

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

**Hyatt Regency Hotel  
Newport, Rhode Island  
November 3, 2009**

Board Approved February 2, 2010

## TABLE OF CONTENTS

<b>Call to Order .....</b>	<b>1</b>
<b>Approval of Agenda .....</b>	<b>1</b>
<b>Approval of Proceedings .....</b>	<b>1</b>
<b>Public Comment.....</b>	<b>1</b>
<b>Proposal for Alternative Management in Florida.....</b>	<b>1</b>
<b>Overview .....</b>	<b>1</b>
<b>Technical Committee Report .....</b>	<b>2</b>
<b>Advisory Panel Report .....</b>	<b>3</b>
<b>Draft Addendum IV to Amendment 4 of the Weakfish Management Plan .....</b>	<b>4</b>
<b>Overview of Options .....</b>	<b>4</b>
<b>Public Comment Summary .....</b>	<b>5</b>
<b>Technical Committee Report .....</b>	<b>7</b>
<b>Advisory Panel Report .....</b>	<b>12</b>
<b>Consideration Of Final Approval Of Addendum IV .....</b>	<b>12</b>
<b>Discussion of Implementation Date .....</b>	<b>26</b>
<b>Other Business.....</b>	<b>30</b>
<b>Adjournment .....</b>	<b>30</b>

## INDEX OF MOTIONS

1. **Motion to approve agenda by Consent** (Page 1).
2. **Motion to approve proceedings of August 19, 2009 by Consent** (Page 1).
3. **Move to accept Florida’s proposal** (Page 3). Motion by Louis Daniel; second by Robert Boyles, Jr. Motion carried (Page 4).
4. **Motion to approve Addendum IV to Amendment 4 to the Weakfish Fishery Management Plan with the following: Under Section 2.3.1, biological reference points, adopt Option 3, percentage-based spawning stock biomass reference points; under Section 2.3.2, recreational fisheries, adopt Option 5, harvest moratorium; under Section 2.3.3, commercial fisheries, adopt Option 4, harvest moratorium; under Section 2.4, monitoring, adopt Option 2, Addendum I requirements** (Page 13). Motion by Tom O’Connell; second by Craig Shirey. **Change made** (Page 16): **Under commercial fisheries, adopt Option 4, harvest moratorium with jurisdictions required to maintain existing season and area closures previously adopted to protect weakfish stocks and reduce bycatch**. **Change made** (Page 19): **replace “seasonal and area closures” with “maintaining existing management measures previously adopted”**. Motion was split (Page 19).
5. **Move to split the question to take up the biological reference points first; the recreational and commercial fisheries second as a group; and then third, the monitoring requirements** (Page 19). Motion by David Simpson; second by Malcolm Rhodes. Motion carried (Page 20).
6. **Under Section 2.3.1, biological reference points, adopt Option 3, percentage-based spawning stock biomass reference points** (Page 20). Motion by Tom O’Connell; second by Craig Shirey. Motion carried (Page 20).
7. **Under Section 2.3.2, recreational fisheries, adopt Option 5, harvest moratorium; under Section 2.3.3, commercial fisheries, adopt Option 4, harvest moratorium with jurisdictions required to maintain existing management measures previously adopted to protect weakfish stocks and reduce bycatch** (Page 20). Motion by Tom O’Connell; second by Craig Shirey. Motion was substituted (Page 20).
8. **Move to substitute to approve for Section 2.3.2, recreational fishery, Option 2B, one fish; in Section 2.3.3, commercial fisheries, Option 2.1B, 100-pound limit; with jurisdictions required to maintain existing management measures previously adopted to protect weakfish stocks and reduce bycatch** (Page 20). Motion by Tom Fote; second by John Duren. Motion carried (Page 23).
9. **Motion to amend the substitute motion to include 2.1A, 150-pound limit instead of 100 pounds** (Page 20). Motion by Louis Daniel; second by Rob O’Reilly. Motion failed (Page 23).
10. **Move to approve the main motion as substituted** (Page 23). Motion by Tom Fote; second by John Duren. Motion carried (Page 25).
11. **Motion to approve for Section 2.4, monitoring, Option 2, Addendum I requirements lifted** (Page 26). Motion by Tom O’Connell; second by Craig Shirey. Motion was substituted (Page 25).
12. **Substitute motion to support Option 1, status quo** (Page 25). Motion by Rob O’Reilly; second

by Louis Daniel. Motion carried as the main motion (Page 26).

13. **Motion to adopt Section 2.2B with a hundred fish as recommended by the technical committee** (Page 26). Motion by A.C. Carpenter; second by Pat Augustine. Motion carried (Page 26).
14. **Move to adopt under Section 3.0, Compliance, a January 1, 2010, compliance date for which states must submit programs to implement Addendum IV for approval by the Weakfish Management Board; a May 1, 2010, compliance date by which states must implement Addendum IV through their approved management programs** (Page 26). **Change made** (Page 27): **to say “no later than May 1.”** Motion by Tom Fote; second by Dave Simpson. Motion carried (Page 29).
15. **Motion to approve Addendum IV as modified today** (Page 29). Motion by Tom Fote; second by Rob O’Reilly. Motion carried (Page 29).
16. **Motion to adjourn by consent** (Page 30).

## ATTENDANCE

### Board Members

David Pierce, MA, proxy for P. Diodati (AA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Bob Ballou, RI (AA)	Steve Bowman, VA (AA)
Mark Gibson, RI, administrative proxy	Rob O'Reilly, VA, administrative proxy
Kelly Mahoney, RI, proxy for Sen. Sosnowski (LA)	Red Munden, NC, proxy for B. Cole (GA)
Dave Simpson, CT (AA)	Mike Johnson, NC, proxy for Rep. Wainwright (LA)
Jim Gilmore, NY (AA)	Dr. Louis Daniel, NC (AA)
Pat Augustine, NY (GA)	John Frampton, SC (AA)
Brian Culhane, NY, proxy for Sen. Johnson (LA)	Malcolm Rhodes, SC (GA)
Tom McCloy, NJ, proxy for D. Chanda (AA)	Robert Boyles, SC (LA)
Tom Fote, NJ (GA)	Spud Woodward, GA (AA)
Gil Ewing, NJ, proxy for Asm. Albano (LA)	John Duren, GA (GA)
Craig Shirey, DE, proxy for P. Emory (AA)	Rep. Bob Lane, GA (LA)
Roy Miller, DE (GA), Chair	Jessica McCawley, FL (AA)
Bernard Pankowski, DE, proxy for Sen. Venables (LA)	William Orndorff, FL (GA)
Tom O'Connell, MD (AA)	Steve Meyers, NOAA Fisheries
Bill Goldsborough, MD (GA)	A.C. Carpenter, PRFC

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

### Ex-Officio Members

Russ Allen, Technical Committee Chair

### Staff

Vince O'Shea	Chris Vonderweidt
Nichola Meserve	Robert Beal

### Guests

Loren Lustig, Commissioner, PA (GA)	Paul Pajak, USFWS
G. Ritchie White, Commissioner, NH (GA)	Arnold Leo, E. Hampton, NY
Dan McKiernan, MA DMF	Greg DiDomenico, GSSA
Chip Lynch, NOAA	Sean McKeon, NCFA
Harley Speir, MD DNR	Dick Brame, CCA
Bob Ross, NMFS	Warren Doty, Martha's Vineyard, MA
Brian Hooker, NOAA	Nicole Lengyel, RI DEM
William Rice, PRFC	

## CALL TO ORDER

CHAIRMAN MILLER: I think that's a reasonable suggestion, Malcolm. If I forget, remind me, please. Again, welcome to the Weakfish Board. I'm Roy Miller, and I'm the governor's appointee from Delaware serving as the Weakfish Board Chair.

CHAIRMAN ROY MILLER: I am Roy Miller; I'm chairman of the Weakfish Board. Malcolm, did you have a comment.

DR. MALCOLM RHODES: Yes, Roy. The commissioners knew we were starting early, but I would wonder if our agenda could allow for public comment later in case there are members of the public that wanted to make a statement that were assuming a one o'clock appointment; just to put a placeholder in if we need it.

## APPROVAL OF AGENDA

CHAIRMAN MILLER: Hopefully, everyone has a copy of the agenda in front of them. Are there any suggested changes or additions to the agenda? **Seeing none**, the next topic is the proceedings from the August 19, 2009 Weakfish Board Meeting.

## APPROVAL OF PROCEEDINGS

Are there any changes or additions suggested to those proceedings as written? **Seeing none, I'll assume they're approved.**

## PUBLIC COMMENT

The next agenda item, of course, is public comment. If you just walked in the door, we decided to compromise because of our early start I'll have a public comment period now if there is any, and we'll also offer that opportunity again later; sometime after one o'clock in case some did not get the word that this meeting was starting early.

Are there any public comments at this time? Public comments, of course, would be on items not covered on your agenda. Seeing none, we'll proceed on. The first agenda item after public comment is the Proposal for Alternative Management in Florida. For an overview of the proposal, I'd like to call on Commissioner McCawley.

are interbreeding and forming hybrids. The hybrids are only distinguishable through genetic analysis.

## PROPOSAL FOR ALTERNATIVE MANAGEMENT IN FLORIDA

### OVERVIEW

MS. JESSICA McCRAWLEY: Okay, provided in your briefing materials was the letter that we sent to the Weakfish Management Board with a request to modify the weakfish management area. I'm going to give you a short PowerPoint presentation on this topic. The current intent of Florida regulations are to contribute to the protection of weakfish along the entire Atlantic Coast.

However, Florida's current management system is affording little protection for the species, so we are proposing a smaller management area that should improve protection for weakfish. Just to review what the current Florida weakfish regulations, there is a 12-inch minimum size limit for both recreational and commercial harvest.

There is a four per person per day recreational bag limit. There is no commercial bag or trip limit at this time. However, there are bycatch reduction device requirements. Spearing is prohibited, and currently we have no closed seasons. The regulations for weakfish apply to the entire coast of Florida and actually to the entire state of Florida even though weakfish do not occur in the Gulf of Mexico.

Florida has three main challenges to weakfish management. We have a morphological identification between weakfish, sand seatrout and the hybrid that is forming between the two species. The enforcement of the recreational and the commercial weakfish regulations is another one of our challenges. Finally, both of these items affect the *de minimis* status that we report to ASMFC.

More specifically on the identification issue, this chart compares the characteristics of weakfish and sand seatrout. Weakfish, as you can see, grow much larger than sand seatrout. Sand seatrout rarely grow larger than 13 inches. Weakfish also weigh a lot more. For weakfish in Florida we have that 12-inch minimum size that I mentioned, but we have no minimum size and no bag limit for sand seatrout.

As mentioned, weakfish don't occur in the Gulf of Mexico. Sand seatrout occur in the Gulf of Mexico and along the Florida East Coast. These two species overlap in waters off of Northeast Florida and they

You have the weakfish, the sand seatrout and then some version of a hybrid that are all along the coast. The anglers and the law enforcement officers can't

tell the difference between these species. As I was just mentioning, there is this enforcement challenge; only distinguishable by genetic analysis. Also, I mentioned, sand seatrout has no established size or bag limit and weakfish does.

When unsure about species' identification, the law enforcement officers are enforcing the less strict regulation which would essentially be treating all fish as sand seatrout with no size or bag limit. Due to the identification issue, our FWC officers have taken an educational approach with only 25 weakfish citations issued since 2000, and only three of these citations have been issued since 2002.

A little bit about Florida's share of weakfish management – in 2008 landings were 1.46 percent of the total landings for the entire Atlantic Coast yet we were granted *de minimis* status. The identification issue complicates how we report our landings for *de minimis*, and in 2009 FWRI, our research arm, calculated the state's weakfish catch differently to account for the identification issue.

This was based on a genetic study that showed genetically pure weakfish occur primarily in Nassau and Duval counties. They used these two counties to calculate Florida's catch. With the new calculation, Florida represents 0.21 percent of the '07-'08 coast-wide catch. In order to meet these challenges, a weakfish management area could be established in Northeast Florida where genetically pure weakfish are dominant. What this little graphic is showing us is this is showing some data from an FWRI Study.

The boxes that are on the right, the black would represent pure weakfish; the grays, the hybrid and the white is the sand seatrout. The box around the pie chart corresponds to the graphs in the middle of the page showing you where the data for that pie chart came from. This is showing us that the St. Mary's River is the only area where pure weakfish are the dominant of the three species at 48 percent.

The percentage of pure weakfish decreases as you move south with no pure weakfish found south of the St. Johns River. If a weakfish management area was defined, it would likely include Nassau and Duval counties, and inside that area all weakfish-like fish would be considered weakfish and outside that area all weakfish-like fish would be considered sand seatrout.

In order to help solve our problems and improve our weakfish management program, Florida is requesting to establish this well-defined smaller management

area in Northeast Florida where pure weakfish are known to occur. This would likely be a two-county area, but our agency still needs to work with our officers on the exact size of this area.

It would require a modification of our current rules. However, this modification should improve our weakfish management program, eliminate confusion for anglers and for our law enforcement officers. That concludes my presentation.

MR. MILLER: Thank you, Jessica. Are there any questions of anyone on the board of Jessica? Tom Fote.

MR. THOMAS FOTE: Jessica, that means if we put in a moratorium, those two counties would have to be shut down as far as the weakfish catch?

MS. McCAWLEY: That's correct.

MR. MILLER: Any other questions? Let's hear from the technical committee, Russ Allen in particular, as the technical committee's deliberations of this particular issue.

#### **TECHNICAL COMMITTEE REPORT**

MR. RUSS ALLEN: Mr. Chairman, the technical committee had no technical concerns regarding the proposal. In fact, it should make life a little bit easier knowing what landings are what from Florida as we move through future assessments. I think we're in pretty good shape there.

MR. MILLER: Thank you, Russ. Any questions for Russ? David.

DR. DAVID PIERCE: Russ, the lack of concern by your committee exists even though there are overwintering aggregations of weakfish to the south of North Carolina where weakfish overwinter – I'm trying to get a better feel for the inshore/offshore distribution of weakfish and the fact that if indeed we accommodate Florida's legitimate concern; do we have some offshore area where weakfish would be overwintering and then they would be pure weakfish and not the genetic hybrids, so we end up with an area that would be potentially still open to fishing?

MR. ALLEN: We kind of looked at a lot of different things with this proposal. We didn't spend a whole lot of time on it because it's more for the recreational part of things. Because Florida's landings are so small, basically, you know, *de minimis* status as far as coastwide goes, we didn't think there would be any opportunity for that to happen as far as some

major fishery happening off their coast and depleting the weakfish stock worse than it already is.

This makes it a lot easier for us to know exactly what the landings are of weakfish in Florida. There have been a lot of changes over the last few years trying to break out weakfish from the whole sand seatrout/hybrid conglomerate. For us to have a set area that we know that is where weakfish are being landed and those landings are, if not all weakfish, mostly weakfish, and at least they'll be reported as weakfish makes things a lot easier on the technical committee and stock assessment subcommittee.

We did have concerns as we looked through it, but when we know what the landings are already down in Florida, it didn't have any impact on what we were moving forward with. I hope that answers your question.

CHAIRMAN MILLER: Any other comments or questions at this point in time? Seeing none, I would normally call on Billy Farmer for an advisory panel report, but he is unable to be with us, so Nichola is going to fill in.

#### **ADVISORY PANEL REPORT**

MS. NICHOLA MESERVE: The advisory panel did have a meeting on October 20<sup>th</sup>, and there was a brief summary provided on your briefing CD. The AP looked at this proposal and the members in attendance did support the proposal. They found the proposal to be a practical method to address the hybridization issue and the consequent enforcement problems. Implementation of the proposal was not perceived as presenting a risk to the resource, especially given the state's limited landings.

CHAIRMAN MILLER: Any questions for Nichola? Lou Daniel.

DR. LOUIS DANIEL: Are you ready for a motion? **I would move we accept Florida's proposal.**

CHAIRMAN MILLER: And that was seconded by Robert Boyles. Any discussion? Lou, you had your hand up first.

DR. DANIEL: Yes, I know this has been a problem for a long time, and I think they have come up with an interesting way to do it. I think we should give them a chance to implement it and see if it works for them.

MR. ROBERT H. BOYLES, JR.: Mr. Chairman, I second Louis' motion and his comment as well. A

question for Jessica; did I understand from the proposal that the largest area in the state would be Nassau and Duval counties, but everything south of Duval weakfish-like species would be considered sand seatrout, but that in fact the weakfish area may be smaller; did I understand that correctly?

MS. McCAWLEY: It wouldn't necessarily be smaller than those two counties, but we might extend it to cover the entire Nassau River since it extends a little bit past those two counties. There is a possibility it may actually be larger.

CHAIRMAN MILLER: Any other discussion? Rob.

MR. ROB O'REILLY: I certainly recall over the years really good attempts by Florida to sort of solve this dilemma, but is the hybridization relatively new? Is that a new situation or was it that it was there and now it's just becoming more apparent or detected? I assume that there may be a strong mixing area there; is that what is going on?

MS. McCAWLEY: I wouldn't say the hybridization issue is new. We just have been unsure how we wanted to deal with it. There has been some internal debate between the management side, the research side, and law enforcement side about how best to deal with this problem. I don't think we know exactly where that mixing area is occurring. We're unsure of that at this time. We're still collecting genetic data to look at this further, but we felt at this time that our genetic data was adequate enough to make a recommendation like this on the percentages of where pure weakfish are found.

MR. O'REILLY: Well, SEAMAP would pick up some of the sampling that you would do over time, so is it the intention that you'll also track maybe this degree of hybridization or species composition; is that what Florida intends to do over time in the area south of the two counties?

MS. McCAWLEY: I would have to check with our research institute, but I don't see why not.

CHAIRMAN MILLER: Anymore board discussion on this motion? David.

DR. PIERCE: Jessica, if you would, just a clarification. The weakfish management area would be all Florida waters in the northeast section of Florida, right, so any weakfish caught from that area in Florida waters and landed in the ports would be considered weakfish. I guess my question is to what extent would weakfish be found in federal waters in



**DRAFT ADDENDUM IV TO  
AMENDMENT 4 OF THE WEAKFISH  
MANAGEMENT PLAN**

**OVERVIEW OF OPTIONS**

the northeast portion of Florida or nearby? Is there a possibility that if indeed we did go with a moratorium, that weakfish would be caught as targeted weakfish and then landed south of your management area and then called sand seatrout?

MS. McCAWLEY: All good questions. We looked into that a little bit, and it seems like most people are landing them in those two particular counties. They're landing actual weakfish in those particular two counties that we're suggesting, and that's why we need to work with law enforcement to see if we need to expand that to a more extensive look at the Nassau River System which actually extends outside those two counties. What was the other part of the question?

DR. PIERCE: Well, are you concerned about the possibility that if we go with very restrictive weakfish rules and regulations or a complete moratorium that there would be great incentive or motivation to catch the weakfish and then land them in those counties where they would be called the seatrout?

MS. McCAWLEY: There could be some; although the fisheries that take the weakfish or weakfish-like species as bycatch are primarily in those two areas, so we don't anticipate it being a problem in those two counties.

DR. PIERCE: Okay, so if we did indeed adopt your proposal, we would assume that Florida would be continuing to monitor, I guess genetically and otherwise, the fish that would be landed outside of the weakfish management area to determine if indeed they are weakfish or not as part of a monitoring program that would continue to, well, support the Florida Management Area that we would adopt?

MS. McCAWLEY: Yes, I believe so.

CHAIRMAN MILLER: Any additional questions or comments on the proposed motion. Seeing none, I'll call on the audience. Are there any comments from the audience on the proposed motion? Seeing none, are we ready for a vote on this particular motion? All those in favor of the motion – well, let me put it this way; is there anyone opposed to the motion? I see none. Are there any abstentions; any null votes. **Then let's assume the motion is approved.**

All right, we're ready to proceed. For our next agenda item, we're moving on to Draft Addendum IV to Amendment 4 of the Weakfish Management Plan. I'm going to call on Nichola Meserve for an overview of the options and the public comment summary. You will recall we are on a fast-track approval process for this particular addendum. Nichola.

MS. MESERVE: Staff right now is passing out the summary of the hearings and the written comment record on the draft addendum. The comment period was open until this past Friday, so that is why you're getting it at this late hour. I will go over the options in Draft Addendum IV as a reminder and then provide a summary of the comments.

As Roy mentioned, this is on the fast-track process. The board initiated this addendum in August to respond to the results of the stock assessment; that the stock is depleted and that fishery removals further exacerbate the decline. The board had a conference call in September to approve the draft addendum for public comment. As I said, the comment period was open until this past Friday. The board can consider final approval of the options today, and will also need to specify an implementation date.

There are options in the document that address the biological reference points, the fishery regulations and also the fishery-dependent sampling requirements.

For the biological reference points there are three options. Option 1 is status quo, keeping the reference points from Amendment 4. Option 2 would be to update the spawning stock biomass threshold with the newer assessment data. Option 3 would be to switch to percentage-based spawning stock biomass reference points having a threshold of SSB 20 percent and a target of SSB 30 percent. Right now the stock is estimated to be at 3 percent of an unfished stock.

The recreational fishery options are in Section 2.3.2. We have four options. The first is status quo. The second is a reduced creel limit coastwide, either a two-fish or a one-fish creel limit. Option 3 could be a creel and size limit combination to achieve a certain percent harvest reduction; either 50 percent, 75 percent or 90 percent or more. Option 4 is the

moratorium. I believe in the document it actually says Option 5 because there was another option originally that was removed.

The commercial fishery options are in Section 2.3.3. Again, Option 1 is status quo. Option 2.1 is trip limits. Under this option the fishery would continue to operate with opened and closed seasons. During the open season a trip limit would be implemented of either 150, 100 or 50 pounds. During the closed seasons for non-directed fisheries, the same poundage limit would apply as the bycatch limit and the 50 percent requirement of having other species would apply during the closed season for the non-directed fisheries. Another option under the trip limits is for the undersized fish provision for the finfish trawl fishery. There are options for 150 fish, 100 fish or 50 fish to correspond with the 150 pound, 100 pound or 50 pound trip limit option.

The next set of options goes with the bycatch limits. The difference here is that there would no longer be an open season for weakfish. It would be a year-round bycatch-only fishery, and so the requirement to land a certain percent of other species would apply year round rather than just during the closed seasons under the trip limit. Here the bycatch limits would be same options; either 150, 100 or 50 pounds.

The board could also look at revising the current poundage requirement for other species. Amendment 4 requires that weakfish cannot be greater than 50 percent of the catch by weight for that to constitute as a bycatch landing. The board could look to revise that to say weakfish would have to be some level between 5 and 50 percent of the catch by weight.

There is also an option for the commercial hook-and-line fishery. If the board went for a bycatch limit only, the hook-and-line fishery would not be allowed to land any weakfish under Option A, status quo. Option B would allow the commercial hook-and-line fishery to land and sell weakfish under the recreational allowance that is selected by the board. Option 3.4 is the same as previously presented for the finfish trawl fishery; the provision to land undersized fish.

Option 3.5 addresses the current provision for the pound net and haul seine fisheries to land undersized fish. Currently these fisheries are allowed to land undersized fish if conservation equivalency could be demonstrated, so some of the states shortened their open seasons in order remove the size limit requirement for the pound net and haul seine

fisheries. Option 2 here would be to require these fisheries to abide by the 12-inch minimum size limit.

Option 4 for the commercial fisheries is a harvest moratorium.

There are two options for the monitoring requirements. Option 1 is status quo and Option 2 would be to lift the current sampling requirements if the options were not status quo for the fishery options. The states would still be recommended to sample at the current levels because there wouldn't be a requirement any longer.

#### **PUBLIC COMMENT SUMMARY**

The public comment period was open until last Friday. There were ten hearings held in nine states, and 63 members of the public participated in those hearings. The written comment included 89 comments.

I'll first deal with the easier options for the biological reference points and the sampling requirements. Thirteen people commented on the reference point options. Twelve of them supported the technical committee's recommendation for percentage-based reference points. One person just said not to go with Option 2, which was the update of the spawning stock biomass thresholds. Five people commented on the sampling requirements. All of them supported lifting the requirement for the states to sample if there is a moratorium or a reduced harvest allowed.

For the recreational fishery options, seven people support status quo. Fourteen people supported a reduced creel limit of some type. Six were in favor of a two-fish creel; three in favor of one fish; one in favor of either of those two. Three people were in favor of a two-fish limit with an increase in the size limit, and one person was in favor of a two-fish limit, including a slot-sized fish and then a trophy size. One person supported having to achieve a percent reduction in the harvest presented in Option 3 – that would be for a 75 percent reduction in the recreational harvest – using an 18-inch minimum size limit as part of the combination. Seventy-eight people supported a moratorium.

For the commercial fishery, three people supported status quo. Seven people supported trip limits; four at a hundred pounds; two people anywhere between 50 and 150 pounds; and one person supported the 50-pound trip limit proposed. Two people were in favor of the bycatch limits at a hundred pounds. Two people made a recommendation on the undersized allowance from the finfish trawls; both supporting the

100 fish limit. Seventy-four people supported the commercial moratorium. One or two said they preferred a moratorium but could also live with a small bycatch limit.

There were a number of qualifying statements made in the comments. A lot of people said that they would want to see regulation that are expected to have an equal impact on the two sectors. Most of the people that were in favor of a moratorium were doing so for both sectors at the same time. A number of people commented on needing protection for the spawning or migrating aggregations. There were a large number of the comments that discussed the power plants and the need to have closed-loop cooling systems on the power plants. I believe most of those comments were directed at the Salem plant.

A number of comments also spoke in favor of loosening regulations on the predators of weakfish; acknowledging that the natural mortality is a problem with weakfish right now, and also protecting their prey. Several comments also asked that if the board does adopt a moratorium, that criteria be specified to determine when the fishery could be reopened.

A couple of the main reasons that people supported the status quo was that the fishery was not to blame for the stock size and that even a moratorium would not rebuild the stocks to the threshold limit within ten years; that the problem needs to fix itself; and they didn't want to create waste through discards.

For the more middle-of-the road options with the reduced creel limit or trip limits or bycatch limits, people supporting these options felt that some type of reduction in the fisheries was warranted because of the stock size, but they didn't want to create waste in discards. If the commercial fishery was able to land weakfish still, they could maintain their place in the market for when the stock rebuilds.

Those supporting a moratorium felt that the depleted stock size warranted the highest level of protection. They felt that there was practically already a moratorium in place for weakfish given the very low catch numbers. They felt that this was the only measure that could truly prevent directed fishing on the stock. Are there any questions on the options in the addendum or the public comment?

MR. O'REILLY: Nichola, it looks like there were ten hearings, and I know these hearings were also piggybacked with some other species at the same time. I saw the 74 up there when you talked about those who supported the moratorium with some

indication that a small bycatch might be allowed. What is your estimate on average attendance at the different sites? I'm asking because I know in Virginia it was surprisingly low. Also, how does that type of attendance from the different public hearings that you've been a part of for this species and other species compare; what is the relatively there?

MS. MESERVE: The attendance levels, in New York there were five people; in New Jersey, 25; Delaware, 10; Maryland, zero; Virginia, 3; North Carolina, 11; South Carolina, 8, Georgia, 1; and Florida, zero. I think, generally speaking, that more of the written comment was supportive of a moratorium and that the attendance at the hearings was more mixed in support of various options. If you want more details you can look through the public hearing summary.

MR. FOTE: Just to say the fact that what happened was most of the associations sent one representative to the meeting; so when you had voices speaking on the record, like for the RFA, Jersey Coast, a lot of the clubs, Beach Buggy Association, and things like that, they were representing their constituencies, and that is what they testified for.

We kind of always get that loss in the number when they are there representing a large group like that. Some of the letters reflect the same thing. Instead of being individual letters, they were letters from groups. When you say there are 74 comments, it is a lot more than 74 comments. It depends on how those letters are put there and who puts the letters in there.

CHAIRMAN MILLER: Any additional comments or questions from the board? I'll take one from the public, Mr. Leo.

MR. ARNOLD LEO: Mr. Chairman, really quickly. In the summary of the public hearing in New York, I just wanted to clarify under my name it states that not a hundred percent of discards die. Actually, what I said is that 100 percent of the discarded fish from the pound trap fishery do not die. I mean, there is virtually a hundred percent survival. Since the pound trap in New York is the principal way of catching them nowadays, there is literally no bycatch mortality associated with weakfish. Thanks.

CHAIRMAN MILLER: Thank you, Arnold. Again, any further questions or comments from the board? Seeing none from the board, I'll go to the audience. Mr. McKeon.

MR. SEAN McKEON: Sean McKeon, North Carolina Fisheries Association. I thank Tom Fote for reminding me that in the summary of comments received, Billy Carl Tillett, representing North Carolina Fisheries Association represents 2,000 people. Thank you.

CHAIRMAN MILLER: Thank you. Anymore comments, board or audience? Seeing none, I'll call on Russ Allen for the technical committee review of this particular draft.

#### **TECHNICAL COMMITTEE REPORT**

MR. ALLEN: At the September Board Conference Call, the technical committee gave our comments and our thoughts. They're also scattered within Addendum IV so we don't need to do a big slide presentation of what we thought and what we were talking about as far as the technical issues. At this time I think it would be more prudent to hear from the board and hear the discussion at the board level, and I'm more than willing to provide technical guidance on what you feel is necessary to move forward.

I will say that the technical committee had consensus throughout our conversations and deliberations and we chose Option 3 for the biological reference points, which are the percentage-based SSB reference. We chose Option 2B for the recreational fisheries, which is a one-fish limit.

We chose Option 2.1B for the commercial fishery, which was the hundred-pound trip limit and Option 2 for the monitoring, and that is to lift the monitoring requirements but do encourage the states to continue their work in that area. I think you have heard enough from me. If there are specific question on what is in the addendum and the technical committee's thoughts on those specific things, I'll be glad to help out on that end.

CHAIRMAN MILLER: Thank you, Russ. Are there any questions from any of the board members relative to the technical committee on either their prior deliberations or what Russ had to say today? David.

DR. PIERCE: Russ, would you elaborate a bit. You indicated the technical committee supported or are recommending the one-fish creel limit for the recreational fishery and the 100 pounds for the commercial fishery. You selected those particular options in what context? What was the basis for those particular recommendations in light of the previous assessment information you've provided

and recommendations that we've already heard from the technical committee about the status of the stock, the need to rebuilding. I'll stop there.

MR. ALLEN: There were a few thought processes that went into this. In the addendum it does mention that a moratorium was not out of the question. We did deliberate. There were some people who would like to have seen a moratorium. There were many members of the committee who would like to see a moratorium.

The thought process was that the board had put forth some options to go with, such as one- or two-fish recreational limit, different poundage requirements for the commercial fishery. There were concerns about discards; and no matter how we do the commercial fisheries and recreational fisheries, there is always discard mortality.

Some of the technical committee's thought process that the board was looking to have a possibility to have some sort of fishery left as a bycatch just so they're not being thrown over dead, there was much deliberation in all those aspects. Finally the consensus of the committee, everyone involved decided that these two options were the best suited for the weakfish fishery. They might not be best suited for other fisheries that are out there, but for weakfish and the way weakfish fisheries are prosecuted, that this would probably be the best way to go forward.

DR. PIERCE: Okay, is this all written down somewhere in a report from the technical committee? You're providing a perspective of the technical committee's conference call, I guess, but is it in writing somewhere? I need another clarification. I assume it's not in writing; you're just again doing your best to provide the technical committee's perspective.

How do we reconcile that technical committee perspective with Figure 9 where we see Figure in 9 in the addendum the projection changes in SSB over time, no moratorium versus moratorium, and we see that with a moratorium certain assumptions, of course. We see a slow gradual increase in abundance, but with no moratorium it just levels off with no increase. How do we reconcile that technical committee position that you just relayed with that figure?

MR. ALLEN: I think I understand what your question is. I'll go back to the first question on whether it's written down or not. I'd have to go back

and look. I mean, we did have a meeting; we actually had a meeting and not a conference call and deliberated these issues very intensely and extensively. I'll have to see if we have something written on that. We probably do, but it's no different now than when I reported to the board during the conference call. It's the same thing.

Now to go back to Figure 9, Figure 9 is set up with a natural mortality of 0.65. There are many more projections besides that particular one. You know how natural mortality changes through time. I just wanted to make sure everyone understood that. As I said, there were many issues that we grappled with, including discards. A complete moratorium is going to have a lot of discards and dead discards in the final – not the landings but the discards themselves.

It will be really hard for us to imagine those discards just being thrown over whether they're recreational or commercial. In our deliberations, as a consensus for the technical committee it seemed for us technically this was the best to go. You'll also see in the addendum where there were concerns over whether or not we would be able to get the data from the commercial and recreational fisheries like we would if we put a moratorium in effect.

We think that a moratorium would be a better way to go than worrying about what kind of data we were going to get. Those deliberations happened; and if it's written down somewhere, I'm sure we can provide that to you and would be glad to provide that to you at the earliest convenience we could.

DR. PIERCE: If I may, Mr. Chairman, it sounds to me then that what you're saying is there are many more projections. I suspect there are, but the only projections we have to use and the only one that was brought to public hearing is the one in this document, which is Figure 9. I think you're now saying that after further reflection the technical committee has concluded that bycatch and discarding concerns would result in a similar projection of changes in biomass as the moratorium?

I can't get over this assumption that I have made relative to everything I have before me and when and what I've read that the moratorium that considers the likely bycatch and discard that would occur with a moratorium still gives us this projected upward increase in biomass – slow but still it is there – in contrast to the no moratorium where nothing happens. I'm still wrestling with this, Russ. I can't reconcile it.

MR. ALLEN: I'll try a little bit more. Just think that even all the other projections, that's probably the best-looking projection of all of them, so it doesn't look any better with the other projections. Unless natural mortality were to decrease, then you would see the biomass start to rise at a lot quicker pace, but it is all contingent on the natural mortality and not the landings or the discards or anything like that. It's more contingent on natural mortality than anything else.

I think that's what you need to think of when you're looking at that and not the landings, discards and all the other things that go with it. I think the board here can pick any of the options you want and none of that will change that direction unless natural mortality goes down. Maybe that helps you little bit more than thinking about discards because discards will drive you crazy. It has been doing it to our technical committee for many, many years before I even started.

MR. FOTE: I've seen projections of weakfish over the years and we assumed a lot. When we made projections, we put in regulations, we've cut back a lot, we've reduced this fishery, put in commercial regulations, and where we should be seeing – as the projections show, we should be seeing a stock that is rebuilt, recovered and everything else. And no matter what we seem to be doing, I don't it's true at this point.

That's what I think the figures are showing truly at this point, it really hasn't a lot to do with fishermen. It has to do a lot with what is going on in nature out there. That's a real concern because I don't know we're going to turn that around. I mean, that's what I get out of looking at these charts. It's a little different than what Dave gets. As I said, if we look at how much we've cut this fishery down and what was happening and all of a sudden it goes the other way and we never relaxed any regulations. As a matter of fact we got more restrictive so I don't know.

MR. O'REILLY: I'm also in the blue line/red line dilemma, but probably for a different reason. In looking over our last meeting I kept on reading about exacerbation of the problem by the fishery, and that was a theme throughout. I also recall that Jeff Brust, when he did his presentation, indicated what Russ is talking about a little bit that actually if natural mortality was 0.75 instead of 0.65 those two projected lines would be a lot closer.

I don't it's so much focusing just on that figure. I mean, the technical committee really has done a very

nice job. History is certainly being rewritten. When I looked back at the 1994 fishing mortality rate, it used to be 1.86 back in 1996. Now it's 0.3, but this happens when you work with models. But, more importantly about that Figure 9, the question that I have is what happens if there were a chance you could remove the fishing mortality rate?

We know we can't; we have discards. I know it was in the addendum about the discards and the unquantification. I'm not certain from the public that I talked to that they understood what a harvest moratorium meant; whether they thought that really meant there would be no fishing mortality rate even on a non-harvest type. I don't think so.

But what really happens if there is no fishery at all? With this type of projection or any projection, the assumption is that you carry out that rate of natural mortality when, in fact, two things could happen. One, natural mortality could increase or decrease, but, secondly, some of the fishing mortality rate could just be subsumed in more natural mortality rate. I think at least to me that's fairly important when it comes time to talk about discards versus having bycatch.

MR. CRAIG SHIREY: I think the original draft addendum had two options; either a moratorium or a status quo recommendation. Then the board suggested that the technical committee take a look at some other options such as a one-fish or two-fish creel and various bycatch allowances. It was my understanding that the – or my opinion, anyway, I thought that the technical committee was in favor of a one-fish creel limit in the absence of a moratorium rather than a one-fish limit over a moratorium, but maybe perhaps I was wrong.

MR. ALLEN: For the majority of technical committee I think it was what Craig just mentioned that it was a one-fish limit not necessarily over a moratorium but more of a compromise between the two different factions that might want a small limit or moratorium. There was some compromise and compromise ended up in a consensus of the one fish.

MR. THOMAS McCLOY: Russ, the technical committee is kind of recommending a one-fish creel limit recreationally and a hundred pounds commercially. Can you tell me whether that is generally equivalent speaking in terms of reductions?

MR. ALLEN: Yes, they're very close in percent reduction. I think it was 61 percent commercial and 54 percent recreational. The only way to get the

recreational as close as the hundred pound bycatch limit was all states would have to go to 13 inches. Once we had that in place, we kind of tried to keep them as close as possible with having a reduction in each sector.

MR. PATRICK AUGUSTINE: Mr. Chairman, it's a very interesting discussion and debate around the table. It's interesting that with this action that we may take we will again affect the fishermen and will only play a small role, in my mind, in continuing to lead us toward a full demise of this specie of fish.

Similar as to winter flounder where we in New York went through an exercise in the last couple of weeks where we almost put a moratorium on winter flounder, we would have been one of two states that would have done that, which would have put a further hit on both recreational, commercial and bait and tackle people and marinas and so for those supplies.

Had we done that would we have changed the formula, would we have changed the natural mortality; and in my mind, no. All the things we're going to agree to today is going to further restrict, one way or another, with no promise of bringing this stock back. I would suggest two things; that whatever we do we have a follow-on agenda item for our February meeting that we convene this group with the shorebird technical committee to discuss what we do with natural mortality.

We've had opportunities for several of our species that we've talked about so far, striped bass being one as one of the prime predators. It's very disconcerting when we keep saying let's squeeze the fisherman because he is going to solve the problem. I guess my point is I think if we go with one fish, we have something to show the technical committee that there are fish being out there, scales, samples, otoliths, whatever, all fish that are caught will not go back dead, being dead, no use to anyone.

Full moratorium, I think we're going to have people go out fishing anyway and you're still going to have mortality similar to winter flounder. So we're caught in a Catch-22, so I would suggest that we bring this discussion to a close. If you're ready for a motion, Mr. Chairman, I would do it.

CHAIRMAN MILLER: I'll be ready for a motion in just a bit. Thank you, Pat. I'm going to call on Mark Gibson first, though.

MR. MARK GIBSON: I think the Figure 9 to me, I think the basis is it says in the title "if F is zero" I think that is the best case scenario or projection for F equals zero and probably the other line is a status quo fishing mortality rate, but I have some reservations about these projections. I'm skeptical about an M of 0.65 on older weakfish. I find it difficult to believe that an animal that can live as long as it does and grows as big as it does could have mortality agents capable of inflicting an M of 0.65.

Natural mortality on small weakfish has probably always been 0.65 zeroes and some ones because they're small and they have much greater suite of predators to deal with. This projection I think understates the ability of an age-structured population to recover given that M goes down with larger sizes, particular the sizes these can reach in the northern regions.

I'm comfortable arguing for an F as near as zero policy because I think you'll get some tangible benefits from it. Even if that's all I got, it's better to have twice as much than zero and put the stock precariously close to extinction as far as I can see from this. I think the peer review panel said much the same thing, that F is still a limiting – is exacerbating the problem and it's unsustainable.

That's what you have to manage. A lot of managers don't like to accept the fact that what you have to manage is F and that sometimes sustainable Fs declines with externalities that happen to fish stocks. It's a lot like the serenity prayer if you're familiar with it. You know, you have the wisdom to know the difference between the things you can change and those that you can't and have the courage to change the ones you do. I think that's what we're faced with here.

CHAIRMAN MILLER: Thank you, Mark Before I look for motions, I think Lou Daniel had his hand in the air and then Rob.

DR. DANIEL: This is kind of a scrape, really, either way we go. I was thinking when Russ made the comment about 13 inches, a light bulb went off in my head at least for us that might have been a better approach would have been to just increase the size limit and get it up to a real high level as opposed to arguing these trip limits and moratoriums.

The document is a little bit confusing to me, and I'm sure that there is clarification. It talks about reducing the level of fishery removals, but then in the background it talks about poisoning the stock for

recovery. I think those are two different things, and I wonder which one is it that we're actually trying to do here.

If we're trying to poise the stock for recover, a moratorium doesn't poise the stock for recovery. If we want to try to have something in place in the event that natural mortality reduces, then we need to have some level of a trip limit or something on there so that the stock can recover when something happens. That's way maybe a size limit was a better idea, perhaps. We might not find out.

In North Carolina and in many of the other states weakfish is a part of a multispecies fishery. It is just like the argument that North Carolina made with the closure to the EEZ that NMFS proposed in '95. We're still going to be fishing in the same place at the same time with the same gear catching the same amount of fish. We're just going to have to discard all the weakfish.

I disagree that it's a hundred percent mortality from all commercial gears, but certainly a large percentage of them are going to be wasted. Our next assessment is going to have a tremendous amount of unquantified discards that aren't accounted for in that assessment, so we're not going to be able track what is going on.

The biggest fear that I have is I know that a flynet boat in North Carolina, perhaps off of Virginia, off of New Jersey, an ocean sink net boat can catch 10,000, 20,000, 50,000 pounds of weakfish in a single set or a single tow. If that happens, those are dead fish. If that starts happening regularly, we're going to be getting calls from folks from weakfish on the beach, and it's going to be a real mess.

It's a tough call either side of this thing, but I think we've got to do something to try to account for these discards. Otherwise, we're not going to know where we are. We've got to protect SSB. I think those are points that we've – really, for those of you that can go out and target weakfish and just not go if you have a moratorium and avoid catching them, that's great, but in our situation it's not. We had 58,000 pounds of weakfish caught last year in the Long Haul Seine Fishery. Those fish would have been caught whether there was a moratorium and brought to the dock or not. What are we going to do with all those fish? It's a mess.

CHAIRMAN MILLER: Thank you, Louis, One thing you said puzzled me. You said that a

moratorium would not poise the stock for recovery. Now why would that be?

DR. DANIEL: My read of our discussion at the last meeting was that we were trying to put in some management measures that would – my understanding was if the stock starts to recover that we don't go out there and just hammer them. Right now we have no trip limits. I mean, at least we don't have any trip limits. I don't know about other states. I don't think Virginia has trip limits, so some of your major harvesting states don't have any trip limits on them.

What I thought "poised for recovery" meant was have the management measures in place so if this natural mortality situation changes and the fish start recruiting into the one-plus category, that we won't go out there and just cream them. That was my understanding what poised for recovery meant, not to achieve recovery because I don't think the technical committee can tell us that a moratorium is going to assure of anything.

It's just like river herring in North Carolina. We implemented a moratorium in North Carolina, but that was the only thing we could do. We can't guarantee success through that moratorium. Unless we have an extraordinary recruitment event, we're not going to see a recovery there. We're getting recruitment on weakfish. I hope that answers your question. Maybe I just mischaracterized poised for recovery from everybody else, but that's the way I read it.

CHAIRMAN MILLER: Thank you; I think I understand what you meant. Rob O'Reilly.

MR. O'REILLY: I was hoping a motion wouldn't be forthcoming until we go through some of the complications with the commercial fishery. The addendum pretty clearly lists New Jersey, Virginia and North Carolina as the three major sites with commercial fisheries. Unfortunately, a commercial fishery in Virginia these days is 13,000 pounds for the pound net fishery, 4,000 pounds for the haul seine fishery of two of two major gears, and the rest of the 120 some thousand-plus pounds from the gill net fishery – not much of a fishery at this time. There certainly is a situation that we do have to consider, Louis' concerns and my concerns about the way the fisheries operate. They aren't going to be gear out of the water.

Surprisingly, at the last meeting, when I said in 1991 the technical committee said to the management

board you need to take all the gear out of the water in regional blocks of time that will solve the problem. Now we take all the gear out of the water, including the recreational gear, it won't really do very much according to this information we're looking at, so consider that on top the situation with the discards that do exist in the commercial fishery that could be bycatch, could be small directed trips

I was just hoping a motion wasn't forthcoming yet. We have things to talk about such as it took about two years to form the structure that went forward with Amendment 2, 3 and 4 on the commercial fisheries. The ASMFC's designated season is still April 1 through March 31<sup>st</sup>. All the states had choices to have their 1989 through 1991 commercial landings to help them solve a 90 percent period.

I'm not sure all that goes out the window just because of the way things are today. We're supposed to be looking forward for some rebuilding; and if we are, there is a lot of fundament or structure that exists that ran through those three amendments, and I'd hate to see a motion come up and then all that is thrown into confusion; just as I would hate to see a motion come up that didn't understand the subtlety of something like a bycatch limit.

Right now not every state has a bycatch limit based on a vessel basis. In Virginia, for example, it's on a licensee basis, and in fact that's what Amendment 4 allows. If you look at that section on bycatch, it's down to the licensee. Well, at this time with the way things are, I know one thing about Virginia; it would willingly go to the vessel limit. What does that do?

That's about a 10 percent difference right there in terms of a reduction. What we're looking at for a 150 pound bycatch limit can go from the fifties to the forties in terms of reduction percentage depending on how that is handled. The reason that we went to an individual licensee basis so there could be piggybacking of fishermen was because the code of Virginia does promote efficiency but only when the resource is in a situation that you can take such measures.

The resource is not in that type of situation right now. So, just for those two aspects and for the fact that when we had our conference call, I could tell that some of the structure that was put in place back in 1995 needs to be dusted off a little bit. If the board thinks it's a good idea to carry forward, that will determine maybe what the motion should like, I hope, Thank you.



MR. THOMAS O'CONNELL: I'm trying to get a check put on where we are. Is there still going to be an advisory panel report? I see that's next on the agenda. I see that people are kind of around the edges of putting forth a motion, which I would be willing to put forth a motion, too. My thoughts are similar to Mark Gibson's that there are a lot of things that we can't control in this resource, but there is one thing we can control.

Speaking on behalf of Maryland, we're not seeing weakfish like we used to. I think we have an opportunity to take the actions to give this resource the best opportunity to improve when conditions are favorable for that happen. I guess my initial question, Roy, is are we still going to have a advisory panel report.

CHAIRMAN MILLER: Yes, we are. Nichola will give that report for the advisory panel. David, do you want to hold off for a moment until we get the advisory panel report? Nichola.

#### **ADVISORY PANEL REPORT**

MS. MESERVE: For the advisory panel report, I think it's important to note that only three members of the advisory panel were in attendance at this meeting. The AP's first request to staff was to get in touch with the board members and make sure that the interest level of their representatives to the AP was still there and seek nominations if necessary.

The report was included on your briefing CD. The AP did discuss the draft addendum and looked at the public comment that was available at that time. Subsequent to the meeting and the writing of that report, two of the panel members did contact me and changed their position, so the report is wrong at this point.

On the biological reference points the three advisory panel members all supported the percentage-based reference points. They also supported lifting the monitoring requirements. Two of the AP members there supported both a commercial and recreational harvest moratorium. The other advisory panel member there supported a one-fish recreational creel limit with an increase to 13 inches and a 100-pound trip limit and 100 undersized fish allowance for the finfish trawl fishery.

CHAIRMAN MILLER: Tom, since you expressed a preference about offering motion, I will come back to you. In the meantime I'll call on David Pierce.

#### **CONSIDERATION OF FINAL APPROVAL OF ADDENDUM IV**

DR. PIERCE: I continue to be swayed by the language that is in the addendum, that which we adopted to bring out to public hearing and that which, of course, the public has commented on. There are many comments within that addendum that relate to technical committee positions, advice, guidance that they have given us that has heavily influenced my opinion regarding how we should proceed with this particular addendum.

I'm very sympathetic to the points that were made by Louis, for example, regarding the possibility of there being a large tow, 10,000 pounds, for example, in a particular fishery off of North Carolina or elsewhere, but, frankly, we're looking at status quo, which I find unacceptable, especially in light of the technical recommendations, status of the stock information, or very low landing limits or possession limits that certainly don't address the concerns expressed by Louis.

However, I do agree that indeed we need to have measures in place that would discourage directed fishing, that would encourage the different states to do whatever they can to modify existing rules and regulations within their states to assist or to motivate fishermen to change their fishing practices so that the bycatch and discard can be dramatically reduced.

I see no way around that regardless of whether it's a low landing limit, a bycatch limit or a moratorium. Status quo is not acceptable, and we're now looking at, as far as I'm concerned, one of two other options, and I assume that someone eventually will make a motion relative to the direction we should proceed.

CHAIRMAN MILLER: Thank you, Dr. Pierce. Lou Daniel.

DR. DANIEL: Just a little followup and taking Rob's lead just to kind of give you an idea; I mean, North Carolina has seen – I don't know any other way to put it – a precipitous decline in weakfish harvest. There is a problem here, and I don't want any of my comments to be construed as not being concerned about this resource.

I mean, clearly, from my days as the technical committee chairman, Rob was the technical committee chairman before me, Mark was the stock assessment subcommittee chairman, there is a lot experience here from a long ways back on dealing with this stock. We saw our landings drop from 4.1 million pounds the first year I did our compliance

report in 1995 to 170,000 pounds last year. We caught 170,000 pounds the year before.

Those are the lowest landings on record for North Carolina with our trip ticket program that's almost peerless. It's pretty accurate and pretty dependable in terms of looking at what the impacts of the fishery will be. In looking at our landings' information from last year, a 150 pound trip limit would account for 96.7 percent of the trips.

It's kind of like what Roy said at the last meeting, a 150 pound bycatch allowance wouldn't do much for the state of Delaware because nobody is catching 150 pounds of those fish. Most of our guys are catching less than 150 pounds of weakfish, 97 percent. That results in a 66 percent reduction in the harvest.

Our ocean gill net fishery has gone from multimillion pounds to 170,000 pounds last year. Our number one fishery now is our estuarine gill net fishery, which for the folks that have been around this table for a long, though, that wasn't even part of our management plan when we first started in '95 in Amendment 3. It wasn't even considered a fishery.

That is where the fishery is now; it's inside. Maybe that's part of the problem that we've got this fishery that is going on in that area. We can account for a large percentage of the effort out there. We've worked with the fishermen. We've dealt with these issues of bycatch and discard mortality. We've worked with the long haul seine fishery to develop the culling panels for ten-inch fish, which we got the exemption for.

That's going to render those devices moot and we're going to have to come up – you know, you can't go to a 12-inch fish on the long haul seine fishery because to do a culling panel that size would release everything else they're looking for. That eliminates that fishery. But, again, the lowest landings on record last year and 97 percent of the trips landed less than 150 pounds.

Again, I ask everybody what is going to happen if this stock does recover? The amount of discards is going to be spectacular, so we've got to really quick – once we get this addendum done, I think in February we have got to come up with some strategy on how to deal with success if we start seeing a rapid increase in the amount of weakfish around.

We can't sit back and wait for a year and have multimillion pounds of weakfish being discarded. I don't think we're going to have a problem in the

future, but it's possible soon that we could have a real mess on our hands if we don't have a plan in place to take care of it quick.

CHAIRMAN MILLER: Well, let's hope your worries come to pass, Lou. Rob, followup.

MR. O'REILLY: Yes, I just wanted to add to that along with Louis' trip-based program we have a mandatory harvester-basis program that started in Virginia in 1993. What this means is that the board, through the technical committee, should have some way of looking at the progression of any rebuilding. If you can look at data on either a trip basis or on an individual fisherman basis, you can certainly monitor the changes. In fact, that's the type of data we use to compose our savings for the various limits that are in Addendum IV.

CHAIRMAN MILLER: All right, Tom, are you ready?

MR. O'CONNELL: Yes, if you're ready for a motion, I'll throw one on the table. I agree with David that I think status quo is not acceptable and that leaves us with two options, either a harvest moratorium or significantly reducing the harvest. I personally prefer being more conservative given the status of the resource, but I think for the board's decision today I would like to offer a motion that's more related to the harvest moratorium and see where that goes. If necessary, we can have more discussions on the reduced harvest.

I gave staff a motion that if they would put on the screen, I would read it. **I would move to approve Addendum IV to Amendment 4 to the Weakfish Fishery Management Plan with the following:**

**Under Section 2.3.1, biological reference points, adopt Option 3, percentage-based spawning stock biomass reference points; under Section 2.3.2, recreational fisheries, adopt Option 5, harvest moratorium; under Section 2.3.3, commercial fisheries, adopt Option 4, harvest moratorium; under Section 2.4, monitoring, adopt Option 2, Addendum I requirements lifted.**

CHAIRMAN MILLER: Is there a second to this motion? Seconded by Craig Shirey. Discussion of the motion? Lou Daniel.

DR. DANIEL: If this motion were to pass – it worked yesterday. I'm wondering if it's going to work today – would the flynet closure south of Hatteras be gone? I'm assume that all the regulations

that are in place now would go away if there is a moratorium, so the flynets would allowed back in the area south of Hatteras, correct?

CHAIRMAN MILLER: I'm not sure I agree with that, that all of the regulations already in place would go away if we passed a harvest moratorium. I think the only thing the harvest moratorium specifically addressed was the monitoring requirements rather than the other conservation measures in prior amendments and addenda. Is there any disagreement on that.

DR. DANIEL: I don't know the answer. Just as an example, right now the fishermen are fishing primarily the 2-7/8 inch gill nets and the 3-3/4 inch diamond tailback so that if they do interact with weakfish they can keep what they catch. They'd probably like to go to a smaller mesh size. If there is a moratorium on weakfish, then they're just going to avoid the weakfish, but they'd like to use a smaller mesh, I'm sure.

Pound net closures, seasons, those types of things to protect weakfish, if there is a moratorium in a multispecies fishery, is there incentive or is there a requirement that those things stay in place? I don't know the answer, but we're going to need to have clarification because there are going to be a lot of questions asked. If we go home with a moratorium, then what does mean for the mesh size restrictions, the seasonal closures and the flynet closure south of Cape Hatteras?

CHAIRMAN MILLER: I hate to put them on the spot, but I'll on the maker or the seconder of the motion. Is that something you discussed or gave some consideration to?

MR. O'CONNELL: Personally regarding some of the issues in North Carolina, I did not think through that carefully. I think that's something that would follow this type of a motion. If we approve this, you know, how do we go back and implement this motion. That is going to take some considerable discussion, but I don't think it should limit our thoughts on whether or not this is the direction that we want to proceed. That's what I first wanted to find out, if the harvest moratorium is the option that we want to proceed with. If so, there are some details that sounds like we need to work out.

CHAIRMAN MILLER: Russ, I don't know; I hate to put you on the spot, but since you're representing the technical committee today, any opinions in regard to the specific issue addressed by Louis?

MR. ALLEN: I'm not sure I can answer Louis' question, but this was a major concern of the technical committee if there was a harvest moratorium put in place. All the legwork that had been done for Amendments 2 and 3 and we had questions of what wouldn't be in effect and what would be in effect. That is why we came up with trip limits and bycatch limits in the addendum.

I'm not sure what the answer is either, but I know that we put – you know, our concern is already out there that anything like letting the flynet fishery proceed would be detrimental to the weakfish stock, so I don't know if there is something you can put in the motion that would keep all current closures in that addendum.

MR. O'REILLY: I don't know how you would rule on that, but I know that you just have to look at the basis for the closure south of Hatteras that stems back to the requirement to get a 32 percent reduction in the fishing mortality rate. That is what North Carolina chose, and I think that's where you would start to try and figure this out.

At the same time we went into Amendment 4 continuing the 32 percent reduction in the fishing mortality rate back from Amendment 3, and now it would be a question of are you looking towards combining a 32 percent reduction in F and a harvest moratorium. I think there might be a basis that you go back or someone analyzes what was done initially to gain that closure.

MR. A.C. CARPENTER: It's not directly related to Louis' question, but in our experience, when we had a striped bass moratorium, we literally had no regulations other than a total moratorium on the taking of striped bass. When it was lifted, we had to re-impose all the other controls and regulations. I don't know what that is worth in this particular situation, but it seems to me that we would do the same thing if we were faced with a moratorium.

CHAIRMAN MILLER: Thank you, A.C.; that's pretty much my recollection as well with striped bass. Any other comments? Mark Gibson.

MR. GIBSON: Mr. Chairman, my response to Louis' question would be that any measures that were put in place designed to reduce fishing mortality on weakfish would stay in effect, particularly those that either closed areas to access by particular gears catching weakfish or minimize the probability that a weakfish will be retained once encountered.

I would think those would all stay in effect. The purpose of a moratorium is try to drive effort as close to zero as possible. Its purpose is not to try to figure out how much F reduction we got in past and whether one offsets the other. It's just to drive F as close to zero as possible, so all measures that are in effect now that reduce F in some way need to remain in effect and you simply can't keep weakfish that get caught. That's the bottom line.

As Dave Piece pointed out, there ought to be a great incentive that each state in the weakfish fisheries try to figure out how to do that, how to avoid encountering these fish in the first place, whether it be gear modifications or whatever needs to be done. Thank you.

CHAIRMAN MILLER: Thank you, Mark. Perhaps maybe you could think about some wording to incorporate that idea into the motion maybe to clarify that point. While you're thinking about that, I'll call on another hand. Tom Fote.

MR. FOTE: I'm still sitting here thinking whether I'm going to make a substitute motion or not. When we're talking about mortality, remember that what is happening here is natural mortality. I've seen for four or five years or more millions of small fish, what is happening between them, those small fish reaching even sexual maturity has nothing to do with fishing pressure because they disappear before they're 12 to 13 inches.

That's where the gap is. If they're not getting caught in nets, they're not caught in bycatch, so there is something else going with the fishery. To close the fishery down to – because I'm going to still have gill nets off New Jersey fishing for bluefish, so they're going to just be discarding weakfish. You know, we basically eliminate weakfish as a directed fishery with a 100-pound bycatch.

Then they will basically – if they bring a few fish, we'll get some data, we'll get some otoliths, we'll get sizing events. Otherwise, we're just throwing dead fish overboard. That's my concern here. You know, we're going to put a measure in place that we know, because we look at what the technical committee has said, we'll really probably have no results unless we can see some upturn and cutback in the natural mortality.

That's what we're basically concerned here. I don't see anything going around this table on how we're going to address the natural mortality. Again, we're

not going to affect the power plants, we're not going to affect – well, maybe we will increase the catch of dogfish and maybe get some of the dogfish that are eating them, but we're not going to do anything there.

To basically lay this out as a solution to a problem, striped bass is a whole different story. We've just got to protect the females so they spawn at least once. We have fish that are spawning after they're a year old and they just seem to be not surviving that spawning. I mean, I'm still sitting here thinking about a substitute motion, and I'm probably going to come up with one, but I would like some further discussion.

I think with the regulations, you know, we'll have to adapt. It's a simple fact if we have a hundred-pound bycatch, we'll have to make it a hundred-pound bycatch. If we have a one-fish bag limit, you have a one-fish bag limit. You're basically putting in the rules and regulations to make sure that they're put in place. It's going to be difficult.

It is going to affect the pound net fishery. I guess we're going to have to raise minimum sizes if we do let a limited fishery to go into place to make sure that we all take the same hit, whether it's to go to 13 inches or go to 14 inches recreationally and commercially. At least those fish will spawn once or twice. So, again, I'm looking at a solution that doesn't basically shut down a complete fishery and basically allow the person, if he catches the weakfish of a lifetime or something like that or the kid on a beach actually catches a weakfish on that rare occasion, they can go home with one weakfish.

It's bad enough they can't go home with a sea bass, and it looks like next year in New Jersey they can't go home with a summer flounder. At least they'll have, you know, one fish to take home, maybe one winter flounder and one weakfish. That's about your whole catch nowadays. How do you keep an industry going?

You know, we also talk about we're supposed to build a sustainable fishery for a sustainable industry. If you start closing down both those industries, it takes a long time for that industry to recover. Yes, if we want to do away with the fishing industry, both recreational and commercial, we seem to be going in the right way. The numbers are going down whether it is a commercial fisherman, whether it is a bait shop, whether it is a tackle shop or a charterboat or a partyboat. I mean, I think the Compact says to build sustainable fisheries and fisheries that can be sustained.

**MR. SHIREY: I'm prepared to amend that motion, Mr. Chairman. Under commercial fisheries, adopt Option 4, harvest moratorium with jurisdictions required to maintain existing season and area closures previously adopted to protect weakfish stocks and reduce bycatch.**

CHAIRMAN MILLER: While they dress that up just a little bit, is the original maker of the motion okay with that revision; is that all right with you.

MR. O'CONNELL: Yes.

CHAIRMAN MILLER: All right, I'll entertain comments again. I had Jim Gilmore first and then Lou and then Tom.

MR. JAMES GILMORE: Mr. Chairman, actually it wasn't to the motion. It was actually back to the point or mortality. It was actually a question for Russ. It has got two parts to it. I agree we need to drive F down as low as possible, but Pat Augustine brought up the point before, and it has been talked a lot about the natural mortality.

Really, if we're going to be fair about this, we've got to do something on that front, also. At the public hearings that I was involved with and I've seen in the comments, we've got a lot of recommendations on cormorant reduction and increasing commercial harvest on species. We even had, you know, getting guns for people to shoot seals. I mean, it got to be kind ridiculous at one point.

The first question was do we have any data that indicates the natural mortality; is there some information that identifies on a scientific basis something that we could target? Secondly, is any of this non-fishing mortality; are there other man-induced causes from this? Do we know are there any issues from power plants or something along those lines like we were talking about with shad yesterday?

That's another thing that we have been looking at in our state is to try to increase cooling water capacity in a lot of our plants because they're so old, and we're thinking a lot of our mortality may be coming from that front. Two questions; again, do we have a better handle data-wise on natural mortality; and, secondly, do we have other sources of mortality we can look at?

MR. ALLEN: As far as natural mortality and what we data we have, in the assessment we looked at – and then even before that didn't make it into the assessment, we looked at striped bass, spiny dogfish,

summer flounder – you know, the suite of species is pretty intense – and then looked at also competition for menhaden also looked at environmental factors and a few other things, you know, some of the things you may have some control over such as predation by spiny dogfish and striped bass.

I don't have those numbers in front of me, but there is data there. The peer review panel agreed that natural mortality was high but was unwilling to put a finger on any specific part of the natural mortality that we put forth. Some more work would have to be done, and there will be some conversations on how to go through that with the stock assessment subcommittee.

It's just a matter of taking what has already been done and implementing some other ideas and moving that forward. We had talked about having some sort of stock assessment workshop on weakfish and bringing in some outside ideas on how to do those kinds of things. As far as other human-induced mortality, we do have information on weakfish for, say, in the Delaware Bay, for the Salem Nuclear Power Plant, and those effects on weakfish, but we haven't put it to a stock – you know, as what it has done to the stock and how much mortality there is.

We have other work that we can do. With herring it's a little bit different because you have the dam aspect, and that really jumps the natural mortality for river herring and shad. But I think I answered your questions. I think some more work definitely has to be done, and I think we could do a lot of that work.

CHAIRMAN MILLER: And, Jim, I would just point out that I think the key phrase you used with regard to the power plants is a lot of these plants are older. In fact, even the Salem Plant went operational in 1978. The problem we're addressing appears to have arisen in the past eight to ten years. I should move on; I had lots of other hands. Lou.

DR. DANIEL: Mr. Chairman, I'm a little concerned about the amendment to the motion. Not to be a pest but just to say I don't know that we can do that because we all have the flexibility to come up with our mechanisms by which we comply with the various measures of this commission.

To say that we have to keep something in place that is no longer appropriate or necessary; I mean; once we get home the powers that be could be, all right, with a moratorium, how are they going to find us out of compliance if we've got a moratorium? I don't

know the answer to that. I'd like to know from staff if anything like this has ever happened before.

I mean what did you do with any moratorium? Has there ever been maintaining all the restrictions and all the gear restrictions and all the closed seasons and closed areas that impact all these other fisheries have to be maintained in place to protect weakfish that may not recover? That's going to be a real problem, I think, and I'm not sure we can do the amendment to the motion.

CHAIRMAN MILLER: It's a fair question, Louis, and I'm not sure I have an answer for it. Just off the top of my head, I can recall during the striped bass moratorium days we also continued to maintain our spawning area closures, if my memory serves, Bill and Tom, particularly in the Chesapeake Region. That's just one possible example. I don't know if staff wanted to weigh in at any point.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Believe it or not, Mr. Chairman, there never was a commission moratorium on striped bass. The states did that.

CHAIRMAN MILLER: You're right; thank you for that correction. All right, I'm going to move on to the other comments. Tom Fote.

MR. FOTE: When Florida basically made their presentation, I asked what would happen if a moratorium was placed and in Florida if we had to put a moratorium on weakfish, and she explained that the northern end of those counties would have to be shut down the same way as the moratorium.

I would now like to know what South Carolina and Georgia would have to do since we know there are catches in both of those states as to how would a moratorium affect them and what affect it would have on their total weakfish catch or seatrout fishery to basically produce that moratorium. If we're going to all put it in place for all the states and then Florida is going to do that, I want to know what South Carolina and Georgia are going to do.

CHAIRMAN MILLER: Any response from either of those states? Spud, did you want to handle that?

MR. SPUD WOODWARD: Sure. We have a very minimal weakfish harvest. It's documented in all the supporting information. I think it was estimated the recreational harvest is around 5,000 fish or something like that. A moratorium would cause us to have to go from the current six fish bag limit down to zero.

The reason that I would be opposed to a total moratorium is it would cause us to have to cite the anglers who have those accidental catches of weakfish mixed in with spotted seatrout. I don't really see where there is a benefit back to the stock as a whole from doing that, but that's what we would have to do.

CHAIRMAN MILLER: I'll give South Carolina a chance if anyone wants to address it.

MR. BOYLES: What he said, about the same. Again, we don't have a very large fishery. Of course, you all have heard me plead with this board for several years about asking *de minimis* status. We do see some weakfish. There are a very small directed fisheries; no commercial take document in South Carolina in years.

We do have some recreational take in the fall of the year primarily on the nearshore reefs. We do have some concerns about species' misidentification just as Spud mentioned in Georgia, people confusing it with spotted seatrout, but in essence it's the same thing Spud said. Of course, we would need to legislate it as well through our legislature.

MR. CARPENTER: Mr. Chairman, we do have a moratorium on another species in the Potomac. It took me a while to remember that in fact we had one and that's on American shad. It was put in place in 1982. That's a long, long time ago. Only through the bycatch provision of our pound net fishery have we been able to document and identify a slow but steady recovery in that fishery.

My personal preference on this particular suite of options that we have before us is to follow the technical committee's recommendation, and I'm even willing to change the 100 pounds to a 50-pound bycatch because I think that having some information from a fishery is a much better use of a dead fish than throwing it back overboard.

We went to the Shad and River Herring Technical Committee with a proposal to expand our bycatch fishery to the gill net fishery a few years ago and essentially it was based on the argument that we were seeing improvements in the stock and we wanted to convert dead bycatch to a live market or marketability.

It was still just as dead caught in that gill net and it's going to be just dead caught in the gill nets with weakfish now. Allowing some harvest to occur I

think allows for a means and a mechanism to track whatever is going to happen without sacrificing any mortality to the species. You're going to have it occurring whether you get to bring it to shore or not, but you'll just never know what it's going to be. I have a preference for changing this to something else, so I'll not support this motion.

CHAIRMAN MILLER: I'm going to come back to you in a second, A.C. I'll call on Gil next.

MR. GIL EWING: Mr. Chairman, do you want to strike up the band and I can sing this song, the second verse. Yesterday I brought up about the dredging in the Delaware River down to the Delaware Bay. We were talking about natural mortality, things that we could do and we couldn't do. We can't do anything about the power plants. They've been in place for a long time.

The dredging hasn't started yet. That is something that we might be able to do something about. You're talking about one of the biggest estuaries on the east coast. What thought has been given to that in this natural mortality and its recovery? Thank you.

MR. WILLIAM GOLDSBOROUGH: Mr. Chairman, I would be remiss if I didn't offer for the record that one strategy for reducing natural mortality would be to provide something else for striped bass to eat. Thank you.

MR. McCLOY: Just a couple of concerns about the addition that Craig offered to this particular motion. He identified keeping things like closed seasons and area closures in place, but it seems to me with the course of weakfish regulation development, there were a lot of other facets that were put in place for weakfish, be they mesh size restrictions.

I think bycatch reduction devices in the shrimp fishery were originally a weakfish incentive. Do those go away, also, because they're not included in there? My concern about that particular language is that it needs to be broader. Quite frankly, regardless of what the main motion ends up being, whether it's a small bycatch or a complete moratorium, I think that language should be included. I would like to reflect on Louis' earlier comments when he was talking about having a plan in place when the stocks recover. I think we could justify keeping what we have now and going a little bit further beyond that at least as the initial phases of having a plan a place when the stocks recover.

MR. O'REILLY: Mr. Chairman, I just wanted to say that I can't support this motion. If you heard my opening comments about natural mortality, I'm not sure how you drive F closer to zero given that natural mortality may be more dynamic than we're understanding, for one, and given that the stock is concentrated at the younger ages at this time.

I would also like to ask Russ, perhaps, do you have sense of how much the 150-pound bycatch would be? There was a comment earlier sort of looking at the recreational one-fish limit versus the 100-pound bycatch limit, and I think you said 61 percent for the commercial and 54 percent for the recreational, so what does that mean for 150 pounds?

I'm asking because if you heard some of the statistics from North Carolina and Virginia about the current state of weakfish harvest, then some of the consideration might be if you can get 96 percent of the North Carolina trips and most of the Virginia trips under the 150 and we all pay attention to keeping in touch about this species, because I feel like the last seven years has been a little up and down in terms of the involvement along the coast.

If we do that and we provide the technical committee with our tracking of the harvest against these limits so that on an annual basis the board can have that information, then to me that's the right way to proceed. It may be splitting hairs. If A.C. thinks 50 is better, perhaps that's based on his situation, you know, 150 might be better. I don't know about New Jersey. I don't know about New Jersey's ability to track the trip, whether that's an in-state process or National Marine Fisheries Service process, so we certainly want to hear about that. Russ, maybe you have that percentage for the 150.

MR. ALLEN: That's in Table 3 of the addendum; 150 pounds would be about a 53 percent reduction. The thing that concerns the technical committee with the 150 pounds is we realize that right now the majority of weakfish fisheries are bycatch fisheries and that current bycatch is 150 pounds, so we felt there should be some reduction to that 150 at this time.

MR. O'REILLY: The technical concern, that's in the bycatch area only so example during the closed periods on the 150; is that what you meant?

MR. ALLEN: No, our concern is that even though there were fisheries open during the majority of the year, weakfish landings are very low at this time, but the majority of trips tend to be as a bycatch

themselves and not in the bycatch closed seasons or things like that. This is a concern that has been brought to the table by different states, and we have discussed that. We felt that 100 pounds would be more justified; and similar to what was going on in the recreational fishery changes if that were to go forward. No, we weren't looking at it just in the closed season.

CHAIRMAN MILLER: Craig, do you have any perfection of your wording in mind?

MR. SHIREY: **Yes, Mr. Chairman, if we were to perhaps scratch "seasonal and area closures" as was suggested and just insert "maintaining existing management measures previously adopted" maybe that would satisfy.**

CHAIRMAN MILLER: Would that wording adjustment be satisfactory to the maker of the motion?

MR. O'CONNELL: Yes.

MR. FOTE: I'm about ready to offer a substitute motion. Would you want me to hold off?

CHAIRMAN MILLER: I'm going to ask you to hold for just a minute because a new hand has appeared. David Simpson.

MR. DAVID SIMPSON: I know most of the discussion or the debate centers around the second and third questions, the moratorium, but I wonder if it wouldn't help us to make progress if we split this so that we're not trying to take the whole thing all at once. We did this yesterday with striped bass, and I think it presented a problem in terms of process and so forth.

**I would move, in the interest of efficiency to get something done here, to split this question so that we take up the biological reference points first; the recreational and commercial fisheries second as a group; and then third, the monitoring requirements, and let's see if we can't make some progress that way.**

CHAIRMAN MILLER: Is there a second for that motion? Seconded by Malcolm Rhodes. Any discussion of this particular motion to separate? Seeing none, I should offer the audience an opportunity to speak before we take a vote, so I'll make that offer at this time. Mr. McKeon.

MR. McKEON: Sean McKeon, North Carolina Fisheries Association. I was just listening to some of the discussion for about an hour. It seems there have been some Damascus Road conversions here where we're back to the technical committee being sacrosanct around here. It didn't seem to be that way yesterday.

With respect to this motion, not the motion to separate but the motion prior to that, in the draft document, the Addendum IV Draft Document for public comment, on Page 12 it does reference the fact that if you do indeed have a moratorium, that there are unintended consequences, possibly that the flynet closures south of Hatteras would go away; and why is that -- they make that statement? That's a very important statement.

I think they came to the conclusion that the reason it was put in place was that the state was given the objective of meeting a 32 percent reduction, as I recall it. The way they did that was a flynet ban south of Hatteras, so actually North Carolina has achieved a 42 percent reduction; most of that on the back of the flynet fishery.

Those prescribed reductions, now it seems to me you're crossing a path that I don't know if it has been crossed before where this body is now going to say we're going to tell the states exactly how to achieve those reductions. That's very problematic and it concerns us a lot. I think a moratorium is a horrible idea. I think what we would argue for is status quo. Nobody is catching these fish. The way to determine the proper mechanisms for dealing with them is when people start to see those fish come back.

You've got the flynet ban in place. You've got all these other things in place. You can begin to add measures if you need to, but at this point you've identified a problem in the fishery, it's not fishing, so you take on fishing to solve the problem. It's unbelievably unfair to folks who are not causing this problem. I think you've got some problems.

To vote on this without an opinion from your staff and from counsel as to whether or not this is exactly where you want to go, telling the states how to achieve their reductions in this manner, I think it is premature before you have that information. But, again, it's an awfully new day here today to see the technical committee back in the driver's seat.

CHAIRMAN MILLER: Thank you. Are there any comments relative to the motion to separate from the audience? Seeing none, why don't we take action on



that motion? All those in favor of the motion to separate the motion into three issues, would you raise your right hand, please; all those opposed; any abstentions; any null votes. **The motion carried.** David, I'm going to call on you to help us proceed.

MR. SIMPSON: Sure, so now the question before us is the biological reference portion of it and the motion was for Option 3, I think it was, the 30 percent SSB; so, you know, we take that on, vote on it, vote it up or down, and then move on to the next question.

CHAIRMAN MILLER: Any comments from the audience with regard to the motion regarding the biological reference points? Seeing none, let's proceed on to the vote. **The motion is to move to approve for Section 2.3.1, biological reference points, Option 3, percentage-based spawning stock biomass reference points. Motion by Mr. O'Connell; second by Mr. Shirey.** Do we need time to caucus on this motion? All right, all those in favor raise your right hand; those opposed; any abstentions; any null votes. **The motion carries.** David.

MR. SIMPSON: The second part pertains to the recreational and commercial fisheries, and the motion is to adopt Option 5, a harvest moratorium for the recreational fishery and keeping the commercial fishery together in that motion is Option 4, a harvest moratorium and it still retains the addition "with jurisdictions required to maintain existing management measures previously adopted to protect the weakfish stocks and reduce bycatch.

CHAIRMAN MILLER: All right, Tom, relative to this motion.

MR. FOTE: **Yes, I offer a substitute motion to go with the technical committee's recommendation of a 100-pound bycatch and a one-fish recreational bag limit.**

CHAIRMAN MILLER: Is there a second for that substitute motion? Seconded by John Duren. Discussion on this substitute motion? Lou Daniel and then Rob.

DR. DANIEL: Just kind of going back to what Rob said, I think Russ indicated that the reduction from a one-fish bag limit is 54 percent and the reduction from a 150-pound bycatch allowance is 53 percent, so it's real close. I understand the concerns about directing on the 150 pounds, but, again, we can monitor this through the trip ticket program.

What we've done in North Carolina for some of these circumstances is to have a 50/50 provision, which means you have to have other fish to go with it so you can't go out and just catch weakfish. That would be something we would probably implement regardless of what happened. I don't know if Tom would be willing to amend his motion to include the 150 we need to handle that separately.

MR. FOTE: I was going to leave it there because I was actually going to recommend that – we have a 13-inch size limit – I want to go to a 14-inch size limit, which gives another period of time on the fish and maybe raise the size limit, but I didn't want to do that in the motion. New Jersey would be willing to do that as a separate because I don't know how it would affect Virginia and North Carolina.

I know you have separate regulations. It is confusing in Florida with the 12 inch, so we would do that on our own, so that's why I suggested to do it this way. Again, it's taking the technical committee's recommendation that it basically put forward, so I think it's being as conservative as we need. I really look at this fishery that we need to do something. Again, I'm concerned about the 150 going to 150, so that's why I basically recommended what the technical committee did.

CHAIRMAN MILLER: Tom, Nichola has a question for you about your motion.

MS. MESERVE: Was your intent to also address the technical committee's recommendation for the 100 undersize fish for the finfish trawl fishery in this motion or a later motion?

MR. FOTE: I don't want to address that in the motion because I think that's for the states to work out. I would like to address it, but I'm not clear how to address it; the same way I'm not clear to basically how do I do with the closed season or the hook-and-line fishery. What I'm trying to do is make it simple with this and then we can work out the details of how we implement that under implementation. If somebody can suggest the wording on how to basically address that, I would put it into the motion, but I'm not technical enough to know how the states operate to do that. I wish I was.

DR. DANIEL: I appreciate Tom's response, so **I'm going to ask to amend the motion to have the commercial fishery Option 2.1B be a 150 pound limit for parity between the two user groups.** I think 53 and 54 is much closer than 54 and 60. If there is a second, great!

CHAIRMAN MILLER: Is that a second, Rob?

MR. O'REILLY: That is a second.

CHAIRMAN MILLER: Give us a moment to get that wording of the amendment up. Is there any discussion on the substitute motion? Rob.

MR. O'REILLY: At the last meeting I supported the 100-pound limit. Since that time, what we have looked at in Virginia is what I explained earlier going from a licensee-based 150-pound limit during the bycatch period to going down to a vessel basis, so that I hope that somehow we capture this today, capture that conservatism. It's about a 10 percent change in the Virginia savings if you do place it on the vessel; and I think that's the reason, along with the situation of what was stated earlier by Dr. Daniel on the North Carolina situation, we fall in there as well.

Then, if I may, I would just like to just make a comment to Tom, this is a little different, but just to make the idea now – a couple of times today I had heard about raising size limits. I don't think this is the time to raise size limits. There is a pyramid of ages. Right now the weakfish pyramid looks more like a skinny Eiffel Tower; that as you get up towards the older ages, they're just not there.

You start raising size limits, especially in areas that are not known to have larger fish, that certainly is going to do something to the most stable component of this stock. As Mark had indicated earlier, it's hard for him to believe that the larger fish could have an M of 0.65 while at the same time I agree with agree with that for a different way.

Those larger fish have been endured, they've adapted to environmental fluctuations. Anything about raising size limits, I hope that will be at a time when the stock is in better shape because everything we know about raising size limits and the benefits to spawning potential, that's an equilibrium condition.

I think you heard from everyone, Dr. Sullivan, Jeff and Russ, about the non-equilibrium condition we're in. The other thing for I guess Louis and ask if we can do it separately later, I am very interested that everything that applies to Amendment 4 in terms of the structure, the closed seasons, the open seasons, that they will carry forward, but maybe that's another discussion.

CHAIRMAN MILLER: Thank you. I think we should confine discussion to the particular substitute motion, though I appreciate your insights in regard to that issue. Craig Shirey.

MR. SHIREY: If memory serves, Delaware used to have a million pound fishery. In 2008 we had – commercial hook-and-line landings in excess of 100 pounds we had one trip. We had no trips that landed in excess of 150 pounds. In our directed drift gill net we had ten trips that landed more than 150 pounds. In our directed fixed gill net fishery we had no trips that landed more than 150 pounds. If we were to have a 100-pound trip limit, it would be a status quo plus liberalization of our current fishery. Thank you.

CHAIRMAN MILLER: You said 100 pounds; you meant 150 pounds?

MR. SHIREY: For our fixed gill net fishery we had no trips in excess of 150 and none over a hundred, either.

CHAIRMAN MILLER: Thank you. Any more comments on the substitute motion? David Pierce.

DR. PIERCE: The motion to amend the substitute, 150 pounds instead of 100, it appears that with this particular motion to amend, we are definitely backing off of my preferred alternative, which is a moratorium. 150 basically is status quo. Looking at the regulations the states have across the board, it appears to be status quo, so we're not really making any change and we're not really responding to the technical committee recommendations and all the rationale for action that is provided in this addendum. That is taking us in the wrong direction.

I'll, once again, highlight the comment from the plan development team on Page 11 that the PDT notes concerns that directed fisheries could occur despite these low bycatch levels if demand is high enough. I suspect the demand would be high enough; so whether it's 100 pounds or 150 pounds, we still have the potential for a directed fishery even though it's that low. I can't support this motion to amend the substitute and I also can't support the motion to substitute which is to go to 100 pounds.

CHAIRMAN MILLER: Thank you, David. Anymore comments on the substitute motion? Two familiar hands. Lou Daniel and then Rob.

DR. DANIEL: Well, just a clarifying statement; it's not status quo because while it accounts for 97 percent of the trips in North Carolina, it is a 66

percent reduction in harvest at the lowest point that we've ever been. If the stock rebounds and starts to come back, that reduction is going to be even greater and your stock will be poised for recovery at that level.

MR. O'REILLY: This is what I stated concerned me earlier. For those of who you do not have a commercial fishery, I think that you are missing the idea that the 150 pounds is a bycatch period, and there is an open fishery that has existed since 1995 for all the gears. That is where the savings are occurring.

Again, in Virginia it would be roughly a 50 percent reduction, 43 percent if we maintained the licensee basis I talked to, but it's about 50 percent. So, David, what you were talking about really is inaccurate because of the fact that that 150 pounds was only during the bycatch period of Amendment 4 or which still exists right now.

CHAIRMAN MILLER: All right, any further comments from the board on the substitute motion? Any comments from the audience on the substitute motion? Dick Brame.

MR. RICHEN BRAME: I'm Dick Brame with the Coastal Conservation Association. I'm worried about the message you're sending here. If I'm your client and you're CPAs and my 401k has gone to 3 percent or less of what it should be and you're telling me with a little cutback or some cutbacks, you can retire – I think this stock is in such a state that you need to tell the public that it's in real trouble. It's near collapse.

Even with a moratorium, it won't recover in 20 years. Your goal should be to maintain as much SSB as possible in order to allow a quicker recovery whenever the conditions allow it to recover. The good news is this is not a red snapper or a goliath grouper. It doesn't have a 40-year recovery time. It can recover in two or three or four years, so we're not looking at a long moratorium. I think that this is a time when this commission needs to stand up and say this fishery is real trouble and we need to stop fishing for them. It's pretty much that simple. Thank you.

CHAIRMAN MILLER: Thank you, Dick. Anymore comments relative to the substitute motion? Are we ready for a vote on the substitute motion? Do you need time to caucus on the substitute motion? We'll take 30 second for a caucus.

(Whereupon, a caucus was held.)

CHAIRMAN MILLER: Are we ready or do you need more time?

DR. PIERCE: I request a roll call, Mr. Chairman.

CHAIRMAN MILLER: There has been a request for a roll call vote. Let me clarify, first of all, that we're amending the substitute motion with this action. I will read it into the record for Joe. Motion to amend the substitute motion to include 2.1A, 150-pound limit instead of 100 pounds. Motion by Dr. Daniel; second by Mr. O'Reilly. All right, are we ready for the roll call vote? I will call on Nichola to help us with that.

MS. MESERVE: Massachusetts.

MASSACHUSETTS: No.

MS. MESERVE: Rhode Island.

RHODE ISLAND: No.

MS. MESERVE: Connecticut.

CONNECTICUT: No.

MS. MESERVE: New York.

NEW YORK: No.

MS. MESERVE: New Jersey.

NEW JERSEY: No.

MS. MESERVE: Delaware.

DELAWARE: No.

MS. MESERVE: Maryland.

MARYLAND: No.

MS. MESERVE: Potomac River Fisheries Commission.

POTOMAC RIVER FISHERIES COMMISSION: Yes.

MS. MESERVE: Virginia.

VIRGINIA: Yes.

MS. MESERVE: North Carolina.

NORTH CAROLINA: Yes.

MS. MESERVE: South Carolina.

SOUTH CAROLINA: Yes.

MS. MESERVE: Georgia.

GEORGIA: Yes.

MS. MESERVE: Florida.

FLORIDA: Yes.

MS. MESERVE: Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: No.

MS. MESERVE: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: No.

CHAIRMAN MILLER: **The motion to amend the substitute motion fails nine to six.** All right, we're back to the substitute motion.

DR. PIERCE: Request a roll call, Mr. Chairman.

CHAIRMAN MILLER: A roll call has been requested. Nichola, we're voting on the substitute motion. **Move to substitute to approve for Section 2.3.2, recreational fishery Option 2B, one fish; in Section 2.3.3, commercial fisheries, Option 2.1B, 100-pound limit.** Motion by Mr. Fote; seconded by Mr. Duren. Do we need to caucus on this particular motion? I haven't seen any heads nod yes, and that indicates to me you're ready for the vote. All right, let's start the roll call vote.

MS. MESERVE: Massachusetts.

MASSACHUSETTS: No.

MS. MESERVE: Rhode Island.

RHODE ISLAND: No.

MS. MESERVE: Connecticut.

CONNECTICUT: No.

MS. MESERVE: New York.

NEW YORK: No.

MS. MESERVE: New Jersey.

NEW JERSEY: Yes.

MS. MESERVE: Delaware.

DELAWARE: No.

MS. MESERVE: Maryland.

MARYLAND: No.

MS. MESERVE: Potomac River Fisheries Commission.

POTOMAC RIVER FISHERIES COMMISSION: Yes.

MS. MESERVE: Virginia.

VIRGINIA: Yes.

MS. MESERVE: North Carolina.

NORTH CAROLINA: Yes.

MS. MESERVE: South Carolina.

SOUTH CAROLINA: Yes.

MS. MESERVE: Georgia.

GEORGIA: Yes.

MS. MESERVE: Florida.

FLORIDA: Yes.

MS. MESERVE: Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: Yes.

MS. MESERVE: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: Yes.

CHAIRMAN MILLER: **The motion carries;** nine yes, six no. I don't think there were any abstentions, no nulls. Tom Fote.

MR. FOTE: **I move the motion as the main motion now.**

CHAIRMAN MILLER: I forget who the seconder of your original motion was. Is anyone going to second Tom's motion?

MR. FOTE: I didn't need to do that, Roy, because I wanted to call the question, just to vote on it.

CHAIRMAN MILLER: **The amended motion is move to approve for Section 2.3.2, recreational fishery, Option 2B, one fish; and for Section 2.3.3, commercial fisheries, Option 2.1B, 100-pound limit with jurisdictions required to maintain existing management measures previously adopted to protect weakfish stocks and reduce bycatch.** Motion by Mr. O'Connell; seconded by Mr. Shirey. Craig.

MR. SHIREY: Mr. Chairman, I would like to remove my second of this motion, if I could.

CHAIRMAN MILLER: Craig Shirey has withdrawn his second. Tom, you had your hand up.

MR. O'CONNELL: Yes, this is getting into an area that I don't have much experience in, but I would ask that my motion be withdrawn under my name and perhaps somebody else would want to make the motion.

CHAIRMAN MILLER: The motion is withdrawn, then.

DR. PIERCE: Point of order, Mr. Chairman. We've discussed this motion; therefore, it's inappropriate for either the seconder or the maker of the motion to withdraw. We have to vote it up or vote it down or, of course, make amendments. It has been debated at length.

CHAIRMAN MILLER: Thank you. Okay, the motion has been read. Tom and Craig, do you understand what we did? Okay, the motion has been read. Comments from the general public on the motion; any additional ones that have not already been expressed? Seeing none, we're ready to vote. A.C.

MR. CARPENTER: In reading the addendum, I just want to make sure that this motion also adopts the equal amount of allowable bycatch during the closed season in addition to the open season; am I correct in that interpretation because that's what Option 2.2.1 in the text says.

MS. MESERVE: Unless the motion were amended, the current 300 undersized fish allowance would remain in place.

DR. DANIEL: I just want to make sure I understand one part, too, and that is with jurisdictions required to

maintain existing management measures previously adopted to protect weakfish stocks and reduce bycatch; that is just redundant, right? That doesn't add anything; that's Amendment 4? I mean, whether that's in there or not, it's the case, correct?

CHAIRMAN MILLER: We think that is true. A.C.

MR. CARPENTER: I think my question wasn't Section 2.2; I understand that. I think that goes now to a hundred. My question was Section 3.1 would track with this motion if I'm reading the language of the text correctly? If I'm not then somebody needs to explain it to me.

MS. MESERVE: My apologies. As part of 2.1 the hundred pound trip limit would also apply as a hundred pound bycatch limit during the closed seasons.

CHAIRMAN MILLER: Is that sufficient clarification? Tom McCloy.

MR. McCLOY: Sorry, further clarification needed. Currently the bycatch limit during the closed season requires 50 percent of some other species. Does that carry over or is that gone and it is simply a hundred pound bycatch during the closed season as well as a hundred pound catch during the open season?

MS. MESERVE: The plan development team's intent was to maintain the 50 percent requirement for bycatch.

MR. McCLOY: And that is the sense of the motion, then? Is everybody in agreement with that?

CHAIRMAN MILLER: I'll call on the makers of the motion. Craig Shirey.

MR. SHIREY: Mr. Chairman, that was not our original intent, no. Perhaps if we added 100-pound bycatch trip limit, but that was not our original intent.

CHAIRMAN MILLER: Nichola reminded me that the wording requiring management measures previously adopted to protect weakfish stocks would encompass the measures that were in Amendment 4, which was the 50 percent, right? Does that answer the question in that regard?

MR. McCLOY: For me, yes, as long as the understanding is that the bycatch level is going to a hundred pounds, also.

CHAIRMAN MILLER: Yes, to the hundred pounds for the bycatch limit. All right, are we ready to vote on this motion? David Simpson.

MR. SIMPSON: It took me a minute to realize why you wanted to withdraw your motion. I wasn't paying enough attention, but I think as it was a substitute motion it would be more properly identified as Fote and Duren, I think it was.

CHAIRMAN MILLER: I would agree with that; is there any disagreement on that? This will be attributed to Tom Fote and John Duren. Okay, are we ready to vote on the amended motion? All right, all those in favor raise your right hand, please; all those opposed, same sign; abstentions; null votes. **The motion carried ten yes, five opposed.** I have got to go back to David for the last part of this.

MR. SIMPSON: I think what was left were the monitoring requirements which maybe now there is a different view on since we don't have a moratorium. That's the last piece. **That is move to approve for Section 2.4, monitoring, Option 2, Addendum I requirements lifted. The motion was by O'Connell and seconded by Shirey.**

EXECUTIVE DIRECTOR JOHN V. O'SHEA: I have a question for maybe the makers of the motion. Was that put in there in anticipation there would be a moratorium?

CHAIRMAN MILLER: That's a very appropriate question. Tom.

MR. O'CONNELL: Yes, that was the case and the recommendation of the technical committee, that this option be recommended if there was a harvest moratorium only.

MS. MESERVE: What it says in the document is that the plan development team believes that this mandate for the monitoring requirements would be impractical under any of the proposed management options except for status quo.

MR. O'REILLY: I don't think that's a wise situation for weakfish. I don't know whether the discussion should take place now or it should take place in February. It's a situation where there were some pretty minimal requirements which to some states weren't that minimal. It was kind of tough for them to get to that situation.

It's clear to me despite the technical committee being sort of under the gun a bit and telling us that, well, if

all went to a moratorium they could try and think of some way to give us a status update, but I find that very difficult to consider. I think we're going to need the monitoring on the biological collections to continue.

I imagine there might be some questions as to what we just did with the hundred pound commercial limit and how difficult it can be, but it can be done to get samples from the recreational fishery. I certainly would rather support Option 1, status quo, and would make a **motion to support Option 1, status quo**, unless someone can maybe think of an alternative to that.

CHAIRMAN MILLER: **Would this be in the form of a substitute motion?**

MR. O'REILLY: Yes.

CHAIRMAN MILLER: **Lou Daniel seconds.** Lou, did you also have a comment?

DR. DANIEL: I do. I agree with Rob a hundred percent, and I think we've got to continue to collect the fisheries' information that we can. I recognize that a lot of folks are going to have a real difficult time doing that, and I think we need to be cognizant of that when we look at the reports. I think between now and February we should be able to get a good handle from our staffs what we can accomplish.

We may not be able to get 750 otoliths again this year with a hundred pound bycatch allowance, but certainly we should be able to get some. I think everybody has at least some programs that they can continue to collect some biological information on the adult fish, at least many of us do. I support this motion.

CHAIRMAN MILLER: Is there any further discussion on the substitute motion? Jim.

MR. GILMORE: Just quickly; I think we have to support this because the whole argument with maintaining the limited fishery was that we would be able to keep data coming in; and now if we say we don't want the monitoring data anymore, we're just contradicting ourselves. We really need to do this.

CHAIRMAN MILLER: Thank you. Seeing no other hands wishing to comment on this motion, does anyone from the public wish to comment on the substitute motion? We are ready to call the question. All those in favor of the substitute motion please raise your right hand; those opposed; any null votes;

any abstentions. **All right, that passed unanimously.** All right, now we have to vote on the motion. Nichola has a question.

MS. MESERVE: I'm just looking for some clarification on the options on Page 12, 2.2, the finfish trawl fish provision. It hasn't been addressed so that puts us at status quo of the 300 fish.

MR. CARPENTER: I would move for consistency sake that that be changed to the hundred fish limit as opposed to the 300.

CHAIRMAN MILLER: We'd better put that in the form of a motion, I think.

MR. CARPENTER: **Move to adopt Section 2.2.B with a hundred fish as recommended by the technical committee.**

CHAIRMAN MILLER: Well, we have two motions up there. We've got to dispose of one of them unless this is a substitute motion.

MR. CARPENTER: Mr. Chairman, I was responding to Nichola's request to handle something. I thought we had already handled the other one.

CHAIRMAN MILLER: We did. We need a clarification as to whether we're dealing with an amended motion or main motion. We'll be right back to you. What we need to do is to – because it was a substitute motion, we have to approve the status quo in Section 2.4, which becomes the new motion. What we're voting on is move to approve Section 2.4, status quo. Motion by Mr. O'Reilly; second by Dr. Daniel.

Any need for a caucus? Seeing none, all those in favor raise your right hand; all those opposed; any nulls; any abstentions. **The motion carries.** Now we take up A.C.'s motion. Does anyone care to second this motion? Seconded by Pat Augustine. Any discussion on this motion? David.

MR. SIMPSON: Just a little bit of information; we're going from pounds now to numbers of fish; and assuming a one-pound-per-fish average, if we could get something from either Nichola or the chair of the technical committee.

MS. MESERVE: When Amendment 4 was adopted, it included the 300-pound bycatch limit and a 300 undersized fish provision, and the thinking is that those two numbers were aligned; so in moving to the hundred-pound trip limit, the board might want to

consider the hundred fish limit for the undersized fish in the finfish trawl fishery.

CHAIRMAN MILLER: All right, with that clarification are we ready to vote on this? All those in favor of the motion please raise your right hand; all those opposed; any null votes; any abstentions. **The motion carries unanimously.**

## DISCUSSION OF IMPLEMENTATION DATE

CHAIRMAN MILLER: All right, I'm now looking for a motion to approve the amendment as modified today. We will need to deal with the implement date first, I'm told. Any board members have suggestions in that regard? Tom Fote.

MR. FOTE: My suggestion is we basically do it as fast as possible knowing the limitations of the states that have to go through the legislative process or the hearing process; that at sometime in 2010 that we get this implemented. Hopefully, in New Jersey we can get it before the fishing season.

I think we can before the fishing season starts in April. I don't know about North Carolina, if they have a fishing season right now and we don't have that, so I don't know, but as fast as the states could possibly – do you need a finer date than that? Okay, **I'll support the motion.** I didn't see the motion was there.

CHAIRMAN MILLER: Is there a second to the motion when you've had a chance to read it? **Seconded by David Simpson.** Any discussion on the motion? Does the motion cause any heartburn for states that must go through complicated processes? Robert.

MR. BOYLES: Thank you, Mr. Chairman, for looking straight at me for one. I've, again, cited to this group our legislative process. I would ask for some forbearance from the commission and from the board, recognizing that our legislature will not convene until January. Because we have not pursued this under emergency authorities, we have to legislate it.

I would implore the board – I agree with Mr. Fote that we don't need to wait, and certainly probably South Carolina may be the lowest common denominator, so I would suggest that we move posthaste, and we will certainly work through our legislative process. I can tell you we won't have it in January.

CHAIRMAN MILLER: Anyone else; Florida and Georgia as well. Spud.

MR. WOODWARD: Yes, just to echo some of what Robert said, Representative Lane next to me is very good, but he's not a miracle worker. A lot of funny things happen up there. The way I understand it is we need to submit a plan on January 1 and have it in effect May 1; is that correct, so whatever regulations or rule changes need to be effective May 1?

CHAIRMAN MILLER: That's how I read it.

MR. WOODWARD: Well, we won't be able to meet that. Our legislature does not meet until the second week in January, and we'll let everybody know up front we'll do everything we can, but we won't be able to do that.

MR. BOYLES: Mr. Chairman, I was going to suggest in recognition that we've been *de minimis* players in the past; I wonder if there may be some avenue for those states have been *de minimis* to have a little bit more time if necessary to move through these regulations.

CHAIRMAN MILLER: There are several hands, but I'm going to call on Vince first, if you will allow me to do that.

EXECUTIVE DIRECTOR O'SHEA: Well, Mr. Chairman, while I know this is an important issue, I'm sensitive to the hour of the day and we've got the Lobster Board. We don't have the flexibility to run until 7:30 tonight for that board.

One thought might be to act on this and then as we go forward and you have more information about the details of when those states could implement and also what their catches and how big they are relative to the impact on the stock, that you might want to consider that in subsequent board meetings rather than try to sort all that through today, which state is *de minimis*, near *de minimis*, almost *de minimis*, that type of thing. I think that is going to take you more than ten minutes to resolve today.

CHAIRMAN MILLER: I'm inclined to agree. Tom.

MR. FOTE: It has always been the understanding of a board that some people take a little longer, and we don't vote a state out of compliance if they're going through the process in doing that. That's always been the board's discretion. I think any state that justifiably comes through at that and says it's going

to take me a couple of more months, and especially with the status of most of these catches being so low to begin with, I don't think that's a problem. I never saw the board vote somebody out of compliance that was trying to take all the proper steps.

MR. O'REILLY: I would hope to see something that indicated no later than May 1, 2010, unless that state is *de minimis* and then perhaps later on what was just talked about by Vince on the almost *de minimis* and all that. Some states would like to go earlier than May 1; and if the language is written so that it says "no later than May 1", that would help out. I think it might be more disruptive, for example, in Virginia if we start the season and then make the changes midway in the season. That's always a bit difficult, so it might be good if the board could agree to no later than May 1, 2010, unless a state is *de minimis* at this time.

MR. WOODWARD: I didn't intend to comment on that, but I would certainly support that, too. I was just going to mention, in response to Tom, if it's worth anything to show our good intentions, I will remind everybody that we went through a pretty onerous lawsuit on bycatch reduction devices to help reduce weakfish mortality a few years ago. We will do what we need to do.

EXECUTIVE DIRECTOR O'SHEA: Well, you had a suggestion there, Mr. Chairman, and I'm not sure whether you were heading to see if that was a friendly amendment and get that incorporated and deal with that now.

MR. BOYLES: Mr. Chairman, on the basis of you asked if there was any heartburn over this motion, I've put on the floor the board knows where we are in South Carolina. If everybody recognizes that, we will go home and begin to work on our process. It's not our intention to wait. I'm certainly sensitive to Rob's comments about how disruptive this could be to the fishing public. The earlier question was do I have heartburn. With the understanding of the board of our situation in South Carolina, no, I don't have heartburn.

CHAIRMAN MILLER: I appreciate that, Robert. We are getting some wording up on the board. We don't have any wording to put in the way of a perfection of the motion. Tom.

MR. FOTE: I would accept Rob's suggestion as a friendly amendment to add that wording, "no later than May 1<sup>st</sup>."



CHAIRMAN MILLER: I'm sorry, that requires a little more explanation for me. Rob.

MR. O'REILLY: Mr. Chairman, I think the idea is that at least in Virginia – and there might be other states – it is a better process to get this established prior to May 1, so if the language, which is just going up now, indicated that it had to be implemented no later than May 1, 2010, that would also assure the fishing public that Virginia wasn't just decided that they wanted to do this without the other states agreeing to it.

CHAIRMAN MILLER: It still address directly Robert's problem.

MR. O'REILLY: I had in there earlier, after the May 1, 2010, unless a state is deemed *de minimis*, and I thought that was in response to both Spud and Robert.

CHAIRMAN MILLER: Is that perfection of the wording satisfactory to you, Tom?

MR. FOTE: I think after listening to Rob and Spud, we don't really need that language. I think we're moving forward. I think what Rob said is fine. I think the board can take that into consideration before we vote for compliance factors. I would sooner leave that language out and just leave it as "no later than May 1<sup>st</sup>", because this puts that information that is a deadline; we're all working towards that deadline and it sends the right message out to all the public.

CHAIRMAN MILLER: All right, that motion is not included.

EXECUTIVE DIRECTOR O'SHEA: A suggestion was made to put in the *de minimis* thing and it was rejected by the maker of the motion. Just as a reminder, the motion could be amended. The other option is to amend the motion.

CHAIRMAN MILLER: That's correct; the motion could be amended. David Simpson.

MR. SIMPSON: I don't want to spend 20 minutes trying to figure out how to implement this. Would it serve everyone to say that the plans have to be in by January 1 and at the February meeting states will report on implementation – I'm just trying to figure out the best way though this. I don't want to leave it open-ended that you can have all summer to implement, but – well, I'll just finish what my thought was, and that was that states will report at the winter meeting on when they can implement this

FMP. Does that make sense or does it leave it too open for people?

CHAIRMAN MILLER: I think we need to have something in the document when it goes out. Tom Fote.

MR. FOTE: We do have a May meeting, and basically at the May meeting; that we have a compliance by May 1<sup>st</sup>, so we will review who is in compliance by May 1<sup>st</sup>, and that's when we will determine who is out of compliance and not in compliance. That will be plenty of time that if people are not in place by the summer, then they will basically be ruled. I think the May 1<sup>st</sup> is an appropriate date because that gives us time before the May meeting. Could you please take out "unless a state is *de minimis*" out of my motion.

CHAIRMAN MILLER: They're going to remove that. David.

MR. SIMPSON: Well, it didn't seem to help what I offered before, so I'm going to make a motion to amend to add that language back in. I think it's only the states that are *de minimis* that have a concern about meeting it by the deadline, is that right, and other states can make it by May 1?

MS. McCAWLEY: On Florida's side we wouldn't be able to meet it until June 1.

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, I think one of the advantages of Mr. Simpson's motion here is at least you're sending a signal as to how you're going to deal with states that have a problem and you're putting a definition on what states might qualify *de minimis*. You still could go back and define *de minimis*, I suppose, but it puts a marker down that you're anticipating dealing with states that have the smaller catch, make an exception for them, and you're doing it up front as opposed to coming back later in the year and then trying to sort through all that. I'm not speaking in favor of the motion. I'm just saying that's what I think the effect of this motion would be if you get a second.

CHAIRMAN MILLER: There is one correction to the motion. No, we're all right. One question that I had; are there any states that are not *de minimis* that must go through a legislative process that is likely to carry on beyond May the 1<sup>st</sup>? Robert.

MR. BOYLES: Mr. Chairman, I believe, and Nichola can correct me if I'm wrong, I do not believe we qualified for *de minimis* this year.

CHAIRMAN MILLER: So South Carolina would be one of those states.

MR. BOYLES: Mr. Chairman, I think what I'm suggesting is everyone agrees let's get this thing done and let's get it done quickly. If the board meets in May, I hope to be able to come back and give a good progress report of those legislative changes that are going to necessary that are going to be working through our legislative process in May.

We should be well underway by then and dare I say by the May Meeting Week our General Assembly may be very close to adjourning. I just want for the record for folks to understand that depending on how hard and fast we are, I'm not going to be able to make that May 1<sup>st</sup> deadline, strictly speaking.

CHAIRMAN MILLER: You know, Robert, the board has discretion, if I may, to decide whether a state is in or out of compliance, so we could make that judgment decision at the May meeting if it came to that.

MR. BOYLES: Which is why I would speak against the motion. I appreciate everybody's efforts to help us out here, but I think it's extraneous. My intention is to be able to come back here in May and report to you all that we making very good progress and we expect implementation probably by July 1<sup>st</sup>. I wouldn't support making everyone else wait until July 1<sup>st</sup> for implementation of this.

CHAIRMAN MILLER: Do I interpret what you said to mean that you don't have a problem with us proceeding with this motion?

MR. BOYLES: Correct.

CHAIRMAN MILLER: I'm looking for a second to the motion; I never got one. Pat Augustine seconds. The motion to amend includes unless a state is de minimis after May 1, 2010. Motion by Mr. Simpson, second by Mr. Augustine. Spud.

MR. WOODWARD: This may sound strange given this is being done to help give us some relief, but then doesn't this leave it kind of open-ended? It says "after May, 2010."

CHAIRMAN MILLER: Spud, do you have a suggestion?

MR. WOODWARD: Again, I hate to bog this thing down, but now I guess –

CHAIRMAN MILLER: Perhaps we could do it as a friendly amendment.

MR. WOODWARD: Yes, I guess the *de minimis* would be given until July 1, you know.

MR. AUGUSTINE: Mr. Chairman, we've had debate on this for about 16 minutes; can I withdraw my second and get on with it. Otherwise, I move to table the motion so we can kill it. It's obvious not going to help those states who had concern about, trying to help with their dilemma. Now it turns out it's an impediment to moving the process forward. Your choice, Mr. Chairman, if I were the parliamentarian I would say let Mr. Augustine remove his second and let this sucker die.

CHAIRMAN MILLER: I see David nodding his head, so you have chairman to withdraw your second.

MR. AUGUSTINE: Thank you, I do.

CHAIRMAN MILLER: Okay, so that particular wording goes away. All right, we're back to the original motion. **Move to adopt under Section 3.0, compliance, a January 1, 2010, compliance date for which states must submit programs to implement Addendum IV for approval by the Weakfish Management Board; no later than a May 1, 2010, compliance date by which states must implement Addendum IV through their approved management programs.** Motion by Mr. Fote; seconded by Mr. Simpson.

DR. DANIEL: Call the question.

CHAIRMAN MILLER: We will call the question. No need for a caucus, I assume. All those in favor raise your right hand, please; those opposed; any null votes; any abstentions. **The motion carried unanimously.** Now I'm looking for a **motion to approve Addendum IV as modified today.** Tom.

MR. FOTE: **So moved.**

CHAIRMAN MILLER: Is there a second to that motion? Seconded by Rob O'Reilly. All right, are we ready to vote on this? All those in favor raise your right hand; those opposed; any null votes; any abstentions. **The motion carried unanimously.** Dr. Daniel.

DR. DANIEL: Mr. Chairman, I know it's late, but I would like to just see what you thought about asking the technical committee to look at ways that we may

monitor this stock at this low level of harvest to try to have some trigger mechanism in place that we could talk about to relax some of these regulations if we do start seeing some extraordinarily levels of discards. Otherwise, we're sort of in a holding pattern; and if something does change, we may be in a scrape if we don't have anything in place.

CHAIRMAN MILLER: We did discuss that a little up front here. That's a reasonable suggestion to charge the technical committee. Vince.

EXECUTIVE DIRECTOR: And that would include measures to see if the stock gets worse as well?

DR. DANIEL: Sure, yes.

CHAIRMAN MILLER: All right, the minutes will reflect that request of the technical committee. Tom.

MR. FOTE: After reflection and thinking about it, we said there was no fish that the Atlantic States Marine Fisheries Commission has a moratorium on. We do have that on sturgeon, so we do have one species that we do have a moratorium on.

CHAIRMAN MILLER: Thank you. Is there any further business to come before the Weakfish Board? Pat.

### **OTHER BUSINESS**

MR. AUGUSTINE: Mr. Chairman, this is an arduous effort we went through, and I think we're moving in the right direction. As I mentioned earlier, we haven't done anything or have planned to do anything on looking at the natural mortality creatures that are causing some of the problem. I had a conversation with Dr. Jaime Geiger, two of them as a matter of fact this last week, discussing the double-crested cormorant program that they've put together, an assessment of that bird and its impact on fisheries.

New York used it for depredation, putting together a depredation permit for double-crested cormorants for the Great Lakes, and in a matter of a few years all of our stocks that were being attacked viciously have come back very nicely.

I really would like to ask if you, Mr. Chairman, would consider having the Shorebird Technical Committee and our technical committee either have a conference call or a get-together to review what the elements are of each group's concern about looking at, first, getting the publication that U.S. Fish and Wildlife put out that specifically stated in the biological opinion that the cormorant is fully rebuilt

and in many cases areas overpopulated; that we look at that as one of the sources causing natural mortality, not the only source. In my mind it's an overt decision we make to effectively look at other elements that are attacking that specie of fish and others. That's my request, Mr. Chairman.

CHAIRMAN MILLER: Pat, not to downplay the importance of your request, I would point out that in my view the Shorebird Technical Committee would be an inappropriate body to address that because we're talking about piscivorous birds here when we're talking about cormorants, and that is not their charge.

MR. AUGUSTINE: Thank you for that clarification. I should have said the U.S. Fish and Wildlife. Dr. Geiger indicated that he would either send a letter or e-mail to mention his interest in pursuing that. Maybe that is the group, the U.S. Fish and Wildlife and not the technical committee.

CHAIRMAN MILLER: I'm going to call on Russ.

MR. ALLEN: The plan of the technical committee is to look into all aspects of natural mortality in the future, and I will make sure I pass that along to the new technical committee chair as he takes over for the next meeting.

MR. STEVE MEYERS: Mr. Chairman, given the actions today, I would like to bring your attention to Section 4.0. With your permission I will work with staff to implement the intent of this section.

### **ADJOURNMENT**

CHAIRMAN MILLER: In case you don't have it front of you, the section that Steve is referring to is the recommendation for federal waters. Thank you, Steve, so noted. Any further business to come before this board? Motion to adjourn. All right, we're adjourned.