

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

**Atlantic Sands Hotel  
Rehoboth Beach, Delaware  
October 21, 2008**

**Board Approved February 5, 2009**

## **ATTENDANCE**

### **Board Members**

Paul Diodati, MA (AA)	Steve Bowman, VA (AA)
Vito Calomo, MA, proxy for Rep. Verga (LA)	Jack Travelstead, VA, Adm. Proxy
Mark Gibson, RI (AA )	Dr. Louis Daniel, NC (AA)
Dave Simpson, CT (AA)	William Cole, NC (GA)
Fred Frillici, CT, proxy for Dr. L. Stewart (GA)	Mike Johnson, NC, proxy for Rep. Wainwright (LA)
Sen. George Gunther, CT (LA)	John Frampton, SC (AA)
Jim Gilmore, NY (AA)	Malcolm Rhodes, SC (GA)
Pat Augustine, NY (GA), Chair	Robert Boyles, SC (LA)
Brian Culhane, NY, proxy for Sen. Johnson (LA)	Spud Woodward, GA, proxy for S. Shipman (AA)
Tom McCloy, NJ, proxy for D. Chanda (AA)	John Duren, GA (GA)
Erling Berg, NJ (GA)	Bill Sharp, FL, proxy for G. McCrae (AA)
Gilbert Ewing, NJ, proxy for Asm. D. Fisher (LA)	Rep. Mitch Needleman, FL (LA)
Roy Miller, DE, proxy for P. Emory (AA)	Steve Meyers, NOAA Fisheries
Tom O'Connell, MD (AA)	Jaime Geiger, USFWS
Russell Dize, MD, proxy for Sen. Colburn (LA)	A.C. Carpenter, PRFC

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

### **Ex-Officio Members**

Russ Allen, NJ DFW, Technical Committee Chair

### **Staff**

Vince O'Shea	Chris Vonderweidt
Nichola Meserve	Robert Beal

### **Guests**

Public present but not recorded

## **TABLE OF CONTENTS**

<b>CALL TO ORDER .....</b>	<b>1</b>
<b>APPROVAL OF AGENDA.....</b>	<b>1</b>
<b>APPROVAL OF PROCEEDINGS.....</b>	<b>1</b>
<b>PUBLIC COMMENT.....</b>	<b>1</b>
<b>NOMINATION OF BOARD VICE-CHAIR.....</b>	<b>1</b>
<b>STATE COMPLIANCE AND FMP REVIEW.....</b>	<b>1</b>
<b>DISCUSSION OF THE DATA POOR WORKSHOP .....</b>	<b>9</b>
<b>ADJOURN.....</b>	<b>13</b>

## INDEX OF MOTIONS

1. **Motion to approve agenda by Consent** (Page 1).
2. **Motion to approve proceedings of August 19, 2008 by Consent** (Page 1).
3. **Move to nominate Jim Gilmore as Vice-Chair** (Page 1). Motion by Dr. Daniel, second by Mr. Augustine. Motion carries (Page 1).
4. **Move to approve *de minimis* status for Massachusetts, Connecticut, and Georgia** (Page 3). Motion by Mr. Augustine, second by Dr. Geiger. Motion carries (Page 4).
5. **Move to substitute: approve *de minimis* status for Massachusetts, Connecticut, Georgia, Florida, and South Carolina** (Page 2). Motion by Mr. Cole. Motion withdrawn (Page 3).
6. **Move that *de minimis* status be granted to South Carolina** (Page 4). Motion by Mr. Augustine, second by Mr. Cole. Motion carries (Page 5).
7. **Move that *de minimis* status be granted to Florida** (Page 5). Motion by Mr. Augustine, second by Mr. Cole. Motion carries (Page 6).
8. **Move to accept the Plan Review Team's report for weakfish** (Page 9). Motion by Mr. Augustine, second by Mr. Cole. Motion carries (Page 9).
9. **Motion to adjourn by Consent** (Page 13).

## **CALL TO ORDER**

CHAIRMAN ROY MILLER: Ladies and gentlemen, welcome to the Weakfish Board. Our first order of business today is to acknowledge the efforts of our outgoing chair. We neglected the last time in our haste to get away from our meeting to recognize the fine efforts of our outgoing chair. Pat Augustine is a remarkable person, in my view, and I, on behalf of the board, appreciate his efforts since he is in a non-administrative commissioner.

The time that they devote to being our chairs is most welcome by all of us, and we're very grateful for Pat's services. There have been other non-administrative chairs. I can recall quickly Pat White and Brian Culhane and Dr. Gene Kray. I think it's a wonderful service they provide to the commission, so how about a round of applause for Pat and the others. (Applause)

## **APPROVAL OF AGENDA**

CHAIRMAN ROY MILLER: All right, proceeding on with our agenda today, I would entertain additions to the agenda; are there any? Then it's the chair's prerogative to add one under other business, and we're going to bring up the topic of the data poor workshop, so that will be under Item Number 6. Are there any others?

## **APPROVAL OF PROCEEDINGS**

CHAIRMAN ROY MILLER: Seeing none, are there any comments concerning the proceedings from the August 19, 2008, meeting? May I assume they're approved as read? Do I see any objection? No objection, moving on.

## **PUBLIC COMMENT**

CHAIRMAN ROY MILLER: I'm going to go to the public comment period. At this time I would entertain any public comments for items not presently on our agenda. Is there any public comment at this time? We also will entertain public comment later in the agenda if necessary. Seeing none, I'll move on.

## **NOMINATION OF BOARD VICE-CHAIR**

CHAIRMAN ROY MILLER: The next item is Item 4, nomination of a board vice-chair. I'm going to call on Louis Daniel for that nomination.

DR. LOUIS DANIEL: Mr. Chairman, **I'd like to nominate Jim Gilmore** from the great state of New York as the vice-chair for the Weakfish Board.

MR. PATRICK AUGUSTINE: Second, Mr. Chair, and move to close nominations and cast one vote on behalf of Mr. Gilmore.

CHAIRMAN MILLER: Thank you, Jim, you were sort of railroaded into that. Why don't we move on to Item 5, and that is State Compliance and FMP Review, and I'm going to call on Nichola.

## **STATE COMPLIANCE AND FMP REVIEW**

MS. NICHOLA MESERVE: I'm going to provide an overview of the 2008 FMP Review, which includes the state compliance in 2007. The document was provided on your briefing CD.

The management program for 2007 is provided by Amendment 4 and its three addenda. The status of the stock and assessment advice has not changed since last year. The status has been defined as depleted with overfishing not occurring, and this is based on five conclusions from the technical committee. The next assessment is currently underway. We had the data workshop in July. The assessment workshop is going to be next week. There is also the data poor stocks workshop, which we will participate in, in December. The peer review, which is going to be a SAW Peer Review, will be held in June of 2009.

Total landings are shown here in blue, the commercial landings in brown and the recreational landings in purple. As you can see, all the landings have declined over time from about 25 million pounds in the 80s to around 10 million pounds in the 90s, and in 2007 total landings declined to its lowest value in this time series at about 1.5 million pounds. This was a drop of 25 percent from the 2006 landings and a 78 percent drop from the previous ten-year average.

Individually both the commercial and recreational landings are also at their lowest values in 2007; less than 900,000 pounds for the commercial fishery and 600,000 pounds for the recreational fishery. The harvest ratio for 2007 was 61 percent commercial and 39 percent recreational.

State commercial fishery harvest was led by Virginia and North Carolina in 2007 followed by New Jersey

and New York. The dominant commercial gear continues to be gill nets.

In 2007, New Jersey anglers landed about 51 percent of the coast-wide recreational harvest followed by North Carolina anglers and Virginia anglers. Most harvest is occurring from private or rental boats at about 69 percent or from shore about 29 percent of the harvest. The recreational releases are shown here as the solid line; and since about the early 1990's they have largely followed the pattern of the recreational harvest in the numbers of fish, which is shown as a dotted line.

There are several management issues for the board to discuss today. The first is de minimis status. Amendment 4 provides the criteria, which is using the two-year fishery average of total landings. If the state is less than 1 percent of the coast-wide total, it can request de minimis status. That level in 2007, using 2006 and 2007 landings, is about 17,000 pounds.

Five requests were submitted in the compliance reports from Massachusetts, Connecticut, South Carolina, Georgia and Florida. Massachusetts, Connecticut, and Georgia all technically qualify for de minimis status with about one-quarter of 1 percent of the coast-wide total.

South Carolina landings were about 1.6 percent of the coast-wide total. This is the fourth time that South Carolina has been above the 1 percent threshold level and is still requesting de minimis status. The problem in South Carolina, as reported, has been with the MRFSS landings. There is uncertainty. I'll get back to this a little bit later.

In Florida the landings brought the state to about 1.5 percent of the total. This is Florida's first time for being above the 1 percent. The state is still requesting de minimis status. Florida wrote in its compliance report that it was more of an issue of there being a decline in the core region of the harvest rather than a real increase in Florida's landings. There is also some uncertainty regarding the weakfish/sand seatrout hybridization on Florida's Atlantic coast. I'll just note, however, that the landings from Florida that are included in this calculation do use the multiplier that reduces the MRFSS-reported weakfish landings down to what Florida believes is the actual weakfish landings from removing those hybrids.

There are also the Addendum II triggers to review. The first trigger involves the coast commercial landings. If they're increased to above to above 80

percent of the 2000 and 2004 average, this trigger would be met. However, the coastal landings in 2007, the commercial landings were about 900,000 pounds, significantly below the 2.99 million pound trigger.

The second trigger involves the state-specific total landings. If these increase, for any state, 25 percent above the five-year mean, that trigger is met. Florida met that trigger in 2007 with its pounds of 31,000 being a 109 percent increase from its five-year average. The PRT also notes that Florida met this trigger in 2006 with a 43 percent increase from the previous five-year period.

The PRT has previously found all the states have implemented regulations consistent with Amendment 4. Addendum II also required the states to make changes to their regulations, including a 150 pound bycatch limit and reduced creel limit by October 29<sup>th</sup> of 2007. The PRT found that New York's regulations were inconsistent with the bycatch requirement and still had a 300 pound bycatch limit in place. This was as of September 29<sup>th</sup> when the PRT met to finalize this report for the board.

Addendum I to the management plan also provides monitoring requirements. This includes the six lengths per metric ton of commercial landings and three otoliths per metric ton of total landings with 1,000 maximum. The sampling requirements are based on the 2007 landings. There were three states that fell short on either the otolith or length collection, or both. These are Rhode Island, New York and New Jersey.

The states have reported that there are funding issues, personnel issues and also the problem of sampling from the fishery with limited landings, which makes things difficult. This table is included just so I can make one correction that was in the report. Virginia's otolith samples were wrong in the table. There are actually 847 rather than the lower number that was reported.

The PRT has made several recommendations to the board: that it consider the de minimis requests from the five states, noting that South Carolina and Florida do not technically qualify with the 1 percent level; that the board consider the management trigger being met in Florida – again, this was a 109 percent increase in the total landings from the five-year average and the second year for Florida – that the board consider New York's compliance with the regulatory requirement; Rhode Island, New York,

and New Jersey's compliance with the monitoring requirements.

The PRT also had a discussion regarding the sources of otoliths and lengths for Addendum I. This is because the board had previously discussed the use of fishery-independent samples for Addendum I. The PRT read Addendum I again and judges its intent to be that biological samples come from the commercial and recreational fisheries, and thus in principle fishery-independent samples should not count toward the state requirements.

Additionally, the fishery-independent lengths are not technically suitable for describing the length frequency of the fishery's catch. Although fishery-independent otoliths may be obtained that adequately represent the length frequency distribution of dependent samples and are useful in age-length keys, the technical committee does use a mixed source of otoliths for their age-length keys.

So in conclusion the PRT felt that lengths should come only from fishery-dependent sources and that every effort should be made to collect otoliths from fishery-dependent sources, but that with the low abundance of weakfish right now, that they permit otoliths to come from fishery-independent sources. Thank you.

CHAIRMAN MILLER: Thank you, Nichola. Are there any questions for Nichola on her report? Pat Augustine.

MR. AUGUSTINE: Excellent report, Nichola. Relative to South Carolina and Florida, although you say they are not technically – they do not technically qualify, do they have to take some action or not? My second point would be to make a motion to accept de minimis. If you could answer that, I would appreciate it.

MS. MESERVE: The amendment says that any state can request de minimis status. If those two states were to no longer be de minimis, then they would have to implement the requirements in Amendment 4 and Addendum II.

MR. AUGUSTINE: Okay, a follow-up, Mr. Chairman, we say they request de minimis status and we include them in the part of the PRT recommending them, so I'm a little confused because my motion would include the PRT's recommendation to include all those in de minimis. Yes.

MS. MESERVE: Point of clarification; the recommendation here is just that the board consider the de minimis requests. The PRT did not specifically say whether the board is recommended to approve those. That's the board's purview to rule on de minimis requests.

MR. AUGUSTINE: Thank you. So, Mr. Chairman, I would like to clear this so it becomes a little easier for the board to deal with, so with your indulgence **I'd like to make a motion to recommend de minimis status for Massachusetts, Connecticut and Georgia at this time and then deal with South Carolina and Florida separately.**

CHAIRMAN MILLER: Is there a second to the motion; Jaime Geiger. While we're getting the motion up on the board, is there any discussion concerning the motion? Robert.

MR. ROBERT H. BOYLES, JR.: Mr. Chairman, I just wanted to offer again the status of what is going on in South Carolina. We continue to be flummoxed by MRFSS data with a high percent standard errors. I also note for the board's consideration that in doing the calculations of the percentages, the 2007 commercial catch was not considered. I believe that data was not available at the time, so again we're dealing with what I believe is dated information. It continues to be a species with which we have very little encounter in South Carolina.

Recall that I reported last year we have instituted size and bag limits on the recreational fishery. There is no directed commercial in South Carolina. Finally, I would point out that the requirement to sample from a fishery-dependent perspective would be very, very difficult for us to meet.

From a fishery-independent perspective, I think we could meet that through our work with the SEAMAP Program, but because they are so infrequently encountered, it would be very, very difficult for us to get creel samples from fishery-dependent sources. Thank you.

MS. MESERVE: Just a point of clarification; the states submit their preliminary 2007 commercial harvest in their compliance reports so those were included in the calculation of 1 percent.

MR. WILLARD COLE: Mr. Chairman, I'd like to **make a substitute motion and add the other two states to this, South Carolina and Florida.** The level of this stock and the conditions of state budgets right now and everything else that's going on, I don't

think we're going to gain that much from that sampling that's going to help us solve this stock problem. I think it's an unnecessary expense for those two states at this time, so I would like to add the two states, Florida and South Carolina as a substitute motion.

CHAIRMAN MILLER: Is there a second to that motion? A.C. Carpenter. Any discussion on this motion? Pat Augustine.

MR. AUGUSTINE: I agree with you a hundred percent, Bill, but we have procedures, and part of the problem is lumping it together with two states that are said to be out of compliance and gone over the 1 percent, it just seems to me that we're going to set precedent here with this fishery when we have 22 other species of fish to deal with.

My intention was to support de minimis status for each of those separately, but I think the board is owed the opportunity to listen to both of these states individually to say what you've done. In that regard I would not support this motion, but there is no question in my mind for what Mr. Boyles had presented that it would be supportable, but as a separate line item because it's an exception to the procedure.

MR. COLE: If it's all right, then, Mr. Chairman, **I withdraw that motion on the condition that Pat will move forward with his second initiative.**

CHAIRMAN MILLER: All right, since it wasn't seconded, it's withdrawn. Dave Simpson.

MR. DAVID SIMPSON: You know, this raises an issue for me or a point that I think it's important for us to make a distinction between requirements for a state that's not de minimis to implement conservation measures as opposed to distinct from monitoring requirements. I think in terms of approving de minimis status, if a state is willing to accept the conservation actions that are required, that would be my threshold.

I guess I would look at it from the reverse perspective as well. If a state that is in compliance with conservation measures, is a non-de minimis state, somehow falls short on their monitoring obligations under the plan because of the budget constraints that we're all facing, are we going to then close their fishery, deny them access to this fishery? I think that's a pretty tough standard for the monitoring requirements. As important as they are to try to get these things done, I think it's important to keep those

distinctions and really focus on those states getting the conservation measures in place. If they're willing to do that, I think we should approve them for de minimis.

CHAIRMAN MILLER: Thank you, David. Not by way of rebuttal but just for additional food for thought, I do recall, Robert, that your creel limit was set recently by your legislature at a level of ten, was it not, and that the board, at a previous meeting, gave South Carolina some allowance in that regard.

MR. BOYLES: Yes, sir, Mr. Chairman, that's correct.

CHAIRMAN MILLER: All right, the substitute motion was withdrawn and we're back to the original motion. Is there any additional discussion of the motion by members of the board? Seeing none, do we need to caucus? First of all, is there any public comment on the motion? Seeing none, do we need to caucus? All those in favor of the motion raise your right hand; those opposed; null votes; abstentions. **All right, the motion carries.** Mr. Augustine, did you have a second motion?

MR. AUGUSTINE: I do, Mr. Chairman, thank you very much. Based on the explanation that Mr. Boyles gave the board, with the conditions that he has stated that you're doing, **I would move that we give de minimis status to the state of South Carolina.**

CHAIRMAN MILLER: If I may ask a question of the maker of motion, did you intend to offer a separate motion for the state of Florida?

MR. AUGUSTINE: Yes.

CHAIRMAN MILLER: Or did you inadvertently leave them out?

MR. AUGUSTINE: No, I left them out because they haven't told us what – I'll reverse that, Mr. Boyles, for the state of Florida, move for de minimis status based on the description and explanation he gave. I would like to treat this one first and then the other one separate when we hear from the other state.

CHAIRMAN MILLER: Is there a second to Mr. Augustine's motion? Seconded by Bill Cole. Any discussion on the motion? Louis.

DR. DANIEL: I'll support this motion and just would encourage South Carolina to continue collecting the information that they are collecting in SEAMAP. It has been helpful and they have

provided a lot of support for the coast-wide program through that process. I think we do get good information out of South Carolina from a technical perspective, and I don't think this will minimize that at all.

CHAIRMAN MILLER: Thank you, Dr. Daniel. I should point out that as this stock – provided this stock continues to decline, many of our jurisdictions may find themselves in a similar posture. In fact, the state of Delaware recreational landings are probably about a tenth of the MRFSS landings, however valuable they are from South Carolina at this point in time. We all could be faced with this. Back to the motion; I think we're ready for a vote on this motion. Is there any opposition to the motion, one. Are there any null votes; any abstentions? **The motion carries with one vote against it.** All right, Pat, did you have another motion?

MR. AUGUSTINE: Yes, Mr. Chairman, I do. **I would move de minimis status be granted to Florida with whatever information was supplied to the board to support that.**

MR. BILL SHARP: Mr. Chairman, Florida asks for a little latitude with giving –

CHAIRMAN MILLER: Excuse me, Bill, can I ask for a pause. Bill seconded the motion.

MR. SHARP: Florida asked for a little latitude here. This is the first time we have exceeded the de minimis threshold. Similar to South Carolina, we're faced with MRFSS landings with pretty high PSEs as well. But more so, as many of you are aware, we have the hybridization complex we deal with there with sand seatrout. Although it was pointed out in the presentation that we try and standardize for that, that nevertheless really complicates matters when we're dealing with quantifying landings, especially with a species that is pretty infrequently encountered along our coast as is weakfish.

CHAIRMAN MILLER: Thank you. Steve, did you have your hand up?

MR. STEVE MEYERS: Could staff go back to that first figure that was presented, please? Mr. Chairman, I was hoping that maybe staff could give a perspective as to why 1 percent was chosen as de minimis for this fishery, which is an obvious problem.

CHAIRMAN MILLER: I'm looking over to staff; anyone care to take a stab at that? Bob.

MR. ROBERT E. BEAL: It's in the fishery management plan, but the de minimis threshold is established on a species-by-species basis, and this is what the plan development team recommended as a reasonable minimum level. A lot of times they go in and look at the states and sort of bin them and decide these are the states that have significant harvest and they're actually impacting the stock, and then there is a series of others that are at lower levels. I think 1 percent seemed to be a reasonable threshold for this species.

MR. MEYERS: Thank you, Mr. Chairman. Given the information provided on that screen, 1 percent is what the commission has determined in a very troubled fishery here. Granted that there have been issues with MRFSS and issues with other aspects of this fishery, but we are in such a data-poor situation right now that, frankly, we need to be collecting as much information on this fishery as we can.

That is why I did not support South Carolina's request and why I'm not going to support Florida's request on this. We are in a serious situation here. The more data collected the better. The commission has a process. We have established 1 percent as de minimis, and I think we should go forward with that. Thank you, Mr. Chairman.

DR. DANIEL: I guess just a question; the hybridization issue, we deal with a lot of mixed species' assemblages in North Carolina as well. We're all familiar with the flounder issue for us. Has there been work done to show that there are indeed hybrids or is it just a supposition? Then the other point I would make is that you will have the various species of cynoscion down there, and that can be easily confused.

I don't know what the potential problems is of combining those data sometimes, and I feel like the SEAMAP information that we collect from down off of Florida probably is a better gauge of what is going on off of Florida than any sampling you might be able to do. I would like an answer to that question, but I would support this just because we are collecting the information off of Florida through SEAMAP.

I don't think losing that information like South Carolina's is really having that significant of an impact on our assessment results. I guess we don't have the technical committee. Oh, we do, sorry, Russ. I mean, I don't want to speak for you all, but I

don't know how valuable that information is in our stock assessments.

CHAIRMAN MILLER: Before I call on Russ, but Bill did you have a comment to add?

MR. SHARP: Mr. Chairman, to Louis' point, yes, we have done genetic work regarding the composition of the stock down there. That was done by our genetics shop at FWRI by Mike Trengalli, and it clearly shows that we do have a complex of *cynoscion regalis* and *arenarius* and the various hybrids. It's actually kind of complex.

There is a cline in the genetic makeup running along the northeast coast down to the central coast, so it's quite interesting and confounding. It's a confounding effect on our fishery samplers down there. Morphologically they're virtually identical and make the identification sampling on the dock there pretty problematic.

CHAIRMAN MILLER: At this time I call on the technical committee chair, Russ Allen. Russ, has the technical committee taken this matter up.

MR. RUSS ALLEN: Yes, we discussed that a little bit, Louis, as some of our meetings. I think Bill hit most of the points on Trengalli's papers that he wrote. There are a lot of clines on where exactly along the coast those fish are being caught. It might make a big difference on how they're broken up into sand seatrout, weakfish. They are hybrids, there are hybrid hybrids. It keeps right on going.

Florida has done a very good job in breaking those landings down to the best of their ability at this time. And even then, there is that, you know, quotations around it. It is the best there is right now, but it might not be perfect. As far as is their data useful and is it necessary for what we're doing in the assessment; yes, we would love to have as much data as we possibly could.

We're not data poor at this time, but any data that we can get is better than where we are. That said, they're not going to give us a lot of samples based on their landings. As we know from other states that are even non-de minimis, they don't have a lot of samples, such as Rhode Island when it was only required to get 27 samples. That is not going to do a whole heck of a lot in our assessment.

DR. JAIME GEIGER: Mr. Chairman, certainly, I understand the explanation and I accept it from Florida, but I do want reinforce that it raises a larger

issue of monitoring and the quality and quantity of data that we do need to monitor this particular fishery. I do think we probably need to have some kind of a more robust discussion about what we need to do to get that additional information. I certainly look forward to having that discussion. Thank you.

CHAIRMAN MILLER: Thank you, Jaime. Any other comments we take up consideration of the motion? **Seeing none, the motion reads move that de minimis status be granted to Florida.** It was made by Mr. Augustine and seconded by Mr. Cole. Is there any dissention with the motion; any null votes; any abstentions? **The motion carries.**

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Mr. Chairman, this has been a good discussion, and I understand the importance of process. The reality here is about a third of the board's time so far in this meeting has been spent on 1 percent of the total catch. I think maybe from a staff perspective this is an exercise you go through every year. Some have pointed out you have approved it in the past.

I think we as the staff might be able to help you a little bit more from an up-front perspective and bring some of the answers up next year so that you can focus your attention on 99 percent of the stock that you have management questions about. It's just an observation. It seems we have a tendency to pick apart some things that are of interest to us, but at the end of the day we have 99 percent of the stock that also needs the board's attention. We'll try to do that, Mr. Chairman, working with some of the board members that have concerns about the process and the collection requirements and that sort of thing, if that would be helpful.

CHAIRMAN MILLER: Thank you, Vince, I think that's a good suggestion. We do need to move on. Nichola reminds me that the trigger was met Addendum II by the state of Florida, which is now de minimis. Do we need to take any action in that regard; anyone have a suggestion? Seeing none, I take it we don't need to take any further action in that regard. Then there was the issue of the regulatory requirements for bycatch in the state of New York. Jim, do you have anything to share with us in that regard?

MR. JAMES GILMORE: I'm not exactly sure why the change was not made; however, after we were notified from staff, we have essentially put together a regulatory package that was signed off by the DEC Commissioner on October 8<sup>th</sup>, and we're assuming that will go through our Department of State within

the next few weeks, and that will correct that deficiency.

CHAIRMAN MILLER: Thank you, Jim. Is everyone satisfied with that response from New York? Monitoring requirements, Rhode Island, New York and New Jersey; do we need to make any recommendations in that regard? Dr. Daniel.

DR. DANIEL: Well, just to parrot what Russ said, we need this information, particularly in these areas where we can potentially see some of the larger, older fish. I mean, those are the critical areas where we need those samples. I understand the budget concerns and how difficult it is to get out and get those samples. I don't know how to make a recommendation on how to improve it, but I just feel like it needs to be clear how critical especially those northern samples are.

CHAIRMAN MILLER: That's a good point. Jim Gilmore.

MR. GILMORE: Mr. Chairman, there were probably three reasons why this was problematic, and I think we've corrected two of them. The vessel, which is very old, needed a replacement engine, which we've put in and now is operational again. The staffing level for that program right now is up to full staffing, so we've got the bodies there.

Let me put a caveat that we're all facing. If somebody leaves, we can't replace them. But, lastly, the biggest problem that staff has been facing is just the lack of fish. They have been having a great deal of difficulty catching appropriate sized fish, and I don't know how we fix that one. We'll keep our fingers crossed, but at least we've fixed administrative parts of it right now, and we'll hopefully get more fish.

MR. THOMAS McCLOY: I would just reiterate Mr. Gilmore's comments, which are very similar to the ones I have made every year this issue comes up for New Jersey. Unfortunately, we're not as well off administratively as he is. We don't have additional funding; we have less. We have less people based on the early retirement last summer. We, too, are restricted to no replacement.

You have my commitment that we'll continue to collect as many samples as we can. You can see what the numbers showed we needed and what we got this past year, and we'll continue to do that. As I said before, if that's not good enough, well, there is a remedy for that.

CHAIRMAN MILLER: Tom, I don't think any of us relish having to use that remedy. I know you have said that before. I am heartened by the fact that your state was able to take 543 otoliths and came pretty close to your target, nonetheless. Any other comments on this issue by any members of the board or any suggestions? Mark Gibson.

MR. MARK GIBSON: We will continue to try to meet our sampling requirements. We have a very narrow window of time during the season when the larger fish enter into Narragansett Bay and encounter commercial gear. That's one of the problems we had. It's just a very limited point of time when these adult fish are here.

We have juveniles in our trawl survey well into the fall every year. That's not a problem, but these larger ones we'll keep going after them. We have to buy fish from the commercial fishermen; that's not a problem. It's not so much a money problem, and we should be able to meet our sampling target.

The problem I have right now is the fishery technician who did the processing has retired from state service, left state service. We invested considerable expertise in that individual and getting them trained, and I believe they were going to the Delaware Lab and processing samples. What I'd be looking for – since I'm unlikely to be able to replace any people, but if we do obtain the samples, whether they meet the targets or not, that we'd be able to merge those into some other state's aging process. We can at least get them processed because that expertise is now lost at our shop.

DR. DANIEL: We'd be glad to process those and send them back to you with the reads and sectioned otoliths to help out Rhode Island.

CHARIMAN MILLER: Thank you, Louis. Steve.

MR. MEYERS: Mr. Chairman, looking here and sitting here thinking about the commission process, I was wondering perhaps if the technical committee could be tasked, as a suggestion, to take a hard scrub at looking at the data-poor situation for this fishery given, again, the numbers that we saw in Figure 1, and try to have a better framework for collecting this information.

Yes, we have the process with de minimis; yes, we have numbers of otoliths, but there are situations here where obviously we're not getting to where we need to be. I would suggest the technical committee be

tasked to take a look at this and come back to the board with suggestions as to how we can resolve some of these issues. Thank you.

MR. MILLER: Concerning that suggestion, is there any disagreement with that particular suggestion? Russ.

MR. ALLEN: I'm not really sure – I mean, we're going to talk about in a little while how data poor we are in weakfish. Just to give you an idea of the requirement for ages up and down the coast, we're required to get 1,896. In 2007 we collected 1,928 to use in our assessment. I don't consider the age-and-length data that's required through the plan as data poor. We're doing pretty good right now.

New Jersey collected 543 ages in 2007. We were required to collect over 600, but that 543 is the second highest ages of any state on the east coast. Only North Carolina had more ages. The data that we have is plentiful for what we're doing. There are some issues such as the Florida issues and MRFSS data for Florida and South Carolina. We agree that is the data poor part of it as far as MRFSS goes, but I think that's being worked on as we speak.

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, I think that's going to happen automatically through the stock assessment process; that isn't one of the things that we're going to get after you do your data workshop and generate the stock assessment will be a list of suggestions of areas where the data could be improved. This is not going to happen automatically with the assessment?

MR. ALLEN: Yes, that's exactly what we should be getting out of the assessment. We kind of know where there are limitations on the data, but it's not data poor, per se; more so in the south than it is up in the Mid-Atlantic and north, but we're definitely not data poor, and whatever comes out of the assessment should help us get to where we need to be.

MR. MEYERS: Mr. Chairman, for me it's a question of the process here. We have established limits for de minimis. We have established limits for biological sampling. I understand there are issues of getting to those samples, those numbers, but at the same time if we were to take such an approach with another fishery like striped bass, we would be in a very different conversation here today.

If we're getting sufficient samples and the technical committee is satisfied with them, then perhaps the technical committee can recommend to the board

new levels that would reflect the sufficiency of the data. But, again, I go back to that first figure and I see the situation this fishery is in, and I have to question whether or not we're getting all the information that we need to for the management. Thank you.

MR. AUGUSTINE: Not on this, but back to the tables, Table 5 and 6, just one question on the tables.

CHAIRMAN MILLER: Can you give us a better explanation?

MR. AUGUSTINE: Well, the explanation, Table 5, recreational landings; we've been scanning this while we were following that and talking about how many otoliths we need and so on. It's rather interesting to note in 2007 New York had approximately 7,120 fish that they harvested, and yet it shows in 2007 we released something in excess of 200,574 fish. It's like, Holy Smoke!

I know you're extrapolating this information from other places, but it sure makes one wonder if we're not seeing them, that we released over 200,574 fish with a harvest of 7,120. We've had a 16-inch minimum size now for forever. So, again, questioning data, questioning as that relates to number of otoliths we have to have and so on.

It's support that we do supply the samples and otoliths, but it's another thing if they're being driven off numbers such as we have here as to what we should be supplying as samples. If somehow we could look into it later and verify those numbers – they're probably taken off of MRFSS, wherever they come from, but there is an outlandish case of driving our otolith samples and samples off of data that appears to be so farfetched that it's not even reasonable to accept it. Nicola, could we look at that later, maybe?

MS. MESERVE: Those two tables that you're referencing are not on the computer that's projecting to the screen, so I can't put them up right now, but everyone has the document on their CD and they can look at the tables there.

MR. AUGUSTINE: Well, I don't want them reviewed now. It's just after the meeting is over if you could get back to me, I'd appreciate it. Thank you.

CHAIRMAN MILLER: Well, we've heard considerable discussion both from the standpoint of the urgency of complying with the monitoring needs

and the importance of so doing. We've also heard discussion about the realities of sampling in a reduced staff environment and reduced budgets and hiring freezes and everything else.

Does anyone have any specific motions relative to this issue or do we just note these problems and continue? Seeing no hands, I take it that we note these problems and move on to approval or rejection, as the case may be, of the plan review team report. Do I have a motion to accept the plan review team report? The first hand I saw was Pat.

**MR. AUGUSTINE: Mr. Chairman, move to accept the plan review team's report for weakfish.**

**CHAIRMAN MILLER:** Is there a second to that motion? Seconded by Bill Cole. A.C.

**MR. A.C. CARPENTER:** Just note for the record that the CD that was sent out did not include the PRFC's Compliance Report on the CD, but it was filed and I think it was found in compliance.

**CHAIRMAN MILLER:** Any further discussion on the plan review team report? Are we ready for a vote? All those in favor say aye; any nays; any abstentions; any null votes. All right, the **motion stands approved**. All right, the last item I had on my agenda was some discussion of the data poor workshop.

## **DISCUSSION OF THE DATA POOR WORKSHOP**

**CHAIRMAN ROY MILLER:** First of all, I think I'd like to inquire does anyone know exactly what we're talking about in terms of the data poor workshop? First of all, is there anyone who doesn't know what is? All right, seeing no hands, I'm assuming that everyone is up speed on the objectives of the data poor workshop, but I think it's fair to call on the technical committee chair to provide us with some insights with regard to the timing of the task for the technical committee and the stock assessment committee relative to the timing of the data poor workshop. I'm going to call on Russ for comments on that, if I may.

**MR. ALLEN:** You guys are doing better than I am because I'm not really sure what the data poor workshop entails for weakfish. Jeff Brust, the stock assessment subcommittee chair, has been invited to come to this data poor workshop in December and

present what we have for a weakfish stock assessment.

Next week, as Nichola mentioned earlier, we have a data assessment workshop where we're finalizing all the modeling that is going in there, all the inputs, doing all the work that we need to do to get that done. The timing of this data poor workshop is kind of inconvenient for what we're doing.

The term of reference for the data poor workshop and weakfish is to provide guidance and suggest methodologies for the scientists to use in future assessments. Well, we're in the middle of an assessment right now, so it's kind of inconvenient timing for it. I sent an e-mail out last week to the technical committee and the stock assessment subcommittee requesting some input on what they thought our concerns may be for this data poor workshop and how this is going to work.

One of the major ones that came up – and Steve mentioned it before – was weakfish isn't really a data-poor species. It doesn't really fit in to what is going on at this workshop. It was meant more for those species that don't have any data, and you guys know most of them because you work with them.

Somehow weakfish got involved in this process. Weakfish was scheduled to go to the SARC in December. It was pushed back until next June so our whole goal all along has been to have the assessment ready for technical committee review in December. We kind of pushed it back a little bit, but the technical committee is still going to get that report in December, so we can get it finalized early next year.

In the past we have gone to peer review. One time we'll go to the peer review and we'll get one set of recommendations on what we should do for the next assessment. We can do those recommendations for the next assessment and take it to the next peer review. As the last peer review group said, they're not bound by anything that happens prior to that. We may end up taking something to a peer review that someone else wished us to do that really didn't help us in our cause to do the assessment for weakfish. I think that is what may happen with – and what is a concern for many of the stock assessment subcommittee members is we're in the middle of an assessment. This is almost like a peer review for us in the middle of our assessment or at the end of our assessment, and there is a possibility that any recommendations that come out of that data poor workshop won't help us at all when we go to peer review next June. That's a major concern.

Some of the other concerns that we have is it may mean more workload for those people who are really working hard on this. We have Jeff Brust, Des Kahn, Vic Crecco, Jim Uphoff and a few other people working on different modeling aspects that some of the people on this board have seen in the past. We really need to buckle down over the winter and finalize all these modeling aspects that we're working on.

If we have to sit down and rework into the actual assessment some of the recommendations that come out of this data poor workshop it may throw our whole schedule off, and I think that's a major concern that we have. It may not; obviously, they may come back with some excellent examples of what to do and it may help us on some of the modeling aspects we're doing.

But being what has happened in the past and how peer reviews have sometimes put a wrench into how the Weakfish Stock Assessment Subcommittee has worked, it might not be a good idea at this time. Jeff is not really sure what he is going to be presenting at the data poor workshop. Obviously, he has a stock assessment that has been worked and reworked by many members of the committee, but he's not really sure exactly what the data poor workshop review panel is looking for him to put out there.

This adds another layer of workload on to Jeff since he is in the middle of trying to finalize this stock assessment to get it done for the technical committee in December. He has major concerns on how that is all going to happen in such a short turnaround time period. We are not sure as a technical committee and stock assessment subcommittee what to do once we do have recommendations.

I don't believe that the management board for weakfish has been presented much data to help them give us guidance as a technical group and get us on the right path on how to take these recommendations on when we have to turn them around and what we're supposed to do with them, so we're very concerned about how that is going to work.

I don't know what kind of recommendations the board is looking for from this data poor workshop, and I think what we're looking for now, the technical committee and stock assessment subcommittee, is what the board feels about the data poor workshop and we should proceed in this. I will be glad to take any questions that I can. I don't really know enough about the data poor workshop to help you out, but I

can give you kind of our timeline with Nichola on how we're going to be working over the next few months trying to get that document ready for the board and peer review.

CHAIRMAN MILLER: Thank you, Russ. Do any board members wish to comment on any part of the information that Russ presented? Dr. Daniel.

DR. DANIEL: The question that comes to my mind is why and who put weakfish on the data poor workshop list?

CHAIRMAN MILLER: I can't answer that question; can anyone else answer that question? Bob Beal.

MR. BEAL: I guess the brief history of it is, as Russ mentioned, weakfish was originally slated to be on the December SARC this year, and that was the schedule that the technical committee was working toward. The Northeast Regional Coordinating Council, the NRCC, is the group that oversees the scheduling of SARC reviews.

I think weakfish may have been the only species that was set for the December SARC. There are a number of species, scup, black sea bass, skates, and another of others that the Northeast Regional Office and the Woods Hole folks felt could use some additional work. Then this notion of the data poor workshop was initiated at that time to get at some of the questions for those stocks.

Since the data poor workshop was going to occur this December, weakfish was pushed back to the summer of next year, 2009. The NRCC at that time said, "Well, since we are pushing back weakfish, we are going to have a group of reviewers together, so maybe we can review the status of where the weakfish assessment is in December, provide some feedback and then have the formal peer review next summer."

The idea was just to take a look at where things were with the weakfish assessment, sort of an interim check on progress, and provide any recommendations since there were some peer reviewers that would be willing to provide a look at the weakfish assessment and give some feedback.

Depending on what the feedback and recommendations looked like, the technical committee will have to then consider what they're able to incorporate, time permitting with the schedules of the technical folks; and, you know, are

there major shifts in the direction that the weakfish assessment is progressing.

I don't think there is time to completely rework the weakfish assessment between December and June, but there may be some tweaking that can be done if those are the type of recommendations that come out. Obviously, without knowing the recommendations we can't make that decision. That's the brief history of how it ended up in this data poor workshop.

One other thing I should mention is the species that are data poor, scup, black sea bass and others, have a series of terms of reference that deal with the deficiencies of data. Weakfish has a separate term of reference that is different from all the other species, and it recognizes that weakfish is not a data-poor species.

I don't have the wording right in front of me, but it generally says look at the modeling efforts to date and provide feedback for continuation of the assessment. So it is being handled very differently from the stocks that are data poor, and there is a different term of reference for this one stock.

MR. GIBSON: Bob did a good job covering that, but I think the primary limitation in the current assessment is a lack of a reliable coast-wide abundance index for older fish. There is plenty of landings data; there is plenty of catch data, otolith sampling and so forth; a number of young of the year and age indices, but the older fish, what I think is causing the problem in terms of calibrating catch-at-age analysis – I mean, we're hopeful that this NEAMAP trawl may fill that void, but I think that is where the primary data limitation is in terms of assessing the stock, and also the uncertainties about stock structure as well.

MR. AUGUSTINE: Mr. Chairman, just a question; how binding are the recommendations that come out of the data poor workshop?

CHAIRMAN MILLER: I can't answer that; I don't know if staff can address that.

MS. MESERVE: It is my understanding that is the information that the technical committee is looking for from the board today.

EXECUTIVE DIRECTOR O'SHEA: Well, Mr. Chairman, I think one way to look at this is to say we have an ongoing process that we just heard about from Russ Allen, and parallel to that process is an opportunity to get technical input and scientific input

from the data poor workshop. Now that advice or information is either going to be helpful to what we're doing or not helpful, including it may compromise the time schedule of getting the work done or it may not impact it at all.

There are a number of different options here. I think that to just flat-out disengage from the data poor workshop may not be a wise thing to do because part of it was forward-looking into the future improvement that is a different process than the immediate thing of getting the stock assessment done right now.

What I would suggest that the board consider is as that information comes out of the data poor workshop, that the technical committee chair consult with you, the chair of the board, and give you a sense of what the tradeoffs are of the strength of that advice, utility of that advice and the impact on the timeline. Based on that, you can use your good judgment in working with the staff and perhaps consulting with the board to decide further direction to the technical committee.

CHAIRMAN MILLER: Thank you, Vince, that's a reasonable suggestion. Tom McCloy.

MR. McCLOY: Mr. Chairman, if I could direct this question to Bob; is it a safe assumption that the individual reviewers that will be assembled for the data poor workshop will be different from the individual reviewers in the SARC?

MR. BEAL: Yes, that is a safe assumption.

MR. McCLOY: May I follow up, Mr. Chairman? Then I guess I'm back with Pat on this about how binding these recommendations would be on the Weakfish Board and the technical committee; and in the event that they are incorporated into the process and we get to the SARC, and the SARC says, "Oh, yeah, those are nice, but they don't mean anything us"; where does that leave us in June?

CHAIRMAN MILLER: Any additional comments or suggestions? Pat Augustine.

MR. AUGUSTINE: Mr. Chairman, Tom articulated it very clearly. It just seems to me if we stay engaged, which we have to, I guess, with the data poor workshop and we don't like the results at that point in time, we're going to say "thank you very much" and walk away, and there we are.

On the other hand, even though we have different reviewers, as you all recall back in recent years, there have been split decisions as to whether the review was good, adequate or appropriate, and we found ourselves out in limbo. We then reconstituted I think the technical committee or added some new folks to it, and now they've engaged all this research effort and technical assessment that they're moving forward, and I sense the technical committee chair is a little chagrined about how we are moving down this process.

Your comments kind of lead of me to believe that we're approaching a place where we're ready to make hard decisions this coming year, and then have the possibility of a monkey wrench being thrown into it in the middle, and an explanation by Vince or Bob is we'll try to embrace those recommendations.

I just hope however way we go is that we don't get so bogged down again that we have a split decision, if you will, coming from the peer review and the SARC and find ourselves basically where we are right now. It just seems to me if we can advance the terms of reference that our technical committee is pursuing in addressing this assessment to the data poor workshop as quickly as we can and at least make them aware of where we're heading, then they may be able to look at that and take that into consideration and compare their recommendations as to where we're trying to go.

That would be my recommendation. I don't think we can walk away; and, again, if we engage them, we're going to have to engage them, we've got to participate or let them know what we have accomplished since the last assessment and what improvements we've made in our efforts.

MR. ALLEN: Mr. Chairman, a couple of comments. One was the catch-at-age issue that Mark brought up. I believe our catch at age is much better than it was in the past. We have added the New Jersey and New York samples from the last couple of years. We have ages out to 15 years at least.

I don't have the data in front of me, and it has been a while since I've really played around with any of that stuff, but I know that our catch-at-age data is much better than it was in the past and will be much better in this assessment. I would suggest also, from Pat's comments, since we have our data workshop next week there is really nothing we can get to the data poor workshop people in any short term.

There is a lot of work that is going to be done right after that that is more important to our assessment than it is for the data poor workshop. We can discuss that at some length and see what we can come up with. I have one more question, and maybe Bob can answer this, is if anyone knows when the recommendations from the data poor workshop will come out? I mean, they might not even come out until February or March. I don't know what kind of turnaround they have.

MR. BEAL: I don't know the exact timeline. I think the SARC process has been trying to pull together the peer review results in about a month or so. That may be a point of reference if they're able to do that. I'm not really sure.

CHAIRMAN MILLER: Well, we've had a fair amount of discussion on this issue. A.C.

MR. CARPENTER: Mr. Chairman, I think our executive director gave us a pretty clear way to proceed, putting it in the hands of the chairman and the chairman of the technical committee. I would endorse that; and if we need a motion to direct the board to follow the executive director's recommendation, I will so move. If we don't need a vote on it, then that is perfectly all right with me as well.

CHAIRMAN MILLER: My perception is that a vote is not necessary on that. If that is the general consensus of the board to proceed along those lines, we'll do that. I'll look around the room to see if anyone is shaking their head no. Tom McCloy.

MR. McCLOY: Just a comment. That's fine by me; I have all the faith in Russ and Jeff and Roy. However, I'm very concerned about this is just going to delay the process that much further and create that much work for all of our staffs that involved with this for maybe minimal benefit, if any.

I could be wrong, but maybe our sample collection next year will be a little bit less because we have put our effort into this. I had to take that shot, but I do have that concern that the process is going to be disrupted here, the benefits of the information are going to be minimal, and next year hopefully at this time we're not sitting here talking about going to SARC in June of 2010.

CHAIRMAN MILLER: So noted, Tom, thank you. We're running behind, but there is a hand in the back. Des Kahn, is it urgent, Des, because we're running a little late.

DR. DESMOND KAHN: Mr. Chairman, I just wanted to inquire as to the process that a decision like this goes through before it's made. The technical committee had no inkling or information or any input into this decision. I don't believe the management board did either. I think for us, as Russ said, it's another peer review stuck in the middle preparing for a different peer review. I think that it would be desirable, before something like this is decided, to get some input from the technical committee, the management board, et cetera. I wonder what the process is normally. Thank you.

CHAIRMAN MILLER: Thank you, Des. I think it was my take on the general consensus of the board that they have a process in mind. Specifically, I'll attempt to reiterate that, if I may, briefly; that the chairman of the technical committee will get together with the chairman of the Weakfish Board and the chairman of the stock assessment subcommittee to review the recommendations that come out of the data poor workshop, and then provide advice to the technical committee. Is that everyone's perception of what we agreed to do? Seeing heads nod, I think we'll think we proceed accordingly.

### **ADJOURN**

All right, is there any other business to come before the board today before we adjourn? Seeing none, we're adjourned. Thank you.