

**PROCEEDINGS
OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
ATLANTIC STRIPED BASS MANAGEMENT BOARD**

**June 8, 2003
DoubleTree Hotel Crystal City
Arlington, Virginia**

ATTENDANCE

Board Members

Lew Flagg, **Chair**, Maine DMR
Pat White, Maine Gov. Apte.
Senator Dennis Damon, Legislative Apte. (ME)
John Nelson, New Hampshire Fish & Game Dep.
G. Ritchie White, New Hampshire Gov. Apte.
Dennis Abbott, proxy for Rep. Blanchard (NH)
Paul Diodati, Massachusetts DMF
Vito Calomo, proxy for Representative Verga (MA)
David Borden, Rhode Island DEM
Gil Pope, Rhode Island Gov. Apte.
Jerry Carvalho, proxy for Rep. Naughton (RI)
Eric Smith, Connecticut DMR
Gordon Colvin, New York DEC
Brian Culhane, proxy for Senator Johnson (NY)
Bruce Freeman, New Jersey DFG&W

Tom Fote, New Jersey Gov. Apte.
John DePersenaire, proxy for Assemblyman Smith (NJ)
Dick Snyder, PA Fish & Boat Commission
Gene Kray, proxy for Jeff Coy (PA)
Roy Miller, Delaware DFW
Pete Jensen, Maryland DNR
Bill Goldsborough, Maryland Gov. Apte.
Senator Richard Colburn, Legislative Apte. (MD)
A.C. Carpenter, PRFC
Ira Palmer, DC F&WD
Kelly Place, proxy for Senator John Chichester (VA)
Preston Pate, North Carolina, DMF
Damon Tatem, North Carolina Gov. Apte.
Anne Lange, NOAA Fisheries
Bill Cole, USFWS

Ex-Officio Members

Pat Keliher, Advisory Panel Chair
John Carmichael, Technical Committee Chair

Kurt Blanchard, LEC Representative

ASMFC Staff

Bob Beal
Megan Gamble
Michael Howard, ASMFC

Vince O'Shea
Brad Spear

Guests

Jim Gilford, Frederick, Maryland
Ed O'Brien, Maryland Charterboat
Howard King, MD DNR
Peter Burns, NMFS
Dan McKiernan, MA DMF
George Lapointe, ME DMR
Tom Meyer, NMFS
Bill Windley, MSSA/RFA, MD
Dick Brame, CCA, NC

Bob Fjelstad Onancock, VA
Fentress Munden, NC DMF
Robert Bogan, United Boatman, NJ
William Egerter, United Boatmen, NJ
Tony Bogan, United Boatman, NJ
Richard Novotny, MSSA, MD
Bud Brown, CCA, ME
Rob Hawrycuk, RFA/United Boatmen, NJ

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MOTIONS

1. Move to approve option 1 and the bonus fishery from New Jersey's proposal.

Motion made by Mr. Ritchie; second by Mr. Calomo. Motion carries with 4 abstentions.

2. Move to approve Pennsylvania's proposal to remain at status quo for the 2004 fishing season and to allow staff to see what New Jersey and Delaware choose to implement and Pennsylvania will adjust to be consistent in 2005.

Motion made by Mr. Snyder; second by Mr. Fote. Motion fails for lack of majority (7 in favor, 7 opposed and 2 abstentions).

3. Move to approve options 1 and 4 of Delaware's recreational fishery.

Motion made by Mr. Diodati; second by Mr. Ritchie. Motion carries.

4. Move that Delaware's proposal for a 20-inch minimum size in ocean shad gillnet bycatch fishery through 2004 be approved and in 2005 Delaware will go back to 28 inches in the ocean fishery.

Motion made by Mr. Miller; second by Mr. Palmer. Motion fails.

5. Move to approve Maryland's proposal.

Motion made by Mr. Jensen; second by Mr. Carpenter. Motion amended.

6. Move to amend to include a Chesapeake Bay-wide cap for the spring trophy fishery at 30,000 fish.

Motion made by Mr. Colvin; second by Mr. Nelson. Motion carries.

7. Move to approve Maryland's proposal with the requirement that it include a Chesapeake Bay-wide cap at 30,000 fish for the spring trophy fishery.

Motion made by Colvin; second by Mr. Nelson. Motion carries.

8. Board moves the approval of the implementation proposals for Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Potomac River Fisheries Commission, Washington, D.C., Virginia, and North Carolina.

Motion made by Mr. Flagg on behalf of the Board. Motion carries with no objections.

**ATLANTIC STATES MARINE FISHERIES
COMMISSION**

**ATLANTIC STRIPED BASS MANAGEMENT
BOARD**

**DoubleTree Hotel Crystal City
Arlington, Virginia
June 9, 2003**

The meeting of the Atlantic Striped Bass Management Board of the Atlantic States Marine Fisheries Commission convened in the Washington Room of the DoubleTree Hotel Crystal City, Arlington, Virginia, on Monday, June 9, 2003, and was called to order at 3:45 o'clock p.m. by Chairman Lewis Flagg.

WELCOME & INTRODUCTIONS

CHAIRMAN LEWIS FLAGG: If you will take your seats, we'll begin the meeting of the Striped Bass Board. Good afternoon, everyone. My name is Lew Flagg and I'm the chairman of the Striped Bass Board.

We'll convene the meeting at this time, and I would note for the record that there are a quorum of commissioners present for this board meeting, and there is a roster being circulated so please sign in to that.

Before I begin, I wanted to just note, for those of you that have received a copy of Amendment 6 to the Striped Bass Plan, I was very pleased that the document was dedicated to Eileen Hamilton.

As many of you know, Eileen passed away very suddenly last fall. I had the privilege to work with her for a number of years in the capacity of a technical committee member to the board. Eileen was really a tremendous individual to work for.

She was a very dedicated, hard-working professional and I'm pleased that the commission did take the opportunity to recognize her and her tremendous efforts in terms of striped bass conservation.

BOARD CONSENT

CHAIRMAN LEWIS FLAGG: With that, we do have an agenda, it is titled "Draft

Revised Agenda", dated June 9, 2003. There are some handouts that I think have come around. We're going to be working off the document that says "meeting materials from the briefing CD plus additional materials", dated June 9, 2003.

So, we're working off that draft revised agenda, and I would ask if there are any additions that we need to have incorporated into the agenda at this time. Seeing no hands, then we will proceed with the agenda as printed.

Previously you were mailed copies of the proceedings from the February 24th meeting. Are there any errors or omissions to those minutes? Does anybody have anything that they would like to add to those minutes? If not, if there are no objections, then we will declare the minutes confirmed as printed.

PUBLIC COMMENT

CHAIRMAN LEWIS FLAGG: At this time we will allow for an opportunity for public comment. Are there any members of the public that would like to make comments at this time? Bill.

(Remark made without using the microphone.)

CHAIRMAN FLAGG: Yes, we will as we proceed through the meeting. I would ask if there are those that might want to make public comments on particular issues, if they would just raise their hand and I will recognize you at that time.

Others that would like to make any public comments at this time? Okay, seeing none then, we will proceed to the next agenda item, which is the plan review team report. I'm going to ask Megan to give us that review.

**PLAN REVIEW TEAM'S COMPLIANCE
REPORT**

MS. MEGAN E. GAMBLE: Thank you, Mr. Chairman. Right behind the agenda in that packet of materials you just received, there is a memo on the annual compliance reports. And, the PRT has determined that all of the state compliance reports are in compliance with the requirements of the striped bass management program.

The only comments from the PRT was that both Massachusetts and Rhode Island exceeded their coastal commercial quota, and the table at the bottom

of the memo addresses those overages and the penalties that will be applied to their 2003 commercial quota.

CHAIRMAN FLAGG: Okay, any questions of Megan concerning the report? Okay, seeing none, our next agenda item is the state implementation proposals.

PRT'S REVIEW OF THE AMENDMENT 6 IMPLEMENTATION PROPOSALS

MS. GAMBLE: Okay, also in the packet that you guys just received behind the PRT's memo, there is a table that summarizes very concisely all of the implementation proposals for Amendment 6. The actual proposals were included on the briefing CD, but I did not bring copies of those.

This presentation is going to highlight the management measures included in each of those proposals. Specifically it will speak to whether or not they implemented the two fish at 28 inches for the recreational fishery, the 28-inch minimum size limit for the commercial fishery, and then whether or not the states put measures in place to ensure the quota is not exceeded for the commercial fishery.

Also, the technical committee met only about a week or so ago on May 29th and 30th to review these proposals, especially paying attention to those that are requesting conservation equivalency. I will provide the technical committee's recommendations as I go through the presentation, and John is here to elaborate if there are any questions.

The only other thing I would note is when the technical committee was going through the proposals, Amendment 6 does not provide any guidance on conservation equivalency whereas previous amendments have.

So, the technical committee has decided to task a member with developing a set of criteria for future proposals to change the striped bass management program, and the hope is to have that set of criteria available for 2005 proposals.

Okay, so the first proposal is for the state of Maine. Their proposal is to maintain status quo. That's one fish with a slot size of 20 inches to 26 inches, or one fish is greater than 40 inches. The commercial fishery is prohibited in the state of Maine.

The technical committee approved Maine's proposal

based on Dr. Vic Crecco's analysis of size and slot limits. Dr. Crecco's analysis showed that one fish between 20 to 26 inches or greater than 40 inches is conservationally equivalent to two fish at 28 inches. I did provide copies of that analysis, and those are on the back table. Are there any comments on the state of Maine's proposal?

CHAIRMAN FLAGG: What's the board's pleasure? Do you want to approve these as we go along, each one, or shall we wait until the end and take them as a group. It's your pleasure, however you wish to do that. Okay, John.

MR. JOHN I. NELSON: Move acceptance of the Maine proposal.

MR. PATTEN D. WHITE: Second.

CHAIRMAN FLAGG: I have a second from Pat White. Discussion. All those in favor of approval of the Maine proposal, raise your right hand; opposed; abstentions; null votes. Okay, the motion passes. Next proposal.

MS. GAMBLE: The next is the state of New Hampshire. Actually, the board approved the state of New Hampshire's program during the February meeting. The recreational fishery is two fish at a minimum size of 28 inches and one of those two fish can be over 40 inches. Their commercial fishery is prohibited.

CHAIRMAN FLAGG: Okay, I think where the board has already approved the New Hampshire proposal previously, we don't need to deal with that unless there are objections. Seeing no objections, then New Hampshire's proposal is approved.

MS. GAMBLE: Next is the Commonwealth of Massachusetts. The recreational fishery regulation is two fish at 28 inches. In the commercial fishery, they are implementing a 34-inch minimum size. I highlighted for these states that do have a commercial fishery the mechanisms they've put in place to control their harvest so that the quota is not exceeded.

So for Massachusetts, I just highlighted the fact that they have a commercial and a striped bass permit, and those with permits are required to file catch reports. Dealers are also required to have a permit and report through the IVR system weekly.

CHAIRMAN FLAGG: Questions of Megan? Yes, Gil.

MR. GIL POPE: Thank you. This would be for the state of Massachusetts as to whether they've calculated or have any idea as to what the increase from one fish to two fish is going to mean in either pounds or numbers of fish, if they've had a chance to calculate that yet?

CHAIRMAN FLAGG: Paul.

MR. PAUL DIODATI: It was my understanding that we weren't required to calculate it, but we have and we expect it to be about a 30 percent increase in our harvest numbers.

CHAIRMAN FLAGG: Other questions on the Massachusetts proposal? A.C.

MR. A. C. CARPENTER: Megan, in going through these proposals, if you could just give us a one-line technical committee evaluation of the state's proposal, it would help.

MS. GAMBLE: My apologies, A.C. Those last couple of ones, the technical committee had no problem with so I didn't mention anything.

CHAIRMAN FLAGG: Okay, any other questions? In order to expedite this, are there any objections to approval of the Massachusetts proposal? Seeing none, then the proposal is approved.

MS. GAMBLE: Okay, next we have the state of Rhode Island. Their proposal is also to implement two fish at a minimum size of 28 inches for the recreational fishery. For their commercial fishery, the floating traps have a 28-inch minimum size and all other gears have a 34-inch minimum size.

Their quota is allocated between their gear types. That's supposed to be semi-weekly IVR reporting, tagging and also seasonal allocation of their quota and closures. The technical committee approved the state of Rhode Island's proposal.

CHAIRMAN FLAGG: Any questions concerning the Rhode Island proposal? Are there any objections to approving the proposal by Rhode Island? Seeing none, the Rhode Island proposal is approved.

MS. GAMBLE: Next we have

Connecticut. The recreational fishery proposal is two fish at a minimum size of 28 inches. The commercial fishery for striped bass is prohibited in Connecticut state waters.

CHAIRMAN FLAGG: Technical committee recommendations.

MS. GAMBLE: The technical committee approved the proposal for Connecticut.

CHAIRMAN FLAGG: Any questions from the board members on the Connecticut proposal? Are there objections to approval of the Connecticut proposal? Seeing none, the Connecticut proposal is approved.

MS. GAMBLE: Okay, this is where the proposals get a little bit more intricate. I'm going to take this piece by piece for the state of New York. Their coastal recreational fishery, at this time the proposal is for a one fish at a minimum size of 28 inches.

The charter boats will have a two-fish bag limit with a minimum size of 28 inches. The technical committee determined that the proposal for the coastal recreational fishery does meet the requirements of Amendment 6.

The coastal commercial fishery proposal is for a slot size of 24 inches to 36 inches. And because that's a lower minimum size than is required under Amendment 6, the state of New York provided an analysis which shows that by reducing the quota to 828,293 pounds, this proposal is conservationally equivalent to the requirements in Amendment 6.

Next is the recreational fishery on the Hudson, and the state of New York right now is proposing one fish at 28 inches or some alternative. They wanted time to explore that further; and in light of that, are requesting additional time to implement this aspect of their proposal. That additional time is March 15th, 2004.

On the Delaware recreational fishery, it's a two-fish bag limit with a minimum size if 28 inches. The commercial fishery is prohibited on both the Hudson and the Delaware. Now, the technical committee did approve the coastal commercial fishery aspect.

The technical committee's comments on the Hudson recreational fishery is that one fish at 28 inches does meet the requirements of Amendment 6, but if New York does develop other alternatives, the technical

committee will need to review those other alternatives before implementation.

CHAIRMAN FLAGG: Questions of Megan. I understand that the implementation date is January 1 for the proposals, but it's my understanding also that the Hudson River is closed to fishing until the 16th of March; so, as long as it's closed, there will be no activity there.

New York has pledged to have a proposal approved by then, it is my understanding. Are there other questions about the New York proposal? Are there objections to the New York proposal as presented? John.

MR. JOHN I. NELSON: I'm sorry, Lew, I guess I just need a little clarification, then. Other than the Delaware River, what is it that New York will be fishing at for this season, I guess?

CHAIRMAN FLAGG: Gordon.

MR. GORDON C. COLVIN: I think Megan correctly reported our marine district regulations as one fish at 28 inches. However, customers on licensed party and charter boats can have two fish at 28 inches, and that season opens April 15th and runs through December 15th.

And, the Hudson River continues to be one at 18 March 16 through December 15; and as was noted, the Amendment 6 compliance requirements for the Hudson go into effect January 1, '04.

CHAIRMAN FLAGG: Bruce.

MR. BRUCE FREEMAN: Gordon, can I simply ask why the difference in bag limits between the Hudson and Delaware, one fish as opposed to two?

MR. COLVIN: We've always taken a very conservative view of harvest and removal of striped bass from the Hudson in light of PCB contamination.

I should also point out that for our in-state purposes, the Hudson River Regulations apply from the George Washington Bridge north and the marine district, the marine coastal regulations apply downstream from the George Washington Bridge, inclusive of New York Harbor, even though in the management plan I think at one time New York Harbor was looked at as a part of the old Hudson River area, but that's not how we define it in state.

CHAIRMAN FLAGG: Other questions relative to the New York proposal? Yes, A.C.

MR. CARPENTER: Gordon, the marine district is listed as "will explore alternatives", but there is no specific given there.

MR. COLVIN: For 2004.

MR. CARPENTER: For 2004. So, are we being asked to approve the 2004 fishery with this kind of level of detail?

MR. COLVIN: What we're saying is we're at one at 28, two at 28. If we come up with any alternatives, they'll come back to the commission based on technical committee advice, but right now that's what we are. We're not changing it until we change it, and we'll follow the process when we do.

CHAIRMAN FLAGG: Other questions? Are there objections from the board to approval of the New York proposal? Seeing none, the proposal is approved. Next.

MS. GAMBLE: Next is New Jersey's proposal. New Jersey's proposal included four different options for their recreational fishery. The first option was a two-fish bag limit with a 28-inch minimum size.

The second was one fish with a slot size of 24 to 28 inches and a second fish greater than 28 inches. The third is the same as the second option, but applies a season. The fourth is a one fish with 24 to 32 inch slot limit and a second fish greater than 38 inches.

The technical committee approved the two fish at 28 inches, but they could not approve or recommend approval for the remaining three options because there was no analysis provided to justify conservation equivalency.

And the technical committee approved the bonus fishery also, and the bonus fishery is one fish at 28 inches, and that total weight is not to exceed 321,650 pounds, which is the commercial quota under Amendment 6. Their commercial fishery is prohibited.

CHAIRMAN FLAGG: Questions on the New Jersey proposal? Yes, Bruce.

MR. FREEMAN: Thank you, Mr.

Chairman, not a question but a statement. This gets to be somewhat complicated relative to the issue we discussed previously, the so-called "producer area status", which no longer exists.

We had, as indicated, several proposals. The expectation was, particularly on Proposal 4, that the analysis will come forward. We were doing this similar to what Delaware was doing. My understanding is we'll go back and do the necessary calculations to see what slot size is appropriate.

Apparently Delaware did some analysis that was rejected. We used the same size in order to be consistent. Both those proposals were rejected.

We anticipate coming forward with a different proposal, one that would technically meet the criteria for slot sizes. And we also, during the meeting today, want to reraise or bring forth the issue of producing area status as indicated at the last board meeting.

CHAIRMAN FLAGG: Thank you, Bruce. Megan, you had a comment.

MS. GAMBLE: Yes, Bruce, one of the things we learned when I polled the board on how long it would take to implement these new regulations was the state of New Jersey has a very lengthy regulatory process for changing their management measures.

So, that's just concern they have for the state of New Jersey with you guys coming back with a brand new proposal that the technical committee will need to review, and then the board will need to approve again. Do you guys have enough time to do that?

MR. FREEMAN: Well, in this instance it may require a change in the statute. Our regulatory process normally is nine months. But, statutory change could occur in a week or it could occur in ten years, who knows. But, we still need to do the calculations and justifications to look at a slot size. We're very much interested in that.

MS. GAMBLE: I guess I would just ask, when you're submitting the revised proposal, if you could indicate whether or not you need extra time, as we did with this first round of proposals.

MR. FREEMAN: Yes.

CHAIRMAN FLAGG: Tom.

MR. THOMAS FOTE: At the last meeting of the striped bass board, we had a lengthy discussion on the producing area and what went on there, and really some of our proposals are based on some of that discussion that will come later.

I would request that we hold off voting on New Jersey until we basically go back and revisit the producing area status, because I have a lot of points to make and I don't want to make it at this point so we can get through all the other state proposals.

CHAIRMAN FLAGG: Yes, Ritchie.

MR. G. RITCHIE WHITE: Following up on Megan's comment, it would seem that status quo for New Jersey was not accepted by the technical committee, so something will have to be implemented for next year.

So, does it make sense for us to go ahead and vote the two at 28, which they've offered, and then they have that as a backup so worse case is if nothing else can be put into place, they'll have the two at 28?

CHAIRMAN FLAGG: Are you making that in the form of a motion, Ritchie?

MR. WHITE: So moved.

CHAIRMAN FLAGG: Do I have a second?

MR. VITO CALOMO: Second.

CHAIRMAN FLAGG: Second from Vito Calomo. Yes, Tom Fote.

MR. FOTE: Again, I'm not requesting that you vote on any regulation right now, and that's why I asked you to basically hold off until we discussed the producing areas because that might not be one of the options we put in place.

CHAIRMAN FLAGG: Well, we have a valid motion on the floor so we have to deal with it one way or the other. Yes, A.C.

MR. CARPENTER: To the motion on the floor, could New Jersey explain how the bonus fishery and the cap is going to be regulated and controlled, the 321,000 pounds.

MR. FOTE: A.C., the same way we regulate and control it every year, and basically

we've been under quota by almost a third. We only caught a third of our catch every year by the way we regulate it.

You're required to have postcards. You're required to have them on board. You're required to turn those postcards in, similar to what other states have in place for their commercial fishery since this is based on a commercial fishery.

We have never gone over quota. We have recorded the statistics; the states require it. And in order to basically get a renewal on it, you're basically required to put a logbook of how many fish were in the trophy tag program at the end of the year. So, it's what we've been doing all along.

CHAIRMAN FLAGG: Bruce.

MR. FREEMAN: If I may, Mr. Chairman, A.C., the program requires people to actually have a permit to take an additional fish. There is a tag given to those people. As soon as they take that fish, they have to take it to a check station.

Then they're able to get an additional tag, but there is reporting requirements perhaps as stringent or more stringent than most commercial fisheries. And, in addition, as Tom indicates, they're also asked to keep a logbook of their various other activities. So, this program is very tightly controlled.

CHAIRMAN FLAGG: Thank you, Bruce. Other comments? We do have a motion on the floor. Is there any further discussion of the motion? Yes, Paul.

MR. DIODATI: Would the maker of the motion want to modify or amend it to include the bonus fishery because the technical committee did also look at that, and I think they had a favorable reaction to that?

CHAIRMAN FLAGG: Ritchie.

MR. WHITE: So moved.

CHAIRMAN FLAGG: Yes, I thought that was the intent, anyway. My sense is that the intent is to approve that portion of the New Jersey proposal that has been approved by the technical committee. Just for a clarification. Yes, Tom.

MR. FOTE: Again, what comes out of the producing area discussion later on will affect how that bonus fishery basically will be

promulgated next year. It might be different than it was.

We might go a similar way of New York, looking at a different size limit, a whole bunch of different options, and we want to keep those options open.

CHAIRMAN FLAGG: Other comments on the motion? Yes, Paul.

MR. DIODATI: Just a question, so the status quo regulations are in place in New Jersey now; is that correct -- well, whatever regulations that were in place last year. And when do the new regulations have to come on line again? I know that Gordon spoke to this but I --

CHAIRMAN FLAGG: January 1, 2004.

MS. GAMBLE: Actually, it's January 1, 2004, for the recreational fishery. The coastal commercial quota is effective the beginning of 2003.

CHAIRMAN FLAGG: Thanks for that clarification, Megan. Other comments to the motion? Okay, then seeing no further comments, any comments from the audience? Okay, we have no further comments; then we will proceed to vote.

Do we want to caucus for a second here or two? Okay, remember one vote per state. All those in favor, signify by raising your right hand; those opposed, one opposed; null votes; abstentions, New Jersey -- oh, I'm sorry, we have four, four abstentions. Okay, the motion carries.

Do we have any additional discussion on New Jersey? Okay, we'll go to the next one, which is Pennsylvania.

MS. GAMBLE: Pennsylvania's proposal for the recreational fishery was one fish with a slot size of 24 inches to 28 inches and a second fish greater than 28 inches.

That's status quo for the Commonwealth of Pennsylvania. Their proposal did mention that they may want to change this to be consistent with their neighboring states, depending on the outcome of their 2002 angler use and harvest study. Their commercial fishery for striped bass is prohibited.

The technical committee could not approve Pennsylvania's proposal because, again, it did not provide the analysis that this was conservationally

equivalent to two fish at 28 inches. Any proposal submitted at a later date would need to, again, be reviewed by the technical committee.

CHAIRMAN FLAGG: Questions on the Pennsylvania proposal? Yes, Dick.

MR. DICK SNYDER: Dick Snyder, Pennsylvania. Just a reminder for the board - and Tom Fote has alluded to the producer area -- we get what comes up through Delaware and New Jersey and except for this year, because of the unusual spring, our anglers don't usually have the availability of the larger fish for much of the year because we do have the closure during the spawning season.

That's why we like the slot approach where we can offer our anglers the ability to take the more abundant smaller fish because chances are they're not going to get one over 28 inches during much of the rest of the year. We do have the multi-jurisdictional study that was done last year, and that's being looked over. We do need to get together with Bruce's fellows and Roy's fellows to see what we're going to do there.

But for the way our regulations are promulgated, I'm pretty well locked into this for 2004. Now we have some time on our side, but I don't want to play hopscotch with our commissioners if we go with various proposals because they'll hammer us pretty good.

So we went with the status quo, thinking we're on the upper end of the spectrum, if you will, given what's happening downstream of us, and we'll take adjustments based on what our neighbors do.

We'd like uniformity in the regs for the ease of the anglers, and we also welcome the chance to provide the technical committee with something in the near future for their review and feedback. That's why we went with the status quo.

CHAIRMAN FLAGG: Roy.

MR. ROY MILLER: Mr. Chairman, I have a process question, and it has to do with the New Jersey proposal that has already been before you and the Pennsylvania proposal and the Delaware proposal that is coming next.

Does the board have the ability to reserve discussion over issues such as the present 24 to 28 and one greater than 28 slot until we have the producer area discussion today; or, by virtue of this board adopting, say, in New Jersey's case two in 28 inches, does that

make the slot off the table for purposes of today's discussion? I need some guidance in that regard to know how I'm going to vote on Pennsylvania.

CHAIRMAN FLAGG: Well, I think the board can certainly put any motion forth that it wishes to do so and direct the chair to do whatever they feel is in the interests of the board. Yes, Roy.

MR. MILLER: Mr. Chairman, if I may make a suggestion, I would feel prepared -- to approve any state such as Pennsylvania and New Jersey or Delaware, I would be prepared to vote for two and 28 at this point in time.

I'd like the record to show that I'd like to revisit this issue of potential smaller size limits once we get into the discussion on producer areas and not preclude us from revisiting those votes later today.

CHAIRMAN FLAGG: Megan.

MS. GAMBLE: My only comment on that is, anything that has not been submitted already will not have been reviewed by the technical committee.

CHAIRMAN FLAGG: Tom.

MR. FOTE: At the last board meeting, when all the controversy came over producing areas, the removal of the status, some of the states never knew that -- we discussed the fact that we were objectionable to it being removed as producer status and didn't realize that's what Amendment 6 was doing.

There was a promise by a lot of board members at this table to spring up and to have this discussion at the next striped bass meeting to try and accommodate New Jersey, Pennsylvania and Delaware.

That was a good faith effort that I guess we took from the state directors that we will actually have this discussion on the producing area and how it was eliminated.

So that's one of the things that we're holding here is we're hoping that discussion will take place today before we approve our plans, because some of it was basically -- if the producing area status for other states was left exempted from the plan, like the Chesapeake Bay and North Carolina and the commercial fishery in Delaware, the recreational fishery was the only ones that were tagged with it.

We were hoping that we would have that discussion

before we got into state plan approvals because that's why I abstained from voting on our state plan because we're not sure what we're going to do.

CHAIRMAN FLAGG: It seems to me with respect to Roy's question, the board hasn't disapproved other options that are proposed. They just approved specific ones that the technical committee at this point in time has approved, so I don't see any reason why those can't still be discussed as potential options. Anne.

MS. ANNE LANGE: Yes, thank you. My understanding from the discussions back in December and in February were that the board would start considering what to do with producer areas and that it would be the first addendum to Amendment 6.

I wasn't sure that we would actually come to a decision on how to handle that at this meeting. To me, I thought today's discussion on producer areas and single-size limits and all those things would be not necessarily to be completed today but certainly at the earliest possible time for an addendum. I don't know that it was intended that it would be part of this year's regulations.

CHAIRMAN FLAGG: I think that's a good observation, and I'm frankly not sure where we're going to be when we get to that issue because I know there are many opinions concerning that particular issue.

So, I wouldn't want to have us be detracted from the process of approving legitimate proposals from various states with an expectation that we're going to resolve this producer area issue.

I think that might be a big mistake to do that because I think it will leave many states hanging with proposals that haven't been dealt with by the board, and I think that would not be a good idea to do that. Tom.

MR. FOTE: I was not under the understanding that it would have to be handled by an amendment. That's not what the discussion was at the last meeting, that people were understanding that there was a problem here, that the problem needed to be dealt with by 2004, and that's what I thought was the understanding.

And that's what people said when they came up to the microphone when we left here. That's why some of us were assured that when we come back here, there would be at least some consideration to look at

what happened under Amendment 6 in the producer areas and try to rectify some of that situation.

Because understanding, again, under Amendment 5, which some people say no longer exists, we have never precluded a state that has not gone as restrictive or as generous as it could under the previous amendment of doing that, and that's one of the problems right here.

Under Amendment 5, New Jersey could have been a lot more lenient, so could have Pennsylvania, and so could have Delaware in the Hudson River and both in the Delaware River and we've chosen not to do that, and we were penalized.

Now this is the discussion I wanted to save for later for the producing areas, but it does not -- to me, I would like this addressed sometime today because otherwise it puts New Jersey in a real tough situation.

CHAIRMAN FLAGG: Dennis.

MR. DENNIS ABBOTT: Thank you, Mr. Chairman. Unfortunately I wasn't at the February meeting, and I didn't take part in the discussion, so I quickly went to the minutes of the meeting; and to go along with what Anne just said, Chairman Flagg said, "Thank you, Tom. Megan, in respect to whether or not this is an addenda item."

Ms. Gamble, "Just to get back to Gil and his question, it is covered. It can be covered under an addendum." That's regarding the discussion of coast-wide uniform minimum size limits which you had. Thank you.

CHAIRMAN FLAGG: Paul.

MR. DIODATI: If all the states have until January 2004 to implement their state plans that are consistent with Amendment 6, why do we have to even approve them today? Why can't we do this at the next meeting or even the meeting after?

MS. GAMBLE: When we talked about the implementation process for Amendment 6, there were several states that indicated they had a lengthy process and would need their proposals approved at this meeting in order to have the rest of the year to make those changes and have the regulations in place by January 1, 2004.

CHAIRMAN FLAGG: Roy.

MR. MILLER: Megan, could you

give me some guidance? If this board were to take some action today that would lead to the drafting of an addendum, what is the earliest such an addendum could be implemented?

MS. GAMBLE: I'm going to have to ask Bob Beal. Can you help me out here? Bob, the question was how long is the addendum process and could it be completed by January 1, 2004.

MR. ROBERT E. BEAL: Can we complete an addendum by January? The answer is yes, but the longer answer is depending on what is in the addendum and how long and how involved it gets. In other words, the more issues that are in there, the longer it's going to take, the more public review we're going to need and the more technical analysis and everything else.

Then the other more lengthy answer is that when the action plan for 2003 was established, there was not budgeted for an addendum to the Striped Bass Plan. The idea is we'd get Amendment 6 done and kind of move on with our lives. The chairman of the commission is over there kind of looking at me, and I don't know if he has any additional comments on an addendum.

CHAIRMAN FLAGG: Mr. Chairman, would you like to make a comment relative to the funding priorities and where striped bass stands relative to an amendment? That was my understanding in terms of an addendum, I mean, it would have to be done.

It's going to be a relatively long process because my understanding is that there are no funds available for meetings of the Striped Bass Board for purposes of developing an addendum.

MR. NELSON: Thank you, Lew. I would just remind the members of this board, who all make up the commission also, that they did vote for the action plan.

The action plan was specifically geared towards dealing with other issues that had been on the back burner for many — well, it has been years for some of them.

There are other priorities that have been set by the commission. There has not been a provision made to have any addendum done for striped bass in this budget. It's always possible that the staff can look at it and see that it is something that might be simple and able to do.

But, I'm not going to say that there's any monies for any additional meetings for striped bass, for a technical committee to review addendums or anything like that at all. I understand that there is a certain amount of anguish associated with Amendment 6, but that's what has been passed.

That's what I think we're all expecting to live with for a period of time, and we probably ought to give it a chance to work. But as far as monies, you didn't vote for monies to do anything different on striped bass than what you have in there right now. I cannot guarantee that anything would be appropriated to do an addendum.

CHAIRMAN FLAGG: I have Bob Beal and then Ritchie.

MR. BEAL: I guess the other consideration with an addendum is the implementation time. You know, if an addendum is approved by the end of this calendar year, something needs to fill the gap between implementation of whatever is included in that addendum and the Amendment 6 requirements of January 1, 2004, certain things will happen. So, we're going to need to consider kind of the gap that an addendum would create as well.

CHAIRMAN FLAGG: Thanks, Bob. Ritchie.

MR. WHITE: That's exactly what I was going to bring up.

CHAIRMAN FLAGG: Thanks, Pete Jensen.

MR. W. PETER JENSEN: Just so we don't get too far off track, Mr. Chairman, this is not an action item. This is intended to be a discussion, and so I would hope you would hold us to the agenda we approved.

CHAIRMAN FLAGG: Thank you, Pete. Bill Windley.

MR. WILLIAM T. WINDLEY, JR.: Mr. Chairman, thank you very much. In an effort to further confuse this already confusing situation, I'd like to read the following statement.

We recognize — we being the Recreational Fishing Alliance and the Maryland Saltwater Fishermen's Association — we recognize that there are no hard

and fast rules adopted by the commission or enumerated in the Atlantic Coastal Act as to what procedures must be followed when a management board wishes to make a change to an FMP.

Yet, what many of us would consider to be substantial changes to the FMP such as potential changes in target mortality levels and whether or not to increase the commercial allocation were included in the various drafts of Amendment 6 and the public hearing document.

In fact, historically all substantial changes to the FMP have been sent to the public hearing, discussed in the APs and reviewed by the appropriate technical committee.

It's our contention that striking the term "producer area" from the FMP is a serious and substantial enough change to the FMP to have been included in the public hearing documents as an option for the public to comment upon.

At the very least -- and this is the key -- the removal of recognition for producer areas should have been treated as a motion before the board at the meeting in Rhode Island last December. It was not.

According to the minutes of the December meeting, there was an opinion expressed by one commissioner regarding the use of the term "producer areas." There was then a follow-up statement by a second commissioner, agreeing with the first commissioner's disdain for the term "producer area."

This is where the discussion ended. In other words, the board never made the motion as such to remove "producer area" from the document. It was done at suggestion and we don't feel it's gone. We feel it's still there. I told you I'd only confuse you.

CHAIRMAN FLAGG: Thank you, Bill. Other comments? I think we're back to the Pennsylvania proposal. There hasn't been a motion yet, but that was the item that we left off with and we had some comments from Dick Snyder. Are there any further comments relative to the Pennsylvania proposal? Pat.

MR. WHITE: Just a question, Mr. Chairman. I haven't had a chance to read everything but I noticed in the document that this was not reviewed by the technical committee. Are we doing this on the presumption that it was in New Jersey or -- I'm a little confused as to the procedure here.

CHAIRMAN FLAGG: Megan.

MS. GAMBLE: It was reviewed by the technical committee and they could not evaluate the proposal because there was no analysis provided to support whether or not this was conservationally equivalent to their requirements in Amendment 6.

CHAIRMAN FLAGG: Dick.

MR. SNYDER: Lew, I'd like to make a motion that Pennsylvania be allowed to fish for the calendar year 2004 at the status quo that we have during which time -- this may be a lengthy motion and I can truncate, but the background is that we then allow the staffs to have a chance to see what the three jurisdictions will do; and if necessary, Pennsylvania will change its regulations for 2005 with proposals to the technical committee for them to look at, but the basic motion is status quo for 2004.

CHAIRMAN FLAGG: Tom.

MR. FOTE: I second that.

CHAIRMAN FLAGG: Okay, we have a motion and a second by Tom Fote. Did you get the motion all right? Discussion on the motion> Dennis.

MR. ABBOTT: Thank you, Mr. Chairman. Agreeing with Dick's problem in his regulation but understanding I think if we go along with Dick's proposal, we're taking ourselves down a slippery slope regarding Amendment 6, so I would urge the members not to support this motion for that reason.

CHAIRMAN FLAGG: Thank you, Dennis. Other comments on the Pennsylvania proposal. Paul.

MR. DIODATI: I feel the same way as Dennis in this case, that I couldn't support this motion given that we'd be basically approving something that may not be consistent with Amendment 6. And, just earlier we voted to approve New Jersey's regulation at two fish and 28, so I couldn't approve this motion.

CHAIRMAN FLAGG: Other comments? A.C.

MR. CARPENTER: I think I'm going to have to support the motion mainly because it

is status quo. We're seeing a recovering fishery, and Amendment 6 was supposed to take us to a full fishery. I just can't see anything being more conservative under Amendment 6 than it was under Amendment 5, so I'm going to support the motion.

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

MR. MILLER: Mr. Chairman, I feel much the same way, the opinion that A.C. expressed.

CHAIRMAN FLAGG: Thanks, Roy. Tom Fote.

MR. FOTE: I feel the same way as A.C. and Roy did, and also the fact that we actually relaxed a lot of regulations in other states. We relaxed the regulations on the commercial fishery.

And here we are trying to be more stringent on a state when we're supposed to have a recovering fishery that is supposed to be rebuilding that we could relax regulations on other states. Thank you.

CHAIRMAN FLAGG: Thank you, Tom. Other comments to the motion? Dennis.

MR. ABBOTT: Thank you. Doesn't the Commonwealth of Pennsylvania have the option to bring to the board a conservation equivalency to get them where they want to be before January 1st of next year -- not a question for Roy as much as for the chair.

MR. SNYDER: Dennis, if I heard your question right, can Pennsylvania promulgate regulations to bring about the Atlantic States status? We can. Our timeline is running pretty thin here. Usually for our public comment period, we require two separate commission votes.

We have two meetings yet this year. I don't know if we have enough time in between plus the fact in between our summary book for a million plus copies goes to print, plus it also concerns me a little bit if and when we have an addendum, if that's the right term, coming along, we may be jerking our anglers around for nothing, and I'm concerned about that credibility maybe just for one state but also for the organization.

MR. ABBOTT: Thank you, Mr. Snyder. If I referred to you as "Roy," I apologize, Dick.

CHAIRMAN FLAGG: Tom.

MR. FOTE: In the table on conservation equivalency, you have to basically show you're going to reduce your catch for the following year. I mean, what Pennsylvania has done all along by keeping a closing during spawning runs, putting in special regulations because we were in producing areas, they've cut back their catch over the years, and it basically doesn't reflect what a full fishery would have been if they had been open just like along the coast.

So, we basically have penalized them for basically being a producing area, and we did it all accepting that idea, that a producing area did different regulations.

You had closed seasons. You didn't allow keeping of fish during certain spawning runs and things like that. And so to come up with a conservation equivalency would be very difficult, especially since you don't have anything to base it on because you always had the producing area status.

CHAIRMAN FLAGG: I wanted to ask John if he could offer any advice in terms of the technical aspects relative to Pennsylvania's proposal.

Is there an opportunity for the technical committee to give some further guidance to Pennsylvania on some types of management measures that might accommodate their needs that would be conservationally equivalent to a 28?

MR. JOHN CARMICHAEL: The problem is that there was no analysis presented to show whether or not the 24 and 28, 24 to 28 reduced slot is conservation equivalency so the technical committee does not know.

And the standard that we have typically applied -- and it's based on the logic that it's the same standard that we applied when we developed alternative size limit, alternative exploitation strategies under the amendment -- is to establish a standard of the maximum spawning potential.

And if a proposal achieves the same percent MSP as the two at 28 and as the baseline selectivity patterns of the amendment, then it would be considered equivalent. That's the standard that New York and Maryland used in developing their proposals.

So what the technical committee had said was we

would need to see the amount of spawning potential that's retained under the 24 to 28 and one fish at 28.

And one of the reasons the technical committee was especially concerned about this was because in the Delaware proposal it was presented that I believe it's somewhere like 75 to 80 percent of the harvest occurs within the one fish at 24 to 28.

Very few of the harvest is actually the second fish. So, the general impression, just based on the brief information and discussion of catch rates alone, of the technical committee was that this is essentially and for most practical purposes a 24- inch to 28-inch slot limit.

So the fact that there is a second fish that's at 28 very seldom comes into play in contributing to the catch. So, the committee was concerned because they felt that with the reduced size limit of 24 inches, the reduced minimum, that there would be some change in the selectivity and there would be some change in the yield, and thus there is some change in the spawning potential and that the states with such a proposal needed to present something that showed how they intended to reduce their harvest to a level that's appropriate; just as the states of New York and Maryland did in their proposals for slot limits; and just as the state of Maine has done with their slot limit that was approved several years ago.

CHAIRMAN FLAGG: Thank you, John Roy.

MR. MILLER: Just maybe to correct what I thought I heard John say, I believe he said that 75 percent of the harvest is fish between 24 and 28 in the Delaware; is that what you said, John?

MR. CARMICHAEL: Yes, I might not have that exactly right, but it was talked about at the committee that most of the trips land just one fish, and most of the harvest comes out of that first fish. It that's not right, then --

MR. MILLER: I'm looking at Des Kahn's evaluation of Delaware's proposal for Amendment 6. And quoting from that he says that over the period with our current regulations, the proportion of fish harvested between 24 and 28 inches has ranged from 25 to 30 percent.

CHAIRMAN FLAGG: I have Pete Jensen and Gordon.

MR. JENSEN: A question of the

maker of the motion. I understood the motion to say that you would adjust to be consistent in 2005; is that not what you said?

MR. SNYDER: That is correct, Pete.

MR. JENSEN: Yes, it does not say that on the board, and so I wonder about the debate we're having in the sense that if you're going to do it in 2005, you've got plenty of time to come back. Isn't that what you intended?

CHAIRMAN FLAGG: Okay, I have Gordon.

MR. COLVIN: Just a point that occurred to me as I was reflecting on the comments that a couple of board members made that they had no difficulty with the proposal, because, after all, it was status quo and we had a recovered stock and it seemed inappropriate to become more restrictive.

All that is true. On the other hand, in this same stock area in the Delaware River, New York has a two fish at 28-inch regulation. And, if we were to enact regulations consistent with what are in place at status quo, we would be liberalizing our regulations.

And, there is something that I have a logical disconnect with there in terms of on the one hand it's okay to maintain status quo; on the other hand, I think if New York had proposed to liberalize, we'd have had a tough time with it.

We're not proposing to do so, but I just think that we would have. So, I don't know, I'm just not sure how people feel about that. Logically, it doesn't fit with me.

CHAIRMAN FLAGG: Thank you, Gordon. I have Bruce and Tom.

MR. FREEMAN: There is, in my opinion, a major flaw in Amendment 6 and that deals with -- it has been raised -- this producer area, but there is nothing in Amendment 6 to conserve fish on the spawning grounds.

That was a major hallmark for the original Striped Bass Plan that we implemented back whenever it was; 15-20 years ago. Well, it wasn't 20 years. This whole issue is, in my mind, that in New Jersey we have areas of spawning on both our northern and southern ends.

We've gone to great extremes to control the harvest

in those areas far in excess of what was required in Amendment 5. We are now faced with a situation that technically we could have a directed fishery on our spawning grounds which, if we did, would have an extremely large catch, and yet that's allowed under Amendment 6.

There's nothing to prevent that, and that's what greatly distresses us from an agency standpoint, that the protection of the spawning areas essentially went out with a vote, which was very confused in our mind, which essentially did away with the producing areas but there were no constraints put in in controlling the fishery in any spawning area.

CHAIRMAN FLAGG: Megan.

MS. GAMBLE: To that point, Amendment 6 carries forward the recommendations for prohibiting fishing on spawning grounds during the spawning season, and it's carried forward from Amendment 5.

MR. FREEMAN: Well, I read the plan and the only mention I see of spawning protection is a recommendation. I think it occurs on Page 46, but maybe I didn't read the plan closely enough.

MS. GAMBLE: No, that's actually what I'm referring to, it's on Page 46.

MR. FREEMAN: Well, that's a recommendation, it's not a requirement.

MS. GAMBLE: And there weren't any requirements under Amendment 5, either. It was a recommendation.

MR. FREEMAN: Well, then, I think we've all been under the illusion that we had a requirement to protect the spawning areas. And if that is a flaw, then I believe it's a serious flaw that none of us recognized.

But, I submit at this point that there is no protection for the spawning areas, and we all know how vulnerable those spawning areas are, which was one of the reasons we got into the problem we did.

I mean, one thing about striped bass, we know where they spawn. Regardless of what we do, we know they're going to come back to a specific area within a few weeks period. And if we fish aggressively during that period, we could be right back into a situation we were back in the '80s.

There's absolutely no doubt about it. And it just seems -- this process we've gone through, it's destroying what we started out with, and I'm very uncomfortable. And now we talk about controlling the catch or liberalizing the catch.

Any of us could do it very easily. Certainly, we could in New Jersey because of our situation. We have put in regulations not to have a directed fishery on the striped bass. That still has occurred.

We actually put in regulations what bait you could use, what hooks you can use in order to control our catch, to dissuade it. And there has been enforcement problems in that area, and we spent a lot of time to correct those difficulties of people violating the law because they know the fish are very vulnerable.

And now we have a situation, the commission is saying if you want to fish in those areas, have at it. If that's what you want, there is no controls over it, and that distresses us considerably.

CHAIRMAN FLAGG: Gordon, to that point.

MR. COLVIN: Yes, well, correct me if I'm wrong here but; Number 1, as Megan just said, that's status quo. That's what was in Amendment 5, so nothing has changed.

But, it seems to me that if a state imposes time and area closures in areas because of spawning concentrations of fish or for any other reason, to the extent that can estimate and quantify the reduction in harvest below the standards that result from those time area closures, isn't that potentially part of a conservation equivalency equation that can be used to have more liberal regulations somewhere else?

MR. CARMICHAEL: Yes.

CHAIRMAN FLAGG: I have Ritchie and Tom.

MR. WHITE: I guess I don't understand where we've been going. It seems to me we're trying to rework Amendment 6. The agenda seems to be that we're supposed to be voting on state proposals. I think we've gotten off track and I think we need to get back to that.

And, obviously, there is going to be an addendum at some point because there is unrest and people are unhappy with parts of Amendment 6, but that's not

why we're here today.

CHAIRMAN FLAGG: Thank you, Ritchie. I have Tom Fote and Paul Diodati.

MR. FOTE: I guess one of the reasons I am here today is because there's problems with Amendment 6. Basically the slot limit that we have in New Jersey, Pennsylvania and Delaware were put in place.

It had to go to review to the technical committee. It was reviewed by the technical committee. The problem was reviewed by the technical committee according to Amendment 5. And, Gordon just said, well, status quo is status quo.

Well, we basically have changed to Amendment 6 and we say, well, if it was status quo under Amendment 5 is no longer available; you have to change your regulations. You have to come up with new conservation equivalencies that the technical committee has to review.

I mean, New Jersey's proposal was approved at the technical committee under Amendment 5. Basically it was allowed. Some of it had to do with producing area status; some of it had to do with just by the fact that by taking a 24 to 28 inch fish you catch less fish.

If you have an open fish, whether it was 24 without an upper size limit or 28 without an upper size limit, you do catch less fish when you put a slot in place, and that calculation was done.

The technical committee approved them when we basically put the slot limit in place. Again, this was not New Jersey's first choice at that time. If you remember right, it was the board that decided that we couldn't use the other two proposals we came in and forced us to take us the slot limit because it is saving big fish was the amendment we did approve.

So we did that. We went through the technical analysis, spent a lot of time and a lot of money doing that, a lot of staff time. And because of a discussion, again under Amendment 6, what was said at a meeting in Rhode Island at 5:00 o'clock at night has basically now eliminated producing areas according to what the plan says right now, New Jersey is now being forced to come in — the same thing with Pennsylvania and Delaware — to re-avow and come in with a different conservation equivalency.

Not to say we hadn't done it before because New Jersey did come in to the technical committee, and it

was approved by the technical committee. Thank you.

CHAIRMAN FLAGG: Thanks, Tom. To that point, John, you wanted to respond.

MR. CARMICHAEL: Actually the proposal for New Jersey and Delaware and such was approved under Addendum V to Amendment 5, and they were approved under the mandate of the board to reduce the harvest on the fish age eight and older, so that set a different standard than what was in Amendment 5.

The committee said that any conservation equivalency proposal which had been approved by the technical committee as meeting two fish at 28 inches, the original standards under Amendment 5, was considered acceptable. That was the approval of Maine illustrated that.

What the committee said was that any proposals that have been granted prior approval based on Addendum V, which was the reduction and harvest of the eight year and older fish, was not considered necessarily equivalent at two and 28 under Amendment 6 because that established different base grounds, different base lines and different standards, so we needed a subsequent analysis to show that what you had under Amendment 5, Addendum V, was equivalent to two at 28, which may or may not have been the case, we needed the analysis.

CHAIRMAN FLAGG: Thanks, John. Paul, you've been very patient.

MR. DIODATI: Actually, Mr. Chairman, Amendment 5 is history and I've lost my patience with this particular issue. I understand that there are some states that fish in the Hudson River that have problems with Amendment 6, but we adopted Amendment 6.

It's a two fish at 28-inch minimum. I think the question is very straight forward; do you have a conservation equivalent to that or not? If these states have a problem, hey didn't bring it back to the technical committee for review.

I take exception with their making their problem my problem here today and wasting all this time, so I want to move the question.

CHAIRMAN FLAGG: Thank you, Paul. Why don't we take a few moments to caucus and we'll have a vote.

(Whereupon, a caucus was held.)

CHAIRMAN FLAGG: Are we ready? I'm going to read the motion into the record: Move to approve Pennsylvania's proposal to remain at status quo for the 2004 fishing season and to allow staff to see what New Jersey and Delaware choose to implement, and Pennsylvania will adjust to be consistent in 2005. Motion by Dick Snyder. Second by Tom Fote.

Okay, are we all set to vote? All those in favor of the motion, signify by raising your right hand, seven votes; those opposed, seven opposed; abstentions, two abstentions; null votes. Okay, the motion fails to carry on a tie vote.

My sense is that with respect to guidance for Pennsylvania, obviously, they have the option of coming in with a proposal for two at 28 or some other option to be reviewed by the technical committee for consideration of approval. I think that's basically where we are with that particular item.

Unless there's further discussion, we I think should move on to the next proposal.

MS. GAMBLE: The next proposal is for the state of Delaware, and the options are similar to New Jersey but there is a little bit of variation. For the recreational fishery, Option 1 is two fish at 28 inches. The second is one fish with a 24-to-28 slot limit and a second fish greater than 28 inches.

The third option is the same but applying a season. And then Option 4 is one fish 24-to-28 inches and a second fish greater than 41 inches.

For the recreational fishery, the technical committee approved two options from the Delaware proposal, Options 1 and Option 4. The approval of Option 4 was also based on Dr. Crecco's analysis of size and slot limits. That analysis is from 2000.

Option Number 2, a slot limit without a seasonal closure, will not satisfy conservation equivalency requirements. And Option 3, the slot limit with the seasonal closure, was not adequately justified.

The commercial fishery, the proposal is a 20-inch minimum size for their shad gillnet bycatch in the Delaware Bay, which the board provided an exemption. And they also propose a 20-inch minimum size for their shad gillnet bycatch in their

ocean fishery, and that is until the ocean fishery is phased out and they will increase to a 28-inch minimum size in 2005.

They'll have a 28-inch minimum size in the fall gillnet fishery and a 20-inch minimum size in the Nanticoke River fishery. And, finally, they manage their quota by allocating it among commercial license holders. They use tags and they also have seasonal closures.

The technical committee's comments on the commercial fishery was that they were opposed to allowing a 20-inch minimum size for the striped bass caught as bycatch in the ocean shad gill net fishery. There is no penalty associated with the smaller size limit, and there was no exemption provided by the board.

CHAIRMAN FLAGG: Questions of Megan? Roy.

MR. MILLER: I'd like to take, if the board would indulge me, just a moment or two to explain the rationale for some of Delaware's proposals that were rejected.

The rationale that were accepted, I had one comment and that is Option 4 for recreational, the one fish 24 to 28 and one over 41, honestly, we threw that one in there knowing it would be accepted because of Dr. Crecco's previous analysis.

But realistically I'd be surprised if we catch 100 fish over 41 inches. So, it really gains us nothing over a one-fish creel limit 24 to 28. It's not a realistic proposal that we're likely to pursue.

In regard to the commercial fisheries, we've already - well, let me finish with recreational first. We've already had the discussion about the slot limit. What I didn't say is that Dr. Kahn looked at the slot limit and proposed a reduced season, a 14 percent reduction of the season, coupled with the slot limit.

We felt that would be conservational equivalency. Apparently his arguments did not carry the technical committee and the technical committee directed Delaware to look into an SSB analysis.

Dr. Kahn was not optimistic, and based on his conversations with Dr. Crecco that such an analysis would be easy to do or forthcoming any time soon, at this point in time he's doubtful whether it can be done because of the complexities of that particular slot limit. Now I just wanted to let the board know

that.

CHAIRMAN FLAGG: Thanks for that clarification, Roy.

MR. MILLER: And now moving on to the commercial, the little ocean exemption we had requested was because there is one more year left, let's face it, in ocean shad fishing in the state of Delaware.

Our fishermen use the same size gear for both species, that is for shad and striped bass, so they will be -- during this last year the three fishermen who are presently fishing in the ocean will be throwing back striped bass caught as bycatch. We requested this exemption specifically until the shad bycatch fishery is over with; namely, beginning January 1, 2005.

Again, this is how we've been fishing for years, so to change it now represents, we feel, a tightening of Delaware's regulations in the ocean. For a number of years we've been fishing at 20 inches statewide, like Virginia did at one time, striving for consistent regulations statewide.

Our ocean fishery is very modest, generally 5,000 to 10,000 pounds. It just didn't seem worth worrying about and enforce dual size limits for such a small fishery. That was our rationale for proposing the 20 inches in the ocean in 2004 and then moving to 28 inches in 2005. Thank you, Mr. Chairman.

CHAIRMAN FLAGG: Thank you, Roy. Comments? Yes, Ritchie.

MR. WHITE: A question for Roy, did I take that you were withdrawing Option 4 or do you still want Option 4 on the table?

MR. MILLER: We'll leave it on the table. I'm just saying it's unrealistic that we'll use it.

CHAIRMAN FLAGG: A.C.

MR. CARPENTER: The table that was handed out has a 20-inch fall, but the slide up there has a 28-inch size limit for the fall; which is correct?

MS. GAMBLE: Sorry, that's a typo in the table. It should be 28 inches.

CHAIRMAN FLAGG: Thank you. Other questions about the Delaware proposal? A.C.

MR. CARPENTER: Is that also true for the 20-inch hook and line that's listed on that table?

MS. GAMBLE: Yes.

CHAIRMAN FLAGG: Okay, so that's been rectified, the 28-inch fall gillnet directed fishery and 28-inch hook and line. Other comments? Okay, we have sort of split recommendations from the technical committee, do I hear a motion? Paul.

MR. DIODATI: I'd like to make a motion to approve Option 1 and 4 of Delaware's recreational fishery.

CHAIRMAN FLAGG: Okay, do we have a second?

MR. WHITE: Second.

CHAIRMAN FLAGG: Second by Ritchie. Discussion on the motion? Any comments? Ready to vote? Want to take a caucus? Okay, all those in favor, signify by raising your right hand; those opposed; abstentions; null votes. The motion carries 15-0.

Okay, now my understanding is that the board, at the last meeting, we did make an allowance for the shad gillnet fishery. It was in a previous motion. Paul.

MR. DIODATI: It just wasn't clear to me, given that we made that allowance, why the technical committee didn't overlook that. They apparently either -- did you say the technical committee took issue with the 20-inch fishery?

MS. GAMBLE: The technical committee approved the 20-inch minimum size for the shad gillnet fishery in the Delaware Bay because the board had already provided that exemption.

For the second aspect of it, the bycatch that occurs in the ocean fishery, the technical committee could not approve it because there is no penalty taken with that smaller size limit, and the board did not provide an exemption for that aspect of the proposal.

CHAIRMAN FLAGG: Okay, any further discussion about it? Roy.

MR. MILLER: I would like to move the Delaware proposal to continue to fish at 20 inches in the ocean through 2004 be approved and

that Delaware, obviously, in 2005, once the shad fishery ocean fishery is closed, Delaware will go back to 28 inches in the ocean.

CHAIRMAN FLAGG: Is there a second? Seconded by Ira. We have a motion on the floor. Discussion? Tom.

MR. FOTE: Because of the principle of basically allowing for the exemption made just in the Delaware commercial fishery and not allowing Pennsylvania and New Jersey and Delaware's recreational to take the same thing, we have to vote against this motion just on principle of the fact that this is not being fair and totally unfair to the recreational sector. Thank you.

CHAIRMAN FLAGG: Thanks, Tom. Other comments on the motion? No further comments? Okay, why don't we caucus.

(Whereupon, a caucus was held.)

CHAIRMAN FLAGG: Okay, everybody had a chance to caucus? Okay, one vote per jurisdiction. Okay, all those in favor of the motion signify by raising your right hand, five; those opposed, six; abstentions, two abstentions; null votes. Okay, the motion fails on a six to five vote. Gil.

MR. POPE: Thank you very much. Just a point of clarification and going back to the Pennsylvania, and it was my understanding when I looked up there it was status quo, you're at status quo now at one fish, 24-28 and the other above 28, right? And that failed. What do you do now if it is no longer status quo?

CHAIRMAN FLAGG: Gil, I think I had mentioned afterwards that the way I see it, I think Pennsylvania has the option of going back and adopting two at 28 or coming up with another proposal to be considered by the technical committee for conservation equivalency. So that's the directions I've given to Pennsylvania relative to that issue.

MR. POPE: Okay, I heard that, but does that go into effect from now until it's approved or what do they do in the interim? That's all.

CHAIRMAN FLAGG: Well, they have to have something by 1 January 2004 implemented. I think we should move along. The next proposal is Maryland's, I believe.

MS. GAMBLE: Okay, this is

another intricate proposal so I'll take this piece by piece. The coastal recreational fishery is a two-fish bag limit with a minimum size of 28 inches.

The coastal commercial fishery has a 24-inch minimum size; and as a penalty for that lower minimum size, Maryland is proposing to reduce their quota to 128,396 pounds. They monitor that commercial fishery through tagging and daily reports to check stations.

The Chesapeake Bay recreational fishery, for the period during the third Saturday in April to May 15th there is a one fish at 28 inches. That's their trophy fishery. And then during May 16th to December 15th there is a two fish bag limit between the slot limit of 18 inches to 28 inches or one fish between that slot limit of 18 to 28 inches and the second fish greater than 28 inches.

The Chesapeake Bay commercial fishery also has a slot size of 18 inches to 36 inches, and that's monitored through tags. They use seasons and they have daily reports to check stations.

The technical committee approved Maryland's proposal, but they did note that unlike Virginia and the Potomac River Fisheries Commission's proposals, there is no cap on that spring trophy fishery. In these other proposals, there was a 30,000 fish cap.

And, there was a lengthy discussion on the smaller size limit for the coastal commercial fishery. And, finally, they determined that Maryland's proposal did meet conservation equivalency because the maximum spawning potential was attained with the minimum size, and that reduced commercial quota.

CHAIRMAN FLAGG: Thank you, Megan. Questions of Megan? Any comments on the Maryland proposal? I wondered if one of the Maryland representatives would -- is your intent not to have the 30,000 bay-wide cap relative to the trophy fishery? How does Maryland stand on that issue?

MR. JENSEN: Well, we didn't put it in there because it isn't in Amendment 6 so there didn't appear to be any need to put it in there. We're willing to go back and revisit the issue. I don't know if 30,000 is the right number, is all. That's an old, old number, but we didn't put it in because it's not in Amendment 6. That's the basic reason. Move approval of Maryland's proposal.

CHAIRMAN FLAGG: Okay, we have a motion by Pete Jensen, second by A.C. Carpenter to approve the Maryland proposal. Discussion? Tom Fote.

MR. FOTE: Again, the same comments that I made on Delaware's, that we could support your coastal recommendation, but we can't support the bay recommendation since it was based on an exemption that was not allowed for the Hudson River and Delaware Bay. So, we would have to vote against the motion since they combined them all in one.

CHAIRMAN FLAGG: Thanks, Tom. Gil.

MR. POPE: Yes, I just have a question about the 18-to-36 inch slot size there. Is that a — that's a continuation? That's status quo? That has been there? Have there been any studies on the fish over 36 as far as mortality and stuff like that in that commercial fishery?

CHAIRMAN FLAGG: John.

MR. CARMICHAEL: Mortality of fish over 36?

MR. POPE: The fish that are released in that fishery.

MR. CARMICHAEL: Nothing really comes to mind right off that we've looked at. Maryland does have discard mortality estimates for most of their fisheries that we included in the stock assessment. I believe that time of the year is covered.

CHAIRMAN FLAGG: Thank you, John. Paul.

MR. DIODATI: Could either the technical committee or perhaps someone from the bay area refresh my memory on how often they achieve the 30,000 fish trophy fishery or did they often exceed that in the past several years. I don't have the recollection of what the performance was.

CHAIRMAN FLAGG: Yes, that's a good question, Paul. Pete.

MR. JENSEN: Early on, when that was first implemented, we exceeded it one year. We have not exceeded it bay-wide since then.

And on the mortality of the bigger fish, I would simply point out this is a cold water fishery during

the winter. We have limited set times. People have to stay with their nets. The bycatch is very, very minimal.

CHAIRMAN FLAGG: Thank you, Pete. Gordon.

MR. COLVIN: Yes, can somebody help me out here. Pete pointed out that Amendment 6 does not identify a cap on that spring fishery. What exactly does Amendment 6 say about the spring fishery?

MS. GAMBLE: It doesn't say anything.

MR. COLVIN: That's interesting. That's very interesting. If it says nothing, then maybe it shouldn't exist. Let me ask John a question now.

In terms of hitting our mortality target, given that there is a specified set of measures for the coastal fisheries — two fish at 28 recreational; quotas commercial — how does an uncapped spring trophy fishery in Chesapeake Bay affect our ability to hit our target F?

MR. CARMICHAEL: Well, if those fish are accounted for then —

MR. COLVIN: Are they?

MR. CARMICHAEL: -- they'll feed into our estimates; and if that fishery were to explode, then I would suppose it could lead to increases in fishing mortality.

MR. COLVIN: Well, I guess, Mr. Chairman, I'd like to amend the motion by indicating that the approval is contingent on a bay-wide cap not to exceed what it was previously. I think I heard the number 30,000 fish.

CHAIRMAN FLAGG: Yes, you did. Okay, we have a motion to amend. Is there a second? John Nelson seconds the motion. Okay, Pete.

MR. JENSEN: Well, I would question, Mr. Chairman, whether an amendment to a motion of that magnitude is permissible. That's imposing a major change in Amendment 6. It wasn't there.

Everybody knew it wasn't there. Now we're willing

to go back and revisit the issue and talk about it. We're not trying to avoid it, but I don't think this is the right way to do it.

CHAIRMAN FLAGG: Well, I guess I would say that the motion to amend is a legal motion. I mean, I don't know whether or not there is any parameters that would suggest that a motion to amend, because of its severity or whatever, would have any bearing on a motion to amend. Gordon.

MR. COLVIN: Well, from my perspective, the only other option that I would be interested in pursuing is some kind of a separate motion or substitute motion, which I think would be in order, that rejects the Maryland proposal and the Virginia proposal and the PRFC proposal, because they include something that isn't in Amendment 6, but I didn't propose that. I'd be happy to if that would be the board's pleasure as an alternative to what we've got up here.

CHAIRMAN FLAGG: I'd rule the motion to amend is in order, and I think we should proceed from there. Tom Fote.

MR. FOTE: I've got a question to ask. The Chesapeake Bay, one of the reasons they were exempted from the fishery is they were going to fish only on the harvest control model. The 30,000 as a trophy fishery does not fall within the harvest control model, which goes against the coastal mortality, so I'm not sure exactly where we stand on this type of motion.

Can I get a little clarification of the technical committee? Because when we approved to stay at the slot, I was under the understanding, when they were allowed to be exempted from the smaller size, which they turned down in New Jersey, the Hudson River and the Delaware River, is because they were going to exist within the harvest control model.

Well, this spring fishery is outside the harvest control model so I'm just try to -- how we were allowing that to continue to go on if it's not in Amendment 6, to basically base the question with Gordon's question. So, I'd like a little clarification here.

CHAIRMAN FLAGG: Thank you, Tom. Roy, did you have your hand up, Roy?

MR. MILLER: Can you come back to me later, Lew?

CHAIRMAN FLAGG: Sure.

Other comments? Yes, Pete.

MR. JENSEN: Well, I think at the last meeting, I believe it was, or perhaps the one before, we agreed to hold the fishery in the bay based on an F rate, and that's exactly what we're doing. We've submitted this proposal.

It conforms with that agreement to manage by an F rate, and so I'm not sure what the other questions are. We agreed to that. All of you I'm sure will remember how we arrived at that agreement.

CHAIRMAN FLAGG: Bill.

MR. WILLIAM GOLDSBOROUGH: Just one comment, Mr. Chairman. I think we're losing sight of one key factor here, and that is that the management tool that has controlled Maryland's spring catch ever since its inception -- one fish at 28 inches -- is still in place. That's not changing, and the 30,000 fish cap really hasn't had any effect.

CHAIRMAN FLAGG: Thanks, Bill. Other comments? John.

MR. CARMICHAEL: The technical committee talked about this trophy fishery relative to the direct enumeration periods that Maryland has for establishing the F, and I don't recall what the answer was but I'll ask Phil.

Did we say this because this season occurs before or ends on, what, April 15th, May 15th? What I had thought -- and I just want to make sure that this is right -- was that we said that these fish do not count into the periods used for the direct enumeration tagging study. That's correct? Right, so these fish are outside of that.

(Remark made without using a microphone.)

MR. CARMICHAEL: Right, they go into the coast-wide VPA, but they don't go into the direct enumeration F target for the bay, exactly. They're treated as essentially coast-wide VPA harvest fish.

CHAIRMAN FLAGG: Thanks, John. Gil.

MR. POPE: So if I follow this correctly, then the bay-wide spring harvest is now part of the F that's outside of the 0.27?

MR. CARMICHAEL: The harvest

during that recreational trophy fishery is part of the overall coastal F, which is what Gordon was pointing out earlier. Yes, the 30,000 fish.

CHAIRMAN FLAGG: Other comments? Okay, we have a motion to amend. The motion to amend is move to amend to include a Chesapeake Bay-wide cap for the spring trophy fishery at 30,000 fish. Motion by Gordon Colvin, second by John Nelson.

We're going to be voting on the amendment to the motion. Time to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN FLAGG: Everybody had a chance to caucus? Before we vote, I have a gentleman in the audience. Would you like to speak to this issue? I apologize for not seeing you earlier.

MR. RICHARD NOVOTNY: Thank you, Mr. Chairman. My name is Richard Novotny. I'm Executive Director for the Maryland Saltwater Sport Fishermen's Association.

And, we're very concerned about being penalized with having a cap when no other state that I know of is penalized with having a cap on their fishery. We all have a quota. We all manage our quota and our fisheries with an F. Our fishery comes well below where we should be in managing our fishery with F, so we don't feel as though this 30,000 fish cap — I was around when this first came about, and it was done when Gordon Colvin didn't like us fishing on the migratory stock and wanted a cap put on it.

And that 30,000 fish cap was just a number taken out of the air, and that's been many, many years ago. And, since then this fishery has really, really grown, and we don't feel that we should be penalized in case we ever do go over the 30,000 fish, have to be penalized for that. No other reason. Thank you.

CHAIRMAN FLAGG: Thank you for the comments. Are there other comments from the audience before we vote on this issue? Yes, sir.

MR. ROBERT BOGAN: I'm Robert Bogan, United Boatmen. I'm with the United Boatmen, not necessarily speaking on their behalf, but I'd just like to say in New Jersey we've seen — I can speak for my state — a great influx of a whole lot of fish, stripers, like we've never seen before.

I mean, there's fish everywhere, stripers; and I'd just

like to say if it's not broke, don't fix it. Everything is fine the way is it.

CHAIRMAN FLAGG: Thank you. Yes, Ed.

MR. ED O'BRIEN: Yes, I'd just like to reiterate that — Ed O'Brien, Maryland Charter Boat Association — when we instituted this 30,000 fish, it was, I think, eight-nine years ago. It was a long time ago, I'm not sure of the actual time, and we were searching for a number and it sort of came out of the air.

And Gordon Colvin, I was very appreciative of the fact that he took the lead on this and came up with that 30,000 number. But, as has been said before, the fishery has changed since then. We're better off since then. I just wanted to make that comment. Thank you.

CHAIRMAN FLAGG: Thanks for your comments, Ed. Yes, Gil.

MR. POPE: Thank you very much. If I remember the history, it started out at 25,000 pounds and it was a cap. Then it turned out that 107,000 fish were caught, and then it was termed a "target." And then it wasn't to be exceeded. And then after that, I think we went to 30. I think that was the history of how it came about. Thank you.

CHAIRMAN FLAGG: Thank you, Gil. We've had a chance to caucus on the — we're voting on the amendment. Remember one vote per jurisdiction. So all those in favor, signify by raising your right hand, twelve; those opposed, one; abstentions, two abstentions, two opposition. Okay, the motion carries. That was the amendment to the motion.

We're back to the main motion now. Anybody need an opportunity to caucus? Okay, I don't think we do, so, we're voting on the main motion as amended. Yes, Roy.

MR. MILLER: Mr. Chairman, I had requested to ask a question prior to taking this particular vote, if I may.

CHAIRMAN FLAGG: Sure.

MR. MILLER: In Maryland's ocean fishery, just for information purposes, what size gear do they use to take those striped bass in the ocean?

MR. JENSEN: You mean the net size?

MR. MILLER: Yes.

MR. JENSEN: I don't know offhand. I think most of it is trawl.

MR. MILLER: Most of it is trawl. Okay, it's not a gillnet catch?

MR. JENSEN: Not very much of it, no.

CHAIRMAN FLAGG: Okay, are we ready to vote on the motion as amended? All those in favor, signify by raising your right hand, eleven; those opposed; abstentions. Okay, the motion carries eleven to four. All right, the next item on the agenda is D.C.

MS. GAMBLE: Actually, my presentation goes to the Potomac River Fisheries Commission. For the recreational and the charter fishery, there's a two-fish bag limit at 18 inches, and that second fish may be over 28 inches. There is a season for this fishery, which is May 16th through December 31st.

From the third Saturday in April to May 15th, there's that one fish at 28 inches, which is that trophy fishery. The recreational fishery is limited by an allocation of that bay-wide quota.

The commercial fishery is an 18-inch minimum size all year, but there is a maximum size limit of 36 inches from January to March. That commercial fishery is monitored through a limited entry and seasons by gear type.

There's an allocation of the bay-wide quota for the commercial fishery. There's tagging and there is daily harvest reports as well as some gear restrictions. And the technical committee had no problem with the Potomac River Fisheries Commission's proposal.

CHAIRMAN FLAGG: A.C.

MR. CARPENTER: I'd like to move approval of the PRFC's proposal.

CHAIRMAN FLAGG: Okay, we have a motion, second by Ira Palmer, to approve the PRFC proposal. Comments, questions? Tom.

MR. FOTE: Yes, the Potomac

River is different from Maryland whereas their one fish during the winter fishery is limited by the allocation of the bay-wide quota.

CHAIRMAN FLAGG: A.C.

MR. CARPENTER: No, the recreational fishery, we had -- the 30,000 fish that you just voted on is what's limited.

MR. FOTE: That's the spring coastal fishery?

MR. CARPENTER: That's that spring coastal fishery was limited as part of this --

MR. FOTE: That's not how I read that. I just wanted to make sure it was clear.

CHAIRMAN FLAGG: Okay, other questions. Seeing none, let's caucus.

(Whereupon, a caucus was held.)

CHAIRMAN FLAGG: Okay, we're ready. All those in favor of the PRFC proposal, signify by raising your right hand, fourteen; those opposed, one; abstentions. Okay, the motion carries. All right, PRFC is approved.

MS. GAMBLE: Next is the District of Columbia. The recreational fishery is a two fish with a slot limit of 18 inches to 36 inches. That's status quo. They do not have a commercial fishery for striped bass.

CHAIRMAN FLAGG: What's the technical committee recommendation?

MS. GAMBLE: The technical committee saw no problems with the implementation of this proposal.

CHAIRMAN FLAGG: Okay, does anybody object to the D.C. proposal? Are there any objections to the proposal? Ira, did you want to make a comment? Did you want to object, Ira?

MR. IRA PALMER: I just wanted to point out that we do actually have a season which is not indicated on here. It is actually -- the open season is May 3rd through July 31st. It's closed in August and then reopens September 1st through November 16th. So I just wanted, for the record, to make sure that --

CHAIRMAN FLAGG: Thank you, Ira, for that clarification. Are there any objections to the D C. proposal? Seeing none, I'll declare the proposal approved by the board by consensus. Next.

MR. GAMBLE: Next is Virginia's proposal. The coastal recreational fishery is a two-fish bag limit with a minimum size of 28 inches. They have a trophy fishery for that coastal fishery. It's one fish at a 32-inch minimum size.

The coastal commercial fishery is a 28-inch minimum size and that's monitored through an ITQ system, tags, seasons, and daily harvest reports.

The Chesapeake Bay recreational fishery, during the spring and the summer, is a two fish between 18 to 28 inches except for that one trophy fishery of greater than 32 inches. That's also capped by that 30,000 fish cap that we talked about. And in the fall there's a two fish at 18 inches.

The Chesapeake Bay commercial fishery has an 18-inch minimum size all year long. There's a 28 maximum size limit from March 15th to June 15th and that commercial fishery is monitored through an ITQ system. There's an allocation of — it's given an allocation of the bay-wide quota. They use tags. They apply seasons and there is some gear restrictions, also.

CHAIRMAN FLAGG: What's the technical committee recommendation?

MS. GAMBLE: The technical committee approved Virginia's proposal.

CHAIRMAN FLAGG: Okay, are there any objections to the Virginia proposal? Gil.

MR. POPE: Not so much an objection. I was just curious as to the status on the problem you had before with ITQs and the fishermen fishing in certain areas where they weren't supposed to fish or outside or something like that.

CHAIRMAN FLAGG: That's been rectified. Yes, that has been addressed. They've got a coastal allocation that's separate from the bay. I think we can dispense with the motion if there's — is there any objection? Tom.

MR. FOTE: As I said before, we will be objecting to all the ones that have received an exemption since New Jersey did not receive the exemption in the Delaware River and the Hudson

River, so we would vote against this motion.

CHAIRMAN FLAGG: Would you prefer we take a vote on this; we can do that.

MR. FOTE: Yes, I would.

CHAIRMAN FLAGG: Okay, we have a motion before us. I think the motion was by John Nelson, second by Bill Adler, to approve the Virginia proposal.

Everybody had a chance to caucus? Are we all set? Those in favor signify by raising your right hand, fourteen; those opposed, two in opposition; abstentions; null votes. Okay, the motion carries. The next proposal is North Carolina.

MS. GAMBLE: Okay, the last proposal is from North Carolina, and basically it's to remain status quo. For the coastal recreational fishery, it's a two-fish bag limit with a minimum size limit of 28 inches.

For the coastal commercial fishery, it's a 28-inch minimum size and the quota is allocated between gear types. It uses trip limits and has seasons associated with those gears.

For the Albemarle-Roanoke recreational fishery, it's also a status quo. The Albemarle has a one fish at an 18-inch minimum size. The Roanoke has a two fish at 18-inch minimum.

The commercial fishery is managed with an F target of 0.27. And, they derive the quota based on -- or the quota is adjusted annually, and it's based on achieving that F target. The technical committee saw no problem with North Carolina's proposal.

CHAIRMAN FLAGG: Thank you, Megan. Are there questions? Dennis.

MR. ABBOTT: I'd just like to make a motion to accept the North Carolina proposal as offered.

CHAIRMAN FLAGG: Motion to approve the North Carolina proposal by Dennis. Second by Pat White. Discussion? Caucus? Everybody ready? Those in favor, signify by raising your right hand, thirteen; those opposed, two; abstentions, no abstentions; null votes, no null votes. The motion carries.

Okay, are we through all of the state proposals? We

have a technical committee report. Is that you, John?

TECHNICAL COMMITTEE REPORT

MR. CARMICHAEL: I suppose that's me. A very brief technical committee report. The Striped Bass Technical Committee has had a lot of stuff going on lately. We convened an aging workshop, largely coming from concerns about the aging of older fish.

We identified some of this from working in the stock assessment and some ongoing research through the universities and whatnot, looking at scales versus otoliths for older fish. The workshop's recommendations are that there are some problems with determining age using scales for older fish.

We're not sure exactly the resolution of this, so we've convened a working group that's going to start looking at the cost of changing our aging program from scales to otoliths for the older fish.

And they're going to look at what the harvest is of older fish, what the current sampling is of older fish, what states are putting into aging scales, what states would need to put into for resources as far as switching to otoliths, what sort of sampling schemes we could come up with, regional schemes, coast-wide schemes, what have you.

And we've charged them with coming back in the spring of 2004 with some reports for us. So, everyone was pretty excited about the workshop. I think they got a lot of good work done, and they felt like it was a real success, which is good news.

We reviewed a proposal from Pennsylvania about changing their spawning survey sampling design. Currently they have a series of sites in the Delaware River that they sample twice a year.

What they have noticed is that there is a substantial potentially spawning activity above the upper-most sampling site so they want to extend their sampling upriver.

They don't have the resources to sample all their current sites twice a year and sample the upriver sites so they wanted permission to go ahead and just sample their current sites once and put more effort into upriver and trying better to define the spawning grounds.

The technical committee said that's okay, go ahead and do that, but come back with us next year with a

report and let us know how that went, because the concerns of the technical committee are that they may lose some precision in their efforts or that they may end up with a less catch overall, and they might end up tagging fewer fish, which will be considered bad for states like Delaware and New Jersey that rely on them as a cooperator in their Delaware stock tagging programs.

So the committee said that's okay, but just bring us back any results next year and we'll look at it again. We also had an update on circle hook activities and got a lot of action going on with circle hooks.

A proposal was brought forward to the technical committee about the potential for modifying the MRFSS survey to find out how many trips directed at striped bass and harvesting striped bass are using circle hooks.

We currently use the discard mortality rate of 8 percent across the board on striped bass. Studies show that discard mortality rates based on circle hooks could be substantially lower. It might be 1 percent, 5 percent, 3 percent. Some estimates are a little bit higher than the 12 percent.

There's an average for a number of studies we looked at of about 5 percent discard rate for circle hooks. And on the face of it, it might sound like well shifting the mortality from 3 percent to 5 percent is not a big deal, but with the number of fish that are encountered in the MRFSS survey and the number that are discarded, this could be 150,000 fish difference in the number of fish that we believe are killed.

So, the technical committee is asking that the board send a letter to Dr. Hogarth and to the MRFSS director, Dave VanVorhees, requesting a subcommittee to work on adding some questions about circle hook usage into the MRFSS survey.

We want to find the best way to do that. The committee feels it is a potentially substantial number of fish in our catch at age matrix and there could be a potential savings there, and it would certainly add some accuracy.

And it may help go a long ways to let us know if our efforts to promote circle hooks are getting anywhere. We've had this question for a couple of years. We might see if circle hook usage increases.

And the final thing that we discussed was the stock assessment, which was reviewed by the Northeast SARC last year, and they had a number of comments.

Basically the technical committee charged the stock assessment committee and the tagging committee with implementing those to the best of their abilities, taking the comments of the SARC and doing what they can with them.

We also discussed the biological implications of reopening the EEZ. The general impression was that most of the information from the EEZ is pretty dated. We felt like the MRFSS was a tool and it would be useful for telling us about the harvest in the EEZ.

State quotas will control commercial landings. We didn't feel any stock damage there. If anything, we thought if states are allowed some flexibility, you might end up with lower discards overall, which would be good.

There has been a lot of discussion about whether or not the EEZ is a refuge for older fish and that opening that area to recreational harvest would lead to an increased harvest.

We looked at a couple pieces of information and it seems like every time we find some information that says it is a refuge, we can find another piece that says it isn't and the catch rates aren't any different, the size that's available in the EEZ isn't any different from the rest of the coastal fishery.

So the technical committee doesn't feel that — we agree that there's not a good handle on striped bass in the EEZ as far as stock composition and what's going on, and it will take some work and consideration to really describe it, but we don't feel there's any stock risk to it at this point. We elected a vice-chair, and that's it. Any questions?

CHAIRMAN FLAGG: Any questions for John on the technical committee report? Are there any objections from the board on following through with the recommendations of the technical committee relative to Pennsylvania issues and a letter to Bill Hogarth?

Seeing none, we will go ahead and follow through with those technical committee recommendations. The next item on the agenda I believe is the dual size limits discussion.

DUAL SIZE LIMITS

MS. GAMBLE: At the last board meeting, I was tasked by the board to go back and take a look at the history behind the dual size limits

in the management of striped bass.

I've prepared a little paper that provides the background on the history of those dual size limits, and that was included in the briefing materials. It's included in your packet handed out but it was also included on the briefing CD.

CHAIRMAN FLAGG: Okay, any discussion of this item at this time? Gil.

MR. POPE: Thank you very much. I want to compliment Megan on this because she did a very good job. I want to thank her very much for doing it.

The only thing I might want to state is this is something that has since the -- since I first started coming to commission meetings a long, long time ago, something that I never could really, thoroughly understand.

And, it took me a long time to try and figure out why it's done, the history behind it, why it was done in the first place. And, it was always of great curiosity to me as to why it seemed like there were two different standards. So, this was always really kind of near and dear to my heart as to why these things were necessary. And, even to this day I find that it's an extremely hot issue, divisive issue.

People have very strong feelings going both ways on what is referred to as "size limits" and is what I refer to as "dual egg production standards" or "yield per recruit standard" or a "penalty standard", because our traps traditionally in Rhode Island worked on small fish and were what I considered to be traditional, just like the other areas in the Chesapeake Bay and so on.

So, basically it's something that's near and dear to my heart and I just felt, after a long time, that it just needed re-discussion, reviewing, and I'm not sure exactly where to go with this other than I would like to personally see something where it's not referred to as a "dual size limit" any more and referred to as a "dual standard" by which allocations and stuff are measured and allotted.

Because, it seems like when Rhode Island was getting its penalties assessed to it for its trap fisheries, that it was based on 28 inches and above, or at the time it was actually 34 inches and above starting in 1990, even though I come to find that in her review here it states that it actually -- in the FMP it read "28 and 18", and I was surprised by that because I always thought that it was 18 and 34 to begin with in 1990.

But, I always wondered why there was such a disparity in size and it's not done in any of the other fisheries or in very few of the other fisheries. In lobster now there is a difference in some gauge sizes, but, I mean, nothing as dramatic as what I saw in the 18 and 34.

So, the reason that I'm reviewing it again today is I just want to see what the reasons were then, whether they still exist now, and whether it needs to be changed as to whether our trap fisheries can start fishing on 20-inch fish and so on, 20-, 22- or 18-inch fish like the bays did, like they did in the past when they first started, and be considered a traditional fishery as well.

And it seems like it's very difficult to explain, for me to explain, anyway, as to the difference between what people refer to as a "dual size limit" and what people would refer to as a "dual egg production standard penalty" if you go below a certain size.

I understand the reasoning, but I have to say that I still today don't agree with it. I realize that there is a difference in probably size availability in certain areas. But I know that along the coast guys, like David Pickering, for one, can catch 100 fish like this in a day.

We have lots and lots of small fish, just like the bay does. Now the bay probably doesn't have lots and lots of larger fish. But, through the years of my studying it, it seems like in 1998 Maryland caught more eight-year-old fish than anybody else.

So, it seems like something has changed and that there probably are more larger fish to be had in an area where it was predominantly small and there are more smaller fish in the areas where it was predominantly thought it was large.

So, I'm kind of hoping that things have changed, migration rates have changed and so on, and that we can go and that we can go back and revisit this and study it more and come up with something that where the sizes that we currently have can slowly but surely maybe come together and be something that's a little more -- that's a little closer together, and that the egg production standard can someday be the same, seeing as how the fish is considered to be the same fish whether it's in the bay or on the coast.

There is no two stocks or anything like that and that it's all one fish and that they all -- they don't mature at the same rate, but I think if I see my maturation rate chart here by the eight year olds, 50 percent of

the females are mature and by the time they reach about 33-34 inches, that 100 percent are mature.

So, that doesn't matter whether it's in the bay area or whether it's on the coast. So, I had a lot of people come up to me and say, "Gil, just what do you want? We just don't understand just exactly what you want."

But, I think what I would like to see is I would like to see us come a little bit closer in the standard that we use when we calculate our quotas and when we calculate the allocations and stuff, because it's based on, it seems like, two different egg production standards when there aren't really two different egg production standards. Thank you.

CHAIRMAN FLAGG: Thank you, Gil. Other comments? Tom.

MR. FOTE: I remember I attended my first striped bass board, I think this was about '87, probably attended almost every board meeting since and listened to all kinds of discussion why we have dual size limits.

It was really always an allocation, how you would allocate the fish and how you would allocate them. The comments were always made that if you went to too large size of a fish, you penalized the bays over the coast.

And basically when we opened the fishery, I was not on the commission at that point because I came on slightly after the fishery was opened, after the commission voted in Dick's Notch.

But it was -- the initial discussion was a 34-24. After some other, it came out to 18-28 inches. And that was what really went on there.

Jersey always felt since we had two producing areas and we had a coastal fishery that in order to be enforcement -- and we were different than the Chesapeake Bay but not totally --- is that it was very hard to enforce the dual size limits.

We really thought it should be one size fits all. And that was our argument from day one going back to '94-'95 when I got on this, that we basically should have one size limit.

It could be a slot limit to make availability of the smaller fish to the bay or and the larger fish. So when the situation came up with the large fish, they said, well, let's look at the slot limit and see if we can

get the producer size limits, producing areas and the coast, since it was considered producing areas, and the coast would basically be able to fish at and not penalize, because as Dick pointed out, if you basically look at the Delaware River, especially where Pennsylvania fishes, if you go higher than a 28-inch size limit, there is very few opportunities to catch fish.

We most of the time had those opportunities closed down because of spawning protection so we looked at a way of if you put spawning protection closures into place, we did certain things in certain areas, then we would allow you the smaller fish because that was the opportunity.

As the years progressed we got more and more clarity. We allowed for trophy fisheries. We allowed for other things to go on. And there also was a determination that because the fish were back in the bay 25 percent of the time, that they should be able to harvest some of those in the Chesapeake Bay. That was the decision.

I guess after all these years, it gets a lot more murky, especially with Amendment 6 when we did away with certain areas of producing areas and left other areas in existence.

As I said in those infamous minutes right now, I agreed with Gordon's proposal that one size should befit all, but I says if we can't do it under Amendment 6., it should be the first addendum under Amendment 6.

Well, lo and behold, I must have made a mistake because we did it under Amendment 6 as far as the Delaware and the Hudson producing areas, we just lose the other two areas.

It's always a bone of contention with fishermen and anglers up and down the coast because unlike the commercial fishery, which is capped, the recreational is not.

And the guy fishing along the coast looks at the individual fishing in the producing area at 18-inch fish and says, "I've got to catch a 28; he's allowed to catch an 18. I'm releasing all these 18- and 16-inch fish that I see."

The same happens in Long Island Sound and those certain areas, so this always puts this tension of pitting the bay against the coast in fights over the years, which I would sooner not get involved in anymore and eliminate.

But as long as you have a differential size limit in one area over the other area, people are going to feel disadvantaged. And, you know, that's part of my concerns over why I think we need one size fits all, whether it's a combination slot limit with one fish over, but something that addresses the concerns of the Delaware or the Pennsylvania fishermen, that guy that fishes up in the Potomac River and the guy that fishes at the coast. I think it could be done through a slot limit.

CHAIRMAN FLAGG: Thanks, Tom. I don't think we're going to resolve this issue this evening, but I've been given to understand that we can expect that some priority will be given to next year's budget to address this particular thorny issue in an addendum, and we will go down that long and arduous road and see if we can come to some resolution.

I know it is an issue that's of great concern to many of you and has been since we started the development of Amendment 6, and so we certainly don't want to let this issue not be addressed, and we will commit to doing that through the next budget cycle.

And with that I think it might be helpful -- we have one other agenda item, and it's getting close to six so I think perhaps we should go to that at this point in time unless others have burning issues relative to the dual size limit issue. Hopefully not. Okay, the next agenda item has to do with the producer area issue.

PRODUCER AREAS

MS. GAMBLE: This agenda item was added at the request of Roy Miller so I guess I would ask Roy to address it.

MR. MILLER: Mr. Chairman, the statement you just made sort of, in my view, cuts this argument off for the time being; is that your interpretation?

CHAIRMAN FLAGG: I don't think so, no.

MR. MILLER: Did I understand you to say that there is no money to take up the issue of producer areas until the next year?

CHAIRMAN FLAGG: That's my understanding is there is nothing in the budget that allows us to meet periodically to develop any sorts of addendums to the Amendment 6, which would be

necessary in order to address this particular issue.

MR. MILLER: Within the year 2004? You're suggesting that it's not until 2005 we can take up this issue? When can we take up this issue?

CHAIRMAN FLAGG: Well, I'll defer to John for that, if I may.

MR. NELSON: Well, we'll have another action plan voted on this fall, and if the commission is willing to appropriate funds to do an addendum for whatever items associated with striped bass, that would be what the commission discusses and votes on. If they agree to start an addendum in '04 and allocate staff resource and funds, then that's what would happen.

MR. MILLER: I'll probably defer to my colleagues from New Jersey for the time being. Thank you.

CHAIRMAN FLAGG: Tom.

MR. FOTE: Yes, at the last Striped Bass Board meeting, I guess the infamous Rhode Island meeting where people assumed one thing and people assumed another thing and people voted one way different, if you read the minutes, it's about as confusing as any. I mean, I can reread them one way or the other.

But the outcome of that is that we have Amendment 6 that did away with producing area status for two jurisdictions, Delaware Bay and the Hudson, which some states did not realize was going to happen under Amendment 6.

It also did not go out to public hearings. It was not in the public hearing document that we were basically doing away with producing status and all its implications, and it basically happened after the public hearing process.

This has basically put New Jersey, Pennsylvania, Delaware -- I won't include New York but New York doesn't feel like it is -- in a disadvantageous status than they were under Amendment 5, and it basically is discriminatory when it comes to other producing areas.

The governor and the people of New Jersey have found this totally not agreeable. We felt that we were basically giving -- we did not have a fair public process of basically this producing area status and

losing it.

And when we thought we were in compliance, we all of a sudden find we can't stay at status quo under Amendment 5 because Amendment 5 no longer exists.

It has caused serious problems and serious consequences in New Jersey, and we're not sure where we're going. I basically explained this at the last meeting and was assured by a lot of board members that basically sat around that were here toward the end of this, that this would be addressed.

But I was not thinking that we would have to wait until 2005 to be addressed. I thought we could basically have a discussion on what would happen in 2004 and whether there was some way of basically, until we decide on the amendment that Gil and I were just talking about, one size limit fits all, that we will address the problem of how you allowed other producing areas to stay at one size and the other ones affected.

And, again, that's what our concern is here. As New Jersey sees it, it's a problem of fairness, a problem of equity. It's also a problem of going out to public hearings without this in the proposal and a major, major -- what we feel is a major change.

And, really, it was not clearly spelled out. There was never a clear motion that I can see, I've found in the records, that basically said that. It was assumed.

Well, assumptions is very difficult, and especially as trying to explain it to fishermen. They're all of a sudden, they look at the same time that they're being told that they have to change their management regime to be more restrictive that they -- because they could have went to 28 inches in the producing area and never availed themselves because we wouldn't let them.

We didn't want to be 20 inches in our producing area and we stayed at 24 and created this 24- to 28-inch slot, and we created that, that they will be penalized forever.

We have never supported that with any other state. I've always supported Massachusetts at all times going to two fish at 28 inches because they could have done that Day 1 in 1990.

And we've supported New York doing that and any other state. We've supported it as long as it was done in the previous amendment to be allowed to do that.

I'm getting longwinded, but basically it's a serious concern and serious problem. There has been a lot of discussion by legislators and everybody in my state on this, and we're not sure where to go right now.

We were looking for some understanding of the board. I mean, that's what I thought we left here with understanding at the January meeting.

From what I'm getting he feeling here, there is nothing going to be done until 2005 on this. By that time New Jersey and Delaware and Pennsylvania will have to change their regulations to affect this and actually be discriminatory according to the plan, as I feel it. I think that covers it. Roy did I miss too much?

CHAIRMAN FLAGG: Thank you, Tom. Yes.

DR. GENE KRAY: Gene Kray, Pennsylvania. That is also my understanding. When we left this room in February, it was very clear to me at that time that it was the opinion of this board that this issue would be addressed at this meeting in June; and to hear that it is not is very disturbing to us. That's all I have.

CHAIRMAN FLAGG: Other comments from board members? Roy.

MR. MILLER: I would agree with Gene's summary, and I would also agree with Tom's. However, I'm a realist. I honestly don't see us passing an addendum before January 1, if I'm reading the board correctly. At least that's my read of the board.

I am disappointed that we haven't taken up this topic. It always seems to come up at the end of the agenda on an otherwise long day, so I don't think it has been given the attention it deserves yet, and I would like it to have that attention.

If the chair would include perhaps some potential budgeting items for this particular issue in 2004, I would be appreciative. Honestly, in the Delaware, in recognition that it is a producer area and has been a producer area for a number of years now, I honestly feel that the basin states should be given the opportunity for one fish at 24 inches and maybe one fish over 28 inches, a two-fish creel limit.

Obviously, that's not going to get past this board, and even a more restrictive proposal than that did not get

past the technical committee. That's why I feel we need to take a fresh look at this producer area issue. And for that reason I'm willing to defer that until 2004. Thank you.

CHAIRMAN FLAGG: Thank you, Roy. John, did you have a comment?

MR. NELSON: Well, Mr. Chairman, obviously, there are several items that this board has I think a sense of wishing to have addressed through an addendum; and as the messenger of the commission, of which you all are members, I'm just laying out what's our limitations.

We have staff limitations, financial limitations and we have to, quite frankly, stay disciplined to what we've already voted for our work plan.

But I do take serious what I'm hearing here. I think at some point I think the board needs to -- and not tonight, but at some point they need to have fleshed out what they feel is an appropriate workload for the staff to consider for an addendum for consideration by the commission of next year.

The only thing I can promise -- and I'll do it here as I look quickly around the audience to make sure she's not here -- I promise not to make Sue Shipman chairman of consideration of that addendum.

CHAIRMAN FLAGG: Other comments from board members? Yet, Tom Fote and then I have a gentleman in the audience.

MR. FOTE: I'm trying to get a sense of feeling here. Then there will be -- the board is basically not going to consider anything for 2004 that will allow those areas that were producing areas no longer considered producing areas to stay at status quo what they've got in place and basically -- and there is no amount of action that's going to happen in between now and December to allow that to happen.

So, if we choose to stay at that, then we have to go out of compliance and then we will have to go through the process that we think we should have to go to and whatever follows from there, whatever has to be done by my governor and my state.

CHAIRMAN FLAGG: Thanks, Tom. Other comments? David.

MR. BORDEN: Yes, thank you, Mr. Chairman. Just a brief comment, given the sage advice of our chairman here that we don't have the

resources to do an amendment, it seems to me that we don't have any course of action but to schedule that for 2004 and move on that deadline.

Now, having said that, that doesn't not in my mind preclude this board from routinely scheduling a board meeting as a part of our annual meeting cycle and getting on with some of the discussions about the pros and cons of doing that.

The other thing it does not preclude is asking the technical committee to do some analytical work in support of those types of discussions. So, I think there is some preparatory work you can get done that actually may help us sort through some of the budget deliberations that John is talking about.

CHAIRMAN FLAGG: Yes, very good point, David, thank you. I had a gentleman in the audience. Did you wish to speak, sir?

MR. TONY BOGAN: Yes, I'm Tony Bogan from United Boatmen. Just a point to make to all the commission members and specifically, Mr. Chairman, I appreciate you giving me the time to speak. There was never any discussion about an addendum process for producer areas.

The tabled motion from the December meeting in Rhode Island, which the same motion was again tabled in February when I was here in Virginia, had absolutely nothing to do with producer areas. There was never an addendum required for it.

That had to do with creating a single biological reference point, a uniform minimum size. I have both copies of the minutes from December in Rhode Island and from February in my hands. That has nothing to do with producer areas.

The whole point of the meeting in February with producer areas was that in the July version of the Amendment 6 document, the only version that existed for every single public hearing, including the state of New York and New Jersey, which were only 24 hours apart, had 144 references in the document to producer areas.

There was not a single motion passed, not a single discussion made and no option, none in the July version of the public information document, that removed producer areas.

But from the July version of the document, which was the only one available for public hearings in

every state on the coast and the February version of the document, which was handed out when I was here in February, we went from 144 mentions of producer areas to 4 simply through the act of omission.

And three of those references in the recent version of Amendment 6 are in referencing what used to exist in Amendment 5, and the fourth reference was in referencing a slot limit test that had been done.

So there were 140 references to producer area, the only thing that was available for public comment, that were simply removed through the act of omission.

And, again, talking about not having money for an addendum, that has absolutely nothing to do with the discussion that we were promised was going to take place here in June.

And, again, there's two motions. The motion was tabled twice where the whole addendum process, where it was agreed that it should take place in the first addendum to Amendment 6, was for a single biological reference point.

It had nothing to do with the substantive change to Amendment 6 between July and February through the act of omission of deleting producer areas.

So, I'm a little confused as to how all of a sudden we went to figuring out how producer areas disappeared without a motion being made and not being vetted in the public hearing process as was suggested in February, but, of course, would be impossible seeing as how it existed 144 times in the document.

Thirty-three tables in the Amendment 6 July version that lists the different options for fisheries for sizes and size limits and seasons and 13 of them specifically reference producer area; they're all gone.

Another thing, too, is that the actual motion that was passed — and you'll forgive me because I can't remember whether I'm looking at December or looking at February. I'm looking at February.

The actual motion that was passed in December was "move that the coastal commercial quota be restored to the base period", et cetera, "and the coastal recreational measures will be maintained at the level authorized in Amendment 5."

Now, there's a parenthetical reference of two fish at 28, but when you say Amendment 5, Amendment 5

had producer areas. And there is nothing in the motion that was passed that says “with the removal of producer areas.”

All it does is reference what the coastal fishery was in Amendment 5. And in Amendment 5 there were producer areas and you had a dual standard; 20 and 28; 20 inch in the producer area; 28 in the coastal. The two at 28 does not preclude producer areas. It was two at 28 in coastal areas. It was only different in producer areas.

And there is no reference, not in any of the minutes, not in any of the motions that remove it, so this talk of an addendum process for producer area is completely contrary to what we were told in February, which was completely contrary to what everybody thought in December, so I’m a little confused about how all of a sudden we had to have an addendum to the amendment in order to get producer areas to solve this problem. I had a lot of other comments but that pretty much sums it all up. Thank you.

CHAIRMAN FLAGG: Thank you. Other comments? Okay, do we have any other issues? I think that concludes the items on the agenda. Is there other business? Dennis.

MR. ABBOTT: Yes, just one small thing I didn’t remind you of at the beginning. In the February meeting, I was listed as being in attendance and I was not here in February.

CHAIRMAN FLAGG: Thank you, Dennis. We’ll have the record reflect that you were not here. Okay, Tom, did you have a final comment?

MR. FOTE: Yes, I still haven’t -- then, clearly, this board, between now and 2004, is not going to accept a motion to basically deal with the discrepancies with producing area in Amendment 5 and Amendment 6?

I just want to be perfectly clear because I’m not going to waste a lot of time coming to the board if you’re not going to address it and ready for the 2004 season. Do I have to make a determination now?

Because, I was going to make a motion that we basically review the producing area status of the Hudson River and the Delaware River because of the ambiguity of how the amendment got passed and the information in the amendment. I’m asking the chairman, would you rule me out of order?

CHAIRMAN FLAGG: If you want to make that motion and get a second, you can do that.

MR. FOTE: Then I will make a motion that we basically go status quo in the two producing areas of the Hudson River and the Delaware River until we basically straighten out the producing area status of those, or we come up with exactly what that meant by eliminating a producing area in Amendment 6.

CHAIRMAN FLAGG: There is second from Gene Kray. Okay, we have a motion on the floor. Discussion? Gordon.

MR. COLVIN: Where are the boundaries of the Hudson River producer area?

MR. FOTE: I guess I would use the boundaries of the Hudson River producing area as it was stated in Amendment 5.

MR. COLVIN: Well, (A), that illustrates part of the problem because Amendment 5 is history, as Paul Diodati pointed out earlier; (B), I don’t accept those boundaries. I think if you look into the underlying reasons why producer areas existed, all of Long Island Sound is part of the producer area.

We have had to extend the young-of-the-year survey for striped bass into Long Island Sound because that’s where they are now. All of the South Shore of Long Island is part of that producer area. Frankly, I think that producer area extends to Rhode Island. This is why we’re in this pickle.

CHAIRMAN FLAGG: Yes, it seems as though that is one of the big issues that needs to be resolved is how we identify “producer areas.” That has been something that’s been very problematic throughout this whole discussion, I believe. Other comments to the motion? Yes, sir.

MR. BOGAN: Yes, sir, Tony Bogan again from United Boatmen, and it is specifically to the motion. If the position of the board is going to be that Amendment 5 no longer exists, then the entire motion that was passed in Amendment 6 for the recreational standard would be an invalid motion because it specifically references Amendment 5.

It makes a biological reference to Amendment 5, just like the producer area boundaries are a biological

reference to Amendment 5. I'm a little confused how it's okay to mention Amendment 5 in certain parts of Amendment 6 but not okay to mention it in other parts. To me that's arbitrary and capricious.

Other than that, simply designating an area that combines several states as a producer area — you shouldn't say that. It was always designated that way — does not mean that suddenly New York is going to have to change its regulations.

New York has already shown its desire to have a conservative approach in several different fisheries, contrary to what they're allowed. So simply saying that part of the New York waters would be producer areas doesn't mean that New York is suddenly going to have to change what it does.

They always have the option to do whatever their state decides to do and they think is best. So, that would not necessarily preclude Gordon and Pat and Brian from doing something different, other than what's allowed in the amendment. They've already done something different than what's allowed in the amendment. Thank you.

CHAIRMAN FLAGG: Thank you. Dennis.

MR. ABBOTT: Thank you, Mr. Chairman. As a point of order, I'm getting a bit confused. Are we not asking for a motion to reconsider? I'm unsure of the parliamentary situation.

And if we're reconsidering the action that we just took regarding each of the states, to me that's a motion to reconsider and that motion, first of all, would have to be made by someone who voted on the prevailing side. Could you help me with that?

CHAIRMAN FLAGG: Bruce.

MR. FREEMAN: Thank you. I understand the argument that Dennis is making. Nevertheless, I submit that that vote was not made. If you recall, there were several proposals that New Jersey submitted to the technical committee for review.

The only motion that was made by this board was to accept one of those options. There was no motion made by us to accept the other ones. So, therefore, we do not believe that this motion is in opposition to any action the board took previously.

CHAIRMAN FLAGG: Yes, we

never specifically voted against the options that did not meet the technical committee criteria. Well, I think we should go probably -- it is a valid motion. I think we need to caucus and -- A.C., did you want to comment?

MR. CARPENTER: Yes, I have a question of the maker of the motion. By "status quo", does he mean the 2003 regulations would be in place during 2004 or until the issue is resolved? Is that what you mean by status quo?

MR. FOTE: What I would do is just say this is for 2004. If it wasn't resolved by 2004, then we know it's never going to be resolved. But I would just -- the 2003 regulations in place for 2004. I'm not asking for perpetuity, just until we start trying to get through this addendum to basically figure out what's going to happen.

CHAIRMAN FLAGG: I just recollect that we did have a motion that was somewhat similar to this relative to the Pennsylvania proposal, because they did ask for an opportunity to maintain current regulations through 2004 until things could be sorted out, so I think in a sense we've dealt with that motion at least on a single-state basis. That motion was defeated. And so, therefore, I think that this is another version of a motion that was previously defeated so I tend to side with Dennis that this is a motion to reconsider because we've dealt with this on an individual state basis, so I'll move the motion out of order.

MR. FOTE: Then I will make the motion just for New Jersey and Delaware at this point, since you did not vote on their proposals.

CHAIRMAN FLAGG: I think we voted on the substance of the issue. We voted on the substance of the issue, which basically was that one state wanted to maintain status quo regulations, which didn't meet the requirements for Amendment 6, until such time as things could be sorted out relative to other state actions, so I think we need to stand by that at this point in time.

I don't believe there's anything else on the agenda at this time, so I'm going to adjourn the meeting.

(Whereupon, the meeting adjourned at 6:20 o'clock p.m., June 9, 2003.)

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