs, it comes out of the salaries already there. The only
thing that's here is travel money associated with any
compliance type stuff for headquarters, what other states have
to go to to meet with them and the process.

CHAIRMAN COLVIN: Ed?

MR. CONKLIN: Previously, Bill, I've
expressed to you my concern with what I had heard back from
Jack and what we heard the night before in terms of how NOAA
was going to approach funding the states. But maybe because
Florida out of the $166,000 cut to the states is going to lose
$49,000 of that $166,000, a 26-percent reduction, I'll take it
upon myself to kind of summarize what I feel and what I've
heard from the other members about this approach.

First, that in your introduction which kind of twisted the knife, I think, when you emphasized the word "may" when you talked about NOAA may fund the states to carry out this work and then further later in your talk, when you characterized the circumstances now as being the 99.9 percent set in concrete on Raleigh Schmitter's desk when you're coming to make a presentation in discussing a cooperative program just doesn't sit well with me at all. That sort of adds to my frustration about how NOAA is reacting to this process.

The people that are around this table far more than I were aware of and contributed to the passage of the Atlantic Coastal Fisheries Act which was highly supported by the states. I think the reason that act passed was because of the states, not because of anybody else. Also that the fishery management plans, as all of us know, are going to be completed by the states. The primary work that's going to be done is going to be conducted by the states. It's not going to be primarily a federal government operation.

The first issue that was lightly touched on, which I understand you don't have anything to do with but is still objectionable to me, is this hidden NOAA tax which I heard characterized by someone else as being necessary to cover a shortfall within NOAA. That doesn't do anything for fishery management or the Atlantic states act. That's not the kind of
behavior that the states are allowed to do when we get federal money. We simply can’t take some kind of cut out of it because we’ve overspent in other areas, and I find that objectionable. And as we all know, perhaps the most important issue is that the formula arrived at by the states was done so in a consensus fashion. It was not a fly-by-night issue that was not discussed by all of us together. There were a number of ideas presented. Many, many factors were weighed very carefully. And the submission that was made to the federal government was a considered decision on the part of the states on how the funds should be spent. And I would characterize the decision as being one of consensus. And "consensus" by definition, my definition is that that means that the states can live with that decision but that they not necessarily agree with every portion of it.

Certainly there were some things that Florida didn’t agree with; but on the other hand, in order to best present a plan that everyone could agree with or at least live with, we did not object. And I’m sure that many of the other states or members felt the same way.

What the impression that I get from what has happened here is that as others have already commented, this is simply a federal government action where the federal government is imposing its judgment onto a program which is primarily and overwhelmingly a state program, not a federal program. It’s
cooperative with the federal government, but it's the states working together that manage it. It has the appearance of rearranging the deck chairs with a little up and down here and there and one of the deck chairs being thrown overboard which is ours. It has the appearance of demonstrating who is in charge. And I'm sorry to say that your presentation made that worse by your characterization of where we are today and also your characterization of whether or not the federal government even has to apportion this to the states.

I don't see here that there was any need on behalf of the federal government to right some egregious wrong that the states had through some terrible mistake put together in their program in representation of the recommendations of the states to the federal government. It just simply doesn't exist. And the overall characterization that I have heard and that I share that I've heard with the other members is that this kind of a treatment of this program is a bad mistake on the part of NOAA and NMFS, and I simply do not understand why it is necessary for you-all to do this this way. It's just a bad precedent for you-all to do this. It sets up a, for us at least, a kind of a bad beginning to this process. And I for one am extremely disappointed in the way this has been handled.

Usually when people say what I'm going to say in a minute, they mean just the opposite. But for us, it's not the money. It's a matter of philosophical problems with this
approach. Sure at some other year maybe we would come out
better or someone else would come out worse, but that’s not the
point. The point is the process. And that simply is the
overwhelming consideration for me. And I hope that other
states support me in this, but later on, I’m going to offer a
motion that this allocation be rejected and that the states
request that NOAA reinstate what we agreed to.

DR. HOGARTH: Let me respond to one thing,
number one is in no way did we ever intend to say that the
secretary may -- the "may" is in there from the standpoint that
we feel like if the secretary has other money, he may do it.
We feel very strongly, and I think that’s said in the
percentage, that this is basically state money and most of it
should go to the states.

But it does say that for the other agencies,
federal agencies and agencies working on the program, and we
feel like some of it should go to them. But in no way through
any of this process have we ever felt like this was NOAA’s
money or NMFS’s money to keep and do whatever it wanted to with
it, that it was basically the ASMFC -- it’s a cooperative
program which meant that it was ASMFC’s, it was the states, and
it was NMFS, U.S. Fish and Wildlife, and those agencies that
are working to make this act move, number one.

So it was never intended -- if you think the
tone of my voice did that, then that’s a mistake because that
was not the way it was intended. We realize there's money, but we went out of our way to make sure that most of the money -- and you can see by the percentage most of it did go to the states.

Of the money left, basically what goes to the federal agencies is $158,000; of that $58,000 to the NMF3's people, $100,000 to U.S. Fish and Wildlife, and then $82,500 which is to the states for what we feel like is a cooperative program which is one of the most important programs that can be done right now, is statistics. We feel like that is the most important thing that we need to do, and we just wanted to make sure that we identified some money for that without each state having to do that.

The formula, as I said, we felt we were instructed and felt like -- and I think, as I said earlier, Dick Schaefer mentioned that in Rehoboth, that he had problems with no workload analysis going into it, and we tried to look at a workload analysis. There were several ways to look at it. With the time frame we had, we felt like that going through the compliance schedule which is what the act was based on, the compliance schedule and those fisheries management plans, that that was the best way to base it on for the first year.

We're making a commitment here today not to say that -- we are making a firm commitment that we will -- this formula can be changed the second year, will be changed
the second year. If you-all want to set up a group to work
with us, either through Jack or through a north-mid-south
person, we're making the commitment that we will look at the
distribution in the future years.

We're concerned right-now, one of the things
we're concerned with is the money being rescinded and the late
date we got around to getting this done. And we feel like
that's one of the critical things. We also feel like that
Raleigh Schmitten has got to have justification for the way he
spends any of his money and the rationale, whether we just-
we gave it out. Some workload, an analysis and this type thing
has to go with it. That's what we tried to do for his benefit
to go back to Congress. We used this money for these purposes.
There's a good way of how he justified it, and we feel very
strongly from that standpoint. Like I said, there is the
appeal process through -- Jack can appeal to Raleigh Schmitten.

CHAIRMAN COLVIN: Tom.

MR. FOTE: Ed said a lot of what I wanted to
say eloquently, probably more eloquently than I would say. I'm
in a little different position here. I'm supposedly
representing 15 commissioners, the governor's appointees from
the 15 states that got cut in this process while the other
jurisdictions did not get cut. The 15 states that were covered
were the only ones took the cut out of this.

It seemed that, to me, it looks like the
Beltway decided again what is good for the whole states. The bias of living down in Washington makes you biased toward that part of the country. And I look at these plans -- and I've got to look at the weighting system. I'm looking at it and I'm looking at it purely -- and I'm not looking at it from Jersey's point. I'm looking at the weighting and what went on in some of these programs. I realize what's involved in Spanish mackerel, and the state's Spanish mackerel is only a 1. Even though I'm from New Jersey, I realize that the monies involved by the states involved in that program, it's not just what you have in that document that says what is a compliance issue. It's what's involved in that issue.

And this is arbitrarily -- I mean, we had sat at a meeting when the other commissioners from the legislators and the governor's appointees were sitting in the audience participating in the process and we made up all these final figures. They all contributed. I look at the state of Pennsylvania, the state of Pennsylvania now has been reduced to the lower that one of the jurisdiction. I don't know how the governor's appointee from that state would feel, but I know how the legislator in the governor's -- if I was in that state, I'd be very upset to that point.

I'm going to keep it short because we've got a lot of people around the table probably who want to voice their opinion. But when Ed makes the motion, I will second it
from the governor's appointees point of view.

MR. CONKLIN: Thank you, Tom.

CHAIRMAN COLVIN: I would ask at this point, is there any member of the board who feels differently from the viewpoint that Ed Conklin expressed? I think it would be appropriate to express that different point of view if there is such.

DR. GEIGER: (Indicated.)

CHAIRMAN COLVIN: Jamie.

DR. GEIGER: Fish and Wildlife Service has sat back and abstained for most of the votes during the allocation process, and I think that's more than appropriate. Any federal agency that's charged with trying to distribute, allocate the money, there's always consternation, difficulty in trying to fairly allocate dollars. We could have easily been in the same situation as National Marine Fisheries Service with that money put in our budget for our allocation and we easily could be in the same situation right now, sitting up front accepting your concerns and your disagreements with any of the allocation processes and formulas.

I guess my concern is that I think the National Marine Fisheries Service has done a good job under the circumstances. They had a very difficult situation to attack and try to deal with under the situation. There are certainly a lot of well justified and documented needs out there.
Our concern is that this act is successful, that the money is successfully implemented for on-the-ground results and that the resources that we are charged with benefit from this activity.

The Service was also very concerned about the very real and distinct possibility of recision of this money. And if you-all don’t understand the process of recision, we should probably have a chance to discuss this because indeed I feel there’s a very real possibility.

The Service proposed over $1.2 million worth of projects to NMFS, and certainly the Service is committed regardless of the money that we get to continue in and be active in the process. We want this partnership to work. We believe strongly in the word "cooperative fisheries management." The Service has been involved from day one in terms of the legislation and will continue to be involved in this.

I support the allocation process that NMFS did. It probably is not perfect, but this is the first year of the law. I feel strongly it needs to be based on workload factors. Workload factors are becoming more and more important. And everything that we do with the federal government from endangered species down to anything, wildlife refuge acquisitions, workload factors are becoming important. Workload factors are not developed overnight. They are
developed over time, evaluated and refined. And certainly I
would look forward to during this first year as we determ ine
more appropriate workload factors, that we will come to a
refinement process, that we will get better and more defined
workload factors that emphasize, again, on-the-ground results
for the resource.

I want to again thank the National Marine
Fisheries Service. They had a difficult situation to deal
with, and I support their activities and their attempts to try
to fairly allocate these monies.

CHAIRMAN COLVIN: The chair would like to
offer one observation. Hopefully it's a factual one that
contributes to the thinking rather than some viewpoint, but
I'll try anyway.

On this issue of workload factors, I believe
there may be an impression that the one-third of the commission
formula proposal that incorporated value of landings or value
of catch harvest in the various states was perhaps not related
to workload, was not as related to workload as something about
implementation of plans. If that viewpoint exists, I think
it's in error.

The discussions that preceded our proposal
pointed out that workload has two facets. One is how much
work, how complex a fishery management plan is, what does it
require a state to do, does it require a state to adopt and
enforce regulations, does it require monitoring, does it require habitat actions. That's one aspect of workload. That aspect is probably reflected to some degree, good or bad, in the NMFS proposal of rankings of 1, 2 or 4.

However, there's another facet of side to workload; and that is, in given states, the magnitude of the fisheries being managed varies and the intensity and the involvement of the state personnel and management is proportionate to the magnitude and the intensity of the fishery itself. And absent some other way of getting at that, the use of the value of the landings was intended to be to some degree a surrogate of the amount of work a state has to do to implement fishery management plans based on their magnitude. It's a lot tougher for New York or Maryland or New Jersey to implement a striped bass program than it is for New Hampshire. We know this, and that's why we used the landings as part of that factor. To the extent that the Services weren't aware of that, I hope that they are now. That's my comment.

DR. HOGARTH: (Indicated.)

CHAIRMAN COLVIN: Bill.

DR. HOGARTH: The thing is that we tried to -- we looked at 25 percent and said it was equal. We felt like every state had a certain amount of administrative costs. In looking at the value of fishery, we felt like took into account, again, some of the amount of time you have to spend.
If you've got a big fishery, you probably spend more time on developing. So the value of your recreational and commercial fishery reflected some of the effort you spent.

But looking at the act, it kept talking about fishery management plans, what it took to implement the fishery management plan. This whole act is based on the fishery management plans that are in place and we felt very strongly that the fishery management plans had to have a strong weight in what was done. So that's why we put -- NMFS did that.

The second thing is that regardless of what you-all vote, that's you-all's prerogative. As a board member I guess I'll probably abstain from any vote. The comments will be definitely taken back very strongly what you didn't like and if there is any changes that we can make quickly, we will. I made some already based on the first presentation I made to Jack -- I mean to Gordon. Raleigh wanted to make sure they both were aware of it. Like I said, we had the hearing and I had some fishery management plan mistakes with Pennsylvania, so we made some corrections. I'm not going back to tell them things are rosie. I'm telling them how upset you-all are and we will reflect that.

I think we still feel like we did the best job we could with the time we had and we're making the commitment to you. This is the first year we hope of a long-term program. We just wanted to set the standards

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somewhat that these things had to be looked at in this way, but
making the commitment that next year we hope there's a better
partnership and we have time to look at this distribution so
that we're all a little happier with it in the future years.

MR. PERRA: (Indicated.)

CHAIRMAN COLVIN: Paul.

MR. PERRA: Just one question to kind of
clarify the workload. If you do look at the landings factors
that are used, they're total landings are the state. When you
look at that, it's total landings for all species and it's also
recreational trips taken for all species. And there are two
states that stand out. Massachusetts stands out because it has
high commercial total landings, and Florida stands out because
it has high recreational trips. That's why they come out high
in the commission's formula. And when you look at those
states, they have lots of -- Florida has lots of recreational
trips that are not on commission plans. Massachusetts has high
commercial landings that are not related to commission plans.
So it was a way of kind of evening out those two states. But
if you look at the formula, I think Massachusetts and Florida
on the NMFS's side, those two seemed to drop the most. That's
the difference between the two and how it's related to the
workload analysis that NMFS did.

MR. FOTE: (Indicated.)

CHAIRMAN COLVIN: Tom.
MR. FOTE: They are also the two states that have paid the highest dues to this commission going back through all these years and basically helped the commission keep afloat. So when 45 commissioners, and all 45 were not present at the annual meeting, sit down, the state directors, we had long discussion. We went on for hours with that. And they could evaluate the programs and all the commissioners sat and evaluated the programs. This is the same philosophy that got Congress in trouble.

And I've been accused of cutting off my nose to spite my face sometimes, but I believe in principle also like Ed does and I stand by my principles. And what's not done fairly, I'm going to say it's not done fairly or it's not done equitable.

To say the 45 commissioners knowing what's going on in their states can't make that type decision and big brother down in Washington can better than the state directors and the governor's appointees and the legislators from those states, I've got a real problem with it. And that's what it seems happened here. I mean, we sat down, we worked it out. We knew what was going on with our states. We knew the workloads that were there, and we realized what the cost of the program would be.

CHAIRMAN COLVIN: The chair is prepared to recognize Ed Conklin for a motion.
MR. CONKLIN: Before that, Mr. Chairman, may I ask a question of staff? One of the other concerns that I have and other folks have that I've talked to is whether or not, if we as a commission requested that the National Marine Fisheries Service reconsider their plan, whether or not that would slow down the funding of the states or any other aspects of this program. That is a concern that many people probably share. And while I don't want to, you know, sort of sink my motion before I start, that is an issue that does need to be taken on head-on, that we have to understand what may happen if anything as a result of this, assuming that some kind of motion would pass. I don't know whether or not anyone can offer an opinion on that.

CHAIRMAN COLVIN: Bill's prepared to try.

DR. HOGARTH: Let me explain what we did. We went through -- Dick Schaefer made the representation to, like Raleigh and Gary Matlock and Sissenwine and the whole staff in grants and everybody. In that presentation, we had a complete comparison of what you-all were requesting up front. Everything was presented to them, you-all's total proposal and our counterproposal. It's all been put before Raleigh Schmitten right now. So he's had that opportunity to look at both the presentations. And based on that, you know, after that he said make sure we talk to Jack before we sent a letter and make sure we talk to Gordon, and I did that and we
made some minor changes there. He said if there was major
problems, there was the appeal process.

    Since then, we have gone through the grants
people, we've gone through legal and gotten everything ready to
be -- it's been signed off except for Raleigh himself because
he's been out of town. The letter may be signed today while
we're gone. So any changes will slow up the process. How much
it slows it up, it depends on going back through the same legal
people and same grants people and getting Raleigh back in
there. So I can't tell you if it will be one day or be five
days. It's not going to slow us down as far as our desire to
get it through. We're going to continue to push it. I just
want you-all to know, it's not something that we as a small
group did and did not tell Raleigh Schmitten or Gary Matlock
and the rest of them that you-all had a counterproposal.

    Dick Schaefer was very careful that he
explained the whole process and why we had done what we had
done in opposition, I guess, to what you-all had done. Even
made the statement about being accused of being big brothers
and second-guessing. That's been discussed up front.

    So I want you to make sure that you-all
realize that this has been a thorough, open discussion with the
panel of the National Marine Fisheries. Still there is an
appeal process. I think our concern is, our extreme concern is
the money being rescinded and we need to get it out. Jack may
want to comment.

MR. DUNNIGAN: Only to say that Bill has -- I haven't said anything and I don't really intend to. I think the commission members are expressing themselves well. Bill knows how I feel about this. I've got to say, though, that I am a little lot more worried -- I'm a lot more worried about this kind of stuff after November the 8th than I was before. I expect that there will be a major effort in Congress next month very early to go after lots of pots of money throughout the whole federal budget and this money is sitting there waiting to be spent. It's going to be a much easier target to get at rather than if it is obligated.

I worked at the National Marine Fisheries Service for a number of years, and my guess is that a reconsideration of this decision is going to take some time. It's sitting on the desk of the assistant administrator today waiting to be signed. What it takes to get something like this to the assistant administrator's desk in that agency is a lot, especially when you consider the way they've involved all of the other parts of NOAA, including the general council's office, the grants office. They're poised and ready to start working, and resetting that is going to take a lot of time. Somebody asked me this morning how long, and I said six to twelve weeks. That may be hard to understand, but that's what it takes, especially at this time of the year, to get things
moving in that agency, just based on my own experience.

Others of you have been there too, so use your judgment as well. I think there's a risk to delaying a decision on this money. That's certainly not offered, however, in any way to defend the decision made.

DR. HOGARTH: I want to make that clear. Jack has told me from day one, remember, Jack, from day one Jack expressed concern in the commissioner's concern, that we would have problems with you-all. And as I guess the state director, I sort of realize that too. I've tried to look out from both standpoints, but we feel strongly about workload analysis. Like I said, this was the simplest one we felt we could come to and we knew we was going to be criticized. But the other one was to try to look at the catch and effort based on species involved in the plan. That to me had more pitfalls than this did.

MR. COATES: (Indicated.)

CHAIRMAN COLVIN: Phil Coates.

MR. COATES: Thank you. I'm basically supportive of Ed's position on the action and that of the other commissioners, but I'm not going to support his motion for the reasons Jack stated. I've been around long enough to see what can happen in these inanitions, although I wasn't around for the last congressional one, I must admit. I would think we would be seriously jeopardizing our money, our chances of
getting this money after the first of the year. This process
was well along before the end of the year. I'm very concerned
about this happening. I think that Bill's assurance that they
will look at this for next year -- I mean, our major battle is
going to be keeping this money going next year. If we can do
that, getting assurance that there's going to be some
reconsideration of the process next year, then I'm happy with
moving this thing forward. I'm not going to support the
motion.

MR. NELSON: (Indicated.)

CHAIRMAN COLVIN: John.

MR. NELSON: I guess I'd have to echo what
Phil just said. I too am not a big favorite of the feds and
how they make decisions. I never have been and probably never
will be. But I think with the changes we have seen take place
in the Congress -- and every day in the press you see how
they're going to be cutting various departments out entirely or
trying to find some way of balancing the budget which we all
know is billions of dollars. So we're looking at a pot of
money that all the states certainly could use at this time. We
don't know if it will continue. Hopefully it will. It is
where our fight should probably go.

We have expressed our disappointment at how
our decision making has been revisited, and I think that's very
justified. I think, though, that the point we ought to be
making is that ASMFC, the states and the National Marine Fisheries in particular have a committee formed so that we move ahead and, number one, try to make sure that the funding continues; and then number two, come to a consensus that we can all vote on that comes up in an appropriate way that's a fair and yet equitable distribution of all.

CHAIRMAN COLVIN: Bruce, did you have another comment to make?

MR. FREEMAN: Yes. I'll take the other side of that issue. I think this whole issue when we talk about funding, at least our estimation, was in the order of $30 million to get this job done on a coast-wide basis, so we got a little over $3 million. And the effort to get $3 million was a Herculean effort as far as the commission was concerned, and we all appreciate that.

Nevertheless, it's going to be the commitment of the states to make this whole process work. And I think the commission in its wisdom, debating this issue collectively, having the commissioners, the governor appointees and the states and the formula they derived is a position we all agreed to. And now to have that changed and we have objections to it I think is not the way to work in a cooperative effort.

And I understand, Bill, the time that you and your men, Paul and others, have put in. I'm sure you worked trying to move this in what you perceived as a fair way within

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the constraints of the agency. We don’t want to fault you for that. I’m sure you worked very hard, way beyond our knowledge to do what you have.

Nevertheless, in this most recent political arena, it appears that from the Washington level, they want to decentralize and give more emphasis to the states and give the states more importance. I really have to question whether in fact politically this money would be cut. I certainly would think it would be within our rights and within our prerogative to indicate to the Fisheries Service how we feel about this.

(Momentary interruption.)

MR. LAPOINTE: Bear with me a minute. It says "volume," but you can’t stop this.

CHAIRMAN COLVIN: I can’t help but reflect how appropriate it would have been to have this kind of music at yesterday’s fluke meeting. The holiday spirit of giving would have been more appropriate at that time.

MR. JENSEN: We seem to be debating a motion that has not been made.

MR. CONKLIN: Right. Why don’t I go ahead and make that.

MR. JENSEN: I support and commend Ed’s position, and I want to hear his motion before I find out where I’m going to be.

CHAIRMAN COLVIN: Ed, do you want to offer a
motion?

MR. CONKLIN: Please, Mr. Chairman. The motion is that the Atlantic States Marine Fisheries Commission reaffirm support of the funding allocation previously agreed to by the states. That’s the first part. The second part is the staff be directed to write NMFS on behalf of the commission to request implementation of the commission’s original recommendation.

CHAIRMAN COLVIN: Is that the motion, Ed?

MR. CONKLIN: Yes.

CHAIRMAN COLVIN: Is there a second?

MR. FOTE: Second.

CHAIRMAN COLVIN: Tom Fote seconds the motion. Discussion on the motion? And I as the chair will return to Pete.

Mr. Jenkins: I just want to make one observation and indicate that I do intend to support that motion, but that the Service by substituting their judgment has already introduced a delay in the system. So I find it difficult now to be in a position where if we don’t like what they did, then we’re guilty of putting high risk on this money. And I simply don’t accept that proposition because I think they should have done it our way in the first place.

MR. SPITSBERGEN: (Indicated.)

CHAIRMAN COLVIN: Dennis.
MR. SPITSBERGEN: I'm not going to support this motion. I am concerned that the National Marine Fisheries Service has substituted their judgment for the collective judgment of the commission. I'm not particularly happy with the National Marine Fisheries Service reaching in and picking out $82,000 for statistics. I keep saying statistics is their responsibility and states have been picking up their responsibility, at least in the South Atlantic extensively for years, and I'm a little surprised that they're reaching in to use the states' money for funding statistics, states' activities in statistics. However, I think we need to get moving on with this. I think we're arguing over not a great big bunch of bucks here and we need to get moving on with this and reassess it again next year if there's bucks available and make sure that everyone's concerns at that point are addressed.

CHAIRMAN COLVIN: Is there any further discussion on the motion?

DR. HOGARTH: (Indicated.)

CHAIRMAN COLVIN: Bill Hogarth.

DR. HOGARTH: I'd just like to say that the ASMFC request was submitted to Raleigh Schmitten on November the 30th, officially submitted to Raleigh Schmitten November the 30th. Since then, he sent it to us and that's when we responded with the presentation to him. So November the 30th to December is the time frame we had the proposal withir to
look and we're back here today here with the proposal. That is
the first time that the ASMFC submitted its proposal.

MR. JENKINS: I guess we'd have to presume,
Mr. Chairman, that 12 more days would be needed to reconsider.

CHAIRMAN COLVIN: Further discussion on the
motion?

MS. SHIPMAN: (Indicated.)

CHAIRMAN COLVIN: Susan.

MS. SHIPMAN: Yes. I would support the
motion for exactly what Pete said. I think they can expedite
their decision. I think they can expedite the review.

MR. LESSER: (Indicated.)

CHAIRMAN COLVIN: Charlie.

MR. LESSER: We would support the motion
based on two things, one that NMFS is a voting member of this
commission. In the spirit of consensus, I take exception to
one voting member superseding a consensus vote. I think that's
the wrong message to send. I think the states are the
supporting weight behind this act. They made it work for 52
years. They protected it. And I think if we go in the
opposite direction and big brother makes the decisions, I think
we're going to lose it rather than retain it. So I'll vote
yes.

CHAIRMAN COLVIN: I see no further comment.
Are we ready for the question.
MR. FOTE: (Indicated.)

CHAIRMAN COLVIN: Tom.

MR. FOTE: I'd like a roll call vote on this, please.

CHAIRMAN COLVIN: A roll call vote has been requested. Is there objection?

(No response elicited.)

CHAIRMAN COLVIN: Tom, will a show of hands be sufficient to accommodate your request?

MR. FOTE: No, I'd like to go by state. I really want a roll call vote.

CHAIRMAN COLVIN: If the director would call the roll.

MR. DUNNIGAN: Mr. Flagg?

MR. FLAGG: No.

MR. DUNNIGAN: Mr. Nelson?

MR. NELSON: No.

MR. DUNNIGAN: Mr. Coates?

MR. COATES: No.

MR. DUNNIGAN: Mr. Sisson?

MR. SISSON: No.

MR. DUNNIGAN: Mr. Beckwith?

MR. BECKWITH: No.

MR. DUNNIGAN: Mr. Freeman?

MR. FREEMAN: Yes
MR. DUNNIGAN: Mr. Lesser?

MR. LESSER: Yes.

MR. DUNNIGAN: Mr. Jensen?

MR. JENKINS: Yes.

MR. DUNNIGAN: Mr. Travelstead?

MR. TRAVELSTEAD: Yes.

MR. DUNNIGAN: Mr. Spitsbergen?

MR. SPITSBERGEN: No.

MR. DUNNIGAN: Ms. Shipman?

MS. SHIPMAN: Yes.

MR. DUNNIGAN: Mr. Conklin?

MR. CONKLIN: Yes.

MR. DUNNIGAN: Mr. Fote?

MR. FOTE: Yes.

MR. DUNNIGAN: Dr. Hogarth?

DR. HOGARTH: Abstain.

MR. DUNNIGAN: Dr. Geiger?

DR. GEIGER: No.

MR. DUNNIGAN: Mr. Carpenter.

MR. CARPENTER: Yes.

CHAIRMAN COLVIN: Mr. Palmer.

MR. PALMER: No.

MR. DUNNIGAN: Mr. Chairman, there are eight votes in the affirmative and eight votes in the negative.

CHAIRMAN COLVIN: The chair votes aye. The
motion carries.

The chair would like to offer a comment on
the outcome. It's the chair's view that the sense of the board
is sympathetic to the motion. On that basis, I vote to convey
those sentiments to the director of the National Marine
Fisheries Service. At the same time, it is also clear that a
substantial number of board members are concerned about the
effect of any reconsideration on timing and it will be the
chair's view that those concerns will also be expressed in the
communication that goes to the Service, and that they be
expressed strongly and that there be an accompanying request
for conferral between the leadership of the Service and the
commission to further discuss any implications of that nature,
and that in the event such implications appear to be
significant, that I and Jack will follow up with phone calls to
members of the policy board and further discuss those matters
with you. Is there any further discussion on this issue or
other business to come before the policy board?

MR. NELSON: (Indicated.)

CHAIRMAN COLVIN: John.

MR. NELSON: Mr. Chairman, should we formally
establish a committee to work for the future funding and a
future resolution of a formula that we can all review worked
out by National Marine Fisheries, the states and the ASMFC?

CHAIRMAN COLVIN: Without objection, the
chair will take that under advisement. One of the things that we will be working on in the coming weeks is clarification of rolls of committees, appointments of committees, and potentially this issue may be appropriate to put before the administrative oversight committee and that will be considered.

MR. JENSEN: (Indicated.)

CHAIRMAN COLVIN: Pete.

MR. JENKINS: Mr. Chairman, there have been comments in previous meetings and there were comments about white papers that have been prepared by the different services, and I had hoped from an earlier discussion that we were going to see copies of them, because apparently these are forming the basis of policies and how they're going to interact with us. I would simply ask that those white papers be made available to us so we can see what the thinking of the services are.

MR. DUNNIGAN: (Indicated.)

CHAIRMAN COLVIN: Jack.

MR. DUNNIGAN: We have the latest drafts, but I don't think any of them are finalized yet. The focus of the papers is on their internal programs, not what they're telling the states to do.

MR. JENKINS: I understand, but we're partners, remember?

MS. SHIPMAN: (Indicated.)

CHAIRMAN COLVIN: Susan.
MS. SHIPMAN: Yes. I would like to echo Pete's request. As you know, we’ve had a very open process of developing our standards and procedures and everyone knows how we’re going to operate. I too would like to know how the services are going to operate within the new act. I would like to see their standards and procedures.

MR. FOTE: (Indicated.)

CHAIRMAN COLVIN: Tom.

MR. FOTE: Just one question. You said you only got the request on November 30th?

DR. HOGARTH: We’ve been talking to Jack and working before that. We’ve been working on the process before that.

MR. FOTE: Because we voted on this back at the annual meeting.

DR. HOGARTH: We’ve been working on the process since then. We’ve got stacks of data with different ways of looking at it.

CHAIRMAN COLVIN: We have a request for public comment from Charlie Bergmann.

MR. BERGMANN: I don’t know if this is appropriate or not, but you had mentioned summer flounder yesterday in the spirit of giving. I was wondering if Mr. Hogarth could give us an update on the court case.

DR. HOGARTH: I’ve got to make a phone call.
as soon as we get out of here. I’m supposed to call as soon as I get out.

CHAIRMAN COLVIN: If there’s no further comment, Bill Hogarth has requested one other -- a comment on another subject.

DR. HOGARTH: Totally separate from this. As part of my new job, I found out they want a lot more coordination, particularly Raleigh Schmitten with the states. I hate to bring this up after what we just went through, but I’ll bring it up anyway. What I get myself into sometimes.

But in the process, all of you, if you haven’t received it, will be receiving from me a letter which you may think is sort of strange, but basically, it’s just trying to introduce the fact that I will be doing this and asking some ideas from you on how we can better coordinate and do a better job of partnership with the states. We’re trying to get the state directors and the commissions to work better and some better partnerships going.

The letter just states -- and I asked for a response back in a month or so, so we do plan on having Raleigh Schmitten meeting with all the state directors at the commission meeting that Jack is, I guess, working out with the other two commissions in March. We’d like to have some of those items that you’re most concerned about put on the agenda during that time frame.
But he does want to work greater with the
state directors and greater with the commissions for greater
partnerships, and it looks like that's going to be part of my
job, to try to figure out where those partnerships can be, how
we can do a better job. So I've learned part of it today and
I'll convey that.

MR. FOTE: I notice you said "state
directors." You might say "commissioners" since we are --
there is other commissions beside state directors. My
sensitivity training.

CHAIRMAN COLVIN: Susan, did you want to say
anything about the standards and procedures draft?

MS. SHIPMAN: Thank you, Mr. Chairman.
Everyone yesterday in weakfish on that board should have
received a copy of the final working draft. I note that this
is a final working draft. It has been adopted. But you'll
recall the policy board gave us editorial license to fold in in
particular the section on the law enforcement committee role.
The law enforcement committee is working with me and the
commission staff on that, so that is the only part that has not
been included. But this is a copy for you to follow and work
by as we go through the planning process. I have a couple more
copies. If you didn't get one, please see me. I will also be
getting a final copy out to you along with definitions.

You'll recall Section 8, it tasked everyone
with getting comments back to us on definitions. I'd like to commend New York and Florida for getting comments back to us. The rest of you have been silent. I'm missing hearing from you. I'd love to get some comments from everyone else. So please, if you don't have that copy of Section 8 which you received in Rehoboth Beach, let me know. I'll fax another one to you. We want to wrap up Section 8. So look over the definitions and get any remaining comments in to us. Thank you.

CHAIRMAN COLVIN: Thank you, Susan. Is there a motion to adjourn?

MR. SPITSBERGEN: So move.

CHAIRMAN COLVIN: Without objection.

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COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, Victoria L. DeBerry, do hereby certify that the foregoing pages are a true and accurate transcript of the proceedings had at the time and place mentioned.

This 6th day of January, 1995.

[Signature]

Court Reporter

My Commission expires October 31, 1996.