

PROCEEDINGS
of the
ATLANTIC STATES MARINE FISHERIES COMMISSION
STRIPED BASS MANAGEMENT BOARD

February 21, 2002
Swissotel Washington, The Watergate
Washington, D.C.

Approved May 23, 2002

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Summary of Motions
February 21, 2002

Move to create a working group appointed by the Board Chair and composed as follows: 2 representatives from the coastal states, 2 representatives from the producer states, the Chair of the Advisory Panel and the Chair of the Plan Development Team. This group would meet with the Technical Committee to re-address the major points of the Draft Amendment relative to reference points and allocation issues

Motion made by Mr. Pate, second by Mr. Borden; Motion carries

Move that the Board reject Maine's state proposal

Motion made by Mr. Borden, second by Mr. Nelson; Motion carries

Move that the Board approve Maryland's request.

Motion made by Mr. Pate, second by Mr. Carpenter; Motion carries

Move that the Board accept the PRFC proposal.

Motion made by Mr. Carpenter, second by Mr. Augustine; motions carries (3 abstentions)

**ATLANTIC STATES MARINE FISHERIES
COMMISSION
ATLANTIC STRIPED BASS MANAGEMENT
BOARD**

**Swissotel Washington, The Watergate
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February 21, 2002

The Atlantic Striped Bass Management Board of the Atlantic States Marine Fisheries Commission convened in the Monticello Room of the Swissotel Washington, The Watergate, Washington, D.C., on Thursday, February 21, 2002, and was called to order at 9:25 o'clock a.m. by Chairman Lewis Flagg.

-- Welcome; Introductions --

CHAIRMAN LEWIS FLAGG: Good morning, we're going to convene the Striped Bass Board. My name is Lew Flagg and I'm the new Chair for the Striped Bass Board. This is my first meeting as Board Chair for striped bass. I hope you will just be patient with me and we'll try to get through this very complicated process as expeditiously as possible.

-- Approval of Agenda --

You have before you an agenda which was mailed out previously. I have two items I'd like to include on the agenda under other business, and those are the National Marine Fisheries Service response to the EEZ request that we sent to the National Marine Fisheries Service concerning policy and legal analysis, and also the Virginia Striped Bass Ocean Fishery. We want to have some discussion of that.

Are there other items that should be included on the agenda? Hearing none, we'll declare the agenda approved with the additions.

-- Approval of Minutes --

You received copies of the minutes of the October 15, 2001, meeting. I trust everyone has had an opportunity to read those. Are there any objections to approval of

the minutes as written? Hearing none, the minutes stand approved.

-- Public Comment --

At this time we'd like to offer an opportunity for public comment. We will also offer additional opportunities as we move through the course of the meeting. Are there any individuals that would like to offer any public comment at this time? Yes, Dick Brame, could you come to the microphone, Dick.

--- MR. RICHEN M. BRAME: I'm Dick Brame with the Coastal Conservation Association. I'm here to speak -- and as you know CCA has been in favor of reducing F, at least to a degree, to allow the age structure of this population to grow out and to continue the recovery of striped bass.

To that end, I would like to offer support for the advisory panel's report today. In there they have a suite of F-targets and a threshold that I think you all should support taking to public hearing. It encompasses everything everybody wants and I think it's a good thing. Thank you.

CHAIRMAN FLAGG: Thank you, Dick. Other public comments? Yes.

MR. MICHAEL DOUBLEY: Michael Doubley for the Recreational Fishing Alliance. We, too, want to offer our support for the report that is going to be coming out of the AP today. We participated in this yesterday.

We, too, would like to see the suite of options that are going to come out as a recommendation. We are in support of the concept that we're going to need to reduce F overall while the age structures finish filling out.

Due to the long-lived nature of this fish, it's going to take a bit longer than we expected. We look forward to seeing this come out, when it is ready, as a public hearing document, and we will be in support of these options. Thanks.

CHAIRMAN FLAGG: Okay, thank you. Other comments? Yes.

MR. BILL WINDLEY: Bill Windley, Maryland Salt Water Sport Fishermen's Association. Quite simply, I'd support the same position that Dick and Michael do. We'd ask you to approve the thresholds and targets that will be given to you today from the proposal from the AP.

CHAIRMAN FLAGG: Thank you. Other comments? Seeing none, we'll proceed, and we will offer additional opportunity for public comment as we proceed. And if issues come up, if you will put up your hand in the back if you want to make comments, I will try to remember to keep you involved. Thank you.

At this time I'd like to get a report from the advisory panel. But before I do that, for those of you who may not be aware, our advisory panel chair is probably the youngest dad in this room today. He's the proud father of a little girl.

The mother and daughter are doing well. And the father is suffering from a little sleep deprivation, so if you will bear with him, he'll give his report now. Pat.

-- Advisory Committee Report --

MR. PAT KELIHER: Thank you, Mr. Chairman, and I definitely am suffering from a little lack of sleep so if you would bear with me, and please I'll ask Bob Beal to speak up if he thinks I've overlooked anything in my report.

The Striped Bass Advisory Panel met yesterday. We had 15 recreational party-charter boat representatives, 5 commercial representatives, and 1 representative who represents all sectors.

We had a discussion about the draft amendment with a lot of deer in the headlight looks when everybody saw this draft.

There was a lot of concern that it was extremely complicated and tough to understand. Luckily we had Bob and John Carmichael, the technical committee chair, there to assist us as we moved forward.

But we would like to reiterate as an advisory panel that whatever comes out of this management group and goes forward to the public, that it is in a simplistic form and easy for the public to understand, as well as showing the consequences for the actions that will be laid out in the amendment.

If there are going to be cuts, if we show a reduction of F to build the spawning stock biomass, for instance, or to build the overall biomass, that there is an action listed that will have to take place for both the recreational and the commercial fisheries.

We think it's very important that is spelled out and, again, in simplistic or layman terms. Before I get into the meat of the meeting here, the other issue that came up was the issue of how the range of options came about with the plan development team basically coming up with this range of options and not the technical committee.

We had quite a discussion on that. It did not stop us from going forward, but there were concerns by many of the advisory panel members that it proceeded in that manner. We just wanted to report that to you as well.

At that point we started to roll up our sleeves and get involved in some of the definitions of overfishing. John Carmichael reviewed the issues and the range of options for the AP under Section 2.5, the definition of overfishing.

And I would refer everybody to page 20, table 1, for the AP's recommendation on the targets and threshold. The AP recommends to the management board that they narrow down this range of options for the mortality rates to three separate options.

Under table 1, Option 2A would become Option 1, F at MSY equals 0.3. Option 2B would become Option 2, F 20 percent equals 0.25. And Option 2C would become Option 3, F 30 percent equals 0.2.

Option 1, the 0.3 is basically a status quo and there were comments by a couple members of the AP that they would like to see the status quo remain at the 0.31 and not the 0.3 as suggested by the majority of the members on the board.

I'd like to turn your attention now to page 71, the stock recruitment curve derived from the 2001 VPA output. The AP recommends that the fishing mortality threshold that is -- there are currently three options listed on page 20 in table 1, but the AP recommends narrowing that down to one and using the 0.4 as the preferred options, actually as the only option.

This puts us right in the middle of that stock recruitment curve. The AP feels that it gives a good balance, and I will tell you that there was no technical reason for us coming up with that.

It was just a comfort level that we could go one way or another before we felt we were going to drop off the chart, so that is the second part of the recommendation.

So we have fishing mortality target recommendations and the fishing mortality threshold recommendation. We believe this suite of options will give a statistical difference as well between the threshold and the target where currently we don't have much of a statistical difference to date.

We then went on to issue two on page 20, choosing a biomass target and threshold, and it basically came back around under this section where I reported earlier, if there is going to be reductions, the AP, again, would like to show consequences basically in percentage; if we have to drop the mortality or lower the mortality to reach a new threshold or target, what percentage of cuts would have to take place and show that in the draft.

Section 3.6, the bycatch reduction plan, there was concern that there is no teeth. The AP does not have any recommendations but they were concerned that it's basically the same language that was used in Amendment 5, and I believe the AP will continue to look at this area.

We then had a discussion on circle hooks, Section 5.3.1. There was a lot of concern by many of the members that the language used was a recommendation instead of mandatory. Now this brought us into a fairly long discussion about the use of circle hooks.

There is definitely a lot of positive discussion at the meeting yesterday that circle hooks lower mortality. But, then again, there was discussion that said that, you know, if you regulate circle hooks, then you're in a position of actually stopping certain types of fisheries because they have to be used in a very different way in order to be successful.

So, when it came right down to it, the discussion came back around to just emphasize the needs back to the

state to create good educational components, to push the use of circle hooks, to educate the public on the use of circle hooks.

We also talked about catch-and-release and the education of proper fish handling to, again, help reduce mortality. One of the AP members, after the meeting, actually suggested that a possible code of conduct is created to help streamline the message so everybody in every state is getting the same message again on circle hooks and catch-and-release.

I'm going to back up to page 30, 4.0, management program implementations, choosing a planning horizon for Amendment 6. Just quickly, the preferred alternative from the management committee, again, is still the preferred alternative for the AP.

We are definitely in support of implementing a three-year management plan horizon. We then got into some of the fun part of the discussions on allocation, the word that we've tried to avoid both at the AP and at this management board level for a long time.

And due to time constraints we did not spend a lot of time on allocation, but there were concerns from many members, actually from all commercial representatives, that there was not a lot of talk about increasing the coastal commercial allocation at a higher rate than what is listed.

The commercial members of the AP recommended that the coastal allocation, which is currently 48 percent, be broken down into 20 percent commercial, 28 percent recreational and that this be added as an option to the public hearing document.

This was supported by several recreational members, as well. And, again, we would ask that a new option be added to the document that would spell that out and go to public hearing. There were no recreational suggestions about adding or deleting other allocation options.

That's really as far as we got on the document itself. We could have probably met three days on this document and still not had it all done. We did talk about three other issues quickly.

One is the EEZ in reference to Bill Hogarth's letter that most of the AP members had received and the other

ones had a chance to look at, and the AP continues to support the moratorium currently in place in the EEZ.

There is some growing sentiment from AP members to have the EEZ opened, but they did not speak in favor of it at that time yesterday.

We also discussed quickly the Virginia commercial fishery and the shift in fishing effort from the Bay out to the coast. The AP is concerned with this shift in effort and we would recommend that the management committee address this and resolve this issue today, if possible.

And, lastly, is the time frame for the amendment. We were concerned at the last meeting and I brought this message forward. The AP would like to see this completed but we don't want this rushed. We want it done right.

We understand that the technical committee was not involved and that may be discussed here today. But, again, we just want to reemphasize that we would like to move forward with this but we don't want it rushed. We want to get it done right, as I'm sure all the managers do as well.

And that's all I have now, Mr. Chairman. I'd be glad to answer any questions if I can.

CHAIRMAN FLAGG: Thank you, Pat. Are there questions from the board members? Paul Diodati.

MR. PAUL DIODATI: Thank you, Pat. That was a very comprehensive report. Is there not a written summary of it? There was an awful lot of information that you just presented, and I think it would be helpful if we just had written bullets of these advisory panel meetings, either just prior to this meeting.

It would be very difficult for me to question thoroughly some of the things you just reported on. So that's one thing. I would like you to repeat your recommended F threshold and target again. And, also, I'm curious why the board has not received the letter pertaining toward the policy on NMFS status in the EEZ.

I haven't seen that letter. I don't know if any other

board members have but -- oh, I guess I'm the only one who hasn't seen it. That's interesting.

MR. KELIHER: I'll be glad to put these down in bullet form for the management board. The vice-chair was voted in. Jim Gilford is now the vice-chair, and he could not be here today. I mean, I believe he will be doing the minutes for the meeting. That's usually the vice-chair's job. And you want me to go back over the options again?

MR. DIODATI: No, just the recommended F threshold target again.

MR. KELIHER: The recommended threshold was 0.4. And the recommended targets would be 0.3, status quo, or 0.31, however you want to list it, 0.25 and 0.2.

CHAIRMAN FLAGG: Bruce.

MR. BRUCE FREEMAN: I would ask, Pat, you're going to be here throughout the discussion of the board meeting, is that correct?

MR. KELIHER: I'm going to, yes. I may be over sleeping in the corner.

MR. FREEMAN: I would just suggest when the individual issues come up, that you remind us of what the advisors had requested. In other words, we'll get into the discussion but, if you would, on each one of those sections you've made a determination, just bring that back to us just to remind us.

MR. KELIHER: I'll be glad to.

CHAIRMAN FLAGG: Other questions of Pat? Gil Pope.

MR. GIL POPE: Thank you very much. In the back of the document, there were some charts from page 73 to about 79 and each one of those has associated sizes with it. When you were talking about status quo, does that mean staying with the current size limit regime or was that talked about at all by the AP?

MR. KELIHER: The status quo was basically status quo to where we are to date as far as fishing mortality levels.

MR. POPE: Was there discussion of any --

MR. KELIHER: There was no discussion of range of size.

CHAIRMAN FLAGG: Other questions of Pat? Okay, I think we'll move on and ask for -- oh, Tom Fote.

MR. TOM FOTE: Tom Fote, Jersey Coast Angler's Association, also New Jersey advisor on the Striped Bass Board; I mean, Advisory Board.

We want to support the AP's report with the threshold and the three options. We think it's important. I want to just reiterate the fact that the devil is in the details and we want to fully explain to the people when we go out to public hearings, if they choose one option, what's the consequences of that option. That's what we're saying, but we support the three options to go out to public hearings on the threshold. Thank you.

CHAIRMAN FLAGG: Thank you, Tom. Seeing no other hands we'll move on to the Law Enforcement Committee report. I believe Bill McKeon has a report for us.

-- Law Enforcement Committee Report --

LT. COLONEL WILLIAM McKEON: Thank you, Mr. Chairman. The Law Enforcement Committee has four areas of concern in regard to Amendment 6. The first area would be 3.3, which is the commercial tagging. The Law Enforcement Committee supports all commercial tagging of striped bass.

The second area is 4.9, which is the EEZ issue. There was a letter submitted on October 16, 2001, from the Law Enforcement Committee stating that they were in support of keeping this EEZ area closed at this particular time.

Area three of concern would be the management program implementation, which is 4.0. The Law Enforcement Committee is in support of a three-year proposal.

And the last area is the circle hook issue, which is

5.3.1. The Law Enforcement Committee is in support of circle hooks, but if in fact it is adopted in the plan, there should be a clear definition of what a circle hook would be. Thank you, Mr. Chairman.

CHAIRMAN FLAGG: Thank you Bill. Any questions of Bill from the Board members? Thank you very much. At this time we're going to go to agenda item seven which is the public hearing draft of Amendment 6, and I'm not exactly sure how we should approach this.

-- Discussion of the Public Hearing Draft of Amendment 6 to the FMP --

It's a very complicated document, as you all know, and I don't know whether it's the board's preference to talk about this in more general terms or do we want to have a summary of what the PDT has put together and discuss some of these issues.

I'm trying to seek some advice from the board on how you want to approach this document. Ernie.

MR. ERNEST E. BECKWITH, JR.: Thank you, Mr. Chairman. I think it would be helpful to the board to understand how we got to this point and how this document was generated. I think we're all aware that the technical committee had some problems.

They were at odds on how to calculate the reference points, the various different methods, and also what would be the appropriate reference points selected, and if you could tell us how that got resolved.

There was a decision made. Explain that to us, and then explain the strategy based on that decision that went into how these options were selected and put into the document.

And, I'm particularly concerned about the technical aspects of that because there's a major disagreement on the technical committee, and one of the concerns that I have is that this document reflect the two different issues or camps because it gives widely different solutions to our problems.

CHAIRMAN FLAGG: Thank you, Ernie. I'm going to have some of the staff respond to some of the more technical issues. We did have a conference

call between some of the staff members and myself back on the 18th of January.

There was some concern about the fact that we were not able to get any specific recommendations from the technical committee because of the divergence of opinion on that committee on some of the issues associated with the models and so forth.

And in order to try to expedite the process, and certainly not to slight the technical committee in any way, because they have been very helpful and they've done a lot of good work, I directed the PDT to try to put together a strawman that we might be able to consider at this meeting with the understanding that obviously the technical committee members would hopefully get together with the state directors and the board members to discuss this strawman.

The intent was to try to move the process along. I think all of the options that are encompassed in the strawman proposal were various options that the committee had talked about but, obviously, there was no resolution on some of these reference points.

So there were some folks that were in favor of some of the reference points; others thought they were inappropriate. But, beyond that, I'd like to ask perhaps Bob Beal or John if they'd like to make further comment on that.

MR. JOHN CARMICHAEL: The range of options that are in table 1 on page 20 fairly well encompasses the range of positions the technical committee has had probably over the last year and a half.

There's been a strong consensus that fishing above 0.5 or somewhat higher, depending on the analysis but starting in that vicinity and above there, is likely to lead to recruitment overfishing or stock collapse of whatever you want to call it.

That's basically the line in the sand. You don't want to fish any harder than that. The range of targets that we've talked about and most people have thought was the best approach have generally been right around the current reference target to somewhat below it.

And that's the options that are included as the fishing

mortality target options. So, while there is some disagreement and there remains some disagreement about the most appropriate way to calculate the yield-per-recruit analysis that puts the specific numbers on here, the range of numbers that's in there is in keeping with the general range of values considered by the technical committee, with targets being roughly bounded by the current reference and the threshold being the point of causing stock collapse being fairly high, quite a bit removed from where we're talking about in targets.

One of the problems that has continued to arise at the technical committee is what happens in the case of the F-30 and F-20 selection as targets and thresholds, where if your target is F-30 but you decide, okay, well, it's kind of convention that if I pick F-30, then a good rule of thumb is to use F-20 as the threshold, that puts your threshold at 0.25.

It has been 0.25. It has been 0.3. It has been somewhere in the vicinity to somewhere below the current target. And a lot of people on the technical committee have said, "Whoa, wait a minute, this stock has rebuilt itself at a fishing mortality rate higher than that. How can you tell me that that's overfishing?"

I think therein lies the problem because there's really two ways of looking at a fishing mortality threshold. On one hand you have the classic sense that we think of them as recruitment overfishing, you're leading to stock collapse.

That's the 0.46 value, somewhere 10 percent to 5 percent SPR based on the current history of this stock and what we've seen of it is going to likely lead to recruitment problems and lead to stock collapse.

However, there's the idea that F-20 percent could be considered a threshold. Everyone recognizes that if you're fishing at 0.25, you're not likely to cause stock collapse. However, you are likely to not be achieving your objective of maintaining 30 percent SPR.

So it's kind of a fine distinction, but it is crucial and it's important in the way we manage fisheries today. Years ago we would have picked 0.46 probably and just been done with it and the board would have maybe targeted 0.46, but we don't operate like that now.

We try to have targets and thresholds and then count for some of the uncertainty in our estimations and go from there. So if you picked that 30 and your management objectives were to maintain 30 percent SPR, clearly, if you get up to 0.46, you're not maintaining 30 percent.

And even if you get up to F-20 percent at 0.25, you're likely not maintaining 30 percent SPR. So, there's two approaches to looking at the thresholds that the technical committee has kind of taken this at.

With one camp wanting to say, "When we're recruitment overfishing, that's where I want it to be; and when you say overfishing, I want it to mean the stock is in danger," so they've had trouble thinking of 0.25 as a threshold.

CHAIRMAN FLAGG: Jack.

MR. JACK TRAVELSTEAD: John, the last time the management board met and we were talking about F-30 percent, the value associated with that was I believe 0.3, and now on the table it's 0.17. What happened to change that value? Is the technical committee in agreement with that value?

MR. CARMICHAEL: It changed because we updated the selectivities at age that were used to estimate it and did that using the most recent assessment information, and the assessment selectivities last year changed quite a bit.

You remember we had that little issue with reducing mortality on eight-plus fish, and a lot of states increased their mortality on the four to eight-plus fish, and you can actually see that.

In the figure of fishing mortalities., it's like figure 2, where the eight to thirteen Fs were kind of high in 1999 and then come down in 2000; whereas, the total Fs, which is age four to thirteen, went down a little bit but not nearly as much.

Well, obviously, then increased mortality on the four to eights accounted for some of that decrease on the eight to thirteens. So there has been a pretty good and significant change in selectivity for some of them younger ages.

And in a yield-per-recruit analysis, if you exploit younger fish harder, if they have greater selectivity, or you have a lower size limit, then the total exploitation the stock can endure is much lower.

That's why when you raise size limits, you raise the age of entry into the fishery and you can exploit the fish a lot harder. If you let them grow some and gain some weight before you start harvesting them, you get more maximum yield out of each fish.

So I think a lot of that difference is related to that and the other is a change in how they dealt with the sexes. Before they had done a separate male and female yield per recruit and averaged the results.

In this case they averaged the life history parameters for males and females which was -- of the technical committee members who weighed in on it, they sort of preferred that method over the two separate runs averaged.

But the challenge is that -- and everyone pretty well recognizes this, I believe -- is that female striped bass live longer and get bigger than males, and it's about a ten-year difference in expected life span.

So we've tried to deal with that in doing these yield-per-recruit analyses, which is good and it's more technically valid, but then it means depending on how you deal with it, your numbers are going to move around some.

And the other thing that will happen is as the fishery changes over time and if different selectivity patterns emerge, the F values associated with F-20 and F-30 are going to continue to change.

But the bottom line is the PDT worked on this and some members of the technical committee are happy with this and some members are not. So it's sort of in the same ballpark as a lot of our other things we've brought forward, but they haven't formally met and argued it.

CHAIRMAN FLAGG: Paul Diodati.

MR. DIODATI: John, I think I can see why some members would be happy and some would be not. Did the PDT or the technical committee review

historic mortality rates that were estimated during the moratorium years in Chesapeake Bay and discuss that in any length?

MR. CARMICHAEL: Well, we certainly talked about that at technical committee meetings. Those historic and how far back we can go in time have been talked about as a way of kind of setting a baseline.

MR. DIODATI: For the benefit of the board, I'll just remind them that mortality rates that were measured back during the moratorium years were in the area of about 0.2.

So, that means that without any harvest of striped bass at all, you can expect background mortality to be equal to about 0.2. Given that we know that, how can this kind of recommendation come out of your committee of 0.17? What do we do there?

MR. CARMICHAEL: I think the estimate that you're talking about for the baseline years, isn't that an estimate of total mortality, so it would be roughly the natural mortality rate, so the natural mortality rate that's assumed in these is 0.15.

So this is an exploitation from fishing of 0.17 and 0.2, along with the natural mortality rate of 0.15 so for a Z, a total mortality of 0.35 which tends to allow you to grow a fish out to 20 or 25 years; 20 years probably at 0.25.

MR. DIODATI: Well, actually I think what you're going to find is that the Zs weren't much higher than 0.2 during the moratorium years.

MR. CARMICHAEL: Right, so that means that's roughly natural mortality and a little bit of discard or encountering that was going on.

MR. DIODATI: I guess my point here is that a fishing mortality rate of 0.17 is, I think, very, very impractical for a fishery like striped bass. I can't imagine that we would have any success at all in trying to manage for that type of a scenario.

So I guess obviously I'd like to see that questioned very, very thoroughly by the TC. And even if it comes back at 0.17, I think this board should look at this very closely and make a decision whether or not we want to

include it as an option.

MR. CARMICHAEL: I think it is somewhat dangerous to get too caught up in just looking at the rate and not consider the potential yield, which is in another table, which is in table 31.

And actually these alternatives that we're looking at and the range of alternatives recommended by the advisory panel are not overly different in terms of total yield.

So, the real bottom line is that for some of the lower exploitation rates that have been recommended in here, the stock grows, the age structure expands, they're more older, heavier fish out there. So even though you're fishing at a lower rate, you maintain the same yield.

And that's really what these alternatives come down to. We know from the past history under Amendment 5 of like six years now that fishing at a target of 0.31 has led to the stock stabilizing. We've got no increase in total abundance.

We've got gradual increase in the amount of ten-plus fish. So if you start with that as a starting point, if you go up from there, above 0.31, it's likely you're going to start mining those gains that we've had for the last ten years and you're going to fish your population down.

The first thing you're going to fish down is your SSB and you older, ten-plus fish. If you begin to reduce mortality from where it is now, with the strong year classes that we've had and that we can hopefully expect, you'll see that the age structure will continue to expand.

How fast it expands and where it ends up is really a function of how much lower you take the mortality rate. And we've done this before and reduced the mortality. There's certainly the possibility to look at maintaining harvest levels while the population expands to let mortality slowly go down on its own as the population gets bigger until you reach whatever target mortality is selected.

So, just looking at the F numbers alone can be somewhat misleading because you have to consider what they give you in terms of yield. And there it's a much more subtle choice, to my mind at least.

CHAIRMAN FLAGG: Okay, I had Pete Jensen and Ernie following him.

MR. W. PETE JENSEN: Mr. Chairman, I hope I am misunderstanding the situation. You will recall that some time ago the technical committee came to us with a wide range of values such as we have now.

The board had a fairly pointed discussion about the inability to understand and deal with that wide range. And as a result of that discussion, when I was Chair, I worked with the technical committee and we sent a rather blunt message to the technical committee, "Please get some consensus on some values we can use or else we may find it necessary to bring in a referee to settle this issue."

Based on the technical committee report of two meetings ago, we adopted the values as a basis for the plan. Now it sounds like the technical committee has gone back and said, "Well, we really didn't reach a consensus. We now have this wide range of values for you that you ought to consider."

I don't find that very acceptable and I hope I've misunderstood it but I don't think I have.

CHAIRMAN FLAGG: Thank you, Pete. Ernie.

MR. BECKWITH: Thank you, Mr. Chairman. It seems we have jumped into this, and I've got some very, very serious issues with this document. I don't think it's a credible document. I think that there are things in here that directly contradict some of the decisions and the positions that this board has made before.

A case in point, if you turn to the section on page 7, stock assessment summary, it says the overall stock abundance is high, fishing mortality remains low. We declared this stock fully restored in 1995.

And if you look at the options in table 1, Options 1 and 2, if you look at the F-30s and the fishing mortality rates that are shown there, if you look at the biomass thresholds and targets in table 2, and in particular the spawning stock biomass thresholds and targets in table 3, one would have to conclude that this stock is not

fully restored, has not been restored, we've been overfishing this stock for the past 40 years.

I am really seriously concerned that we would go out to the public and be presenting this kind of data when it doesn't pass the straight-face test.

I'm also concerned about what I thought the technical committee had some problems, but I thought that there were some decisions that they did come together on. I think that some of those decisions are critical and they were not carried forth into this document.

I'm not a technical person anymore. I was 20 years ago, but I have to rely on my technical people. And the best that we can determine is that the F-20s, 30s and F-10 values were determined just out of the YPR.

And my understanding from my staff was that the technical committee back in February of '02 made a decision to merge the YPR with the VPA-based stock recruitment relationship. If you utilize that approach, it gives you quite different F-20, 30 and F-10 values.

And, by the way, I was also told that the technical committee has never discussed F-10 as a reference point. From my perspective, there's a lot of serious credibility problems here.

There's data that really is not consistent with our perception of the status of this stock and also of the public's perception of the status of this stock. I also feel that the options that are presented in here are not presented in a balanced manner.

They seem to vary severely way on the side of one faction of the technical committee, and there's only one option in here that weighs in for the other faction of the technical committee, and it's pretty much buried in here and you really can't determine and weigh one against the other. This document is not ready for prime time.

CHAIRMAN FLAGG: All right, thank you, Ernie. John, did you want to comment?

MR. CARMICHAEL: Yes, a couple of things. There are a lot of problems with the document. There's some typo and some curve inversion errors in some of the key tables. There's a lot of stuff to be straightened out.

As far as the stock recovery, for example, the total biomass right now is 187 million pounds, so several of the biomass targets from table 2, you're pretty close. On the thresholds in table 2, you're above it so you would conclude your stock is not overfished. You may not have reached the target yet.

In terms of whether or not the stock is recovered, well, we talked about a lot of stocks, and I think weakfish was a prime example yesterday, there's two phases of recovery. There's one where you get total abundance back. There's another where you get age structure back.

We're dealing with a population that can live to be 25 and we're plussing the assessment at 15 because there's virtually no fish above age 15 ever seen. We haven't recovered the age structure of this population in my opinion and probably most people's opinions. Therefore, we may not have completely recovered the SSB. We have an abundance of fish from one to ten years old, but this is a population that can live to be 25. I know there was a lot of discussion about this yesterday, and the same thing holds true for this stock.

We declared it recovered. It was recovered in terms of producing a good year class and getting abundance out there, and it's gone like gangbusters. But since Amendment 5, we have flattened out the population growth rate.

We have not allowed the age structure to expand significantly since that time. So, in looking at some of these analyses that say potentially low mortality rates, then you could say, "Well, yes, in terms of achieving F-30 percent, I have been overfishing the stock." And overfishing is a subtle word.

In terms of staying below 0.46 that would lead to recruitment failure, then I have not been overfishing the stock. In terms of maintaining the target of 0.31, I've not been overfishing the stock.

So, these values and these definitions and these concepts are all really intertwined together and it's really a matter of perspective on how people look at it. You can take these numbers and say the stock looks great.

You can take these numbers and say the stock is not recovered. We could take one year and a good recruitment event and get some fish out there and declare the stock recovered, but we know that the biomass probably wasn't totally recovered when the stock was declared recovered, and that was one of the reasons that we were doing this amendment to try and look at what biomass potentially could be and to look at what a total threshold and biomass could be.

And some of the options that probably should have been included in here that were not and the one that the technical committee agreed on very strongly was that in 1995, when the stock was declared recovered, the biomass level should be considered as a potential threshold.

So that's one that I've got in my notes to be added in. The Plan Development Team was trying to put this together for this meeting and get their work done. And, as we talked about, they didn't get guidance from the technical committee.

And as Pete brought up, the technical committee was told to agree on this, and they came close to agreeing on it and then as time wore on, it became apparent that maybe people didn't agree as much as it seemed they agreed when we left the meeting, or there was some more work that needed to be done.

There was really not a lot of interest in trying to get a meeting together in early December when we tried to do it, so after the first of the year I got up with Bob and said, "I think we've got a problem. There's a board meeting coming and we still haven't resolved this analysis."

The PDT is sitting there going, "We don't have the numbers to put into this document, what are we going to do?" So they came in and played the referee, essentially, and tried to take the range of options that the technical committee had looked at and put them in this document as a range of options for public hearing.

Some of the analysis may not be exactly the same and there's some subtleties that might have been overlooked by the PDT, but the range of basic values is still there. And to me that should be an important factor at least. I believe that's everything.

CHAIRMAN FLAGG: Okay, thank you, John. I have several people on my list and I will get to you all. Eric Schwaab.

MR. ERIC SCHWAAB: Thank you, Mr. Chairman. I also have a number of concerns that I won't go into in great detail other than to echo the concern that Mr. Jensen mentioned a few moments ago, and that is the divergence of this document from what I think was clear direction not only in reference points but specific values associated with those reference points that date back to last summer; and, also, the lack of, as we've seen that divergence occur between those reference points and the values, any kind of technical committee review of that product.

But I want to go back, also, to something that John raised a few moments ago. At the advisory panel yesterday there was much discussion about these yield tables. You suggested that we not focus on the reference points or the specific values but on those yields. I'm referring to the tables that begin on page 31.

There are some obvious or apparent errors that seem rather substantial in those yield tables, and I haven't heard that addressed specifically yet.

MR. CARMICHAEL: But I will.

MR. SCHWAAB: If you could address that, I mean, there seemed to be, again, some clear problems there that would at least at this point prevent the board from adequately evaluating what has been put before us. Thank you.

MR. CARMICHAEL: Yes, thanks from bringing that up, Eric. Actually when I was on the phone, I was calling someone who had the original analyses in front of them to try to figure out where the discrepancy lies between what's in these tables and what would apparently make sense.

Starting with table 4, page 31, at the bottom, in the center column, specific value, the value for F_{max} is actually 0.17, not 0.25. It's a typo. And this table is simply what the different reference points return in terms of yield based on the current exploitation patterns in the fishery, the selectivities at age.

The yield in pounds, then, for F_{max} is not 35.587

million pounds. It's actually the same as right above. At F-30 percent, it should be about 25.382. There's some rounding in there so it might be a little different but there's a typo in there.

Evidently to get these yield in pounds, the average recruitment was multiplied by the yield per recruit for each one of these F values. We think that when the tables were done, the wrong yield per recruit was picked for F_{max} and so there's an error that has been carried out through all of these tables.

And there's some apparent conversion errors in table 5 where the value should be in the 20 million pound range, I think, not the 35. So, the tables show you how close everything is.

The figure, which are like page 73 to 79, are difficult to interpret because there is an individual figure for each alternative, so you can't really look at all of them together and say what does this give me, because when you do look at them, you can say, "Well, they all look about the same."

The figures are correct, and it is true that they do all look about the same because the yield you get out of all these reference points is very similar overall. The yield-per-recruit curve, if you envision it, is very flat over that range of Fs that we're talking about.

What changes greatly is the bottom two, the ten-plus yield. That's the subtlety of this whole alternative here. It's really in getting older fish in the population.

And I think maybe that's the lesson that needs to really be brought to the forefront, that total yield on these alternatives is not that greatly different, and what really changes is the ten-plus.

And, as I said, the technical committee has been all within the same ballpark on looking at these potential exploitation rates.

Doug Grout did a great job of summarizing a lot of our work over the last two years.

He e-mailed it out to the technical committee and showed how everything has been right in the same ballpark. The problem has always been in abundance, the biomass thresholds, how much biomass is possible.

And that is a problem we probably cannot resolve because in fisheries, as everybody at this table knows and people like me have been telling you for years, we have a really hard time estimating total abundance.

And we have a really, really hard time projecting total abundance into the future. So to come up with a biomass threshold and a biomass target, we have to make some assumptions about what recruitment is going to do in the future, and we have to project that out until the stock reaches equilibrium.

So we have to make a lot of strong assumptions and put in a lot of potential recruitment values in coming years to see how the population responds.

We're not real good at telling you what recruitment was last year or the year before because we haven't caught those fish and now we're trying to take that and project it out ten or twenty years to see how the population is going to respond.

So that's why the biomass values have been a major point of contention and have varied by almost in order of magnitude at the technical committee. We've been in the same ballpark on the rates but the biomass is just really difficult to get a handle on.

It comes down to what you assume a stock recruitment relationship is going to look like, what you think future recruitment is going to do, and we spend way too much of our meetings arguing that; and like any scientist, we will probably never resolve it.

And people spend their whole careers trying to resolve that stuff and still haven't provided us anything helpful to help us with striped bass. But there are some major typos in here, as you said. I agree 100 percent, it makes it difficult for the board to evaluate these alternatives fairly.

CHAIRMAN FLAGG: Okay, Gordon.

MR. GORDON C. COLVIN: I just wanted to make an observation that I've heard for the last few days some criticism of the plan development team for what was perceived as perhaps inappropriately forcing some numbers together for this document.

I want to personally thank the PDT for doing what they did, giving us something to review. They did their job. Pete's comments earlier were right. I think the chairman of the commission has been very clear about the charge to this board to get it done.

The board needs to do what it has to do to get it done, and the PDT has done their job. And, frankly, from John Carmichael's remarks today, I don't really think that anything they've presented us is really out of line with kind of the central tendencies of the various recommendations that the technical committee has come up with, and certainly looking over the table from Doug tends to confirm that.

We've spent a lot of time debating changes in the outputs of the technical committee over the last five years, and they've led us down some unfortunate paths.

Mr. Chairman, we need a process, whether it's a referee or whatever, to bring us to closure, conclusion, and the end of the line with the technical committee issues. Ernie spoke of factions. That has to end. We'll never get this done -- and I could be sitting here saying the same thing about lobsters, I think -- if we cannot find a way to reconcile the different viewpoints, however strongly held, among the technical committee, to the point where we can accept and receive advice, rely on it and stick with it.

But, be that as it may, I wanted to make it very clear that I believe very strongly that criticism of the PDT is unfounded. And to the contrary, they are to be commended for getting this to us.

CHAIRMAN FLAGG: Thank you, Gordon. And I want to say that as Chair I take responsibility for a great part of that because I felt that it was important to try to get something out to look at. I fully concurred with the recommendation to try to put something together for this meeting. I have Ernie and Gil.

MR. BECKWITH: Yes, thank you. And I'm really glad Gordon made those comments, and perhaps it was unfortunate that some of us jumped into some of the particular issues we have with the document.

I fully believe that the process that was followed was necessary. We needed to get moving. We're at a stalemate. And I do commend the PDT for putting

together this document because it's forcing us to do what we're doing here today, to address concerns and problems and perhaps some technical issues.

The real issue is the need to move forward, but I also want to make sure that the document that we do move forth with is a credible document, it makes sense and it's a good document for us to make the decisions on, and it gives a fair range of the options with background information so the public can understand what we're doing.

What we really don't want to do again is to make the kind of mistakes that we've made in the past and that's really seriously harmed our credibility.

CHAIRMAN FLAGG: Thank you, Ernie. I think we do need to bear in mind one of the advisory panel's recommendations was that, with respect to moving forward as expeditiously as we could, we don't want to sacrifice quality for haste, and we want to make sure that what is done is done right, but we do have to be expeditious in the way we move along. Gil Pope.

MR. POPE: Thank you, Mr. Chairman. I'm afraid that I am going to have to disagree a little bit with what Ernie and Gordie had to say just a now because I don't know who made the decision, but I see some major policy decisions being put into this document that greatly affect how the allocation is going to be done between both the recreational and commercial sectors and between the bay jurisdictions and the coastal jurisdictions.

And the one thing comes to mind, when I look on page 33 at the first option and when you look at -- they've chosen a set of base years. Somebody in the plan development team decided that '96 to 2000 was a good set of years to use for both recreational and commercial fisheries.

Now, to me that's a major policy decision that I hadn't seen before and that lowers the commercial on the coast -- if you look at table 12 -- down to 6 percent of the total. To me this is something that's major.

Now, I don't know if that was asked for while I missed a meeting or something like that, but coming up with a whole new set of base years to me is something that is major and it's a big deal to me.

And if it was done by the plan development team, then I'd like to kind of know the reasoning why because it doesn't make sense to use it for the commercial when you have a commercial sector that's being held constant, and you have a recreational sector that's growing, that you're going to use that as a set of base years to come up with some future allocations.

To me that's a big deal and that's something major, and that's where -- I'm glad that the plan development team is doing the work, but I see some things in this document that are just to me just wacky and I think that need to be talked about further by not only myself but some of the other board members. Thank you.

CHAIRMAN FLAGG: Thank you, Gil. I think Bob may have a comment about the issue you've raised about the selection of those options.

MR. ROBERT E. BEAL: Yes, in the past the board has given fairly general guidance as far as allocation schemes to the plan development team. They haven't really given too many specific scenarios for the plan development team to go out and evaluate.

So the plan development team basically just came up with some ideas on base years and different allocations schemes. There has been a few recommendations in the past on different allocation approaches that probably need to be more fully fleshed out, such as Option 3 in this document.

Option 2 in this document uses the '96 to 2000 base years that you referred to, Gil; however, it realizes that the landings or the Chesapeake Bay quota has increased since beginning of Amendment 5 and the recreational landings have increased since implementation of Amendment 5.

It takes into account that the population has grown by about 12 percent and it allocates an additional 12 percent to the coastal commercial fishery.

And there may be some additional scenarios that the board would like the plan development team to explore, which even gives a larger increase to the coastal commercial fishery that's perfectly reasonable.

The plan development team obviously can do that. The

plan development team is still looking for a direction to go as far as different allocation schemes.

As part of this process goes along, as Lew said, there was a conference call that gave the plan development team the responsibility of incorporating the new or the reference points into this document, and that conference call didn't take place until the middle of January.

So by the time the reference points were finally calculated and decided upon by the plan development team, we only had about a week or a week and a half to get them into this document and then out to the management board.

So all these allocation issues can be more fully fleshed out and there's more options that the plan development team can come up with. So if you have any ideas or any reasonable allocation programs that you'd like to see, let us know and we'll put it in there.

And I guess another thing, just keep in mind this is a document for public hearing and we try to include the full range of options. You know, as you called them, this one is wacky but you're wacky option may be perfectly desirable to someone else.

MR. POPE: I couldn't think of a better word, I'm sorry. You can change that or strike that word if you want. But, I do have some options that I would like to forward, as well, when the time is right. Thank you.

CHAIRMAN FLAGG: Okay, thank you, Gil. Anne Lange.

MS. ANNE LANGE: Thank you, Mr. Chairman. I think we obviously agree that the document needs to be corrected. Any errors that are in it, any review that needs to be done to make sure the calculations were correct, all those things definitely need to be addressed.

One thing that concerns me is the focus -- and John has alluded to this -- that people need to look at the yields that are coming out of it and not just the Fs.

One of the things that this new amendment is supposed to address is the quality fishing issue, the change of

fishing for small fish, what is it that constituents want, what is it the stakeholders want? Do they want to see the age class expand?

That's something that this board has been looking at all along, that we want to start seeing more larger fish. So reductions in the Fs aren't necessarily something to be so critical about or so concerned about, it's what's the bottom line.

The overall yields, based on the analysis they've presented so far, are fairly comparable. You're reducing the F but once the age classes expand, the overall catches are going to be the same, the total poundage that comes out of the fishery.

And I guess I don't think we should be focusing and worrying so much on looking at an F 0.7 while during the recover we were looking at something of a 0.5. We're looking now at a different goal, a different objective of this plan or of this amendment.

I think that certainly the document needs to be clear on that when it goes out to the public. I agree that it does look a little startling when we recovered the stock at 0.5 and now we're looking at a 0.17 or a 0.25 for our new target.

But it can be explained and it can be explained probably quite simply. And I think, you know, again, we should not focus only on the Fs.

CHAIRMAN FLAGG: Thank you, Anne. Gordon.

MR. COLVIN: To get back to Gil's point on the allocation options, Bob is being, I think, very polite in his response. I'm quite clear in my recollection that for years Bob Beal, and before him John Field, asked the members of this board repeatedly, over and over again, to provide their suggested allocation options.

And over that period of time very little was brought forward from the board. It's absolutely true that these options are provocative. We knew they would be. I think the last time we discussed this was up in Maine, and we all kind of looked at each other and I don't recall very much concrete coming forward in that discussion.

This section probably needs work. The advisory panel wasn't quite sure what to do with it given the implications, the available time and the newness of it. I sort of felt the same way when I saw it.

I think the PDT, by putting something on paper, will maybe provoke the kind of response that Bob has been asking from the board for some time. I hope that it does. I think we need to do that. We just really haven't come to grips with this, and it's our fault.

CHAIRMAN FLAGG: Thank you, Gordon. And that goes remind me that I do recall several meetings where Pete did ask pointedly for people to discuss allocation, and there was not very much discussion forthcoming from the members.

So, I think there was a concerted effort to try to elicit some comments from the board members relative to the allocation issue. Pres Pate.

MR. PRESTON PATE, JR.: Thank you, Lew. And I agree with Gordon in his evaluation that a lot of these problems are our fault. We haven't come to grips ourselves with some of these major issues. I think if you go back and look at the objectives that we have identified to help meet our goal you, can see that.

All in due respect to what Anne said, there's nothing in there about increasing the number of old fish. We made one reference to fostering a quality fishery, but we haven't defined what that quality fishery is.

We've tried to do that. We've had numerous workshops on it in the past and we haven't been able to reach anywhere near anything resembling consensus on what that term means.

If we want to have older fish, more older fish in the population, we need to say that, and that would give the technical committee a lot clearer target to shoot at. I don't necessarily like what they presented to us today, but we haven't helped them out a whole lot in what they have been asked to present to us.

I have some serious problems with the document and I think that it has the potential of significantly undermining the credibility of what we've done to try and manage this species in the public's eyes if we go forward with it in its current form.

CHAIRMAN FLAGG: Thank you, Pres. A.C.

MR. A.C. CARPENTER: I have some problems with this as well, but it seems to me that when I was asked to decide on an F-30 percent, F- 20 percent here a year or so ago, and was told that an F-30 was going to equal a 0.30 or something in that neighborhood, I relied on the information given to me by the technical committee at that point and said, okay, I think F-30 is the appropriate number.

A year or so ago we were told by the technical committee that we needed to protect age eight and older fish because we were overfishing them. We all ran in a circle. We disrupted the entire East Coast Fishery only to come back the following year and say, "Oh, well, wait a minute, maybe it wasn't as bad as we had thought so we can relax all of that."

If that's going to be our history of how we're going to do things, then maybe what we need to do is thank the technical committee for their expert advice and send them all home and we go ahead and just draw straws out of the air and we'll make up our own mind.

I'm really disappointed in this thing the way that it has turned out. And if we want to talk about looking at the yield tables instead of looking at the F values and we want to have all big fish out here in the fishery, then, fine, as long as Amendment 6 allows the Potomac River to go back fishing on the spawning area, which is the only place we're going to get those big fish, so that we can get our yield, then, that's fine.

We can do that, too, but I don't think that's what the intent of this thing was supposed to be. Yes, you can increase your yield and reduce your number, but for jurisdictions like mine, the only time that we see those big fish are on the spawning grounds during the spawning season.

If that's what you want us to do, then just simply tell us and we'll try to do that as well. The issue of new and exciting policy management decisions being slipped into this document, Gil spoke about selecting a reference year group and I had missed that one.

The one that caught my attention was the one that deals with alternative management regimes where equivalency now means equivalency plus 20 percent.

So it's not really equivalency, you pay a 20 percent penalty to ask for something different. And that, to me, this was the first time that I had ever seen or heard of that. I haven't seen it in any other plan that we have anywhere on the books.

It's on page 40 for those of you who haven't looked at that one yet. It says, "In order for a state to propose a management measure, it must demonstrate that the alternative management programs are 20 percent more conservative than the selected management alternatives in the plan."

I'd like to know where that came from. Thank you.

CHAIRMAN FLAGG: Thank you, A.C. Bob.

MR. BEAL: Yes, A.C., that one is new and different; and if we had taken the chance to walk through this whole document, that would have been rightly pointed out.

That's something that came out of the conservation equivalency workshop and some discussion by some members of the plan development team.

There is concern that continually mixing and matching regulations, you end up with a coastwide program that diminishes some of the conservation benefits that are achieved if everyone is on the same page.

So, that's something that the plan development team put in there and at this board meeting, when this was brought up, when we got to that section, if the board didn't want it in there, it's out. I mean, this is just a public hearing draft for review by the board so it's all still up in the air.

So, I mean, and which obviously you think that should be taken out, which is fair. You know, it's something we would have had a discussion on, but I don't think we're going to get into that level of detail today the way things are going.

CHAIRMAN FLAGG: John.

MR. CARMICHAEL: As expected, we're getting a lot of talk on the F- 20 and F-30 and how

they're different from what we had last time. And they're different because of some changes in the inputs and changes in the analytical methods.

It's not exactly the same approach that was used when the technical committee first looked at these and brought them forward. And from the technical committee members that I've talked to and on a conference call we had the other day, it's probably a 50-50 split as to which way to go.

We've resisted voting on this but we might need to. And I was conferencing with some of my experienced and esteemed technical committee colleagues in the back, and they're willing to shut the door and get the work done until we come up with some answer for you all, and to do it right quick if we have to because there are some outstanding technical committee things to deal with.

But, I think a note of caution to the board, I suppose, are we came with values of F-20 and F-30 the last time that weren't that far removed from the status quo. Now when you endorse F-20 and F-30, there's really two things that go with it.

There's a concept -- and I talked to the AP about this the other day. Reference points really have two components. There's the concept. There is, "I want to maintain 20 percent of the maximum SSB. I want to maximize yield at Fmax." That's a concept.

It's like saying the prime rate in financial terms. And then with F-20 there's a value. There's a specific exploitation value. It's a function of the stock vital rates and the population characteristics and everything else. That in this case for F-20 percent is, say, 0.25.

So I have a concept that's F-20 percent, like the prime rate. It has a value that's 0.25 in F, or for the prime rate maybe it's 6 percent. So if the board picks a concept, says that they're picking a concept, but they're picking it because they like the value, then therein lies a big danger because that value is a function of many different things and those things change.

Those things change when different analytical techniques are used. Those things change when the yield-per-recruit analysis is done with added equilibrium versus accounting for the stock recruitment

relationship.

And that's what has happened here. So if the board liked the F-20 and F-30 because they were close to the status quo, it would have been a lot better just to pick the preferred status quo.

So if you pick an F-20 here and down the line, if you couch your recommendation in terms of a specific concept because you like the particular values, you could find yourself in trouble.

And as you look at the other tables for different size limits, you can see that those values change substantially for the same conceptual references as you change the size limit because you changed the age of selectivity.

So in one sense we still have an approach for maintaining at least 30 percent as our target, for maintaining 30 percent of the maximum SSB as a target, and a threshold that we don't want to go below 20 percent.

Theoretically and under one analytical technique these values that are in here achieve that conceptual objective of the management board. Now there are other analytical techniques that could apply different specific exploitation rates to those same concepts.

And that is an issue that the technical committee has not fully resolved, just which analytical technique is most appropriate. But if the board is content with status quo, then maybe they should be up front about that rather than trying to select status quo around the corner by picking an F-20 and F-30 that we're about there.

CHAIRMAN FLAGG: Thank you, John. I have Paul Diodati and Ritchie and Gil.

MR. DIODATI: Actually, I raised my hand quite a while ago and there's such a wide number of things I could comment on here. I heard John say that the technical committee has some problems and maybe we shouldn't be too concerned about the biomass estimates.

They have some difficulty in estimating those within a degree of accuracy. And I heard Anne's suggestion that

we shouldn't be too concerned about the mortality rates.

I think that's dangerous advice for us not to be too concerned with both of those parameters given that they're the fundamental measures that we're looking at in this plan, so I would want us to be very careful about heeding that advice.

Also, John, you mentioned weakfish, so I'll take that opportunity to remind everyone that I think you stated that the current estimated size of the striped bass stock is up around 187 million pounds compared to less than 50 million for weakfish.

So when you're making comparisons of those two stocks and whether one is restored and one isn't, I think that's something that we should keep in mind.

You know, in addition to this document that we've already given to our AP and they've already somehow made recommendations back to us on this, this creates the kind of scenario that makes it very difficult for me to deal with my constituents, my user groups back home.

For some reason or other, I've already received several hundred e-mails in the past two weeks on recommendations. These are individual e-mails from fishermen, asking me to keep in mind certain recommendations that they're putting forward.

And, in my curiosity for what was driving this, I find that most of it is related to a National Marine Fisheries Service report provided to Congress back in August that provides some very specific management advice.

And that's a concern that I have; and I think, you know, given that we're at a point where we're really struggling in trying to develop this management process and new management process, I don't think it helps for the National Marine Fisheries Service to put forward advice on how to manage this stock before we complete that process.

We should be doing that together in that word that I've heard to much today "partnership". Where is Jack? I don't see him here right now, but I hope that we can work together in a better partnership that reduces this kind of activity because this creates a major problem

for me and I think for the rest of the board.

There's already a perception that what the condition of the stock is, what the fishing mortality rate should be, what fishing practices should be, and I'm not at all convinced of all the information that's provided in the congressional report.

I'm not convinced that some of the information that our hard- working technical committee has been doing is completely accurate. Let's not forget that we have tagging estimates of mortality that are substantially lower than the VPA.

Let's not forget that at the last meeting the technical committee indicated a suggestion that there may be some geographical distribution changes of striped bass with the population expanding to offshore areas, principally in the EEZ.

Let's not forget that these fish have a very high propensity to school and the smaller fish close to shore where the coastal fisheries exist. And the information that goes into this modeling, it's a catch at age matrix that drives this whole modeling.

So, if our source of data is coming from these coastal fisheries, they're all fish under ten years old, primarily, then if you put ten-year-old fish in, you're going to get ten-year-old fish out.

And I think that there's a lot of work to be done here in terms of looking at what the true age distribution is of this population and put it in context to something that we can really compare that to, I mean, historically.

We can't create something that has never occurred before in our history. So I see a lot of problems here. I guess I'm looking towards supporting some kind of refereed approach to our technical analysis of this particular resource. And if that happens and if it becomes board members that get involved, I'd like to volunteer for that.

CHAIRMAN FLAGG: Thank you, Paul. I have four people, Ritchie.

MR. G. RITCHIE WHITE: Thank you, Mr. Chairman. It's feeling to me like we're spinning our wheels now, and I get the sense that this is going to go

back to the technical committee.

If that's the case, maybe we should start working on just exactly what it is we're going to ask and task the technical committee to do at this point. I think we should require them to vote with no abstentions, and that way we can get a clear answer on where they stand.

CHAIRMAN FLAGG: Thank you. Gil Pope.

MR. POPE: Thank you very much. I do want to apologize if I sounded like I was a little harsh. I don't want to be personal about any of this. And my word "wacky," I didn't mean anything by it.

But something that I don't want to apologize for at this point is being willing to come to this table, and I want to talk about the tough issues. I've always wanted to talk about the basic policy decisions on what we do, the tough issues that go into how we craft Amendment 6.

I could spend all day sitting at -- I would take a whole day on striped bass trying to decide the basic policy issues so that this doesn't happen, so that they know exactly what they want when they go to sit down to craft this and do this hard work for us.

And I appreciate their hard work, but it looks to me like they really didn't have as much direction. I am willing at any time to sit down with anyone and talk about the basic tough policy decisions that we somehow have been talking about for seven or eight or nine years and have yet to sit down and have just a one on one with just the board members and having a talk about the tough things that we don't want to talk about.

There will be an Amendment 7 and there will be an Amendment 8. When this gets done, I want it to be a very good or perfect document but we have yet to sit down and talk about some of the things that really mean something in allocation between the producer areas and the coastal areas, all those things that are very important, things that were decided with Amendment 1 and ended up in Amendment 5.

That's where I see this ending up at this particular point in time. If people want -- if it's my fault, then I want to correct that. I want to be really involved and I'll put all of my ideas in there and then have you chew them

apart. I don't care, but I think that that's something that we need to do starting now. Thank you very much, Mr. Chairman.

CHAIRMAN FLAGG: Thank you, Gil. Bill Goldsborough.

MR. WILLIAM GOLDSBOROUGH: Thank you, Mr. Chairman. I had some thoughts earlier in discussion that were so much earlier in discussion I think they had to do with sturgeon, but hopefully they're still relevant.

CHAIRMAN FLAGG: They are.

MR. GOLDSBOROUGH: I want to recognize the efforts of the PDT with a very difficult situation. But having said that, I still note that I do think that this document is far from ready to go out to the public.

I think we're getting hung up on some of the more esoteric aspects of fishery science, frankly, where we don't really need to. We put this complex accumulation of analyses and ideas before the AP yesterday.

I think what we saw was an example of that process really working because what they've done is they've simplified it, and they've put before us something that really might be the approach we need.

I'd like to hear John as chairman of the technical committee's response to what they put on the table and whether that might be a way that we could go.

It avoids a lot of the jargon, not that we don't need some of this in there in a descriptive way but F-20, F-30, Fmax, FMSY, F-trophy. I'm not sure at this stage of the game we really need to settle a debate between which analysis and who's assumptions ought to be used.

What the AP gave us was a threshold that was slightly more conservative than the estimate of what would incur recruitment overfishing. They felt like that was a rational way to go and I would agree.

And then they gave us a range of F options that encompass the range we're seeing here. They gave us a status quo. They gave us an F of 0.25 and they gave us

an F of 0.20. But, more importantly, what they said was can these be presented in a straightforward fashion with descriptions of what they mean for the fishery?

Because that's really where we are right now. We need to make a decision at this table but with a lot of public input on the shape of the fishery at this stage.

And there's an obvious tradeoff between those who would like to catch more fish earlier, at a younger age, and those who would like to have more bigger fish later on, and those are both valid viewpoints.

And if we can put those three target F options with descriptions of what they mean, vis-a-vie those tradeoffs, and maybe even some projections of what the age class distribution at equilibrium would be under each and that kind of information, I think that's what we need at this point. Thanks.

CHAIRMAN FLAGG: Thank you, Bill. I completely agree with you. I think whatever we put out for a document to the public has got to be very clearly articulated, and it has got to be one that the public easily understands what the implications are of the various scenarios that may be selected and what it means to people on the ground. Would you like to comment, John, on the AP's proposed reference points?

MR. CARMICHAEL: Yes, the AP did a great job of really cutting through a lot of complex things and getting right to the bottom of what they wanted which was something simple, nice, round, 0.2, 0.25, 0.3, threshold of 0.4.

They wanted a little more safety in their threshold for their "where do you declare overfishing" than the 0.46 that's in there. And they made it nice and simple with nice round numbers.

Technically we can take those and evaluate them and it might come out that to keep them in a consistent currency for evaluating different size limits, we end up with F-26 percent, F-31 percent and F-18 percent for future analyses, but we have a base starting point that is nice and simple.

And the technical committee can do their job and put the jargon that's necessary on it so that they can do the subsequent analyses for evaluating alternatives, but it

does give a nice, clean starting point.

The technical committee will have to come to some agreement on just which analytical approach is used, but I think now there's enough frustration by people on the technical committee that this issue had got this far with them not having a say in it, that hopefully they'll realize the gravity of it in that when we're given a three-day meeting to get the work done, it will get done.

When we go out of the room, everybody is going to agree and that's going to be the end of it because there is no more time. One of the hopes was to bring it home and some of them are probably going to be upset with me and Bob and Lew and Jack, who has now left, anyway so they can be upset with him for using that process to get that done.

I think everyone now realizes that striped bass is no longer time uncertain. The work has got to get done, and the technical committee has got to buckle down and agree to agree at the end of the meeting and walk out of there saying, "Okay, what was there I can live with and I'm happy with it and I'm not going to complain about it any more."

So I think we can do it and we can work with what the AP gave us. They gave us nice, clear answers, straightforward. They want it simple, nothing too complicated, and we can live with that.

CHAIRMAN FLAGG: Thank you, John.
Anne

MS. LANGE: Thank you, Mr. Chairman. I just wanted to respond very briefly to a couple of comments that Paul made. One, I was not suggesting that we ignore F.

My point was that we shouldn't focus on the fact that the target F during the rebuilding schedule was 0.5 versus the current numbers that are ranging significantly lower than that. The other point was regarding what he called the NMFS report to Congress.

That was a congressionally mandated report that we had a very short time frame with which to respond. It was a joint, NMFS, Fish and Wildlife Service and ASMFC report that Bob Beal was involved with in

completing, as is he with the biennial report which we are in the process of finalizing at this point.

So, again, we are trying to cooperate and work in a partnership and I think we've done that.

CHAIRMAN FLAGG: Dave Borden.

MR. DAVID V.D. BORDEN: Thank you, Mr. Chairman, two points. There have been a lot of good points that have been made today both pro and con on the document, but I remain concerned that what we're doing here is the same thing we've done at a number of previous committee meetings, kind of beating each other up without necessarily figuring out a course of action to resolve this once and for all.

I mean, we have to do this in terms of meeting the objectives that we've been charged with. I guess I would make two suggestions. One here, this is a very inefficient mechanism to try to resolve some of the issues, and I think that what I would suggest is that we would appoint a subcommittee from this board to work with the chairman and the technical committee.

The subcommittee would basically be composed of two representatives who would be selected by the coastal states and two representatives to be selected by the bay jurisdictions with the chairman serving on the same committee. So you would have a five-person committee.

And then if in fact people generally agree with that, then my next suggestion would be that I think that we should look at the document that is before us and basically come up with some very specific charges on points that need to be changed here to flesh some of these items out.

And there have been suggestions around the table that have been made in that vein. If you do that, what we would do is that group would then go off, in my view, work with the staff, work with the technical committee, sort through these different issues and then bring a document back to us that represents the different views.

I mean, right now we're to the point where you've got an hour and a half of time left. We've got to move on. We've got to figure out a strategy to resolve this thing and just having each one of us individually going

around and debate these items individually just isn't going to get it done.

So we have to figure out a strategy to get it done, but that's my suggestion, Mr. Chairman.

CHAIRMAN FLAGG: Thank you, David. I'm not averse to that approach. I'm just wondering if we may be able to solve that problem by giving some very clear direction to the technical committee and PDT, some very specific direction relative to -- yes.

MR. BORDEN: Just to follow up on that, Mr. Chairman. Part of the problem here is that, as we've done on two or three occasions the last couple of commission meetings, you have varying technical interpretations of analytical methodologies that come before the table.

It puts the decisionmakers in the position where, you know, they don't have any clear scientific guidance and somehow we have to cut through that. People were talking about referees and that's kind of the vein in which I suggested this subcommittee.

The subcommittee, I think, should be designed to cut through some of these technical issues; and if nothing else, bring back if you agree with this strategy, technical strategy, then this is where it leads you; if you agree with this analytical methodology, this is where it leads you, so that there are clear positions on both sides of it which I don't think we have now before us.

CHAIRMAN FLAGG: Thank you. Pat Augustine and then Ernie.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. To an extent I agree with Mr. Borden. Unfortunately, we're now going to create another set of referees, which might be five people.

It appears to me that the advisory panel was extremely clear in what they were suggesting was wrong with this document. It's obvious they devoted a considerable amount of time and effort to put forth the options and the objectives of what they thought we should do to this document.

John Carmichael was very clear in what issues had to be addressed with the technical committee. It appears

that he, to a degree, has made a commitment that he would get back with the technical committee and basically they would be forced to make a decision based on now the new options that the advisory panel put forward.

If in fact we go down that road, it will be another example of how effective an advisory panel could be. It sounds like the number of folks that were involved were very intent on addressing this document, which is extremely voluminous, very complicated.

There are some hidden agendas in here that would absolutely boggle the average person's mind. Mr. Cole made a comment, "What if El Nino came along. You could take this whole thing and throw it in the ocean and it would mean nothing."

I guess what I'm saying is this document, I think, has to go back -- again, the PDT did an excellent job with what they had to deal with, but it's got to go back to the technical committee to take care of what they've got to do.

Let them make their decisions. Move it forward to the PDT and rework this in a more simplistic approach. The bottom line is I think to create a referee-type system at this point in time just creates another overview group that at this point in time I don't think really needs to be required.

If the technical committee cannot come to a decision, then I think we're forced to go in that direction and we get rid of the technical committee. Thank you, Mr. Chairman.

CHAIRMAN FLAGG: Thank you, Pat. I have Ernie Beckwith.

MR. BECKWITH: Thank you, Mr. Chairman. I think there are larger issues here at stake. I think the problem that we're wrestling with here on striped bass is a very similar problem with the same kind of concepts and controversy over the different approaches to the concepts.

We're seeing that in lobster. We've seen it in fluke, and my understanding is that we're seeing it in Gulf of Maine cod. You've got two different ways of approaching things. They yield two different answers.

I think that some of us commissioners have to experience some of these arguments firsthand. I think we have to learn what the issues are because I think we have to carry forth this knowledge to some of the other species where we're having similar problems.

We've been working on trying to resolve appropriate reference point issues in fluke for I don't know how many years -- three years? We're talking about lobster the other day. We're looking at four years total time period to come up with resolving some of the issues there.

You know, while I think that having the kind of approach that David recommended is somewhat cumbersome, but I think in the context of the problems we have that span other species, I think it's a good thing to do and I support it.

CHAIRMAN FLAGG: Thank you, Ernie. I have Dennis Abbott.

MR. DENNIS ABBOTT: Thank you, Mr. Chairman. Again an interesting discussion this morning, but one that seems to be taking us nowhere.

I think that it should be the board's job at this point -- correct me if I'm wrong -- to define a quality fishery. Pres Pate hit it on the head earlier this morning when he said we haven't defined a quality fishery.

Do we want an all age fishery or do we want a young age fishery?

I think as a board we should do that this morning. That way we would narrow the focus of the technical committee. I think that the advisory process has worked well.

I think it has told us that they want an all-age fishery. I think that's what they said. So, I don't know if it would be in order or not but I'd like to have Pat Augustine make a motion -- (laughter)

Seriously, I just think if we do nothing else this morning, we should determine what a quality fishery is. Thank you.

CHAIRMAN FLAGG: Thank you, Dennis. I had two people in the audience. Rob, did you have some comments you'd like to make?

MR. ROB O'REILLY: I realize you've heard plenty going around the table, but I can't help, as former chair of the technical committee, to let you know that you were delivered a product about one year ago.

You received exactly what you asked the technical committee for. You received a range of fishing mortality rates. There was a decision made that you would establish for the control rule a 95 biomass level, average biomass, until such time as Mr. Pope recommended that the technical committee could come up with a spawning stock biomass threshold.

The technical committee never received a chance. There have been several comments about the technical process. Each of you have technical members or most of you do and you know they work hard and try the best.

In retrospect, the reference point discussions by the technical committee occurred over a series of about three and a half days. I just heard Mr. Beckwith say that summer flounder has lasted three years.

I do want to support what the technical committee has done in the past and what they will do in the future. The plan development team, I think to some technical committee members, policy decisions were made. The technical committee was not involved.

Whether it's a matter of timing, budget or any other considerations on the part of the ASMFC, that's the reality. You asked the technical committee for a product. It was delivered, and I please hope that you will remember that.

CHAIRMAN FLAGG: Thank you, Rob. Arnold Leo.

MR. ARNOLD LEO: Yes, thanks. It's Arnold Leo. I'm the commercial representative on the advisory panel from New York, and I want to thank Pat for a really well-balanced summary of our proceedings yesterday.

I think it does speak something about the technical committee's work that, you know, we were able, based on the document we were given, to come up with some

solid suggestions. And we've not been known to be all that agreeable among ourselves in the past, so it was something that we did find consensus.

What I want to say to you all this morning is that the striped bass stock was declared fully recovered. Obviously, we have a pretty good management plan in effect. If there's a problem with there not being as many older fish in the standing stock as we might like, I'm not sure we can judge that yet since the stock was declared fully recovered less than seven years ago.

How are we to know that, indeed, we're not going to get 15-year and older fish until 15 years and 20 years has gone by? I don't see the reasoning that says we don't have the older fish. We may well have them with this management regime. We don't know yet.

What I do think is the one completely outstanding, unresolved and outrageous problem with the management regime we've got is the allocations, and that's what we need to address. And to have the document before us recommend 6 percent to the coastal commercial fishery, makes me nearly speechless but, as you can see, I'm not at a loss for words.

What I want to say is, first of all, Gil already really said it when he pointed out these percentages are based on years in which the commercial fishery on the coast was artificially suppressed and the recreational for over ten years had been allowed to grow virtually unlimited, without any effective control on how it the harvest grew during that decade.

So, clearly, you've got to find a different base year and come up with something that's much more equitable. Historically it was always considered that the coastal recreational and coastal commercial fisheries landed about the same amount.

That's what was the standing wisdom. You don't have to tell me that the data wasn't that good, but it's pretty much the data we've got at a time when both fisheries were working without any unfair curtailment on one segment or the other. Thank you.

CHAIRMAN FLAGG: Okay, thank you, Arnold. I'm going to have to -- we've got some other items on the agenda. I'm going to get to Pres right

away here.

I don't know how many people have checked out of the hotel or whether we need to take a break, but I'd like to go to Pres now and hopefully he might be able to get us out of this dilemma.

MR. PATE: Yes, Mr. Chairman, I'm prepared to make a motion that carries forward the idea that Commissioner Borden suggested, and the motion would read as follows:

That we would create a working group appointed by the board chairman and composed as follows: two representatives from coastal states, two representatives from producer states, the chairman of the advisory committee and the chairman of the PDT.

This group will meet with the technical committee to readdress the major points of the draft amendment relative to reference points.

CHAIRMAN FLAGG: A second by Dave Borden. Discussion on the motion. Gordon.

MR. COLVIN: I think this is a very supportable approach and we certainly need a process. The question I have is that the focus of the motion and the focus of the charge to the group is to try to resolve the issues relative to reference points.

Frankly, on the basis of this morning's discussion, I think that that's going to be a much easier issue to resolve than the issue of allocation, and I'm wondering whether the intent of the motion to also undertake some kind of a process or what the process might be to further develop the allocation sections of this draft.

MR. PATE: Thank you, Gordon, and I am willing to expand that to capture all of the points that the board feels is necessary to be addressed by this group. I put reference points in there in haste to try to get something before the board for discussion.

MR. COLVIN: Thank you. I would suggest, then, that the charge be expanded to call on this group to work not with the technical committee in this instance, but with the plan development team to further develop the allocation options in the draft.

I would also point out that can only be done on the proviso that there is substantive input to the PDT from the board and the states so that the group has something to work with.

I think, Mr. Chairman, there needs to be some direction given to the board in terms of a time frame for providing that kind of substantive input and response and it probably needs to be a tight one. And I won't suggest anything but whatever you say, we'll make sure it gets done.

CHAIRMAN FLAGG: David.

MR. BORDEN: Yes, thank you, Mr. Chairman. A couple of points that Gordon raised I think are good ones, that -- when I originally suggested the idea, I did it in the broadest possible context, not only what is there, but I view the charge to this group to actually work on this document to make sure that this document is complete the next time it comes back to this board.

The second point is I think that should take place between now and our next meeting so that there -- I totally concur with him that it should be a relatively tight time frame surrounding this.

CHAIRMAN FLAGG: Thank you. So you concur with the addition of those items that Gordon mentioned? Thank you. Yes, Ernie.

MR. BECKWITH: Thank you, Mr. Chairman. I think we need to spend just a minute talking about the product. What do we expect from this process? Do we expect another draft addendum on Amendment 6? Is that what we expect, or do we expect a report on the issues and how they were resolved?

CHAIRMAN FLAGG: I'll let Bob respond to that.

MR. BEAL: I guess, putting on my chairman of the PDT hat, the intent is to -- my understanding, anyways, the intent of this group is to get together, work with the tech committee, resolve the reference point issues, resolve or develop some different allocation scenarios and bring a fully fleshed out draft of this document back to the board for the meeting

week in May.

CHAIRMAN FLAGG: Okay, Bruce.

MR. FREEMAN: Thank you, Mr. Chairman. In our discussion or lost in our discussion were comments by Bob Beal that there's a number of issues that he wanted to walk the board through relative to the existing document.

Some of those, I think, are quite important; and if we do have time, we should do that or they will be left to a later date for much more discussion. I think with time remaining it would help give direction or at least take some of the responsibility off this group if we could resolve some of these other issues.

CHAIRMAN FLAGG: Thank you, Bruce. David, you had a comment?

MR. BORDEN: Just in response to Bruce's concern, all this addresses is the process issue. If this motion passes, then you have a charge, you have a process, we have to figure out who's going to do it.

But then I think what we need to do is move on to some of these other issues that Bob has to raise and some of the other commissioners have to raise to have a little bit more discussion so that the subcommittee then has a basis for outlining the different strategies.

CHAIRMAN FLAGG: Thank you. Ritchie.

MR. WHITE: It probably doesn't have to be said, but I just want to make sure that the advisory report is an important part of this committee.

CHAIRMAN FLAGG: John.

MR. JOHN I. NELSON: Call the question, Mr. Chair.

CHAIRMAN FLAGG: Call the question. The question has been called. We'll have thirty seconds to caucus. Okay, you've had a chance to caucus. All those in favor, signify by saying aye; those opposed; abstentions, no abstentions. Okay, the motion carries on a voice vote.

Now what I would like to do is we do have some other

issues and I know that some folks would like to take a few minutes perhaps to check out before noon. I'm seeking some guidance as to whether or not you want to take fifteen minutes to check out, so we can get back quickly to the rest of the business at hand.

I know Tom Fote has had his hand up. Tom, would you like to make a comment? I'm sorry, I'm trying to move things along here and I know you've been patient.

MR. FOTE: Well, I would have liked to have taken a chance to speak before you voted on the motion. You could have gone out to the public. Usually that's usually what you do. You called the question before you allowed the public to comment, which could turn out to be the gang of four.

What I wanted to ask a couple of questions was -- when you talk about producing areas, you're not talking about picking the people just from Chesapeake Bay? You're talking about maybe doing the other three producing areas?

CHAIRMAN FLAGG: That's my understanding.

MR. FOTE: Okay. One of the questions I wanted to -- when Arnold came up -- was talk about before was when we were talking about technical -- and it's just really agreeing with Arnold, again, like I did yesterday.

It was when we talk about not seeing 25-year-old fish and not seeing 20-year-old fish, 1982 we tend to forget was 19 years ago. Those fish are only 19 years old. 1989 is 11 years ago. Those fish are only 11 years old, fifteen pounds. 1994 is the next good real class, they are eight years old.

Now I don't know where we expect to see right now a lot of 25- and 30-year-old fish when we've basically had -- before that when we opened up the fishery, we had a moratorium for a number of years. That's why when we opened the fishery -- the Chesapeake Bay closed down for a number of years -- we saw some big fish.

But, you know, we're looking at years that we haven't seen -- what I'm bringing about, because we're doing different models, I look at the models, the models are

very good. They sometimes don't reflect what's really going on.

When we went to 17 inches in certain states and thought we wouldn't overfish on summer flounder, we found out there was a hell of a lot of 17-inch fish out there as soon as we go over quotas. When we went to 17-1/2 in some states and they found out there was -- and according to the models those fish aren't there.

We really have to wait to see what happens with these fish when we get to a 25-year and 22-year period to see if there's any 22 or 25 year fish out there.

I mean, I'm not saying we shouldn't be conservative. I'm not saying we should go there. But, realistically you're not going to see any 25-year-old fish. Thank you for the time.

CHAIRMAN FLAGG: Thank you, Tom. Okay, at this time I'd like to take a 15-minute break for folks that want to check out. If you could be back here promptly at 25 of 12 because we do have quite a bit of other things on the agenda I'd like to get to. Thank you.

(Whereupon, a short recess was taken.)

CHAIRMAN FLAGG: Okay, please take your seats and we'll get started again. I would like to just mention, with respect to this last motion that was passed, it's my understanding that I would chair that group that will be meeting and unless there are objections from board members, I will plan to do that.

And, Bill Goldsborough, Bill, you had a comment you wanted to make relative to the AP recommendation.

MR. GOLDSBOROUGH: Right, thank you, Mr. Chairman. I apologize, I had to step out and I actually missed the passage of the motion. But, I do concur with that, by the way. But I was unclear, then, exactly where we left the AP recommendations.

I wanted to be sure that there was a charge to the technical committee and to this working group to fully evaluate those proposals and be prepared if it is the wish of the working group to bring them back here at the appropriate time.

CHAIRMAN FLAGG: Are there any objections from any member of the board to having the AP recommendations evaluated by the group? A.C.

MR. CARPENTER: I don't have an objection. As a matter of fact, I have an endorsement of that and I think that the group ought to try to limit itself to the options that the AP gave us, to at least focus on those as the primary part of their study.

CHAIRMAN FLAGG: Okay, is there any objection to having the AP recommendations be the primary focus? Pete.

MR. JENSEN: Well, I don't have an objection, but as I understood it, the AP recommendations were based on some different reference points or there were some reference points added that weren't in what we've already adopted. Am I understanding it?

CHAIRMAN FLAGG: That's correct.

MR. JENSEN: So are we saying now the reference points will be reconsidered?

CHAIRMAN FLAGG: That's my understanding. Ernie.

MR. BECKWITH: Yes, I think this is somewhat of a difficult situation because the AP made comments on a document, and there could be technical changes to the document that could change some of those values.

Perhaps we shouldn't focus on the F-20, F-30 recommendation but the actual range of F values that they would like to see.

CHAIRMAN FLAGG: Is that okay? Okay, I think hopefully we've got that clarified. I did want to spend a few more minutes, perhaps another 20 minutes or so on the document to get some sense from the board relative to the proposals that relate to allocation. If there are any -- Pete.

MR. JENSEN: Well, not on that subject but before we leave this subject, I think the effect of what we're doing here is delaying the schedule, and we have made it widely known that we intend to go out in 2002

in order to have this new amendment effective in 2003.

And even though I don't believe it's necessary to formally change the time table, I think in the spirit of keeping people informed, particularly those people that don't attend the meetings and see what's going on, that in the announcement of the action we've taken, that the staff make it clear that this has the affect of delaying that previously announced schedule.

CHAIRMAN FLAGG: Bob Beal.

MR. BEAL: Thank you, Mr. Chairman. Pete, I don't know if I'm completely understanding what you're saying. Are you saying that we're not going out to public hearing in the next couple months or are you saying that we won't be able to meet our January 1, 2003, deadline?

MR. JENSEN: Right, the announced schedule -- and we've announced it many times -- is that we would have this document finished in order to go to public hearing in early 2002 and have the new amendment affective January 1, 2003.

And I think the affect of what we've done here makes that impossible, and I think the public that doesn't attend these meetings ought to be alerted to that possibility.

MR. BEAL: Well, I think if this group is successful and can bring a document, a fully fleshed out document back to this group in May, we could potentially still keep that schedule.

If that document is approved for public hearing in May and we can have hearings over the summer, we can probably still keep that schedule.

But we can put some general language in there that it will be approved later than we originally had planned and the board will try to get this done in as timely a fashion as possible.

CHAIRMAN FLAGG: John.

MR. NELSON: Noting that the chair of the commission is not here and serving as her proxy, make sure it's done because there is nothing in there for next year for striped bass to be worked on.

I think she mentioned something about fifteen cents, and that's about it. So, the point is I think you still can meet your overall time line if the document is completed in May so we can have a vote on it to go to public hearing.

And it's important that be conveyed to the subcommittee and the technical committee and the PDT. That work has to be done. There is not going to be -- it would be very, very difficult, if not impossible, to sway and find additional funds for this to be carried on for another year. I don't think it's going to happen. And we would also, then, look at making sure that we have adequate time in the May meeting to go over the document in great detail and harry it to death and then vote on it.

CHAIRMAN FLAGG: Thank you, John, I appreciate those comments. And I think the other issue, too, is that if we don't get this done, we will have to do another addendum because I believe the current addendum runs out the end of this year; is that correct, Bob? So, we would have to get into that scenario, which is very problematic. Gordon.

MR. COLVIN: Thank you, Mr. Chairman. With respect to that unfortunate option that you just identified, I just wanted to mention something that occurred to me listening to John Carmichael earlier this morning.

We continue, I think, to suffer as a result of a bad decision we made a couple of years ago, and you all know what I'm referring to. What I heard today is that a significant contributor to the fact that the reference points calculations that we heard about now are smaller than the ones we heard about last April is the difficulties associated with increasing fishing mortality rates on young fish that followed our unfortunate decision to adjust our management program to reduce mortality on age eight-plus fish.

We haven't undone that decision. It still stands. We are still exploiting younger fish at a higher rate than we were before we went down that path. And it's clear to me from what John said this morning that we need to bring that to a stop.

Now we can bring it to a stop with Amendment 6 or we

can bring it to a stop with another addendum. I'd certainly rather do the former, but I just want the board to know now where we'll be coming from if we don't get it done.

CHAIRMAN FLAGG: Thank you, Gordon.
Dave Borden.

MR. BORDEN: Thank you, Mr. Chairman. I'd like to go back to the point that Gil Pope raised earlier about the base periods for the commercial allocations, and all I would ask is that your committee would include a range of options of base periods that would go from the one that was proposed, '96 through 2000, and then basically all the way back to the point where there was, in fact, a very substantial coastal commercial fishery, so we would have the entire range of options represented in the document. Thank you.

CHAIRMAN FLAGG: Thank you, David.
A.C.

MR. CARPENTER: You said you wanted to spend a few minutes talking about the allocations; are you ready for that? I have a question with regard to Option Number 3 on page 36. In reading through this document, I got to Option 2 and then I got to, well, Option 1, Option 2 and Option 3.

Is it my understanding that the Delaware and Hudson contribution under Option 3 here would be coming from their historical commercial -- their historical coastal portion of their landings to be added to this equation? What's the interpretation of this?

CHAIRMAN FLAGG: I'll ask Bob to respond to that.

MR. BEAL: Thank you, Mr. Chairman. A.C., let me start by saying that this option isn't really -- the plan development team hasn't put a lot of time into completely fleshing out this option.

I think the first sentence there is the part that the PDT hasn't really fleshed out yet in that. We developed an allocation scheme between producer areas and coastal areas, and that allocation between the two different general areas in Amendment 5 hasn't really been made yet, and a process to even make that allocation hasn't even been put together by the plan development team.

But once we have our quotas for the coast and for the producer areas, they would be allocated based on this scenario, the 60-15-25 percent scenario, and then those individual states that are listed next to those producer areas would have the responsibility of dividing up that producer area quota among themselves. The responsibility of those groups would be sort of above and beyond the commission process.

CHAIRMAN FLAGG: Eric.

MR. SCHWAAB: Several points I want to make but one relates directly to that. Back in the fall, this was an issue that I specifically raised because of concern that going strictly by these percentages could lead to a situation where if the relative contribution from those producer areas changed over time, we could be in a position where we were overfishing one producer area, underfishing another, and that perhaps we ought to look at relative rates that are specifically tied to production or exploitation rates as an alternative.

I had a couple of other comments that are not exactly related to the allocation. I don't know if it's appropriate to raise them now or not.

CHAIRMAN FLAGG: Sure, why don't you go ahead.

MR. SCHWAAB: A second issue that I raised back in the fall, and I think it's one that perhaps we could get some technical advice on, related to specifically some of the ecosystem concerns, multi-species concerns, if you will, and the need to address specifically some of the prey needs associated with relative stock abundances.

We have some serious questions in Chesapeake Bay being raised even at current stock levels that relate to available prey, some fish health-related outcomes that are at least suspected to be related to some of those questions.

I think that we need to address that more explicitly in this document if for no other reason than to point out that, you know, as we look down the road at stock sizes that we might hope to reach, there are perhaps some carrying capacity implications that could undermine

some of those projections.

CHAIRMAN FLAGG: Thank you. Other comments? Gil Pope.

MR. POPE: Yes, on page 37, Option 5, it's one of your options where it just says, "An allocation scheme between state jurisdictions, regions and user groups would have to be established" under this option. Do we need to do that now or talk about that now in some fashion?

CHAIRMAN FLAGG: If you have some specific thoughts, I think it would be helpful to staff.

MR. POPE: Okay, should it be the staff or should we talk about it or just add it now or add it later?

CHAIRMAN FLAGG: Well, now if you have thoughts on that issue.

MR. POPE: Yes, I did have some thoughts on that issue about whether we should be going about, rather than any more of this producer area and then coastal area and stuff like that, to the two main user groups at this point that we recognize are your recreational and your commercial.

Should we be going more along that line of coming up beforehand with something like recreational, say, over the years has traditionally been about 60 to 62 percent and commercial has been anywhere from 38 to 40 percent back through time as far as what the landings and the catches were?

Now it varied from year to year and it varied, but going along the 60-40 split that way to start and have all the commercial jurisdictions taken out of the 40 and all the recreational jurisdictions out of the 60, so that you start basically with your two user groups in allocation.

And the commercial could use its best three years over the history of time to establish its percentage of its allocation that it gets based on any set of years, whether it be '72 to '79, or you could go back as far as 1929. I have records going back that far.

But I'm just saying we could go along those lines where you could say Rhode Island uses its best three years,

Virginia, all the states that currently have commercial fisheries now could use its best three years of landing to get rid of that effect of where they might have sold them in another state.

And that would become their percentage of the total that they get out of the 40 percent so that, for once, all the commercial jurisdictions are treated the same. All the recreational jurisdictions would be treated basically the same.

And if you wanted to use even a different set of base years for the recreational in that sense or if you wanted to make it just a bag limit and season for everybody so that you achieve that 60 percent or close to it, that would be another way of going about it and adding it to this Option 5.

But those are just some of the things that I've been thinking about, an alternate way of looking at these things. Thank you.

CHAIRMAN FLAGG: Thank you, Gil, for those comments. Paul Diodati.

MR. DIODATI: I don't see the characterization of preferred or non-preferred with these options and I appreciate that. In fact, I think it's important that the board is prepared to embrace all of these options.

I prefer that we do not put those kind of headings, "preferred, non-preferred" on anything in this document. I think it's important that we go out with a plan that we're ready to take public comment on and willing to adopt any of these measures without biasing the process.

I know we have a tendency to put those kind of headings on options prior to hearings, but I prefer that it remain like this and, where possible, remove those kind of characterizations.

CHAIRMAN FLAGG: I think that's a very good point, Paul, thank you. Other comments?

MR. BEAL: Paul, there's a number of places in this document that some of the options theoretically are less controversial are listed as preferred such as the three-year management horizon. Would you want us to

go ahead and pull it off of all those or just the allocation and reference point section?

MR. DIODATI: Actually, I would like anything that we go out to public hearing with where there are options, they should all be options that we think are feasible and we're willing to adopt. So, I would rather see terminology like "preferred" and "non-preferred" dropped from all aspects of the plan.

CHAIRMAN FLAGG: Pres.

MR. PATE: Thank you, Lew, a question that Bob should be able to help me with. On page 30 we began listing a set of options that will expand the planning horizon for this amendment.

Those are necessary to satisfy a lot of concerns that are being voiced over time about the amount of time that we spend dealing with this plan and the amount of effort that the staff puts into evaluating the compliance with the reference points.

Option 1 establishes a three-year planning horizon but the four triggers that are enumerated under that still require an annual evaluation of the status of the stock, which further implies that there would be discussion and evaluation of that analysis on an annual basis with the potential and the probability that there would be adjustments made in management measures as a result.

My question is was there some discussion on this by the PDT and is that option really going to get us where we want to go with less frequent visitation of this amendment?

MR. BEAL: Yes, the PDT talked about these triggers quite a bit, and the feeling was that we probably can't, or we're not in a situation where we can just basically ignore -- you know, let things run their course for three years and really not even evaluate it, turn the crank on our stock assessment, whatever you want to call it.

We probably need to do some very basic level review of what's going on with it, at least the landings and the survey indices, on an annual basis. And we have our VPA model set up right now, or the tech committee does, where they can, actually, relatively quickly, dump in the new data and get an answer in any given year.

So, in that respect an annual review isn't too complex. Once we get an estimate out of the model that says, okay, we're slightly above our target, for example, but we're considerably below our threshold, our biomass is still in good shape, the assumption is the board would have a quick presentation on that and then most likely would say, we're still in pretty good shape and we'll look again next year and see where we are.

But I think the way these triggers are worded, that we can go over our target a little bit for a couple of years for exploitation and the board is still not bound to do anything. But if we ever get to the point where we're over our threshold, that's when the board needs to react.

So I think there's a lot of -- there's enough safety built into these triggers that if anything very bad happened to the stock, the board has to react to it, but on the other hand there's enough room in here for board interpretation of what's going on with the stock assessment to keep things stable for a few years if nothing drastic changes.

CHAIRMAN FLAGG: Gil Pope.

MR. POPE: Yes, thank you very much. That was one of my concerns that I've had all along is that, especially if you have a three-year horizon and you plan it out and you say, well, where we're going to be able to take this much quota for three years, when in effect, the stock is, say, it's dropping or something like that, we should be dropping along with that and not just saying, well, we have to stay at that quota for three years because we've adopted this.

That was my main concern from the beginning. I don't mind planning horizons where we plan around budgets and where we plan around having to go over these various regulations, but when it comes to quota and allocation and how much we actually remove every year from the resource, that that not be the intent of this is to have a flat quota for three years no matter what's happening to the stock. Thank you.

CHAIRMAN FLAGG: Bob.

MR. BEAL: Well, I think if the board is going to go in every year and reconsider quotas, size

limits and all the other management measures, you can go ahead and take this section out. The point is to set a plan for three years, stick with it for three years, let the stock assessment catch up to what's going on during that three-year course and then evaluate and set your next three years' regulations if that's the option that's picked in here. But the idea is to keep things constant for three years.

CHAIRMAN FLAGG: Okay, other comments. Eric.

MR. SCHWAAB: Thank you, Mr. Chairman. Just one more and I think it relates also to several of these allocation scenarios. It makes, frankly, some of these three-year planning horizons somewhat difficult, but I think we need to recognize the movement of these strong and in some cases dominant age classes through the various geographic areas over time.

And if you're going to manage between coastal and producer areas and then we have to take into account the fact that in fact there might be periods when predominance of the fish are in one place or in another -- I think we're already seeing that as these '93 and '96 year classes are just now moving out onto the coast.

In fact, I think we're seeing an allocation shift that will probably take place naturally until this 2001 year class develops in the producer areas. I think that somehow in the context of several of these allocation scenarios we have to take that into account.

CHAIRMAN FLAGG: Thank you, Eric. Pat Augustine, you've got the last word on this and we're going to move on to other agenda items.

MR. AUGUSTINE: Thank you, Mr. Chair. That having been said about the three-year planning horizon, it sounds as though the commissioners are pretty much in favor of that process, one version or another, so I would recommend we take Option 4 out which really doesn't fit because it talks about a one-year planning cycle.

CHAIRMAN FLAGG: Okay, thank you, Pat. Moving on to other items on the agenda, the next item that we have to deal with is to review and approve proposals for changes to state management programs. I think Bob has some information on that.

-- Review/Approve State Management Proposals --

MR. BEAL: Actually in the packet that was on the CD-rom, there are proposals from the state of Maine, the state of Maryland and the Potomac River Fisheries Commission to make some changes to their state management program.

Actually, right now being passed around is a summary of a conference call of the technical committee regarding these three proposals. I don't know, Lew, if you want each state to introduce what they're proposing to do and then we can present the technical committee remarks.

CHAIRMAN FLAGG: I'll be happy to do that. Just to give you a little background on the Maine proposal, last winter we received a 600-signature petition from a group of recreational anglers and charter party boat operators to consider changing our current restriction on the estuary of the Kennebec and Androscoggin Rivers.

Right now we have a no-bait provision and a catch-and-release only fishery for striped bass from May 1 to June 30 annually. The petition requested that we consider liberalizing the regulations in effect today that would allow for use of bait during the period May 1 to June 30 in this restricted area, still allowing catch-and-release, and that the bait fishery would be with in-line circle hooks only.

We had a hearing with about 50 people that attended. They were evenly split down the middle. There were good comments made from both sides as to why or why we should not change that particular regulation.

The major issue was the fact that we do have a small spawning population of fish in the lower Kennebec River. There was concern or has been concern on the part of the agency about inducing additional mortality on that resident stock of fish, which is far from restored. I'll answer any questions anybody has. Yes, Gil.

MR. POPE: Yes, thank you. Do you have a mechanism to measure when it is restored up there yet?

CHAIRMAN FLAGG: No, we do not. I guess maybe, Bob, you may want to talk about the

technical committee recommendation at this time if there are no other questions about -- Okay, John, please.

MR. CARMICHAEL: The technical committee talked about that and recognizing that the abundance of this stock is apparently low and it might just be a residual population that's remaining of what might once have been there, the fact that there's not a lot of information known about it and concern that, yes, this would largely be a catch-and-release fishery but it could allow increased effort, it could allow more discard mortality even though the discard mortality might not be all that much in terms of numbers, given the spawning stock abundance is presumed low and the stock is unknown and the stock has not been declared recovered, the technical committee is really against any kind of proposals that could increase the uncertainty and increase the exploitation of their stock and that was their recommendation.

CHAIRMAN FLAGG: Dave Borden.

MR. BORDEN: Would you like a motion, Mr. Chairman?

CHAIRMAN FLAGG: Sure.

MR. BORDEN: Because of the technical comments raised in the technical committee report, I move that we reject the proposal.

CHAIRMAN FLAGG: Okay, we have a motion to -- now, the intent of your motion is to support the technical committee recommendation relative to the state of Maine's proposal, yes?

I know we have in the audience Dave Petchie who attended the hearing, and I think it would like to make a quick comment. John Nelson seconded the motion that Dave Borden made. Yes, Dave Petchie.

MR. DAVE PETCHIE: Thank you, Lew. I just would like everybody to know that this has been pretty contentious with a lot of the people up in Maine, and it has actually been pretty contentious with the guiding industry in Maine as well.

The overall results of what I'd like to see is status quo. We've got a potential for an incredible fishery to take

place up there. and I would just like to see any restraint take place now to keep this thing going.

We're starting to see some six-, seven- and eight-inch fish in the fishery in mid-August up in the Kennebec, and that's an indication to me that this thing is starting to take hold. I would love to see it be able to go further before we relax any regulations. Thank you.

CHAIRMAN FLAGG: Thank you. Bruce.

MR. FREEMAN: Just a comment. In New Jersey we have areas where striped bass spawn in the Delaware and as a result we have prohibited the fishing in that area for striped bass. And what has developed is a fishery for apparently other things, but they catch a lot of striped bass.

So, it's difficult to enforce but, nevertheless, because of this increase in activity, again, even though all the striped bass technically have to be reduced, we've now required the use of circle hooks when using bait for other species.

There are also -- once you allow this, our experience is you now invite illegal fishing; and it's been a problem where once people know there's a quantity of fish, even though they're supposed to be released if caught incidental to other species, there are times when large numbers are taken illegally. So once you start this you're on a downward slope is our experience.

CHAIRMAN FLAGG: Thank you, Bruce.
A.C.

MR. CARPENTER: Lew, did I understand that there is a catch-and-release fishery ongoing right now but you're required to use artificial lures and barbless hooks; is that correct?

CHAIRMAN FLAGG: That's correct. Yes, we do have a fishery. I think the point that was pretty well made at the meeting was there's a lot of interest in using bait in the river earlier in the year.

It was pretty well acknowledged by a lot of the participants at that hearing that they don't fish in the river until the 1st of July because they like to bait fish, and it was pretty well acknowledged that there will probably be a fairly substantial influx of new effort into

that fishery early in the season if we allowed the bait fishery to occur.

MR. CARPENTER: Yes, I just want to let you know that we allow a hook-and-release fishery during what we call the "closed season", but we do require the use of barbless hooks during that period in the river when fishing for striped bass.

CHAIRMAN FLAGG: John Nelson.

MR. NELSON: Call the question, Mr. Chairman.

CHAIRMAN FLAGG: Okay, we've had a request to call the question. We'll see. We'll take ten seconds to caucus? Okay, all those in favor of the motion, please signify by raising your right hand; those opposed, same sign; abstentions, one abstention; null votes. The motion carries.

The next proposal is by Maryland, I believe, and, Eric, would you like to give us a summary.

MR. SCHWAAB: Thank you, Mr. Chairman. What we are proposing are some changes to our Chesapeake Bay striped bass fishery. They are specifically designed to address an in-state allocation issue that has evolved over time relating to our in-state decision to allocate striped bass between the commercial and the recreational fishery.

We've seen an imbalance develop there so we are proposing to expand in several different ways recreational fishing opportunity in the Bay. We're also proposing to do that in a way that will obviously over the long term continue to keep us within not only our share of the Chesapeake Bay allocation but also the target fishing mortality rate on which that is based.

The specific changes that are proposed are expansion of our Susquehanna Flats catch-and-release fishery to a March 15th through May 3rd date instead of the current April 1 to April 30. We are also proposing to start our spring-summer fishery, which includes different minimum sizes and creel limits than our trophy fishery on May 15th.

We've seen catch patterns over time that have indicated that the vast majority of the migratory spawning fish

are out of the Bay at that point, and we've seen a lull develop in recreational opportunity in that late May period.

We are also proposing to extend our summer-fall fishery to December 15th -- we currently have a cutoff date of November 30th -- again, to provide opportunity for recreational anglers to take advantage of what is essentially our Bay allocation.

There is already a fishery at that time of the year that exists lower in the Bay in Virginia and we see many of our fishermen head south to fish on those fish, and we're just proposing to open that opportunity up to Maryland anglers. I'd be happy to address any questions.

CHAIRMAN FLAGG: Thank you, Eric. Questions of Eric? John.

MR. JOHN CONNELL: Eric, I see in your projections you used the year 2000 MRFSS data. Obviously, you started developing this before the 2001 data was complete. If you were to punch in the 2001 data, would your projections be the same as they are for this proposal?

MR. SCHWAAB: I know Phil Jones is here. I wonder, Phil, if you could address that for me.

MR. PHIL JONES: First, we used 2000 data because we didn't have a fishing mortality rate for the 2001 season and we still don't. I think the answer to the question is that we would have -- if we were to use 2001 numbers, we might end up with a longer recreational season than if the estimate were based on the existing numbers. The reason is because stock size has declined some in Chesapeake Bay between 2000 and 2001.

CHAIRMAN FLAGG: Paul Diodati.

MR. DIODATI: A thought to Eric or Phil, whoever, it seems that one of your offset mechanisms here is to transfer quota from your commercial fishery, and it's my recollection that your commercial fishery in recent years has not been able to get their full quota; is that true? I could be wrong but that's what I need to know.

MR. SCHWAAB: Well, in '99 and 2000 we were very close; 2001, the commercial fishery was under quota. Again, I think some of these patterns seem to reflect the movement of these year classes over time, and so that's one of the reasons that we have continued to try to stay focused on the exploitation rate more so than the quota which is more fixed over time.

CHAIRMAN FLAGG: Yes, Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. What size does your trophy fish start at and is it one-a-day, one-a-week, one-a-month or do they have to have a ticket or something to possess one?

MR. SCHWAAB: It's 28 inches, one per day.

CHAIRMAN FLAGG: Gil Pope.

MR. POPE: Yes, thank you very much, two questions. Is this going to move some of the catch from the Bay to the ocean? No, it's going to --

MR. SCHWAAB: Our coastal regulation is completely separate --

MR. POPE: Okay.

MR. SCHWAAB: -- and we're not proposing any change to that at this time.

MR. POPE: And the other one is I know that right now there's a recreational-commercial split of about 51-52 percent for one or the other. I'm not sure what it is. What will the percentage and percentage-wise decrease be in the commercial fishery?

MR. SCHWAAB: Well, our in-state agreement is to split 60 recreational-40 commercial. We've actually in recent years seen that essentially flipped around, which is part of the reason we're making this proposal.

MR. POPE: So it will --

MR. SCHWAAB: So we've had something that has more closely approximated over the last probably three to five years a 60 percent commercial-40 percent recreational. I mean, those aren't exact

numbers, but that's what we're trying to address is sort of getting back to that originally agreed-upon in-state allocation.

MR. POPE: Is it a specific number reduction on the commercial or just going to decide it later or --

MR. SCHWAAB: Well, you have a specific number that's in this proposal that's somewhere in the neighborhood of 600,000 pounds. But, again, that would be something that we would continue to adjust over time, again, to stay with our in-state agreement and within that exploitation rate.

CHAIRMAN FLAGG: Bruce Freeman.

MR. FREEMAN: Thank you, Mr. Chairman. I have a question, Eric, relative to the Susquehanna Flats Fishery. I recall when this proposal was first brought before the board several years ago, Maryland agreed to report to the board so far as the mortality.

I see here that between 1999 and, I guess, 2001, hooking mortality was between 150 and 600 fish annually. Has there been a more thorough report offered to the technical committee on that fishery?

MR. SCHWAAB: I know that we developed a very thorough report the first year. There has been some monitoring since then, and I don't know if Phil can offer any more on that. I'm not sure exactly what has transpired in front of the technical committee in that regard.

CHAIRMAN FLAGG: Vito.

MR. VITO CALOMO: Thank you, Mr. Chairman. Eric, do your recreational people sell their fish?

MR. SCHWAAB: No.

MR. CALOMO: Okay, then I come to question two. How many jobs will be lost by the transfer from the commercial industry? I mean, will there be jobs lost or will your restaurants be filled with the prized striped bass on their menu? Will any of the fish houses go out of business?

MR. SCHWAAB: Well, obviously, one of

the things that we've seen over time is some natural fluctuations in commercial landings, and I think that this proposed change won't fall significantly outside of some of those fluctuations that we've seen over time.

However, our basic responsibility, we believe, is to adhere to that in-state allocation agreement that was reached a number of years ago. And all of the parties recognize the need to adhere to that agreement.

CHAIRMAN FLAGG: Okay, I'd like to go to John Carmichael to --

MR. FREEMAN: Mr. Chairman, I didn't quite get an answer to my question. I wonder if Phil could give some more information on that.

CHAIRMAN FLAGG: Go ahead.

MR. JONES: Bruce, we discussed the Susquehanna Flats Fishery the first year that we proposed to have a catch-and-release fishery. And we reviewed -- I provided a summary of the results of our hooking mortality studies that were conducted on Susquehanna Flats, I believe in 1998 and the monitoring program that was used to estimate the total number of fish harvested.

I don't believe that since that time -- I didn't provide an annual update for the second and third year of that fishery, but I did provide the mortality estimates in our proposal to expand the season.

MR. FREEMAN: Mr. Chairman, if I may, Eric, is this something you do have a report for the other years; it simply hasn't been provided?

MR. SCHWAAB: I believe we could provide additional information.

MR. FREEMAN: That would be very helpful. Many areas are looking at this same issue and there is a reluctance to do it because of our fear that once you start it, it could get out of hand. If mortality as indicated varies between 150 and 600 fish, that's certainly important information.

And as I understand your proposal, you estimate, I guess based on that, that it would be up to 100 fish more with your extended season, so it would range

somewhere between 250 and 700 fish; is that correct?

MR. SCHWAAB: That's right.

CHAIRMAN FLAGG: Okay, I'd like to go to John Carmichael now to give a report from the technical committee's recommendation on the Maryland proposal.

MR. CARMICHAEL: The technical committee had a very brief discussion of this proposal. They read the proposal and established that it was a clear state allocation issue; and if that was Maryland's choice, that was Maryland's choice.

It would have no net impact on the mortality rate. That was their recommendation, that the increase in the recreational should be more than offset by the decrease in the commercial and no net change in the exploitation rate, so there's no problem with it.

In a little bit of a sidebar, they had a nice discussion on the fact that Maryland had done an outstanding job in presenting this, that it was quantitatively analyzed and clearly presented and the technical committee really could evaluate it.

That's perhaps one of the reasons the discussion didn't last very long, because there was information there to make a clear decision.

And, they somewhat, I guess, put others on warning that proposals that aren't clearly analyzed and don't have a quantitative analysis associated with them that show the pros and cons of what's happening in the proposal and what it might do to the stock may get rejected in the future just based on those grounds. So Maryland deserves kudos for doing a good job on getting that done.

CHAIRMAN FLAGG: Thank you, John. Do we have a motion? Yes, Pres Pate.

MR. PATE: Yes, Mr. Chairman, thank you. I'd like to make a motion that the board approve Maryland's request.

CHAIRMAN FLAGG: Motion by Pres Pate, second by A.C. Carpenter. Discussion? Okay, then all those in favor, please signify by raising your right hand; those opposed, same sign; abstentions, three

abstentions. The motion carries.

The next proposal is by I believe PRFC and, A.C., would you like to give us a briefing on the Potomac River proposal.

MR. CARPENTER: Mr. Chairman, our proposal is very similar to the one that you've just dealt with Maryland. In our proposal we propose to shorten our trophy season by two weeks and essentially extend our summer-fall season those same two weeks.

Currently the trophy season runs from the third Saturday in April through the end of May. We're proposing that it would run from the third Saturday in April to May 15th. The summer-fall season which had started June 1st would now start May 16th.

We don't anticipate that this is going to have a major impact on the total fishery. It is a light spring fishery that we do have in the Lower Potomac River. They do fish through the smaller fish in that late May period and this way they would at least take one of the smaller fish home with them.

And our commercial fishery has been below quota. Our recreational and charter fisheries combined have been well below quota historically so we don't anticipate any change in F on this.

CHAIRMAN FLAGG: Any questions of A.C.?

MR. CARPENTER: And I would move acceptance of the proposal.

CHAIRMAN FLAGG: Okay. All right, we have a motion to accept the Potomac River proposal. Is there a second? Second by Pat Augustine. Discussion? Gil Pope.

MR. POPE: Thank you. A.C., the wording here says "to be absorbed by expected commercial harvest underages." Is there a set number on that that you are going to do or is it just expected that it might happen?

MR. CARPENTER: For the last several years our commercial quota has not been filled to the point where last year we actually opened up 40 new

licenses in the commercial fishery to try to go ahead and take our quota.

So, given the number of striped bass tags that were returned in 2001, our quota will not be filled in 2001 either. We haven't analyzed all the data yet, but I just don't see this having a major impact one way or the other.

CHAIRMAN FLAGG: John, could you give us the report of the TC evaluation of this proposal.

MR. CARMICHAEL: The technical committee evaluated this and had a considerable discussion over the relationship between harvest underages not just in the PRFC but in the whole Chesapeake Bay, and the direct enumeration estimates of F, which Eric alluded to that they're focusing on the exploitation rate because in spite of continued underages on the overall Bay quota, the exploitation rates have come out about target.

So the technical committee has some concern that there could be an increase in the total exploitation rate because there is no direct reduction in some portion of the harvest to account for any potential overages.

So while technically the overall quota may not be exceeded, the target exploitation rate could be exceeded. Then the technical committee considered the magnitude of the Potomac River fisheries and decided they're pretty small, especially compared to other Chesapeake Bay fisheries, and decided that probably any change in exploitation would likely be insignificant, too difficult to measure.

And they also decided, well, strictly the proposal does appear consistent with Addendum 5 so they recommended it to be approved based on those grounds with their concerns that if other Bay jurisdictions and fisheries were allowed to harvest their full allocation as indicated by the model that established those Bay quotas and the exploitation rate started to get above target, there could be some problems that needed to be addressed. But, technically it's within the grounds of Addendum 5.

CHAIRMAN FLAGG: Any further comments from the board? Bruce.

MR. FREEMAN: A.C., in the event that this increase were to fill or exceed the quota, how would the commission handle that excess?

MR. CARPENTER: Well, within the Bay-wide management plan that we have in place right now in the agreement, any one of the three of us that causes the quota to go over would be pay-back the final year. That's within our internal Bay-wide agreement.

MR. FREEMAN: And if that occurred, who would you get the pay-back from? If that hasn't been determined that you would have to make -- you'd make the pay-back but you'd have to determine where it's going to come from?

MR. CARPENTER: That would be a decision that our board would have to ultimately wrestle with. I'll leave it up to the people that think about those decisions.

CHAIRMAN FLAGG: Okay, moving right along, we have a motion before us to approve the PRFC proposal. The technical committee has determined that the proposal is in accord with Addendum V of Amendment 5.

All those in favor, signify by raising your right hand; those opposed, same sign; abstentions, three abstentions. The motion carries.

-- Election of Vice-Chair --

That concludes that part of the agenda and now we're going to move on to election of vice-chair. I would like to have some nominations. Paul Diodati.

MR. DIODATI: Yes, I would like to nominate Jack Travelstead from Virginia.

CHAIRMAN FLAGG: Okay, we have a nomination of Jack Travelstead. Are there other nominations? None others? Then seeing no other nominations, I declare that Jack is our new vice-chair. Thank you very much, Jack.

-- Other Business; Adjourn --

There are just two other brief items, hopefully -- well, no, maybe not so brief items that I have listed on the

agenda. One of them has to do with the National Marine Fisheries Service response to the EEZ moratorium request that we submitted.

And I think hopefully everybody received a copy of the letter. Paul, would you like to make a comment?

MR. DIODATI: Yes, having just seen this this morning, I guess I'm disappointed at the lateness of the response because we requested this many, many months ago.

I haven't had an opportunity to take a look at it, but I'm also disappointed with looking at the numbered issues in the back of the document, that there's a ton of inconsistencies here in terms of I think I would need some time to really put together some comments on this, but it talks about things like National Standards where, clearly, National Standards are not upheld in all the fisheries that we deal with.

It talks about not being able to enforce minimum sizes or bag limits in the EEZ, while clearly we seem to do that all the time with fisheries like weakfish and bluefish and black sea bass and many others, and we haven't closed those fisheries.

It talks about having some of the most productive fishing grounds in the country off Massachusetts, which are closed and that would be a problem to open them.

Well, I think it's just the opposite, that we should be fishing in productive areas of mixed coastal stocks and not, you know, what's the opposite of that? Should we be fishing in rivers where fish are more subject to discard mortalities?

And on every single issue I could easily rebut this, and so I'm disappointed with the response. I'd like the opportunity to provide a written response for the board.

And I'd like to do that and I'll forward that to you, Mr. Chairman, if you desire.

CHAIRMAN FLAGG: Sure. Anne.

MS. LANGE: Thank you, Mr. Chairman. The main point of our response, actually there were two requests, one from North Carolina to open the EEZ in its entirety and the other from the commission to open the EEZ between three and twelve miles, with

each state having authority to manage the fishery within those waters based on state regulations.

The concern that we have is that we don't really have the authority to give EEZ responsibility to the states. Another issue associated with that is where do you draw the lines between, for instance, Massachusetts and Rhode Island beyond the three-mile state lines?

There's a lot of things that would impact the Magnuson Act that weren't really clearly addressed on how those types of things would be done in the request from the commission.

Regarding the North Carolina request to open the EEZ in its entirety, there were no substitute regulations. Just opening it at this point without having some specific regulations in effect, for instance, size limits or seasons or gear restrictions or that type of thing, really would also be inappropriate.

Right now we're wrestling with Amendment 6 with some concerns about the stock. We're not really sure what exactly the situation should be in general. And to open the EEZ without having any specific evaluation of the impact on that to the overall status of the stock I think is inappropriate right now.

What we have recommended and is included in the cover letter with the policy and legal analysis is a suggestion that this issue be discussed and included in Amendment 6.

Again, not to prolong the development of Amendment 6, but if the board feels that it's appropriate for the EEZ to be opened, then the types of measures that are appropriate to maintain conservation and management of the stock within the EEZ should be included in Amendment 6.

And I think we're requesting that if this is the wish of the board or of the commission, that it be addressed with some recommendations for exactly what types of management would be appropriate, whether, again, it be size limits or seasons, whatever. I guess that's where we're at. Any other questions?

CHAIRMAN FLAGG: Okay, thank you, Anne. I'd like to move along if we could. I appreciate the response and I appreciate the concerns that have

been expressed by some of the states here that I know are impacted negatively by the current situation.

At this time I'd like to have Bob Beal just briefly outline the issue relative to the Virginia Ocean Fishery and perhaps Jack could elaborate a little further on that when Bob finishes his presentation.

MR. BEAL: I guess just as a background of how this even ended up on the agenda, at the commission we've gotten a number of phone calls and a number of concerns, e-mails and all sorts of communications over the last, I don't know, month to two months about a real or perceived situation that's going on in Virginia.

Virginia currently manages its commercial catch through a tag allocation system. And there is a, as I said, perceived or real impression that some of the commercial fishermen in Virginia are taking tags that were intended to be used to land fish within the Chesapeake Bay; they're going out into coastal fisheries and landing a lot larger fish than they would have if they stayed in the Chesapeake Bay Fishery.

So, this item was put on the agenda just to give Jack an opportunity to let us know what's going on in Virginia and see what we can do to help.

MR. TRAVELSTEAD: Thank you. Shortly after we reopened the fishery in 1990, Virginia decided to manage its commercial fishery with an individual fisherman quota. A few years after that we allowed transfers of quota between those fishermen, so we now have the fishery being managed by an ITQ.

It's a little bit different from the traditional ITQ in that fishermen are not provided with individual poundage quotas. Rather, the quota is a quota of tags.

We take our 1.7 million pound quota. We divide that quota by the average size of the fish that are harvested the previous year, and that provides us a number of tags that are then distributed to the fishermen based on the percentage of the quota that they were assigned initially under the ITQ.

As a result of that system, it is common sense that fishermen will then want to harvest the largest possible fish to put onto that tag. So if a fisherman under the

ITQ is given, say, 200 tags, he may decide to fish in one of the rivers and catch five-pound fish on average, and with his 200 tags end up with 1,000 pounds of fish that are worth \$2,000.

He might decide to pick up his operation and move to an area where he can catch larger fish, say, 20- or 30-pound fish, and with those 200 tags catch 6,000 pounds of striped bass worth \$12,000. So it's common sense that that's what fishermen are going to tend to do under our system.

And in fact that is what has happened gradually over the last four years to the point now that most fishermen have moved their fishing operations to the mouth of the Bay or to the coastal areas off Virginia Beach, for instance, in the fall of the year where larger fish tend to be found and are more easily caught.

So most of those tags are now being used to harvest larger fish. The average size of the fish harvested commercially in Virginia as a result has increased substantially. Over the last four years, I think it has probably gone from a 5- to 6-pound fish to last year it was an 11.8-pound fish.

About half of our 1.7 million pound quota is now being taken in the territorial waters, not in Chesapeake Bay. The question is, is any of this a compliance issue? We don't think so. Back in 1995 -- and before that -- Virginia was assigned two commercial quotas; one for the Bay, one for the ocean.

The one for the Bay was very large. The one for the ocean was very small. It was difficult to monitor both or to have to bother to monitor both, and in '95 we requested that the Striped Bass Management Board assign Virginia a single quota without respect to area.

That was approved by the management board. So, all the tables that you will see showing what the quota is for Virginia will indicate a single quota. It's not an ocean quota. It's not a Bay quota. But, nevertheless, the trend has been over the last four or five years that the harvest occur more in the ocean than in the Bay, and it tends to target a larger fish.

The in-state issue that resulted in this issue coming to light is that as a result of that average size of fish increasing, the number of tags that are distributed to the

fishermen, then, decreases every year to avoid going over the quota.

And, in fact, last year we monitored the quota very closely because we were then aware of the problem. We knew that the average size was increasing, and as a result we closed our commercial fishery on December 12th, last December, to ensure that the quotas were not exceeded, and they were not.

There is an equity issue, however, that continues to concern a number of fishermen, and that is there are a number of fishermen, for instance, in the pound net fishery that cannot pick up their gear and move to the ocean to take advantage of catching bigger fish.

And so you may have many, many cases where fishermen are assigned the same number of tags, but are catching significantly different percentages of the quota. A pound net fisherman, for instance, up in the northern neck that has 200 tags is probably going to catch 5-pound fish and end up taking 1,000 pounds out of the quota.

A gillnet fisherman, on the other hand, with the same number of tags can pick up his operation, move off Virginia Beach, and catch 15-, 20-, 25-pound fish for each one of those tags and ends up with 6-7,000 pounds out of the quota.

And, obviously, that has raised a fair amount of concern from those fishermen who cannot pick up their operations and move. As a result of all those discussions, the Marine Resources Commission in Virginia has advertised four proposed regulations to address this problem.

The first was a multiple-tagging requirement that would require fishermen to use two tags per fish of a certain size and three tags per fish for yet larger fish. This would serve as an economic dis-incentive to target the larger fish.

As a result, it would dissuade fishermen from migrating to the ocean to catch those larger fish and would prevent Virginia from going over its quota and solve these inequity situations.

One of the other options that we are looking at is reinstating the 98,000 pound quota for the ocean so

that we would go back to a system of two quotas: one for the ocean and one for the Bay.

The third option was to close the fishery south of the mouth of the Bay in the ocean, just a total closure of the fishery in that area where a lot of these fish are being targeted.

A fourth option was imposition of a seven-inch minimum mesh size in the striped bass gill netfishery to prevent those large fish from being taken, to some degree -- a seven-inch maximum gillnet mesh size.

The commission has had a couple of public hearings on these issues. They have been reluctant to adopt any one of these options. Part of their concern is whether or not ASMFC has any concern with the issue.

And if my commission moves out front with the adoption of a regulation, would that put themselves in a position of later being told by this management board that the solution was inadequate and yet other regulations might be mandated by the board.

Now the other concern was might some aspect of this be viewed as a position of non-compliance and, again, be dictated certain measures by the board that might come after the commission had chosen one of these options.

So, this issue is going back to my commission next Tuesday and they have asked me to bring it to your attention and bring back any advice that you might have for the Virginia Commission. If you have no interest in the issue, then that certainly would be reported and the commission will then act.

At this point I do not have a feel for which one of the options the commission will support, although a special task force made up of industry members has supported an option that looks similar to the multiple-tagging requirement.

CHAIRMAN FLAGG: Thank you, Jack. Gordon.

MR. COLVIN: I can understand the management situation that Virginia is in. The process that Jack outlined for the allocation of tags and the management of their quota in Virginia is precisely how

it is managed in New York with the exception that we eliminated the transferability of tags a couple of years after we started the program and largely because the fishermen themselves asked that we do so because of concerns they had about how it was working.

And in our case our size limit is actually a slot limit between 24 and 36 inches and the slot is helpful in terms of limiting the hydrating opportunities and minimizes the problems associated with the creeping growth upward of the average size of the fish.

In one year New York did exceed its quota, paid the penalty for that the following year and since then we've actually been under our quota every year. The system has worked well. Maybe that's another option that VMRC might want to consider as something that limits hydrating at the top end, Jack.

Let me say, though, that I'm very concerned about what I'm hearing. I'm concerned because it causes me to believe that the board ought to reevaluate the decision it made to allow the merger of the two quotas some years back.

A large quantity of fish harvested in the ocean are doubtless mixed stock fish, and I believe that the bulk of Virginia's quota is derived from the Bay quota, which is presumed to be of Chesapeake stock origin, and that's not what's happening in terms of this harvest, at least as I heard it described this morning.

I would hope that the VMRC would do one of two things: either reinstate the separation and assure that the quota as attributed to Chesapeake Bay producer area status is harvested from Chesapeake Bay stock only and not coastal migratory stock; or, and I'll put my tongue just a little bit into my cheek now, New York and some other states would probably welcome Virginia among a partnership to eliminate separation of producer and coastal areas and manage this as a unit stock throughout its range.

CHAIRMAN FLAGG: We are getting short on time and I'd like to concentrate on the board members to provide some input back to Virginia on this issue. Gil Pope.

MR. POPE: Thank you very much. One of the things that came to mind was you may want to

figure out about what a 20-inch fish is and maybe when you do your tags, so many tags per pound, like a tag for every three pounds, four pounds or whatever is one tag.

MR. TRAVELSTEAD: We have, in fact, done that analysis and that option specifically lays out the size of fish that would be required to have two tags or three tags.

MR. POPE: The other thing that troubles me is way back when, we're kind of on two tracks. We are at a particular size level in Rhode Island because we have availability of 28 and above fish and it used to be 34 and above fish.

But, with Delta ESB being used and tagging studies and so on in Virginia, Maryland, and so on, equilibrium, non-equilibrium, you actually had a situation where if you went from 20 inches down to 18, you could avail yourself of more quota.

It went from 1.9 to 2.2 million or something like that. I've forgotten what year that happened. But, I said, "How come that's happening?" It's because there are so many more small fish in there that they can avail themselves of so they can actually take more quota.

So, in using those same 2.2 million or whatever it is in Virginia, by using those same numbers and doing on larger fish, it seems like you shouldn't have that size of a quota if you are going to now harvest the larger fish.

The quota itself should actually be smaller because you're no longer in that equilibrium-non-equilibrium situation where you're availing yourself of the bigger stock size that's available.

That's how it was explained to me by Mark Gibson many, many years ago because I was wondering how come they get to go up on their quotas each year and so on and so on. He said because they have so many small fish there and they're able to do their tagging studies and so on, they can avail themselves of those fish.

And I said, "Okay, that's fine." I don't like it but if they show you and it's acceptable to the technical committee, then that's fine.

But now it just seems like once you have raised your

quota because you have availability of small fish, you shouldn't also be able to go after the larger fish as well, which would tend to make your quota go lower, I would think. That's just from my point of view. Thank you.

CHAIRMAN FLAGG: Thank you, Gil. Bruce Freeman.

MR. FREEMAN: The issue I have concern about is the fact that we allocated quota based upon the mixed stock and we allocated additional quota for the Bay based upon Bay stock. Now they're being mixed.

I do have severe concerns and at very least I think the direction of the board should be to offer a suggestion. The board would prefer to see those fish segregated as we originally had allocated that catch, and then let Virginia determine how best to do that. There's various ways it could be done.

CHAIRMAN FLAGG: Ernie.

MR. ERNIE BOWDEN: I want you to understand one thing. These fish are the same fish, the ones in the Bay, the ones in the ocean. This is occurring within sight of the Bay. It's not a problem on the eastern shore, for example.

This is mainly a problem right at the mouth of the Bay. And for a number of reasons, they're fishing right outside of the Bay. I was the one who brought this action up on the multiple tagging in the state of Virginia causing inequity problems.

You know, we discussed that. Anything I think the state would do now is going to be challenged in court because we already have a season that's ongoing.

Some people have used their tags on a one-fish per tag business; other people will have to use theirs and use two and three per fish, so it's going to be inequitable anything they do now. And it is going to be challenged, I can guarantee that.

You're not working on different fish. Gil has in his mind that it's a small fish and a big fish. No. What's happened is people have migrated and catching bigger fish in lieu of a lot smaller fish.

We're talking insignificant numbers; 40 to 50,000 fish. I remember one year Massachusetts had a hook-and-release mortality of 575,000 fish. So we're talking about retaining 40 to 50,000 fish, which is a small number.

You know, in a lot of cases it's two miles. Do you think that two miles' difference between the mouth of the Bay and two miles below it segregates the stock? And if you do, I'll just have nothing else to say about that because there will be no reasoning with you.

CHAIRMAN FLAGG: I have A.C. Carpenter.

MR. CARPENTER: Jack, I view your problem as a little different than maybe whether it's an allocation issue, but we have to submit a proposal to change a season date by two weeks.

Won't anything Virginia does in the way of changing any of its regulations to address the problem be an issue of non-compliance? And I guess I'm asking the chairman or the technical committee or the staff or somebody here.

CHAIRMAN FLAGG: I'll refer that to Bob for response.

MR. BEAL: Yes, A.C., what you said is technically true, the way the plan is written all changes to management programs are supposed to be brought before the board before approval, prior to implementation. But I think Virginia is looking for some direction on what to even bring forward to the board or go ahead and do and, you know, take that chance.

CHAIRMAN FLAGG: Gordon.

MR. COLVIN: I understand Ernie's comments. I appreciate the dilemma the state is in and the fishermen are in. You've got to appreciate how the rest of us look at this. "Only 40 or 50,000 fish", well, at 20 pounds each, that's a million pounds and that's double our quota in New York state, point one.

No, they're not the same fish, I'm sorry, inside and outside. And if they are, then that's a problem in of itself. You can't convince me without more

information than I have that the fish in the ocean and possibly in the Lower Bay as well are not potentially mixed stock fish.

If you're fishing in the ocean, you have the potential to be catching Hudson and Delaware fish as well as Chesapeake. But the point is that regardless of where they're from, these are large adult fish. They're reproductively mature.

They're migratory fish. They're components of the coastal migratory population. It has been my perception, right or wrong, all along that the Bay quota is derived on a set of assumptions with respect to the proportion of the fish at age that migrate within the configuration of the fishery.

I believe that what's happening here is an evolution of the fishery that's outside the sideboards of that modeling exercise, so that all of a sudden 40 or 50,000 animals that are probably presumed not to be within that harvest quota, within the biomass taken from that harvest quota or at least a lot of them, are being harvested that are essentially migratory fish.

And I believe that that's not consistent with the underlying assumptions of what we've approved in the past. Now, I may be wrong and this is difficult to address in the time frame and with the information we have before us, but I don't think we can let it go today.

I think it needs to be followed up on, Mr. Chairman, by the technical committee and the plan review team. Frankly, I don't think I am wrong based on what I've heard, and it's going to take a lot of convincing to turn me around in terms of my evaluation of this problem.

I don't know that there's a compliance issue today, but I think this board needs to make it one if the situation is not addressed in the future.

CHAIRMAN FLAGG: Thank you, Gordon. I think you've raised some good points and some good suggestions; and to try to wrap this up, what I'm going to suggest we do is refer this issue to the technical committee and to the PRT for their review and come back to the board in May with a recommendation on how Virginia might deal with this issue. A.C.

MR. CARPENTER: I think you need to refer

it to the White Paper Committee working on compliance because Jack is in a Catch-22 position. If he fixes the thing, he's out of compliance; if he doesn't fix the thing, he's out of compliance.

CHAIRMAN FLAGG: Jack.

MR. TRAVELSTEAD: And that's the question I want to ask. My commission is meeting on Tuesday of next week and may want to implement something purely on the basis of trying to solve this inequitable situation in the commercial fishery.

Would the board object to Virginia doing that as long as we have the recognition that the technical committee or the PRT may come back with a report that says we need to do something different or more than we've done?

CHAIRMAN FLAGG: Do I hear any objections from the board to that?

MR. CARPENTER: I'd be willing to make a motion to allow the state of Virginia to try to address this problem without worrying about being out of compliance until after they've had a chance to actually try to do something, if necessary.

CHAIRMAN FLAGG: I don't know if we need that in a motion at this time, A.C. I think there's consensus that the board is generally in agreement that Virginia should try to rectify this problem to the best of its ability, and we'll proceed to have also the PRT and the technical committee review the situation to provide some additional direction.

We're really out of time. If it relates to the issue at hand here, I'll just -- be very brief, Pat.

MR. AUGUSTINE: Okay, I will be very brief. The question I have is to Jack Travelstead. Would it be better for you to get more support from the board going back to your commission meeting on Tuesday, or would what A.C. suggested we do be appropriate for you to carry forward what you have to do? And if not, I think we would have to write a letter or something. Jack.

MR. TRAVELSTEAD: A.C. was right when he said I'm in a Catch-22. I mean, it's a difficult