

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

**November 2, 2005  
Galloway, New Jersey**

## ATTENDANCE

### Board Members

David Pierce, Massachusetts DMF	Bruno Vasta, Maryland Gov. Apte.
Bill Alder, Massachusetts Gov. Apte.	A.C. Carpenter, PRFC
Mark Gibson, Rhode Island DEM	Jack Travelstead, Virginia MRC
Gil Pope, proxy for Rep. Naughton (RI)	Ernest Bowden, proxy for Ms. Davenport (VA)
Eric Smith, Connecticut DMR	Kelly Place, proxy for Sen. Chichester (VA)
Lance Stewart, Connecticut Gov. Apte.	Louis Daniel, Chair, North Carolina DMF
Gordon Colvin, New York DEC	Damon Tatem, North Carolina Gov. Apte.
Brian Culhane, proxy for Sen. Johnson (NY)	Rep. William Wainwright, North Carolina Leg. Apte.
Pat Augustine, New York Gov. Apte.	John Frampton, South Carolina DNR
Bruce Freeman, New Jersey DFG&W	Malcolm Rhodes, South Carolina Gov. Apte.
Ed Goldman, proxy for Asbmn. Smith (NJ)	Robert Boyles, South Carolina DNR
Erling Berg, New Jersey Gov. Apte.	Spud Woodward, Georgia DNR
Roy Miller, Delaware DFW	John Duren, Georgia Gov. Apte.
Timothy Targett, Delaware Gov. Apte.	Gil McRae, Florida MRI
Bernard Pankowski, proxy for Sen. Venables (DE)	Anne Lange, NMFS
Howard King, Maryland DNR	Jaime Geiger, USFW
Russel Dize, proxy for Sen. Colburn (MD)	

### Ex-Officio Members

Jim Uphoff, MD DMF, Technical Committee Chair  
Des Kahn, DE DFW, Stock Assessment Subcommittee Chair  
Joe Lynch, NC DMF, Law Enforcement Committee Representative

### ASMFC Staff

Brad Spear	Robert Beal
Ruth Christiansen	Vince O'Shea
Carmela Cuomo	

### Guests

There were a large number of guests in the room. However, the attendance sheet was not circulated among the attendees in the audience.

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PAGE 7: Move to allow the states of South Carolina and Florida a one-year grace period before we review the determination of de minimis status for their fisheries again. Motion carried on Page 7.

PAGE 7: Move that Connecticut and Georgia be granted de minimis status for the coming year. Motion carried on Page 7.

PAGE 17: Move to approve the '04 FMP review. Motion by Mr. Colvin, second by Mr. Goldman. Motion carried on Page 17.

PAGE 24: Move to defer action on commercial and recreational measures of Draft Addendum I pending completion of a peer-reviewed stock assessment. Motion by Mr. Colvin, second by Mr. Freeman. Motion carried on Page 42.

PAGE 43: Move that non-de minimis states that fail to collect required samples in a given year be required to delay opening its fishery the following year until a plan for collecting samples is approved by the board. Friendly amendment on Page 49. Motion by Mr. Freeman, second by Mr. Travelstead. Motion carried on Page 53.

PAGE 53: Move adoption of the biological sampling and reporting program as included in the draft of Addendum I. Motion by Mr. Colvin, second by Mr. Pope. Motion carried on Page 58.

PAGE 58: Move adoption of Addendum I with the content reflecting the two motions passed by the board. PAGE 59: Modify the motion to incorporate the date of February 1, 2006, as the effective date of the addendum. **PAGE 60: Move for adoption of Addendum I as dictated by the three motions passed by the management board, effective February 1, 2006. Motion by Mr. Colvin, second by Mr. Pope. Motion carried on Page 62.**

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**ATLANTIC STATES MARINE FISHERIES  
COMMISSION**

**WEAKFISH MANAGEMENT BOARD**

**Seaview Marriott Resort & Spa  
Galloway, New Jersey**

**November 2, 2005**

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The Weakfish Management Board of the Atlantic States Marine Fisheries Commission convened in Salon C of the Seaview Marriott Resort & Spa, Galloway, New Jersey, Wednesday morning, November 2, 2005, and was called to order at 8:00 o'clock a.m. by Chairman Louis Daniel.

**BOARD CONSENT**

CHAIRMAN LOUIS DANIEL: Good morning. Welcome to the Weakfish Management Board. We've got a fairly busy agenda, so I would like to get moving. I hope everyone has had a chance to look over the agenda.

We'll be going through the plan review team and the public comments on the addendum, the AP report and then move right into the options in Addendum I. If there are no corrections or changes to the agenda, we'll accept the agenda as approved.

Next are the proceedings from our August 16, 2005, meeting. I hope everyone has had an opportunity to review those. Are there any corrections or changes? If not, those minutes stand approved by consensus.

Taking a page from Mr. Freeman the other day, can I see a show of hands in the audience of who would like to address the board in the public comment section. All right, two minutes each. I don't mean to be rude, but I am going to cut you off at two minutes.

Please keep in mind this is to speak to matters other than the addendum. We will take some public comment during the addendum discussions, if need be. I'll open the floor to public comment. Yes, sir.

**PUBLIC COMMENT**

MR. HERB MOORE: I'll just take two minutes real quickly. My name of Herb Moore, counsel for the Recreational Fishing Alliance.

Recreational Fishing Alliance is a national association representing recreational fishermen and the industry. I'd just like to get some comments on the record right away just to address the board to say that our members and members of the recreational fishing industry have demonstrated a real solid conservation ethic regarding weakfish.

We've demonstrated that we're willing to abide by increased minimum size limits in some cases and significantly decreased bag limits. I'll speak more specifically towards the addendum when the opportunity presents itself, but I would like to say that we see a lot of question marks surrounding this fishery right now.

There are a lot of data gaps, there are a lot of important research needs. With that in mind, we find it very difficult to accept any further restrictions in this fishery. So with that said, I'll reserve my further comments on the addendum to appropriate opportunity. Thank you, Mr. Chairman.

CHAIRMAN DANIEL: Thank you very much. Anyone else to address issues other than those related to the addendum? You will have an opportunity to speak, if you want to, during the process, but comments will be limited to two minutes during any public comment.

Brad, do you want to take us through the plan review team report.

**PLAN REVIEW TEAM REPORTS**

MR. BRADDOCK SPEAR: Thank you, Mr. Chairman. The states submitted state compliance reports that were due September 1<sup>st</sup>. The plan review team reviewed these reports last week. I'll go through a summary of those reports that were handed out to the board at the beginning of this meeting.

Okay, states' landings for 2004 are preliminary. As of last week, NMFS commercial landings database maintains data through 2003, at this point, for commercial landings. The MRFSS data base had data through 2004. That's why the landings are still preliminary for 2004.

Some states do collect their own commercial data through trip ticket systems. New York and Massachusetts do not, so their landing are still unavailable for 2004.

Going through de minimis, Connecticut and Georgia both requested and meet de minimis status. South Carolina and Florida requested de minimis, but through calculations from the plan review team do not meet the threshold. The threshold is 1 percent of the total coast-wide landings for the past two years.

Calculating that out for South Carolina, they landed 2.4 percent of the total coast-wide landings for 2003-2004. They suggested that MRFSS overestimated their recreational harvest for 2004, and that's the reason for being above that threshold.

Florida landed 1.3 percent over that time and contends that part of their recreational catch is sand sea trout and weakfish and it all gets lumped in together; and, if you looked at purely weakfish landings, it would put them under the de minimis threshold.

The plan review team recommends de minimis status for Connecticut and Georgia and leaves South Carolina and Florida for the board to discuss.

One of the major compliance requirements for Amendment 4 is the biological sampling. If you recall, we went through this exercise last year for the first time. The requirements for 2003 and 2004 were set last year; and in the column after the states, you'll see what states were required to collect and what was collected in 2003 and 2004.

Delaware, Virginia and North Carolina were well above their obligations for sampling for 2004. The plan review team commended those states.

New York, New Jersey and Maryland did not meet the requirements for the second year in a row. Therefore, the plan review team recommends that those states be found out of compliance for failing to meet the sampling requirements under Amendment 4.

One of the other recommendations from the plan review team, states that are having trouble aging weakfish may want to speak to their sister states about assistance that they can lend in reading the otoliths. During the plan review team call, Rick Cole from Delaware offered that Delaware would provide this service to states that are in need. Other states have done it in the past.

The last recommendation was that ASMFC staff make a request to the NMFS commercial landings database folks that preliminary landings would be helpful for the states to have in hand prior to submitting state reports each year.

It helps in establishing sampling thresholds and also de minimis thresholds. I will be making that request before state compliance reports are due and circulating that information.

Just a quick summary of landings for 2004. Total coast-wide landings were preliminary at slightly about 2 million pounds. Recreational made up about 860,000 of those pounds; commercial, 1.2 million, putting commercial at about 58 percent of to the total landings. And, again, New York and Massachusetts was not included.

North Carolina landed the most, commercially and recreationally, in 2004. Traditionally, New Jersey has dominated the recreational fishery, but in 2004 North Carolina slightly edged above New Jersey. New Jersey's commercial landings were about an order of magnitude less in 2004 than they were in 2003. That concludes my report.

CHAIRMAN DANIEL: Thank you, Brad. Are there questions for Brad? Eric.

MR. ERIC SMITH: Thank you. I'm just curious. You have a slide up there about the relative proportion of commercial and recreational landings, but then you point out that New York and Massachusetts were not included. Is that because you couldn't get them from the National Marine Fisheries Service Database? I mean, those landings should be in the system now.

MR. SPEAR: They were not in the system open to the public or open to myself as of last week. I did not make a special request just because there wasn't time between the call and this meeting.

CHAIRMAN DANIEL: Gil.

MR. GIL MCRAE: Brad, for clarification can you tell me what the absolute pound number is for the 1 percent cutoff for the average of the last two years?

MR. SPEAR: The total poundage was 25,369.

CHAIRMAN DANIEL: Bruce.

MR. BRUCE FREEMAN: Thank you, Mr. Chairman. Just a footnote to some of the information Brad presented, particularly as related to our public hearing. We had quite a bit of turnout, and we had a large number of comments.

But, relative to the commercial sector, it was pointed out over and over that on the commercial side there has been a decline in New Jersey catches. Much of the testimony indicated a shift in effort from weakfish to croaker. We have large numbers of croaker, as many states do now.

And, from a commercial perspective, they're actually making more profit fishing for larger croaker than they are for weakfish. That was one of the aspects that influenced the commercial harvest in 2004 and 2005.

The other indication that we have in our fishery, we had a very active fishery, particularly in the fall, by otter trawl vessels out of Cape May and near the mouth of Delaware Bay, which historically fished on those full-migrating fish.

Most of those vessels have changed over to squid fishing, and there's only, I think, two or three vessels that do that as opposed to perhaps eight or ten or twelve that did it historically. That also influenced the commercial harvest.

The point is the commercial harvest is dictated, certainly, by availability, but also by other market factors which you may see shifts in the fishery. I just want to bring that to the attention of the other board members.

CHAIRMAN DANIEL: Thank you, Bruce. Yes, sir.

DR. DAVID PIERCE: Regarding Massachusetts commercial landings in 2004, those numbers are not yet available from the Service; however, in our compliance report we indicated that in 2003 we had a whopping 524 pounds landed.

That reflects availability, I suspect, of weakfish in our area since the more depleted the stock, the less likely we will have a commercial fishery since the larger fish don't seem to make it up our way, or they are not available. So I would assume, then, in 2004 we were somewhere around that number.

CHAIRMAN DANIEL: Thank you, David. Seeing no more questions, we have several recommendations from the plan review team regarding de minimis status and compliance issues. A.C.

MR. A.C. CARPENTER: It's more in terms of a question, I guess. With regard to de minimis, what would Florida and South Carolina, what would

the difference be if they were found not de minimis and what they have done in this particular instance? They're not required to collect any biological samples, and I'm assuming that they already have a size and creel limit in place.

MR. SPEAR: Coming out of de minimis status, they would be required to implement the recreational and commercial measures in Amendment 4. What that means for Florida, they do have a recreational size limit and bag limit in place, so they would be covered in that sense. The commercial side is a reduction in fishing mortality from a certain level, a reference point level, and would be required to put in some sort of plan to achieve that.

South Carolina currently does not have recreational size or bag limits, because they're not required to under Amendment 4. They would be required to implement recreational reductions and the same commercial reductions, even though South Carolina really doesn't have a commercial fishery.

CHAIRMAN DANIEL: I guess I'm going to ask the state of Florida, Gil, we've dealt with this issue of sand sea trout for years now, have you got any information on that issue that could shed some light on your 1.4 percent?

MR. MCRAE: Mr. Chairman, it's very complicated. Not only do we have the two species that co-occur and that are indistinguishable externally not only by fishermen, but by our own biologists. We also have hybrids.

So, short of taking tissue samples from a number of fish and looking at the genetics, we're not going to have real-time species data to match up with the landings data. We know from our independent sampling, that all three varieties occur, and at this time it's tough to say how much of that 38,000 pounds is weakfish versus hybrid versus sand sea trout.

We know or we're fairly confident that a good chunk of that is sand sea trout, but we understand that we don't have the information to distinguish it relative to de minimis at this point.

CHAIRMAN DANIEL: Thank you, Gil. Robert.

MR. ROBERT H. BOYLES, JR.: Thank you, Mr. Chairman. I find myself in the enviable position of yet again getting up to bash the Marine Recreational Fishery Statistics Survey. We looked at

the landings and tried to pull out a number of – tried to come at this from a couple of different angles.

We do have serious concerns over the MRFSS data that was put into the calculations. We have submitted to the plan review team supplemental information from our State Finfish Survey, the fishery-dependent survey, which indicates that in South Carolina, in particularly 2004, landings were below the long-term mean. Based on the small sample size, we continue to believe we do not contribute significantly to overall mortality in this fishery.

And also, Mr. Chairman, if I could, I could point out that sample point was based on a sample size of four, the MRFSS data.

CHAIRMAN DANIEL: Well, we have requests from the states of South Carolina, Florida, Connecticut and Georgia for de minimis status. The PRT has recommended Connecticut and Georgia qualify. Bruce.

MR. FREEMAN: Mr. Chairman, it seems to me with the unusual circumstance in Florida and particularly in South Carolina, to require them to go through the additional effort, which may take quite a bit of administrative time, but in reality have very little impact on the fishery, I suggest that we essentially allow them one-year grace to see what does occur on the reports for 2005 before we take action to have them do quite a bit more work.

I really don't see their catches at the present time really having a great influence on the rest of the coast. If you would like a motion, I would so move that we allow the states of South Carolina and Florida a one-year grace period before we review the determination of de minimis status for their fisheries again.

CHAIRMAN DANIEL: Motion by Bruce Freeman; second by John Frampton. Discussion on the motion? Seeing no discussion, is there any need to caucus? Is there any objection to the motion? Seeing no objection, the motion carries. Thank you, Bruce. Yes, Eric.

MR. SMITH: Just to keep all of the subjects together, I would move that Connecticut and Georgia be granted de minimis status for the coming year.

MR. SPUD WOODWARD: I'll second that.

CHAIRMAN DANIEL: Thank you. Motion by Eric Smith; second by Spud Woodward. Discussion on that motion? Seeing no need to caucus,

any objection to the motion? Seeing no objection, that motion carried. Pat.

MR. PATRICK AUGUSTINE: Point of information, Mr. Chairman. Could we get that up on the board, so the public can see what we just agreed to do?

CHAIRMAN DANIEL: Yes, we will. Roy.

MR. ROY MILLER: Mr. Chairman, just a note of clarification for the maker of the motion. Is that for '05 or '06 we're talking about?

MR. SMITH: I believe it's '06; isn't it annually that we do this?

CHAIRMAN DANIEL: Yes.

MR. SMITH: All right, we're taking actions for the next year?

CHAIRMAN DANIEL: For '06.

MR. SMITH: And just so there's a justification on the record, this is what the plan review team had recommended, and both states' landings were below the threshold that justifies de minimis status. Thank you.

CHAIRMAN DANIEL: Yes, sir, and other states qualified but elected not to request de minimis. David.

DR. PIERCE: Mr. Chairman, with this vote being taken, would staff please list those states that are now de minimis for weakfish? I can't recall all of the states that are de minimis, just a refresher.

MR. SPEAR: It's just Connecticut, Georgia – Massachusetts qualifies for de minimis, but does not request.

CHAIRMAN DANIEL: Gil.

MR. GIL POPE: Thank you, Mr. Chairman. I'm just questioning the de minimis procedure here, because it seems like this is going to be a moving target as we change these regulations. You have to vote de minimis; when do you become automatically non-de minimis? Once it reaches a certain point, do you have to be re-voted as non-de minimis?

I'm just unsure on the procedures here as to how that's going to work. And when you become non-de

minimis, then when are you required to do the testing and so on? How is that scheduled out?

MR. SPEAR: There is no formal vote for states to become non-de minimis. It happens by default when states are not approved for de minimis status. So, if that happened at this meeting, for example, it would go back to the states, and they would be required to develop an implementation plan by a specified date and come back to the board for approval of that plan to show that it has complied with the current management measures. The board, like I said, would have to approve its plan. But the board would set the time line for that process.

MR. POPE: The reason I asked is because this is going to be a moving target, and a lot of these landings are going to be substantially less in the other states.

CHAIRMAN DANIEL: Anything else on that issue? Jaime.

DR. JAIME GEIGER: Thank you, Mr. Chairman, just a point of clarification. Is there some expectation from the maker of the motion relating to South Carolina and Florida that some information will be provided to the board to assure us that after the end of one year, we will not be having a duplicate situation of this same time next year?

CHAIRMAN DANIEL: I'm getting nods in the affirmative from the state of South Carolina, and I assume from Florida, as well. Anything else on that issue? If not, we've got one other issue from the plan review team, which is compliance with the data collection program.

It's really up to the board how you want to deal with this. We'll be discussing this later in the addendum. We can discuss it now or later or both, depending on your preference. I would prefer to wait on that discussion until the addendum, unless there is objection to that. Is there any other discussion on the plan review team's report? Seeing none, we'll move on into Brad's report from the public comment and hearing summary, as well as the AP report.

#### **PUBLIC COMMENT & HEARING SUMMARY**

MR. SPEAR: Thank you, Mr. Chairman. Draft Addendum I went out for public comment in late September and ran through the middle of October. I'll go through a summary of all the public hearings that were conducted in states from Rhode Island to

Florida, and I'll also summarize the written comment that was submitted.

The first hearing was in Newport News, Virginia. There was one member of the public that attended. That person preferred that there was no moratorium or no Option 5 for the recreational fishery.

He said that if restrictions were necessary, that he would probably prefer some sort of season to reduce mortality on weakfish. He suggested that there be no increase in recreational size limits. He suggested that there be a quota put in place for the commercial fishery.

Old Lyme, Connecticut, was the second public hearing. Again, one member of the public attended. He supported a moratorium for recreational and commercial fisheries, citing that it was the most fair to both sectors and would produce the most conservation value.

He suggested that determining compliance or non-compliance for failing to sample be determined if that state fails to sample in a given year, and that's Option 1 under determining non-compliance. As far as ramifications for non-compliance, he suggested Option Number 3, where if a state was found out of compliance, it would be required to give up its vote on the next management action.

And getting back into compliance, that person suggested that a state can sample the appropriate number of samples in the following year as a way to come back into compliance, and that's Option 1.

The next hearing was in Beaufort, North Carolina. There were seven in attendance. Four supported status quo for the recreational measures, and four also supported status quo for the commercial measures.

The second hearing in North Carolina was in Manteo. Again, there were about seven attendees. One supported status quo for the recreational measures. There was a suggestion that if a season was put in place, that it not cut out the May through June and September through October fishery.

One person recommended a 12-inch minimum size limit coastwide and that the bag limit be somewhere between seven and ten. There was one recommendation for status quo for the bycatch allowance, which is currently 300 pounds per trip or day, whichever is longer.

There was one suggestion that the board set current limits for five years as an experiment to have consistent regulations and track the population over that time.

In Annapolis, Maryland, one person attended the hearing. That person recommended status quo for the recreational bag limits. He suggested that --, again, if management required that the board raise minimum sizes, he recommended a 25 percent reduction in the commercial fishery in the commercial season. That's Option 2.

He also recommended a closed commercial season or area at the mouth of the Chesapeake Bay for two or three weeks during spawning, as they're coming into the bay.

One person attended the Charleston hearing. That person supported status quo for the recreational bag limits, Option 1.

Narragansett, Rhode Island, there were approximately seven attendees. One supported a one-fish bag limit for the recreational fishery. That's Option 3. One attendee suggested lowering states' bag limits by half.

One recommended a 50 percent reduction in the recreational season. One also recommended a 50 percent reduction in the commercial season. One also recommended that there be no bycatch-only fishery, that the commercial fishery remain open as it is.

One recommended a coast-wide minimum size uniform for commercial and recreational fisheries. Some other suggestions were to close the fishery in the southern states during spawning. And as far as biological sampling, one recommended to determine non-compliance if the state failed to collect samples in a given year and did not put forth a good faith effort. That's Option 3.

There was one suggestion that the ramifications of not sampling, due to its importance, that all three options -- that the states must go through all three options, which are recommend to the Secretary that the state's fishery be closed, that the state gives up its vote at the next meeting, and that the state delays its opening of its fishery for the following year.

The hearing in Farmingville, New York, had about nine public attendees. Five of them suggested that status quo be maintained for the recreational fisheries. Three suggested status quo for the commercial fisheries.

One person recommended status quo for the commercial bycatch allowance; again, 300 pounds per trip or day. One person recommended 150 pounds per trip or day, Option 3. There was a suggestion under ramifications for a state not complying with the biological sampling, to not shut down that state fishery, so Option 1 under ramifications. The justification was the industry should not be penalized for something that the state is required to do.

The hearing in Cape May Court House, New Jersey, there were approximately 53 attendees. About 32 of them made comments on the record. Most of those who spoke requested status quo for the recreational measures. Most also suggested status quo for the commercial measures.

Most of the people who commented suggested Option 3 for the commercial bycatch allowance, which is 150 pounds per trip or day.

The hearing in Tom's River, the second one in New Jersey, there were, again, over 50 of the public in attendance. Twenty-nine recommended status quo for the recreational fishery. One suggested raising the minimum and the bag limit and see what happens.

There were eleven people who spoke and recommended status quo for the commercial fisheries. There was one recommendation that over night gillnets be prohibited. Again, there was a suggestion that states should not be penalized -- the industry should not be penalized if a state fails to collect the appropriate number of samples, and they recommended Option 1 under ramifications.

At the hearing in Atlantic Beach, Florida, there was one person in attendance. The person recommended that if a recreational season is necessary, that it be used to protect the spawning weakfish. That person recommended a decreased recreational and commercial size limit to 10 or 11 inches.

The last hearing was in Dover, Delaware. There were about ten in attendance from the public. Two of those suggested status quo for the recreational fisheries. Two also recommended status quo for the commercial fisheries. Again, there was one recommendation to not go with Option 1 under ramifications as non-compliance for sampling.

Okay, the public comment ended October 21<sup>st</sup>. There were 44 written comments submitted through the mail, through FAX, through e-mail. There was also one additional comment that was submitted with 17 signatures on it. I separated that out in my summary.

It's also separated out in the summary that was sent to the board.

There's also a copy of that letter in the original public comment packet that was sent to the board. Regarding the recreational bag limit options, 20 supported Option 1. Again, that letter supported Option 1, which is status quo for all states. Three of the comments supported Option 2, which is a 25 percent reduction in the bag limit, which is a 4-fish bag limit coastwide.

There was one suggestion that this only apply to private boats. There was one comment that supported Option 3, which is a 50 percent reduction in mortality through recreational bag limits, which would equal a one-fish bag limit coastwide as long as a one-fish limit also applied to the commercial fishery.

There was one comment submitted in favor of Option 5, which is a moratorium on the recreational fishery. The recreational season options comments, there were 20 comments submitted in support of Option 1. Again, that's status quo, which is a full season up and down the coast.

There was one comment that supported Option 2 for private boats only. Again, that's a 25 percent reduction in mortality through shortening of the season. There was one comment in support of a moratorium.

There were a few alternative suggestions for the recreational season. It was to start the season after the weakfish spawn. Other recommendations regarding recreational management was to maintain a 12-inch minimum size coastwide. Another suggestion was to raise the minimum size limit in Delaware to 14 inches; also, to raise the minimum size limit in New Jersey to 14 inches.

There was one recommendation to increase the bag limit and create a recreational season as a combination for the party and charter boat fishermen.

Getting into the commercial options, Option 1 was status quo for the commercial seasons for each of the states. There were 14 in support of that option. There were two comments submitted in support of Option 2, which was a 25 percent reduction in the commercial season -- in mortality through a reduction in the commercial season.

There was one in support of a full moratorium of commercial harvest. A couple of other recommendations: again, start the commercial season after weakfish spawn. There was also the suggestion

not to close the season in the spring or fall. There was a recommendation to further restrict harvest off of the Carolinas.

Comments submitted with regard to the commercial bycatch allowance, there were 12 in support of Option 1, which, again, is a 300 pound limit, either trip of day, whichever is longer, provided that there is an equal amount of directed species on board.

There was one comment in support of Option 3, which is a 50 percent reduction in the bycatch allowance to 150 pounds. There was one comment that supported zero bycatch allowance for the commercial fishery.

Other recommendations for the commercial management; one was to establish a commercial quota. There was one to set the minimum size to 12 inches coastwide. There was one suggestion if bycatch can't be avoided, then the commercial fishery should be turned into a bycatch-only fishery.

Looking at the biological sampling compliance issue in the addendum, there was one recommendation for Option 1 for determining non-compliance. That was if a non-de minimis state fails to collect samples in a given year, that they be found out of compliance. There was one recommendation for Option 5, which was "other", but there was no specification as to what that "other" was.

Under ramifications of non-compliance, there was one recommendation for Option 4, which was a combination of Options 1 and 2. There was, again, another recommendation for "other" but no suggestion as to what that "other" should be.

Under getting back into compliance, there was one recommendation for "other". There was one alternative proposal submitted. That comment suggested that the board put regulations in place which allow the best data to be collected and leave the regulations in place for five years to allow time to study the effects, and that money spent on ASMFC meetings during that time be put forth for data collection.

Just some general comments that were submitted during the public comment and hearing process that were not directly at management or the options in the addendum. There were several recommendations to expedite the peer-review process for the assessment; and, similarly, to gather more data for the assessment in the meantime and in the future.

We heard through the comment process that they're seeing lots of weakfish in New Jersey waters, particularly in Raritan Bay. There was a suggestion that the stock is dropping because of predation or competition from a number of other species. Again, that doesn't have anything to do with fishing mortality.

Some comments regarding the research on weakfish; one was to recommend identification of the causes of natural mortality and to address some of the relevant research needs that are listed in Amendment 4. There was a suggestion to investigate the effect of nuclear power plant cooling on the weakfish population. Some of other recommendations for management that are beyond the scope of this board is to deal with natural mortality on weakfish by relaxing regulations on striped bass or dogfish. There was a suggestion that this board delay action until more data is collected. That concludes my summary.

CHAIRMAN DANIEL: Thank you, Brad. Staff always does an excellent job summarizing a lot of information for us. Are there any questions for Brad on the public hearing summary and comment? If not, Brad, if you're ready, we'll move into the advisory panel's report. Brad is going to handle that, as well.

#### **ADVISORY PANEL REPORT**

MR. SPEAR: The advisory panel had a conference call on October 3<sup>rd</sup>. I called around to the panel members. That was the general preference of the panel to do it by conference call and not by a face-to-face meeting.

There were six advisory panel members on the conference call, two from the technical committee. Currently the advisory panel does not have a chair or vice-chair. I made a plea for someone to nominate themselves.

After the call, I got a call back from Billy Farmer from North Carolina. He volunteered to fill that position if no one else volunteered themselves, but said he could not make this meeting. The advisory panel felt comfortable with staff giving the report today.

General comments from the call – and there wasn't necessarily consensus from the call, so I'll just list some of the comments that came out of the call. Again, the board should have the full report in front of them, but just some of the highlights.

There was the suggestion that the impediment to weakfish recovery was the abundance of spiny dogfish. There was also the note that the markets for weakfish have closed because of the decreased landings, and it will take higher, more consistent landings to build back those markets.

There was also the indication that the southern stocks of weakfish appear to be in fine condition. Recommendations regarding Addendum I: Half of the members, so three members on the call, supported status quo for the commercial and recreational fisheries.

One member on the panel supported a moratorium; again citing as the most fair and equitable to both sectors. Two members on the call reserved judgment on making recommendations because they wanted to attend their public hearings first and get a sense of what their state peers were feeling.

Half of the advisory panel members on the call recommended status quo for the bycatch allowance. Again, that's 300 pounds. Regarding the biological sampling, one member recommended, again, no Option 1 under ramifications, not penalizing the industry for states' responsibilities to sample.

A couple of other recommendations from the panel was for the technical committee to look more closely at the ecological interactions between weakfish and other species that have been brought up. There was a suggestion to liberalize other species regulations from some of the panel members; however, there was dissent on that point of view.

Generally, members from the south supported a north/south split in the regulations; however, members in the north did not support that. That's it.

CHAIRMAN DANIEL: Thank you, Brad. Gordon.

MR. GORDON C. COLVIN: Not a question, Mr. Chairman, but an update. I think our hearing was a week after the conference call of the advisory panel. Both our AP members, Brad Loewen and George Scocca, were at our public hearing, and at that time expressed support for status quo.

CHAIRMAN DANIEL: Thank you, Gordon. Any other comments or questions regarding the AP report? Bruce.

MR. FREEMAN: One aspect that was very clear at both public hearings was a large discussion

about lack of biological information. We indicated that, indeed, the state of New Jersey technically was out of compliance because we have not collected the necessary biological samples and indicated our problems with manpower and budget.

Nevertheless, the industry indicated in both instances, recreational and commercial, that they would do anything necessary to cooperate with the state to get those samples, and I just wanted to emphasize we are and will make a very concerted effort this year to collect them.

I think part of our difficulties with understanding the stock assessment is we don't have key biological data for three very important states, ours included. We feel that may well make a difference in the stock assessment. The industry and the state will make sure that we do the collection as necessary, but the industry was very willing to do anything they could to facilitate that.

CHAIRMAN DANIEL: Thank you, Bruce. Anything else? All right, in haste I failed to – in one of our agenda items we had the plan review team's report, but also the plan review, and we didn't deal with that on that agenda item.

So I would like to back up just a minute and let Brad go through the FMP Review for '04, and then we'll move into discussions on the addendum.

MR. SPEAR: Mr. Chairman, I briefly went over the FMP review and talked about its highlights, so it's up to the board to accept it. It was handed out at the beginning of the meeting.

CHAIRMAN DANIEL: So we need a motion to approve the '04 FMP review.

MR. COLVIN: So move.

CHAIRMAN DANIEL: Motion by Gordon Colvin; second by Ed Goldman. Discussion? Seeing no need to caucus, any objection to the motion? Seeing none, that motion carries.

All right, we're down to our agenda item to discuss Addendum I. Brad is going to run us through the various measures that we have to discuss. We've got Jim Uphoff, who is our technical committee chair. He would have been here, anyway.

I've also asked Des to come as well to address any questions that may arise on the stock assessment. I appreciate Jim and Des being available for the board.

So with that, I'll turn it over to Brad to sort of run us through the addendum, and we'll take these issues in order as they come up in the addendum.

## DRAFT ADDENDUM I OPTIONS

MR. SPEAR: Okay, going through the document, the first issue is recreational bag limits. Again, options range from Option 1, which is status quo, to a full moratorium on the recreational fishery, Option 5; with in between a 25 percent reduction, which would equal a 4-fish bag limit; 50 percent reduction, which would be a 1-fish bag limit coastwide; and also a 75 percent reduction, which would equal a 1-fish bag limit, coupled with a 16 percent in mortality through a recreational season.

CHAIRMAN DANIEL: Mr. Colvin.

MR. COLVIN: Thank you, Mr. Chairman. It may be actually helpful to look at all of the recreational and commercial measures as part of one discussion perhaps at least at the outset. I think the first decision we have to face as a board is what's the direction we want to go in in all these things before we get into the details of options.

The input we've received through the public review process is pretty obvious where the vast majority of public opinion lies. You may recall that at our last board meeting, when we embarked on the development of the addendum for public review, I expressed a little bit of concern and reservation with the fact that we were proceeding at a time when our weakfish stock assessment had not been completed and successfully navigated through an independent peer review.

As a result of the public comments that we've received, I am personally more concerned about proceeding in that status than I was at the time. It seems to me that there are still unresolved questions that resulted from the SARC review of the incomplete assessment last time around, which I am not yet satisfied have been completely addressed.

I am aware of some other questions that are out there that I think would be helpful to address. I think everyone, clearly, the fishing community, both commercial and recreational, our advisory panel members, and I think many members of the board would feel it prudent to complete a peer-reviewed assessment that addressed all the outstanding questions, including the recommendations of the last SARC, fully before we proceeded.

So I just want to throw out the idea for the board to consider that we consider deferring action on the commercial and recreational measures in this addendum consistent with the public comment and with the views of a number of our advisors until such time as we have completed a peer-reviewed assessment along the lines of what I've just described.

CHAIRMAN DANIEL: Thank you, Gordon. Bruce.

MR. FREEMAN: This certainly is a position that we think is very reasonable. We've heard, in our public hearings, almost unanimous, the concern that even a 25 percent reduction, which some people thought was the best we could get away with, essentially would greatly disrupt both the commercial and recreational fisheries as they exist today.

The fact what appears to be an extremely high natural mortality would not warrant forcing very severe economic and social detriments to the fishery, and the indication, as Gordon has just made, to do a very thorough peer review, I believe is a very reasonable approach.

One other part of it, as I mentioned earlier, is that we, New Jersey, have been negligent. Our concern is that we have not collected that information. We are one of the major fishing states, and we will make that commitment to do it. We think that will help considerably.

Our industry, both recreational and commercial, have pledged that they will work with us to make certain these samples are collected. I would think this approach is a very wise approach.

CHAIRMAN DANIEL: Thank you, Bruce. Jack.

MR. JACK TRAVELSTEAD: I share Gordon's concerns for moving forward too rapidly with this plan. I have concerns about the status of the resource as well. Although the Newport News hearing in Virginia was not well attended, I have since received considerable public comment from Virginians asking that we delay a decision on this addendum until we can finish the peer review of the stock assessment.

Going back and looking at the 2000 SARC recommendations, I noted that there were a number of suggestions for other things that perhaps could or needed to be done, and perhaps we should wait and see that those things are done before we proceed here

today. I would support Gordon's recommendation that we postpone these measures until those things get done.

CHAIRMAN DANIEL: Thank you, Jack. Mark Gibson.

MR. MARK GIBSON: I understand Gordon's point, but I'm wondering what a successful peer review might unearth or what sources of data we might collect or unearth that will show us where the missing fish are.

It seems to me we've got clear evidence that there are fewer fish than there formerly were in some very important portions of their range. I'm just having a hard time understanding how we're going to find those and change our perception that we've lost part of our rebuilding and part of our restoration, so it seems to be a risk-prone course of action.

I would like to hear some more perhaps from the technical committee and the assessment people as to where they think a peer review might take them in terms of improved model data inputs and so on that might change our perception of where these fish are or where they're not.

CHAIRMAN DANIEL: Des.

MR. DESMOND KAHN: Thank you, Mr. Chairman. I have kind of a question about the request for a peer review. I support a peer review of our assessment. As I said a couple of meetings ago, I think it should be peer reviewed. But, what part of the assessment is in question?

I mean, we found there has been a steep decline. I am wondering do people – is it that people don't find that credible? If you look at the landings, it's pretty clear to me, but that's the main finding.

The second finding of our primary finding was that the decline was due to an increase in total mortality, but we could not ascribe this to an increase in fishing mortality. You may say, well, maybe it really was fishing mortality, or else you would agree with us, I would think, so you would agree with our findings.

In either case, if you say I don't think the assessment at this point has been peer reviewed, just what part of it would help the management process if that were confirmed? I am just unclear about that. Thank you.

CHAIRMAN DANIEL: I have hands up. Is it to that point? Let me go back to Jim to have a chance.

MR. JIM UPHOFF: One of the things that at least I think I'm sensing here is an entanglement of the assessment results and the policy questions in terms of the addendum. The assessment really doesn't address the need for an addendum or not. The addendum sprang up from concerns.

One of the things I want to remind you, in at least several meetings, is when we came back from the SARC, there were two main recommendations. One from the SARC is a thorough re-examination of the data. Well, actually, that was one of their main recommendations. And the other is – well, we'll just stick with that for now.

As I said in February and I think again in May, the time line we had to complete an assessment would not allow for a thorough re-examination of the data. I paraphrased Donald Rumsfeld, "We have to assess with the data we have and not the data we want." Everybody seemed to be aware of that and in agreement with it.

It's certainly your prerogative to change your mind, but we've kind of mined the data as best we can to give you an assessment. In terms of the addendum, that's more of a policy question as to what do you do with a fish population that is in decline, but fishing is nor necessarily the main cause?

I am not sure, as Desmond has said, that a SARC review is to going to help you with that policy question. I guess I'm just going to leave it at that, but the addendum didn't spring from the technical committee from the assessment. These things are somewhat separate from each other.

CHAIRMAN DANIEL: Eric.

MR. SMITH: Thank you. While I have a certain amount of empathy for the people who see the uncertainty and would wish for us to hold off on doing things, I see this issue as Mark Gibson and Des described it. The stock is plummeting and it's indisputable. That's not a questionable – nobody has argued that point.

A review of the stock assessment, while that's our process and I think that's a good idea to do, it's either going to affirm the current status of the assessment that this is natural mortality; or, it's going to say, well,

they did things wrong and it's actually a fishing mortality.

Either way we're going to want to try and arrest the decline in stock abundance and reverse it, and that means taking less fish. So, we're postponing the inevitable at the time when the stock is declining, and I'm not sure that's a wise direction for management to go in.

My inclination would be to look at the options in the addendum and pick something that we think is prudent in the face of the uncertainty of why the decline is occurring, but is clear in the sense that the decline is occurring, and we would like to arrest or reverse that. So, I'm not inclined to just defer the management actions. Thank you.

CHAIRMAN DANIEL: Thank you, Eric. A.C.

MR. A.C. CARPENTER: Thank you, Mr. Chairman. We currently have a virtual moratorium because of the lack of fish. Adding regulations on top of that I don't think is going to – it may give you a feeling of feeling good, but it's not going to change the real world out there.

From my mind, I would much rather defer action on the management options that were discussed and concentrate our efforts here today on the biological sampling requirements, something that can be productive.

At the appropriate time, I'd like to make a motion to split the question so that we can deal with the biological sampling that we all know that we need to do, get along with that, and get the data that we need to begin, hopefully, assessing this thing with a more rational basis; and in the meantime, just hold all of the management actions on a status quo. That would be my preference.

CHAIRMAN DANIEL: And I think to keep us moving, A.C., it might be a good time to offer that, and then we can have discussion on a motion.

MR. CARPENTER: All right, I would move that we split the question by adopting – I guess I want to say – status quo on the management issues, and then detail an option for the biological sampling as a separate item.

CHAIRMAN DANIEL: Motion by A.C. –

MR. GIBSON: It's a procedural point. There doesn't seem to be a motion that needs to be split. I don't understand what we're doing.

CHAIRMAN DANIEL: Gordon.

MR. COLVIN: I'd like to make a recommendation, Mr. Chairman, consistent with what A.C. has suggested, that I don't think we need to divide anything that isn't offered yet. I think what might make more sense is to offer a motion to adopt options that relate to the data collection issues as an addendum.

Now, this is my personal preference, and it may not be A.C.'s, to take no action at this time, at this meeting, on the parts of the draft addendum that relate to commercial and recreational measures, but simply to defer action on those pending the assessment. Now, that's my suggestion, but I think we can proceed with a single motion on the other parts.

CHAIRMAN DANIEL: A.C.

MR. CARPENTER: I'm glad we have Gordon here to help me out with this, but that's exactly what I want to do. If somebody can craft that in a motion that we can put up on the board, I would appreciate it.

CHAIRMAN DANIEL: Since I don't see any movement in that direction, I am going to go to Pat.

MR. COLVIN: Well, I'm ready.

MR. AUGUSTINE: Before you make that, it was a question. I want to make sure he does that, but back to the report and what the management program changes were being recommended, and I should have brought this up ten minutes ago.

It seems to me that the committee is recommending the options that we're going to go through and pick today, as Gordon is going to suggest that we do that part of it without implementing the other part of it.

But, the sentence that stands out that hits you right smack between the eyes, "Projections indicate that none of the cuts in fishing mortality alone would result in recovery." The first one.

The second one, "Recovery would only occur with cuts in fishing mortality in conjunction with a decline in natural mortality." Now, that sounds great, but there's no indication as to how we address the natural

mortality issue other than ratcheting down quotas, commercial and recreational fishing.

I agree that from all the information we've seen the stock is definitely in a severe decline. I'm just wondering if the technical committee has thought of how do we, as a body, make motions and set some action moving toward reducing natural mortality? Boy, it's a big one.

I mean, we're putting the onus on the control and recovery of this species to the fishermen. And you stated in your opening statement it's not possible to do it. Further on, it's stated that this may not do it at all.

And we've been reduced so far with our take, if you will – as someone down the row said, by fish not being available, you've literally put a moratorium on a lot of the states fishing. So, there's a much bigger question that has to be asked that hasn't been presented – no answers have been presented. I personally am in a dilemma.

I know what Gordon wants to do. I'd love to see us move forward with this thing, but when I leave here, I'd like to have a sense for what can I tell our folks back home that we are going to do something about the natural mortality.

If that means addressing it through restrictions or increasing quotas of harvest in other fisheries, based on the predator-prey relationship, would the technical committee be interested in going down that road at a later date?

Now, I don't need an answer right now. I just would like to get an idea if anyone else around this table has thought the same thing. We ratchet, ratchet, ratchet down, and yet we find no way to address the natural mortality.

And on top of all of that, we're moving into ecosystem management. And we've looked at what's happened with ASMFC – and I won't drag this out – with the predator/prey relationship in the Chesapeake Bay, and the results of that are, on the one hand, very encouraging and on the other hand very scary. So, I put it out there for your consideration. Thank you, Mr. Chairman.

CHAIRMAN DANIEL: Thank you, Pat, I think that's probably weighing on all of our minds and trying to figure out how to bridge that gap between a fairly unique situation or one that's new now that may become more prevalent in the future. Vince.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Mr. Chairman, I sense you're debating a motion now where it would be good to get a second.

CHAIRMAN DANIEL: Gordon, is that satisfactory?

MR. COLVIN: Yes, would you like me to read it, Mr. Chairman?

EXECUTIVE DIRECTOR O'SHEA: No, I think you need a second.

MR. COLVIN: I move to defer action on commercial and recreational measures of Draft Addendum I pending completion of a peer-reviewed stock assessment.

CHAIRMAN DANIEL: Motion by Mr. Colvin; second by Mr. Freeman. Now, let me go to David Pierce.

DR. PIERCE: I'm not going to repeat a point that was made by Eric Smith and by Jim Uphoff a little while ago, but I think it's something we need to reflect on and not forget because it has tremendous implications.

This motion, if, indeed, it passes, I assume will lead us to the point where we will find that, indeed, as already indicated, the stock is in trouble. The biomass is very depressed, far from where it needs to be. We'll also learn from the peer-reviewed assessment, as indicated by the technical committee already, that natural mortality is very high.

These are two very important points. That leads me to highlight one sentence that Pat Augustine did not mention from the first part of the addendum we brought to public hearing. That is the last sentence in the first paragraph under management program changes where it says, "A reduction in fishing mortality would leave the stock poised for recovery should natural mortality begin to decline."

That's a very important statement. That's a key statement that crosses over all fisheries management plans that we have, ASMFC plans, as well as New England Fishery Management Council and Mid-Atlantic Council plans. What do we do when we find out that some other factor, in this particular case natural mortality, is such that we cannot rebuild in the way we need to rebuild?

Do we do nothing? Do we say that the fishing industry, commercial and recreational, will suffer no

consequences, it's just status quo forever more until something happens with natural mortality, natural mortality goes down; or, do we proceed in a way that would involve our being guided by what is in this addendum we brought out to public hearing?

That's what I'm struggling with right now, and it relates to the motion. I'm going to assume we're going to find out biomass is down, natural mortality is high. That will come to us after the peer-reviewed stock assessment. What do we then do?

It would be nice if we could right now discuss that eventuality and give ourselves, as well as the industry, some guidance as to whether or not we will, indeed, subscribe to this very important point that we've already discussed and must highlight a reduction in fishing mortality would leave the stock poised for recovery should natural mortality begin to decline.

I have no answers. I just highlight that because we're heading in a direction that I think we can anticipate, and we should discuss it now as opposed to later on.

CHAIRMAN DANIEL: I think that's a good point, David. In reviewing the assessment and listening to the technical committee reports, I'm not sure that the outcome of the peer review is as you may describe it.

I think that there are some issues and concerns that have been expressed by technical committee members, by the public, and by other board members that we may not be so sure about what the status of the stock is.

I think some of the concerns that have been raised through discussions have been the statement that declining landings are prima facie evidence that the stock has declined when there has been a redirection of effort and there has been a reduction in harvest of weakfish because of other available species.

I think probably one of the more concerning aspects of this particular assessment, from my discussions with other members, is the results are dependent on the assumption that the recreational catch per trip from the MRFSS is an accurate index of relative abundance.

I think that has raised some significant concerns, as well as some of the SARC requests. So, I think that's where the board is struggling at this particular point is do we move forward, taking action that can be very impactful; or, do we take the time to collect the information that the technical committee has been

requesting for at least the last 12 years and try to get a peer-reviewed assessment before we take that action?

I think that's kind of where we're struggling at this particular point. Let me go to Gordon, as the maker of the motion, and then I'm going to go to Jim.

MR. COLVIN: A couple of points. One is that in offering the motion, it is not my intention to table this issue, and that's one of the reasons that I was uncomfortable with a motion that said go with status quo.

It is instead my belief that proceeding with actions that are calling for very significant cutbacks on the fisheries in the absence of a completed and peer-reviewed stock assessment is not what this Commission normally does.

Earlier this week, for instance, already we have made the decision to hold off on measures on American eel pending a stock assessment. We have decided to begin to move in the direction of an amendment to the fishery management plan for American lobster after receiving a completed peer-reviewed, accepted stock assessment.

That was an extraordinary effort by everyone involved; and resolved in the course of that effort serious concerns that arose among some members of this board and their technical representatives about issues like natural mortality.

And it seems to me with those issues unresolved and with the public input the way it has been and the comments that Mr. Augustine made, it is prudent to move forward to complete that assessment.

And if at the end of the day the assessment verifies the recommendations and the conclusions that we've already been offered by our technical advisors, then I think we need to move forward in a risk-averse and prudent manner regardless of what the source of the mortality is and so forth.

But I would like to address Eric Smith's question earlier where he posed the question what if the mortality is predominantly natural mortality or what if the completed assessment shows a higher component is fishing mortality?

Well, I believe that if the assessment had shown that a higher component was fishing mortality, the public input we got would have been vastly different. At the end of the day, I agree that it doesn't change anything, but before we proceed, I would like to see a peer-

reviewed assessment because that's how we do our business around here, and I think it's the best way to do our business.

Now, we're going to have to allocate some resources, and we are going to have to exercise some oversight to get us to that point as a board. I think we need to empower the chairman and the staff and the members of our technical committee and stock assessment committee to make that happen and give them the resources we need.

I also agree that the evidence is of great concern in terms of the declining stock abundance, and we need to proceed with some sense of urgency, but we need to get to a completed peer-accepted stock assessment. Thank you.

CHAIRMAN DANIEL: Thank you, Gordon. Jim.

MR. UPHOFF: I just wanted to remind the board that the technical committee had a conference call on February the 1<sup>st</sup>. There were five points of complete agreement on the stock status of weakfish.

One is the stock is in decline; two, the total mortality was increasing; three, that there was not much evidence of overfishing; four, that something other than a high fishing mortality rate was going on; and, five, there was strong circumstantial evidence of increasing natural mortality. If there had been a change in position from the technical committee members since, none of them have made me aware of it.

CHAIRMAN DANIEL: Anne.

MS. ANNE LANGE: Thank you, Mr. Chairman. I was just wondering, from Vince and Bob, what would a time line on a peer review be? I mean, I don't believe it was in the action plan, but is it something that can be done, anyway, if the board urges that be done? Can it be done fairly quickly?

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, I think, frankly, the first question – and I have been waiting for this depending on what the board decides here, but I think the first question – and before I'll answer Dr. Lang's question – is whether or not our technical committee feels that they have a stock assessment that is ready for peer review that could be submitted? That's the first step.

CHAIRMAN DANIEL: To that, Des.

MR. KAHN: Thank you, Mr. Chairman. Our feeling not only on the stock assessment subcommittee but the technical committee as a whole, as Jim just mentioned, is that our assessment is ready for peer review.

CHAIRMAN DANIEL: Thank you, Des. Bruce.

MR. FREEMAN: Thank you, Mr. Chairman. There's a number of issues that complicate the picture from our perspective. One deals with what occurred this year in the northern part of our state, particularly in Sandy Hook and Raritan Bay. We normally would expect weakfish to occur there in large numbers in May and June, and that did not occur, and it hasn't occurred for the last four years.

But, starting last August, we had a tremendous quantity of fish in the bay, and these primarily were three- to six-year-old fish, based upon length. The puzzling part is – and when I say this, we've had reports, particularly from the recreational side, of people going out with 50 trips over the course of late August-September-October, and nearly every one of those trips reaching the bag limit.

It's similar to what we saw 20 years ago. The question is these fish didn't appear to show up anywhere else, and no other catch information, and I'm certain MRFSS will indicate this very high catch rate for 2005 when the data is finally available.

So that's puzzling in that no one else were catching these fish, but, again, these were older fish. They were somewhere, but certainly not being taken by either commercial or recreational fishermen. The question is where were they and why did they show up when they did, which is very unusual.

The second issue deals with the fact that we have been monitoring young-of-year weakfish in New Jersey, as other states have done, and there are five indices that I have that we've looked at, four of them in Delaware Bay.

One of those indices shows a decline in young-of-year fish, a decline in trend. Two indicate no trend at all. It's been relatively stable for the last ten to fifteen years. One indicates there has actually been an increase in the number of young-of-year fish particularly in the last two years.

In our trawl survey that we do that occurs from the coast out about twelve miles, the last two years we

had young-of-year weakfish that were second and third highest in the time series that goes back to 1988.

One would believe that as a declining stock, there is some relationship between the abundance of adults and reproduction to get a declining, and yet we got just the reverse. So there's a number of confusing issues that bring to mind that there's something going on we certainly don't understand, and it's certainly unusual.

As I indicated previously, our concern is that a severe reduction in the harvest is going to have tremendous economic and social consequences on a large group of people, and we need to be certain that we act in a manner that we have confidence in. It concerns us to simply take action and find out two years later it's unnecessary. I am not sure we can repair some of the damage that's done.

CHAIRMAN DANIEL: Thank you, Bruce. I have Eric and then Jack and then Roy.

MR. SMITH: Thank you. I wanted to get to the point that flowed from Vince's question to Des, and that was does the stock assessment committee believe it has an assessment ready for peer review, and Des said yes.

I'm going back to Jim Uphoff's point earlier that one of the previous comments from a previous review was that we needed a thorough review of all of the data, yet we hadn't given them sufficient time to do that from May until getting this addendum going.

So if it is true that one of the previous peer-review comments was you had to do your thorough review of data and we haven't done that yet, my question is do we still need to do it and how long will it take.

With no disrespect to Des, we may not be ready for an assessment if the things that were detected as needs in the last go around have not yet been satisfied. So, do we need that and how long will it take? Thank you.

CHAIRMAN DANIEL: Thank you, Eric. Des, to that point.

MR. KAHN: Thank you. Well, you know, that's kind of in the eyes of the observer, I guess. After the SARC review, we did extensive analysis of the research trawl survey indices, which they had recommended. That consisted of a catch curve analysis of every survey, and the findings are in the assessment that was completed in February.

The findings were that two of the surveys that we have used and had formerly used had shown an increase in abundance; in fact, implausible increases such that instead of declining over time, some of the year classes, according to the survey, were actually increasing over time; in other words, spontaneous generation, you could say, such that there was a negative mortality.

In other words, there was not mortality; there was an impossible situation. So, after that finding, we disqualified those two surveys from further modeling efforts. Now, you can always do more analysis. However, that would be good, but I don't know that it would show – it would give us something that would make a big difference or not.

The point is we did follow that recommendation. Someone mentioned the 2000 SARC, '99-2000. We have completed several of their recommendations since then, such as the way we calculate weight at age. We have completely revised that.

It was a very time-consuming set of calculations. You can only say, "Well, you didn't do this recommendation, you didn't do that." The point is we have completed the assessment since the SARC. The SARC has not seen this assessment.

It's a different assessment. It uses a different approach than what they saw. Therefore, we are confident that the assessment is complete, has been complete since February, and we welcome a peer review of it.

CHAIRMAN DANIEL: Thank you, Des. Jack.

MR. TRAVELSTEAD: Maybe I missed it, but assuming the assessment is ready to be peer reviewed, does the staff have a schedule in mind on how and when that might happen?

CHAIRMAN DANIEL: Vince.

EXECUTIVE DIRECTOR O'SHEA: Thanks, Mr. Chairman, and thanks for getting back to Anne Lang's question. The proposed action plan that was briefed at the workshop yesterday includes an external peer review for weakfish, and the budget that was presented yesterday includes money to do that. I have been told by our staff that we think we can get this done within six months.

CHAIRMAN DANIEL: Thank you, Vince. Roy Miller and then Howard.

MR. MILLER: Thank you, Mr. Chairman. A number of my questions and concerns have been addressed via the give-and-take. I find myself in agreement with many of the comments that have been offered this morning, particularly Eric Smith.

In regard to Gordon Colvin's motion, I can support the motion because it appears, as Vince just indicated, there's a time certain when this is likely to occur. I don't think a six-month delay in action on our part is going to make an appreciable difference in the weakfish stock dynamics.

I am concerned with the possible consequences of long-term inaction if the peer review comes back to say what I think it's going to say and what many of us suspect it will say. One thing that was missing from our hearing process, that I suspect was missing elsewhere as well, was a thorough discussion of the potential consequences of inaction on the part of this board.

Our stock is in such abysmal shape now that our recreational fishery only took 6,500 fish last year. And as I've stated before, Delaware Bay is the historical epicenter of the weakfish range. Frankly, it cannot get much worse than it is right now. So, I am very concerned about the specter of inaction on our part.

You know, having been a participant in the striped bass management process through ASMFC for 28 years, I would hazard a guess that the Striped Bass Board is not going to suddenly loosen the reins and allow additional fishing mortality on striped bass just to benefit weakfish. I don't see that happening.

So, I'm wondering what this board is going to do. I don't have a recommendation at this time other than I'll support Gordon's motion because it has a time certain to it. But, my patience with inaction is growing short and will get a lot shorter after that peer review is conducted. Thank you.

CHAIRMAN DANIEL: Thank you, Roy. Howard.

MR. HOWARD KING: Thank you, Louis, just two quick questions. First, one for Vince. We would have the results of the peer review at the spring meeting, do you suppose?

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, by the May meeting I think we could do that.

MR. KING: Thank you. And then, Louis or anyone at the head table, do we know the portion of the 2004 commercial landings that is landed bycatch and what portion is the directed fishery?

CHAIRMAN DANIEL: Des.

MR. KAHN: Unfortunately, no, that's not reported in the landings, especially the NMFS landings. We have pointed that out in the past and asked or suggested that states break out their landings by bycatch and directed, but it has – I think Maryland has done it, but virtually no one else does that I am aware of. Thank you.

CHAIRMAN DANIEL: Ed.

MR. EDWARD GOLDMAN: Thank you, Mr. Chairman. I would just like to reiterate one of the points Bruce made and hearing everybody talk. You know, we definitely need to take action, and I think right now to put severe management restrictions, since what I've heard from the technical committee, will not help fishing.

I think waiting for the peer review is the way to go. I would just like to point out something can happen short term if we do put some strict management measures in, and that's going to put people out of business.

That's going to hurt the party boats and charter boats. It's going to hurt the boat rentals. You'll hear some public comments, when they're given the chance, of exactly how this is going to affect them. So I think this is definitely the way to go, and I think we all need to support this motion. Thank you.

CHAIRMAN DANIEL: Anymore comments from the board? Anne.

MS. LANG: Thank you, Mr. Chairman. I guess I am concerned about the obvious indicators relative to the status of the stock, but something that Des said makes me all the more convinced that we need to have a stock assessment peer review.

He indicated that the assessment, as it is configured now, is nothing like what was peer reviewed in the past. He said they haven't seen any of this.

So in combination with concerns others have expressed as to whether or not the assessment has addressed many of the points that the SARC previously indicated needed to be addressed and whether or not those things have been done – and the

indication is some of them have not been – and that this assessment is very much different from what was peer reviewed, I think it's important that we do this. I hope that we can get it done in a timely fashion because there are obvious concerns about the state of the stock.

CHAIRMAN DANIEL: Thank you, Anne. Russ.

MR. RUSSELL DIZE: I would just like to ask Bruce if when the large amount of weakfish occurred in the bay he was speaking of, did they talk with the fishermen and find out if there was an absence of striped bass and spiny dogfish in the area?

CHAIRMAN DANIEL: Bruce, to that question.

MR. FREEMAN: Well, at that time of year in that location, the water is so warm that spiny dogfish don't occur. Striped bass normally are in that area, and they're usually later. They occur in greater abundance later in the season.

But, when those weakfish appeared, it happened in a day, and almost everybody fishing had their limit. It was just like a huge quantity of fish occupied the area. Now, the reports we had were they were feeding on young-of-year menhaden to a large extent. However, we have, at least in New Jersey, large amounts of young-of-year menhaden in many locations.

So, one could say, well, it was the availability of bait, but there were many other locations that had just as much bait, for example, perhaps Delaware Bay, but they didn't occur there in the numbers we saw in Sandy Hook and Raritan Bay. I mean, it was just some totally unexpected.

CHAIRMAN DANIEL: Thank you, Bruce. Gordon.

MR. COLVIN: Just one more little nuance to the story that Bruce told about New York Harbor. We also have heard considerable numbers of reports about juvenile weakfish being seen in the same area where this fishery took place, which appear to be primarily young of the year.

Now, I don't know if we had a late spawn in there or what happened. It was clearly an unusual situation. It's the only place we saw it in the state, but we're getting reports of – to the point where there's so many juvenile weakfish in that area, they're getting confused by anglers who have never seen them before

with juvenile bluefish and other species, and our enforcement guys are keeping pretty busy with it.

CHAIRMAN DANIEL: Thank you, Gordon. Jaime.

DR. GEIGER: Thank you, Mr. Chairman. I am convinced now that we do definitely need a stock assessment. I also share Roy Miller's concerns about the status of the stock. I would just urge that this is certainly one part of a multi-pronged strategy that this board should consider.

I would urge are there other key pieces of information or compliance issues or additional biological information that need to be completed or need to be initiated or otherwise finalized prior to our next meeting and having the finalized stock assessment in hand. Thank you.

CHAIRMAN DANIEL: Thank you, Jaime. Any other comments? Roy.

MR. MILLER: Thank you, Mr. Chairman. I wonder, when we send our stock assessment for peer review, if we could also ask the peer review committee to perhaps address a few specific questions that would help guide us in management.

My colleague, Dr. Targett, wrote a couple down, and I'll just throw them out there for consideration. Is the stock declining due to F at least in part? If not, would a reduction in F of even 25 percent reasonably be expected to improve stock in the face of rising M? What course of action would potentially improve the stock in the absence of multi-species management?

These are the types of questions that would be helpful to have answers to on the part of a body of scientists outside of our own trusted body of scientists that would give us an independent opinion. Thank you.

CHAIRMAN DANIEL: I think those are some good suggestions, Roy. Jaime.

DR. GEIGER: Mr. Chairman, I also agree. I think some additional well-thought-out terms of reference for appropriate review would be very, very appropriate. I also concur with Roy's suggestions possibly from scientists outside of this body. Thank you.

CHAIRMAN DANIEL: And earlier in the discussion, there was some talk about other folks having some of those questions, and I would just urge that those questions be submitted to staff so they can

be included in the terms of reference for the peer review, so we may get that advice. Your questions, too, Roy, would be welcomed for that review. I've got Anne and then A.C.

MS. LANG: I was just wondering if that could be distributed to the board members prior to being sent out for terms of reference to review.

CHAIRMAN DANIEL: Vince, to that point.

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, technically your process is that the terms of reference be formally approved by the management board. Now, I'm getting two different signals here.

One, there is a sense of urgency to get the stock assessment done quickly; on the other hand, bringing terms of reference to the February meeting seems to me to be putting a delay in your process here.

One option that you would have, as has been suggested, is to send ideas to terms of reference to staff. We can compile them with the science director, and then have the board vote on them by correspondence to fill that part of the process, and then we can go forward or perhaps even before the February meeting setting up your peer review.

And if there's difficulty in the correspondence and getting consensus, then we can always schedule it for February, knowing that at least you had tried to do it by correspondence. But, if you wait until February to do terms of reference, you're putting yourself three months into the six months that you said you wanted to get this thing done by. Thank you.

CHAIRMAN DANIEL: Thank you very much, Vince. I am certainly comfortable with doing it in the way Vince expressed. Unless there is objection from anyone on the board, then we will submit those comments, have staff compile them, send them out to the board, and we'll vote through corresponded. Anne.

MS. LANG: I would just suggest that there be a commitment from all board members to respond quickly when the terms of reference are sent out, so that we don't have to wait until February.

CHAIRMAN DANIEL: Please, and I agree. Any other comments? We've got a motion on the floor. I am going to give the public an opportunity to address this motion. Again, can I see a show of hands of folks that would like to address this issue. All right, we're going to have to strictly adhere to the two-

minute rule. Again, I don't want to be rude, but I will cut you off after two minutes. Tom, do you want to start us off?

MR. TOM FOTE: My name is Tom Fote, Jersey Coast Anglers Association. I would like to thank the board for its careful consideration of what is going on with weakfish. Again, it reminds me of what happened with bluefish in '94. We had a whole crash of the stocks.

We weren't sure what was causing the crash, and we basically were going to put in Draconian measures. Well, luckily it's twelve years later, and we haven't put those Draconian in place, and bluefish stocks are going the same way as they go.

One of the questions I would ask of the stock assessment committee, would it make any difference, because, Roy, we did ask the question when we went out to public hearings what would the tables show if we shut the fishery down? That was asked at both our hearings.

And, basically, by shutting the fishery down, according to the tables, it wouldn't make a heck of a lot of difference, and that's our concern here. I'll keep it short since a lot of people want to talk. Thank you very much for what I think is going to happen here.

CHAIRMAN DANIEL: Thank you, Tom. Yes, sir, in the back.

MR. MOORE: Herb Moore, counsel for the Recreational Fishing Alliance. I would just like to mention that the RFA can certainly support the motion that's on the table. I would like to add we represent over 10,000 fishermen in this state, and weakfish is much more than a de minimis fishery here in New Jersey.

It's an extremely important fishery. We have several ports that at certain times of the year rely 100 percent on this fishery. Bruce Freeman from New Jersey addressed the spectacular weakfish fishing that we experienced in Raritan Bay this year.

This is a period of time, late August to early October, where individual recreational fishermen and the for-hire sector relied nearly 100 percent on the weakfish fishery. Guys were not fishing for summer flounder at the time. Guys were not fishing for striped bass. Guys were not fishing for bluefish.

Weakfish carried the fleet, so it's an extremely important fishery for us. We feel that there are

significant data gaps revolving around this fishery. We feel there are serious questions around this fishery. A lot of recreational fishermen and a lot of commercial fishermen will tell you historically weakfish have known to be extremely cyclical.

There's a lot of questions surrounding this fishery that we support the board in their efforts to try and answer. We feel this motion could lead us to answering some additional questions. A couple of concerns we have in particular are the lack of biological sampling data that the board and the technical committee has to work with –

CHAIRMAN DANIEL: You have thirty seconds.

MR. MOORE: -- the reliance on MRFSS, the use of a 20 percent hook-and-release mortality rate in the recreational fishing sector. I think perhaps the biggest question of all is how does the stock go from being extremely healthy in size and age structure in 1998 to a period now where it appears that the stock is near collapse. That's a huge question. Another question is where are all these fish in New Jersey coming from? Thank you.

CHAIRMAN DANIEL: Thank you very much for your comments. Yes, sir, Jim.

MR. JAMES FLETCHER: James Fletcher, United National Fishermen's Association. You're talking about a peer review by people that have basically got their heads on a platter when an independent review of scientists from outside this country reviewed the SARC, and said, "You do not know what you're doing", which backs up what the commercial fishermen have been telling the scientists for a number of years.

But, the decline in weakfish is cyclical. Data published in 1990 showed a 1940 and a 1980 decline. Why can't these scientists review what happened and find out?

Now, this board yesterday refused to allow the landing of male dogfish. Everybody in the public comment said that dogfish were predator on it. The problem is we continue to rely on what a narrow group of scientists tell us, and we do not allow international science into this board's management.

We need better scientists. We need science that is an accumulation of knowledge, not math that is an accumulation of numbers. Any time you look at

what's presented to you as this board is an accumulation of numbers, which is math. Thank you.

CHAIRMAN DANIEL: Thank you, Jim. Greg.

MR. GREGORY P. DiDOMENICO: Greg DiDomenico, Garden State Seafood Association. Thank you, Mr. Chairman; thank you, Commissioners. Obviously, we have two minutes so I'm going to be brief.

After lengthy discussions with our gillnet fleet, who makes up probably half or the bulk of the landings in the Weakfish Fishery -- and it's also one they depend on significantly. As of right now, they're out there catching weakfish, which is good news.

But, they wanted me to oppose any other management measures, and they were very serious about a complete status quo on any further management measures. But, what I would like to do is repeat a couple of things that I have taken from some of the documents provided by the Commission.

They are summaries; they're some committee reports; and even the verbatim minutes from their technical committee meetings. If I could just read one thing, "The Atlantic States Marine Fisheries Commission Weakfish Stock Assessment Subcommittee's Report to the ASMFC Technical Committee, dated February 4<sup>th</sup>, 2005.

Let me just read from it: "Because of the nature of this fishery, this is a complex undertaking. The SARC agreed that the current status of the assessment was insufficient as a basis for providing advice.

"The SARC found that there were conflicting signals from the research trawl surveys, which tended to indicate higher abundance versus the catch or catch-based indices, which indicated declining abundance."

CHAIRMAN DANIEL: Thirty seconds, Greg.

MR. DiDOMENICO: Thank you. I also wanted to review quickly some other compelling information. This Commission is compelled to take action on biological reference points, thresholds and targets that were set incorrectly. They were set assuming a constant natural mortality, and that obviously, as some of the information has pointed out, was done incorrectly.

Obviously, we have a natural mortality that has increased since '99, continues to increase, and I would say that is another compelling reason to not take action today, status quo on all management measures. Thank you very much.

CHAIRMAN DANIEL: Thank you, Greg. Sean.

MR. SEAN McKEON: Thank you, Mr. Chairman. Sean McKeon, North Carolina Fisheries Association. I would agree with my colleague here in New Jersey. I'm slightly worried about deferring the action only because I think a lot of things are going to be put off and we're going to be having the same discussion without addressing other issues such as predation, which nobody seems to want to go down that road.

I would say that I fully support the peer-review process. I was happy to see in the September issue of the ASMFC Newsletter that Executive Director Vince O'Shea was trumpeting the American Lobster Peer Review, and I think that's a very good avenue to go down.

I think that the problems in this fishery I agree are cyclical. They have been here before, and they're going to be here again. I think that any further reductions in harvesting are not going to improve the cyclical nature of this fishery.

I would rather have seen a vote for status quo. I think that would have been more appropriate at this time. There's a lot of issues to be addressed, but I would say that the independent peer review is an important component, so I appreciate that. Thank you.

CHAIRMAN DANIEL: Thank you, Sean. The testimony thus far has been pretty much one-sided. Is there an alternative viewpoint in the audience that we need expressed? All right, if not, we'll continue with a few more, and then we'll move on to our final deliberations. Yes, ma'am, in the back.

MS. LIZ COWLEY: Thank you. My name is Liz Cowley. I am owner of Hook, Line and Sinker Boat Rentals. I am located in Fortescue, New Jersey, which is on the Delaware Bay. In 2002 the state of New Jersey had a 14-fish bag limit, and in that year I had 690 boat rentals.

In that year, nine of those boats got their limit. At that time I had made written comment to this group trying to explain to you that F mortality was not the decline of weakfish. At that time, in 2003, the limit went to

eight fish in New Jersey, I'm speaking, and at that time two boat rentals went out of business in Fortescue, which allowed me to stay in business.

If it had not been for those two going out of business, I would have gone out of business. The reason is the word "perception" is very important to a business owner when you're talking about weakfish, perception by the customer that they could keep fourteen versus they now may keep eight.

They weren't catching eight when the limit was fourteen, but they thought they could keep fourteen. I have a threshold, also. I have been below my threshold for the last three years.

CHAIRMAN DANIEL: Thirty seconds, please.

MS. COWLEY: I would ask for status quo rather than a deference because a deference scares me. It scares me that this group may make a decision in six months from now that is not going to benefit me. I would ask that the technical committee start to look at other things in natural mortality, and I would ask this board to take on the hard fight rather than the easy fight by changing fishing regulations. Thank you.

CHAIRMAN DANIEL: Thank you very much. Yes, sir.

MR. AL RISTORI: Al Ristori from the Star Ledger. It was pointed out here before that there were a couple of indices in the stock assessment which were thrown out because they seemed to indicate spontaneous generation, and yet that seems to be what happened, which I think is the key question that we have to deal with here.

I have been pushing for weakfish conservation ever since I saw landings go down, and I wrote earlier in the summer, after the stock assessment came out, warning people that it was very unlikely we were going to see any amount of weakfish, if any at all, this year because we have those two factors, the landings have been going down, the stock assessment shows the stock crashing.

And the next thing I know, next week, well, all of a sudden they start catching weakfish; and by the time we're finished, I'd say that mostly charter and party boat captains in this room would probably agree that in Raritan and Sandy Hook Bay, if we never saw weakfishing any better than we had it this year, we'd all be satisfied.

That's how good it was. People that wanted limits would often catch them sometimes on a single drift, excellent fishing. And this causes a big problem of why this peer review I think is so important. We know it's not spontaneous generation, but why did we miss these mature fish that were out there?

They, obviously, had to be someplace, and yet our stock assessment completely missed this huge body of fish. There were also –

CHAIRMAN DANIEL: Thirty seconds.

MR. RISTORI: -- good reports from Barnegat and Great Bays about also good weakfishing. These things have to be taken into account. They have to be explained before we impose any Draconian regulations, which is why I would support status quo at this time, but doing the peer review I think is the right way to go and try to find out where these big errors have occurred. Thank you.

CHAIRMAN DANIEL: Thank you very much. We're getting very repetitive now, and I think we've got a good sense of the public comment here. If that suits the board, we will move on with our motion. Is there any further discussion from the board on the motion? Jaime.

DR. GEIGER: Mr. Chairman, I may ask a question about – assuming that this motion does pass, are we prepared to have the necessary additional biological information to be collected to assist in the analysis and the interpretation of the review?

Let me put New Jersey on the spot. Is New Jersey prepared to collect the necessary biological information and sampling protocol that's necessary to have that basic biological information? Thank you.

CHAIRMAN DANIEL: That will be the next issue in terms of the addendum and the data collection process. As I understand from the technical committee, the assessment is done and ready for peer review. That data is through 2003, I believe.

Correct, so that will be the assessment that is peer reviewed. I guess the hope through the addendum would be, if the board agrees, that we need to collect that necessary information, and that would be used in a subsequent assessment.

Any additional questions on the motion? All right, we'll take 30 seconds to caucus. All right, the motion is to defer action on commercial and recreational

measures of Draft Addendum I pending completion of peer-reviewed stock assessment.

All those in favor of the motion, signify by raising your right hand; opposed, same sign; null votes; abstentions. The motion carries. Brad.

MR. SPEAR: Thank you, Mr. Chairman. Getting to the other main issue that's in Draft Addendum I –

CHAIRMAN DANIEL: I'm going to have to ask people to take their conversations outside, please. We have additional business to take care of.

MR. SPEAR: The other component of Draft Addendum I is the biological sampling requirements. The options in front of the board for determining non-compliance are non-de minimis states that fail to collect samples in a given year is the standard for determining non-compliance.

Option 2, that non-de minimis states fail to collect samples in two consecutive years; or, Option 3, non-de minimis states fail to collect samples in a given year and put no good-faith effort forward to do so; or, Option 4, failure to collect samples in two years and no good faith put forth to do so; and, Option 5, other.

CHAIRMAN DANIEL: Jack.

MR. TRAVELSTEAD: Brad, how do we deal with non-compliance on biological sampling in other fishery management plans? Is it spelled out specifically with options similar to this or is it just a non-compliance issue?

CHAIRMAN DANIEL: Bob.

MR. ROBERT E. BEAL: Jack, the other fishery management plans that have requirements for biological sampling are actually written similar to how the weakfish plan exists right now prior to consideration of this addendum.

There's annual requirements. Those annual requirements are compliance criteria for the plan, but not of the plans have details as to what constitutes non-compliance, if it's one year, two years, nor do they have any of the other alternate penalties, if you want to call it that, for not collecting the biological sampling that this addendum contemplates.

CHAIRMAN DANIEL: To that, Jack.

MR. TRAVELSTEAD: Just as a follow up, then, so is Option 1 status quo?

CHAIRMAN DANIEL: Yes. Bruce.

MR. FREEMAN: I have a motion. It includes this and a little bit of the next one. The motion reads non-de minimis states – I'll just read it slowly – that fail to collect required samples in a given year be required to delay opening its fishery the following year until a plan for collecting samples is approved by the board. Now, just a little bit of background –

CHAIRMAN DANIEL: I've got a motion by Bruce Freeman; seconded by Jack Travelstead. Bruce.

MR. FREEMAN: We have had great concerns over the requirement to collect the samples. When the plan was first approved, we voted against it because of this, and we did so in good faith, knowing that we didn't have the wherewithal to collect those samples because of budgetary problems and manpower problems.

We have had serious concerns, but I think relative to the most recent developments, we obviously see the need to collect those biological samples. It could well be that some of the analyses in the stock assessment is being driven because of the lack of those samples.

A number of states have done an excellent job, we have not, and so we've now acquiesced to the concerns that we must collect those samples. We've had a commitment from both our commercial and recreational fisheries. We've also put in a proposal to ACCSP to support doing this.

This, hopefully, will be approved after this annual meeting. But, we now are convinced this has to be done. The reason for this motion would put the onus on a state to collect them, and the fishery would not open until they have a plan to do so. So, it's a complete reversal on our position, but we believe this is necessary, and I hope this answers Jaime's question.

CHAIRMAN DANIEL: Thank you, Bruce. Jack Travelstead.

MR. TRAVELSTEAD: This has been an important issue for me for some time. I don't believe that we can sit here and delay action, as we just did, to wait for a peer review of an assessment, and then not, on the other hand, do everything that we possibly can to ensure that the proper data that we need is in fact collected.

To me, the collection of the biological data is equally as important as a state's implementation of regulations. You cannot have one without the other. I understand states get in situations where they don't have the funding, they don't have the staff to do these collections. We all have been in those positions from time to time.

I think sometimes states need somebody behind them, pushing them to get this done. The only way I know to do that is through a motion like this. I think this being a part of the plan will help those states that need funding to go get it. If I'm wrong, then I'd like to know that.

I don't know if this will work or not. I mean, I recognize states get in difficult situations. If this doesn't work, maybe we just continue to approach it on a case-by-case basis, but I would prefer this option.

CHAIRMAN DANIEL: Thank you, Jack Gordon.

MR. COLVIN: I fully support intent of the motion, and I'll address where New York is on sample collection when we move to the next issue. The only concern I have – and it's not a concern that at the present time motivates me to propose a change in the motion or to do anything other than vote for it – is something I just kind of want to lay out there for us to be aware of and think about should this motion pass and we go on to implement it over time.

That is this. The motion is pretty rigid. It says if there's a failure to collect required samples, there is a consequence. Now, when we get on to the next issue, we're going to see what a required sample might be. On the one hand, there's a fairly clearly defined numeric specificity to the number of lengths and ages.

That could be a requirement that a state has to collect 157 length samples, and they might collect 156. That's an issue that concerns me a little, and something I think we're going to need to be prepared to exercise a little discretion on.

But, more importantly, there is an open-ended series of recommendations regarding sample stratification. That's where the devil is in the details. I have a concern that we not get – we need to be aware that the sample stratification challenge may be very difficult in some instances, particularly as now when we're in a period of declining abundance.

I want to ask the mover if it's his intention, when he says states that fail to collect the required samples, is he addressing the numeric targets that are specified in the subsequent issue in the addendum; or, is he addressing the open-ended and unspecified sample stratification requirement, or both?

CHAIRMAN DANIEL: Bruce.

MR. FREEMAN: My desire was to look specifically at the numerical samples, but I also understand these can and will change relative to the resource. My personal feeling, Gordon, is that we need to collect what is necessary in order to allow the stock assessment people to do the best job they can do.

From my own personal standpoint, it would both be the stratification of where those samples comes as well as the numeric, which would be the most technically demanding. I understand this motion will affect New York and Maryland as well who, with us, are technically out of compliance with the plan.

MR. COLVIN: Thank you. Mr. Chairman, again, I'm not going to propose an amendment to the motion, but my sense is that we'll have to be sensitive as to how this plays out over time. I think the primary focus is going to be on collecting the numeric target, and the stratification goals we don't know because we have only the components of stratification and not the details in front of us at this time.

It seems to me at the end of the day here we'll ascertain that there is going to be a good-faith effort on the part of all the players to try to collect these samples and to fill the cells in the stratification box, but that's going to be the hardest part of this, not the numbers, the cells. I kind of want to make folks aware of that.

CHAIRMAN DANIEL: Thank you, Gordon Jaime.

DR. GEIGER: Thank you, Mr. Chairman. Again, I agree, the devil is in the details, but this is a very good first start, and I applaud the state of New Jersey for putting this motion on the table, and we will support. Thank you.

CHAIRMAN DANIEL: Anne.

MS. LANG: I agree with Jaime. Again, there will be some concern about details, but I believe this is a much better approach than making recommendations to the Secretary. This is an issue

that I think is better dealt with within the board relative to compliance, and again using a delay in the fishery rather than submitting a non-compliance up to the Secretary, which will take time and may cause more delay in getting things accomplished.

CHAIRMAN DANIEL: Eric.

MR. SMITH: Thank you. You need to understand at the outset, as I do, that this is non-de minimis states only, so it's not of immediate impact to me, to Connecticut. But, I still remain concerned, even though philosophically I agree with Jack that somehow we have to find our way to get the right data that we need to manage.

I don't disagree with that, but I remain concerned about data collection programs as compliance criteria. What it really means is we can't control what governors and legislatures allocate to us for our fishery programs.

I am wary of voting for something in the future that I then have to go home and basically tell the commissioner or, through her, the governor that we may have to close our fishery unless they allocate more money to my department to do biological sampling. That's going to look a little self-serving, and that's a problem.

My view on the conversation measures is entirely different because I think there's a widespread understanding that that's the immediate purpose of the Commission is to adopt conservation measures, and the Atlantic Coastal Act and the compliance penalties were intended to deal with those.

We're taking it a step further for the reasons that Jack pointed out, which are logically good reasons, but I'm looking ahead to trying to explain that back in the home state, and I see some difficulty with that. So, that's a reluctance – I'm probably not going to weigh in on the motion itself, because, again, we're a de minimis state, but I'm a little concerned about the precedent.

Having said that, Gordon's point is valid, too. You know, think about this, the inability to meet your target when it's beyond the ability of the state to do it – I mean, they set out to do 200 samples and the fish don't show up and they can't get their 200, and you don't know until the end of the season, I guess the consequence is over the winter you have to design a different type of program to better ensure that you're going to hit that target the next year.

You really could be in a position of almost never being able to satisfy the need that way. So, there are some troubling points with this. The underlying philosophy, I have no qualms with, but what it portends for the future I do. Thank you.

CHAIRMAN DANIEL: Thank you, Eric. I would like to just weigh in here for just a second and explain that I don't think the motion is necessarily as onerous as some may think. It does require a plan to be developed.

Recognizing the various concerns in many states on personnel, on ability to get the fish if they're unavailable, I think the important thing about this motion, and especially coming from one of the states that have had difficulty collecting the information, is that there is a renewed commitment to collecting the information that we need.

I think by approving this motion it just sends a further message of the importance of this that other states can use to hopefully secure the funding that they need in order to make this not a very burdensome process.

But, again, if you read the motion carefully, my understanding of it is that it requires a plan for collecting, so that if the funding does become available, you can collect it. It doesn't say if you miss it by one length, your fishery is shut down. I've got David Pierce.

DR. PIERCE: I could support this motion. I think it's sensible. I do, however, share Eric Smith's view that it can be difficult to, at times, support strategies of this sort where a state is forced to do that which it may not be able to do because monies are not available.

However, in this particular case, with regard to weakfish, I think we have a unique situation in that – well, maybe not unique, but certainly close to being unique – we have a stock that is nearing collapse. We have tremendous unanswered questions regarding whether it's natural mortality or fishing mortality.

Therefore, we have to move forward with this sort of a strategy for the weakfish stock. There seems to be no other way for us to proceed with regard to that, so I would support this motion with an understanding that when it comes time for me to weigh in on the plan that would be offered up by any particular state regarding the collecting of samples, I will be turning to the technical committee advice relative to what we see here on Pages 11 and 12 of the addendum.

That's number of samples and also the other sampling variables, stratifying sampling, because I will not support any plan that will provide us with data that is not useful. We all know it has to be adequate in terms of number of samples and how it's stratified.

I think that point was made especially relevant by some of the commenters from the public regarding uniqueness of what appeared to happen in Raritan Bay and other New Jersey waters this past fall with regard to this abundance, this great fishing of weakfish that appeared. Stratification becomes extremely important, especially in those sorts of instances.

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

MR. CARPENTER: I'll pass; my point has been made.

CHAIRMAN DANIEL: Thank you, .A.C..  
Roy.

MR. MILLER: I'm supportive of Bruce's motion and the intent of his motion. I just wanted to point out just one obvious thing, or it should be obvious. Today we voted on the compliance report for the 2004 fishing year, which means that if a state fails to measure up to its compliance requirements for 2004, no action would be taken until 2006, potentially, under Bruce's motion.

So, there's another year there of fishing perhaps in non-compliance with the reporting requirements. I just wanted to make everyone aware of that.

CHAIRMAN DANIEL: Thank you, Roy.  
I'm going directly to my boss.

MR. PRESTON PATE, JR.: Thank you for recognizing me, Louis. And this may be a very minor point, but the motion presupposes there is a closed season, and the penalty is going to be not delaying that season.

You might want to consider some rewording to say something along the lines that harvest would be not allowed until the plan is approved. In our case, we don't have a closed season either commercially or recreationally, so that would be pretty meaningless to us. Thank you.

CHAIRMAN DANIEL: Is the board comfortable with making that technical correction to deal with all states and not just those with closed seasons?

MR. FREEMAN: As the maker of the motion, Louis, I would certainly agree to that wording change.

CHAIRMAN DANIEL: Okay. How about "or allow harvest" – "delay opening its fishery or prevent harvest or not allow harvest until". I think that addresses Pres' concerns. I have Vince.

EXECUTIVE DIRECTOR O'SHEA: Thanks, Mr. Chairman. I would like to take this opportunity to state the obvious in this discussion, and that is this board, along with all our other boards, always has a choice, and the choice is how precautionary to be in the management versus to what extent do we go out and get data.

And when we have data gaps and we have lack of data, the option is to be more precautionary in management, and we clearly heard a signal both in the public testimony and in the folks that were in the room here earlier today their concerns about precautionary management.

So encouragement to manage right up to the edge, it seems to me that is an argument to say you incur an obligation to get as much effort as possible into getting good, sound data to back up that management decision. It's a tradeoff, one or the other. If you don't want to get the data, then be more precautionary in the management. That's the challenge that this board is facing right now. Thank you.

CHAIRMAN DANIEL: And I thank you for those comments. John Frampton.

MR. JOHN E. FRAMPTON: Louis, I share some of the comments that Eric made earlier, but this motion has a fairly strong statement in here when it says that those states that say will basically be required, and there are a number of our states that don't have that legislative authority to do rules and regulations. Is this board willing to make that recommendation that the federal government come in there and enforce this?

That's pretty strong over a short period of time for a state to take action. This would not impact us, or course, because we're de minimis, but if it did, we would not have the ability to close or delay a season without going through our legislative process, which generally is a year.

CHAIRMAN DANIEL: Well, I would say that the motion is strong. It's intended to be strong to

collect this information that we need. If you were to go out of de minimis status and be required to collect samples, those could come from any number of sources, SEAMAP or any other fishery that you may have.

And if you developed a plan to collect those data and in the event that you couldn't collect them, this board would have that discussion. I believe that if it was felt that you did not collect them because you just simply didn't want to do it and there was no good-faith effort to do so, then it would be -- from the discussions I've heard around the table, it's important enough that we would try to come up with some way to take action to have South Carolina pay the consequences of that.

I don't foresee that happening, but I think that's sort of the feeling that I'm getting around the table is everyone agrees that's a very important component of this thing; and that if we are going to delay action and we are going to do these assessments, then we need to provide the technical committee with the information they've been requesting for 12 years. Robert.

MR. BOYLES: To that point, Mr. Chairman, I don't think it was my boss' intent to say we're not going to collect the data. It's a process-related question. I think Dr. Lang mentioned earlier that it's important that we do this and we not elevate this to the secretarial level regarding non-compliance.

I just don't know what that looks like for those of us who have to go through the legislative process to declare a moratorium, a temporary closure, whatever. We're just kind of left with what does this mean for us and how do we implement this?

CHAIRMAN DANIEL: Vince.

EXECUTIVE DIRECTOR O'SHEA: Two things that strike me with this. Number one is the states have the ability to make the decision to collect the samples without going to their legislature. Presumably, the burden of the consequences of not collecting, the intent here is to provide an incentive to collect.

I think the second point has been already made that this would be an agreement among the states, the members of this board, and the strongest thing to elicit compliance would be the sense of cooperation that's being made by the members of the board in approving this proposal.

CHAIRMAN DANIEL: Thank you, Vince.  
John.

MR. FRAMPTON: Louis, the bottom line is that we need to be able to go back to our general assembly and be able to say that if we don't do it, this is going to happen, and we need to be able to say that with confidence. I mean, that was the answer I was trying to get to, for somebody to say, yes, this board is willing to take it to the next step if necessary.

CHAIRMAN DANIEL: I think we are. If you were to become a non-de minimis state, then I think this board would be prepared to do whatever is necessary to get those samples. Any other comments on the motion on the floor? A.C.

MR. CARPENTER: Well, I guess to follow up with this discussion that we've got going now, if a state were to be found out of compliance and did not submit the plan, I'm assuming, then, that we still have the option the following year of going to the finding of non-compliance and reporting it to the Secretary so that hammer would still be there.

CHAIRMAN DANIEL: Gil.

MR. GIL POPE: Thank you, Mr. Chairman. My question is for Bruce. Would this motion take us back to ground zero, and would the last two years of non-compliance disappear? Number two, do we now need to adopt a new sampling plan or design one and pass that as well? Thank you.

CHAIRMAN DANIEL: Well, part of this addendum is an implementation schedule, and New Jersey will be required to submit that plan. But as far as going back for those states that have not complied, it seems like to me it's a wash with this addendum, but that's certainly up to the board.

MR. POPE: Mr. Chairman, my second question was do we need to adopt a new sampling plan? It says here a plan for collecting samples is approved by the management board. Do we use the existing one we have now? Thank you.

CHAIRMAN DANIEL: Well, that comes up in our next setup here. Gordon.

MR. COLVIN: That was my point.

CHAIRMAN DANIEL: Anything else from the board on this motion? One comment, Tom, quickly, please.

MR. FOTE: Tom Fote from Jersey Coast Anglers Association. I understand what the board is

trying to do here, but I'm just looking at funding issues. I realize that when we started putting regulations in place and started changing the way the Atlantic States Marine Fisheries Commission behaved and affects fisheries in each one of the states along the coast, in 1994 the Commission's budget was about a million dollars.

That budget has gone up probably about six or seven times in that period of time because of all the added work that needs to be done to get these fishery management plans in place. I have really to look at one state that budget has increased by seven fold in the last 12 or 13 years.

As a matter of fact, I know states that have lost budget money over that period of time. We require too many tasks from the states. We basically look at too many things to do. We have complicated management plans, and we shouldn't be just looking at one plan in particular.

We should be looking at all the plans, because the amount of money that's required to do all the necessary work is not there right now. Unless the federal government is going to – which I don't see because of Katrina and the Iraq War – come forward with a lot of money in the next two or three years, I really would hate to put the states in a bind, because we're going to require this in other species, and we do require it in other species without the funding. It's one of those non-funded mandates that we put on, and I'm really concerned over that. Thank you for your patience.

CHAIRMAN DANIEL: Thank you, Tom. Anything else from the board on this motion? Do we need to caucus? Thirty seconds. Again, the motion is move that de minimis states that fail to collect required samples in a given year not allowed to harvest weakfish until a plan for collecting samples is approved by the management board. All those in favor of the motion, signify by raising your right hand; opposed, same sign; abstentions; null votes. The motion carries. Mr. Colvin.

MR. COLVIN: Mr. Chairman, I have a motion; and if I get a second, I would like to make a comment with respect to the motion. I move adoption of the biological sampling and reporting program as included in the draft of Addendum I.

CHAIRMAN DANIEL: Motion by Mr. Colvin; second by Gil Pope to adopt the biological sampling and reporting program as outlined in Addendum I. Is there any discussion on that motion?

MR. COLVIN: I have a comment I'd like to make, Mr. Chairman. The issue has arisen with respect to the plan review team report on compliance. Mr. Freeman has addressed New Jersey's situation. I would like to take a minute to address New York's situation at the present time.

New York has instituted a limited biological sampling program in commercial fisheries in conjunction with our ACCSP-funded joint project involving the National Marine Fisheries Service's Northeast Regional Office; my agency; and our contractor, Cornell Cooperative Extension of Suffolk County.

This issue will come up again tomorrow at the ACCSP Program. We have been able to use that contractual relationship with Cornell Cooperative Extension to institute supplemental collections this year of both weakfish and tautog related to the Commission's reporting requirements for those two species, both of which are compliance requirements.

We're doing fairly well with the weakfish, and I asked Cornell to target a sample that would be equivalent to that which would be required had Addendum I been in place in 2005, and they're hopeful that they'll get fairly close to that, despite the continuing decline in commercial fisheries landings for weakfish in New York.

I think that will be our game plan again next year, assuming, of course, that we successfully navigate the ACCSP funding deliberations tomorrow. That's a commercial.

Let me also say that Cornell Cooperative Extension is also the contracted agent in New York for the collection of biological samples under the Northeast Fisheries Science Center's Northeast Biological Sampling Program as well.

I got an e-mail last night from the project manager, Emerson Hasbrook, who had received yesterday the sample targets under that program for 2006. Once again, ASMFC species are not on that list; not necessarily that they should be, but this is something we have been discussing, and it comes up later in the addendum in terms of options for implementation and coordination in sample collection in the future.

I think it needs to be a focus of discussion tomorrow. I would hope that we can make better use of these existing vehicles and the funding available to all of us through ACCSP to implement biological sampling in

commercial fisheries to implement our compliance requirements.

I see no reason that we can't given their importance. If we, as a board, or the Commission, through its Policy Board, intends to find a state in non-compliance and to recommend a secretarial closure of a fishery, whether it be for tautog, weakfish, and striped bass, which are the only three I know of off the top of my head that have those requirements, it seems to me that is important enough for the Commission and the Policy Board to assure that there is prioritized funding through ACCSP and a prioritized relationship with our partners in the National Marine Fisheries Service to get it done. Thank you.

CHAIRMAN DANIEL: Thank you, Gordon. Gil.

MR. POPE: Thank you. As part of the motion, does the technical committee feel that the current plan of biological sampling requirements are adequate to do the entire job, especially since you talk about natural mortality?

Are there enough natural mortality studies on predation, stomach content, and so on in place now for you guys to do your job, not adequately, but I mean is there something that needs to be added to that as far as biological studies?

Because, if there was theme today in the public, it was about predation, and they kept mentioning the same two fish over and over of striped bass and dogfish. In the areas where these fish are small and really are going to be eaten, I would think that there would need to be increased studies along those lines to find out if natural mortality in that particular fashion is the true reasoning. That would be my question for them; is that plan that we're going to vote on adequate?

CHAIRMAN DANIEL: Des.

MR. KAHN: Thank you. It's a good question. I believe the biological sampling we're speaking of here is essentially sampling of the catches, which is required if we're going to do catch-at-age analysis.

The issues you're discussing are separate issues, and I think Jim is a little more aware of the data in that arena than I am, so I'll let him address that.

MR. UPHOFF: As far as looking at predator effects, there's a body of literature, especially on

striped bass, with diet studies that's reasonably comprehensive, but it's not updated from year to year.

There are diet studies that have been done for a variety of species by the Northeast Fisheries Science Center. I have not looked for dogfish yet, although we've done some preliminary analysis at least of the trends of dogfish biomass and weakfish.

I would say for the natural mortality component you're not going to get the body count that you get from monitoring commercial fisheries. You're probably going to get a large body of circumstantial evidence that you're going to judge the significance of that impact from.

At this point there is no coastal stomach sampling. It's pretty much catch as catch can from different studies in different regions.

MR. POPE: The answer is no, okay.

MR. AUGUSTINE: Thank you, Jim. Mr. Carpenter.

MR. CARPENTER: Thank you. I think Gil has brought up an extremely important point; and, no, we might not know where the weakfish are being eaten, but it we're going to move to ecosystem management, if I look at this list, I've got to collect six lengths, three ages, why can't there be one stomach content of at least weakfish and we begin building and developing that relationship of what they're eating and start to gather?

I mean, you've killed the fish, anyway. You really haven't appreciably added to the cost of this program, I don't think, but it is an opportunity to start building this kind of data base. I think Gil's point is very well taken that is there something like that that we need?

I mean, I'm looking at this thing, and it says -- the very last sentence of this whole document says, "All ideas will be considered, so thinking outside of the box is encouraged," and I think this is thinking outside of the box that we really need to take a gamble on right now and move forward with.

MR. AUGUSTINE: Thank you. Jim.

MR. UPHOFF: Okay, actually the idea of some kind of comprehensive monitoring of diets is an excellent one, because if the commitment is there for multi-species management, the two models that the ASMFC right now is developing, plus things like ECOSIM/ECOPATH, bioenergetics models and so

one, you need a well-designed, comprehensive, coast-wide sampling program. It's a great idea. Now, who is going to pay for it?

MR. CARPENTER: To that point, I'm not sure that anybody is going to pay for it, but what I am saying is that as these plans are modified and as biological samplings come on line, we need to begin making that part of the routine information that we collect when we're doing all this work.

I think you start with a small step, and the small step is one fish out of a ton of weakfish to at least see what weakfish is eating and begin developing that kind of system. Maybe the next time the Striped Bass Plan comes around for review, we're going to have to analyze some of their stomach content as well. It's a move in the direction that I think we need to move.

MR. UPHOFF: I'm in total agreement. It's a matter of making sure that it's well designed, and you avoid certain gears that might induce biases, sampling stomach contents of fish held in pound nets, for instance, where they have an opportunity to chow down.

I think it's probably an excellent opportunity for a multi-species committee and maybe some type of a workshop to develop a sampling plan or something like that, but it can be done.

CHAIRMAN DANIEL: A.C., I think your comments fit in beautifully with what Gordon said. I mean, if we're going to require these data and we're going to try to move into ecosystems management and we're going to try to start going outside of this single-species box, I think we've got to start collecting that type of information.

MR. CARPENTER: Do you think it's time to amend this motion to include that one fish be analyzed for stomach content?

CHAIRMAN DANIEL: Des.

MR. KAHN: Well, I applaud your desire to start collecting this kind of data. I think we need to develop a sampling plan. To do something that's going to be good and effective and meaningful, we need to kind of take a lot of things into consideration.

I think at this point, to put it in here might not be the best approach. We could do it, but I think it might be something that we would want to do a little more planning, personally, but I'm not opposed to it. It would be an additional source of data.

I think it's not just as simple as measuring a length and taking otoliths, though. You've got to remove the stomach, you've got to preserve them, you've got to later go in the lab and process the samples. It is another element in the data collection that would add some additional effort.

CHAIRMAN DANIEL: Well, I guess from experience in North Carolina, when you have the fish, there's no reason not to take all the available information off of that fish, be it gonads, be it stomachs, be it otoliths, scales, if you need them, lengths, weights, the whole deal.

So, certainly, there's no reason to waste any of the information. It is a little bit cumbersome to have to wrap them in cheesecloth and preserve them and take care of them. If we could at least start to stockpile some of that information, maybe there would be a graduate student or some type of a program where we could get folks to do this coast-wide diet analysis. I think we're going to need that for all these species, to be honest with you. Jack.

MR. TRAVELSTEAD: I think A.C. has an excellent idea, but I'm just not quite sure that the timing is right on this. If we had a multi-species management board at the Commission, it might be good to forward this to them.

We don't, but maybe we should forward it to our Management and Science Committee for development of some – or least some discussion of a more comprehensive data collection program along these lines.

Otherwise, I think we're piecemealing it here. We're talking about weakfish, and then we'd have to talk about it in each of the other individual boards, but maybe some further guidance, as Des has suggested, from our technical people would help.

CHAIRMAN DANIEL: Thank you, Jack. Gil.

MR. POPE: Thank you, Mr. Chairman. That program has to be coordinated between striped bass, bluefish and all the fish that interact. That's why I think we really need a comprehensive plan on this, because they interact with so many other fish. Thank you.

CHAIRMAN DANIEL: Anne.

MS. LANG: I just wanted to mention Dr. Laney just indicated that there's a program in the Chesapeake Bay, I guess with VIMS, that is taking samples within Chesapeake Bay for stomach content, and that they were looking for coast-wide samples or may be available to look at coast-wide samples. So, once a sampling frame is developed, it might be a place to send them.

CHAIRMAN DANIEL: Well, I think Jack's suggestion is a good one, to ask our Management and Science Committee to review this and maybe get a consolidated report on the types of information that we need and maybe try to be consistent across all boards. Is there any further discussion on this motion? Gordon.

MR. COLVIN: It also occurs to me this might well be a NEMAP issue, and we might want to ask for input from that perspective as well.

CHAIRMAN DANIEL: And SEAMAP as well. Any other comments on the motion? Is there a need to caucus? If not, all those in favor, signify by raising your right hand; all those opposed, same sign; null votes; abstentions. The motion carries unanimously. Gordon.

MR. COLVIN: Mr. Chairman, I would move adoption of Addendum I with the content reflecting the two motions passed by the board.

CHAIRMAN DANIEL: Motion by Mr. Colvin; seconded by Mr. Pope to approved Addendum I as modified by the board. Discussion? A.C.

MR. CARPENTER: Gordon, are you going to put an effective date in there or is that a separate motion?

MR. COLVIN: Brad, help me out; what's in the draft?

MR. AUGUSTINE: February.

CHAIRMAN DANIEL: February 1<sup>st</sup>.

MR. SPEAR: Yes, right now states would be required to develop an implementation plan by February 1<sup>st</sup>, '06.

MR. COLVIN: Then I would modify the motion to incorporate the date of February 1, 2006, as the effective date of the addendum.

CHAIRMAN DANIEL: Suitable to the seconder? All right, motion to approve the addendum and date certain implementation of 2006, February 1. Mr. O'Shea.

EXECUTIVE DIRECTOR O'SHEA: Thank you. To the maker of the motion, staff has tweaked the words a little bit because we have two different statements; one coming from the chairman, who is trying to capture what the maker of the motion said, as well as the maker of the motion, so if you all could just look at that and advise us, please.

CHAIRMAN DANIEL: Gordon, are you satisfied with that motion?

MR. COLVIN: There could be a question on the record as to what it means as modified by the management board. I think my indicated to move for adoption of Addendum I as dictated by the two motions passed by the board, effective February 1, 2006.

CHAIRMAN DANIEL: Thank you, Vince. Bill.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. So, if we adopt this as Addendum I, the first motion to defer action on commercial and recreational measures, if you decide to do something on that a later date, does that mean we have to do another addendum to do that or is that part of this one? I'm a little confused on how it works.

CHAIRMAN DANIEL: Mr. O'Shea.

EXECUTIVE DIRECTOR O'SHEA: Thanks, Mr. Chairman. One of the options that the board has is there was a degree of science and scientific advice that went into the preparation and public hearing of this addendum.

If this stock assessment goes out for peer review and basically comes back saying that the science advice within is solid, then one of the options the board would have would be to then take action on the management portion, perhaps rename it Addendum II, but the logic being it's already gone out to public review, the science that was within it had gone out to public review, and you have a range of options that you've taken out to public comment going from do nothing to a moratorium, so one of the options we think on the staff that you would have is to just simply rename the management portion Addendum II and take action on that.

Obviously, the board also has the option down the road to say you want to start over and go out with a whole new round of public hearings. If you remember in winter flounder, the board decided to do that as well. It's our view that you have the option to do either one.

Now, the third obvious thing is that the stock assessment peer review comes back with some radically different information, and that in itself may be the basis for you to do otherwise. Thank you.

CHAIRMAN DANIEL: Thank you, Vince, I think you kind of covered the various scenarios that we may expect. We'll see from this review. Eric.

MR. SMITH: Thank you, Mr. Chairman, a point of order on this. My count is there were three motions passed by the board, and so that we don't have confusion six or eight months from now about which two we were referring to, the first one was the deferral, the second one was the compliance issue that Bruce moved, and the third one was Gordon's recent one.

CHAIRMAN DANIEL: Thank you, Eric. We'll make that correction to three. Brad.

MR. SPEAR: Gordon, I'd like to clarify my answer to you about your question on implementation in the draft addendum. February 1<sup>st</sup> was the date set in the draft for states to submit an implementation plan to the Commission, to staff, with final approval of those implementation plans and implementation by April 1<sup>st</sup>. As it reads now, the implementation date would be no later than February 1<sup>st</sup>.

MR. COLVIN: You know, this is a little different than I said. I would word it as "effective February 1<sup>st</sup>, 2006. I think in that context, then what the addendum then requires as of that date is the submission of the plan.

CHAIRMAN DANIEL: Any further discussion on the motion? If not, we'll take 30 seconds to caucus. The motion is move for adoption of Addendum I as dictated by the three motions passed by the management board, effective February 1, 2006. Roy.

MR. MILLER: Mr. Chairman, We're still confused over the intent of the motion. Perhaps the maker of the motion could clarify what exactly is due February 1<sup>st</sup>.

MR. COLVIN: As I understand it, the effect of the motion will be to adopt the substance of Mr. Freeman's motion with respect to the consequences of failure to submit data and of my motion with respect to the adoption of the biological sampling and reporting program, and that effective February 1<sup>st</sup>, 2006, each state will have to submit its plan for collection of biological sampling and reporting for the fishing year beginning in 2006, and that will need to be approved and implemented, as Mr. Spear pointed out, by April.

MR. MILLER: Mr. Chairman, what, if anything, does this motion have to do with the deferral of the commercial and recreational measures?

MR. COLVIN: It recognizes that we deferred it. It will not appear in Addendum I.

CHAIRMAN DANIEL: But, Roy, that's with the understanding of the board, I believe, from the executive director that there will be a peer review completed by the May meeting.

There were three motions. The first was to defer any action on the commercial and recreational harvest measures until we received a peer-reviewed assessment. The second was the compliance criteria and the ramifications of non-compliance that Bruce offered. The third was the motion from Gordon on the actual biological sampling criteria. Roy.

MR. MILLER: Mr. Chairman, it would be clearer to me if the latter two motions were included in this particular motion, but I'm still not certain how the February 1 date relates to Motion 1.

MR. COLVIN: It doesn't.

MR. MILLER: Then why does the motion say the previous three motions?

MR. COLVIN: Blame, Eric. (Laughter) We passed a motion to defer action on the first issue in the addendum. That's it, we deferred it. There's no action on it. It's not in the addendum; it doesn't appear. That's my interpretation of the motion and how it would work.

Now, if folks aren't comfortable with that, we can craft another motion that gets very specific about which two motions will be in the addendum. I think the record is clear, though.

CHAIRMAN DANIEL: Anything further? Do we need to caucus again? All right, all those in

favor, signify by raising your right hand; opposed, same sign; abstentions, 1; null votes, 1. The motion carries.

Just a couple of notes for your information. There was a response from Chairman Pate to Representative Pallone that was passed out around the table.

I'd also like to just remind the board to either yourself or work with your technical folks to submit terms of reference to Brad as soon as possible so we can get this assessment review up and going.

And then, finally, I'd just like to thank all the help from staff and the board's indulgence. I think we got through it right on time, and I appreciate all your help. Des.

MR. KAHN: I would like to make a brief statement, Mr. Chairman, as I discussed with you previously, just a couple of minutes. What I wanted to address was a recent widely circulated draft report titled, "MRAG America's, Incorporated, Review of the ASMFC Stock Assessment Process"; initial draft response by the ASMFC by Dr. Cuomo, et al. Then it –

MR. COLVIN: Mr. Chairman.

CHAIRMAN DANIEL: Yes, I think this is –

MR. COLVIN: I raised a point of order, Mr. Chairman, about the relationship of this to the agenda. Sorry, I just wonder?

CHAIRMAN DANIEL: No, this is not the time or I don't believe the place for this discussion. Is there any other business to come before the Weakfish Management Board?

Seeing none, I'd entertain a motion to adjourn. Moved and seconded. Thank you very much.

(Whereupon, the meeting was adjourned at 11:05 o'clock a.m., November 2, 2005.)

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