

P R O C E E D I N G S
of the
ATLANTIC STATES MARINE FISHERIES COMMISSION
TAUTOG MANAGEMENT BOARD

February 18, 2002
Swissotel Washington, The Watergate
Washington, D.C.

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The Tautog Management Board of the Atlantic States Marine Fisheries Commission convened in the Monticello Room of the Swissotel Washington, The Watergate, Washington, D.C., Monday, February 18, 2002, and was called to order at 1:00 o'clock p.m. by Chairman Bruce Freeman.

CHAIRMAN BRUCE FREEMAN: All right, if everyone would take their seat, we would get the Tautog Board underway. We have a number of issues we need to talk about today. We have four hours allocated for our time. Hopefully, it won't take that long, but we do have the time if necessary.

There's no need to have a roll call. There is a quorum. Please make certain you sign in when the sheet comes around. That will be the official indication that you were here.

As usual, this meeting is well organized by Heather and she indicates all the information that we need will either be handed out or passed to you prior to us needing to take action.

There will be a number of reports; the advisory report, Pat Donnelly is here; the law enforcement report. I don't see Rob. I saw him yesterday. He asked me for directions. I'm sure he'll be along shortly, although he does have jury duty. I'm not sure how that's going to work out.

We have the technical committee report. We have the review of draft Addendum III that we just had public hearings on, and Heather will review those public comments and then we'll have discussion and action on Addendum III. There's some other items as well, other business that you see on the agenda. Are there any other items. David?

DR. DAVID PIERCE: Just to call to your attention, Mr. Chairman, the fact that I'll give the report for the public comment that was received at the public meeting in Fall River, Massachusetts.

CHAIRMAN FREEMAN: All right, any other items? All right, then, are there any comments by members of the public to the board? Any comments by the public? Seeing none, we'll move on. Bob Beal needs to make a real friendly announcement.

MR. ROBERT BEAL: Okay, this has nothing to do with tautog, but all the communications from the Commission have indicated that the that your room rate is \$119 per night and that's fixed on the government per diem rate, which as of last Friday went up to \$150 per night.

So when you get your bill, expect to see more and there's no need to argue at the front desk. They're stuck with \$150 -- I mean, obviously, you'll be reimbursed, but just take note of that.

MS. LAURA LEACH: Actually, Commissioners will be on the master bill, but it will be \$150.00.

CHAIRMAN FREEMAN: Is this a breach of contract, Bob?

MR. BEAL: No.

CHAIRMAN FREEMAN: Now we'll get into the fun part. Pat, your advisory report, please.

DR. PATRICK DONNELLY: Everybody should have a copy. It was just handed out in front. This marks the best attendance at our advisory panel, probably since 1995. I represented New Jersey.

We had two individuals from Massachusetts, two from New York, and one from Delaware. As you can see, we went through the addendum. That's all on the sheet. The outside comments that were made, all of the individuals felt that the stock assessment was not reflective of what's going on on the water.

There was a lot of concern from each of the people as to the M equals 0.15 number and an overriding theme throughout this was that the illegal live fish fishery that's pervasive in some of our states would probably account for most of the numbers that would need to be reduced in those states.

New Jersey is certainly making an enforcement stance right now. But not seeing that being a priority in the plan, there was a lot of concern on the advisory panel about how we penalize people who are doing it the right way and we're not really getting a grip on what's going on in the illegal industry.

CHAIRMAN FREEMAN: Okay, are there comments? Pat, go ahead.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. Did the subject come up about special management zones at all relative to black fish and protected areas?

DR. DONNELLY: That wasn't a discussion at that meeting. I know in our state, we're working on it and some of the other states are. No, that wasn't brought up at this time.

CHAIRMAN FREEMAN: Other questions? Other comments? Dave Pierce.

DR. PIERCE: The panel was comprised of how many people? Six industry advisors; is that correct or is it seven?

DR. DONNELLY: It would have been six people. It would have been three commercial and three recreational.

DR. PIERCE: Okay, did they have any viewpoints regarding the options for cutting mortality, recreational fishery alone versus commercial and recreational sharing the burden?

DR. DONNELLY: The people who were there all thought that it should have been both industries, the commercial and recreational people.

MR. FREEMAN: Other comments? Other questions? Pat.

DR. DONNELLY: I would just like to thank the Commission, Heather and everybody else, for getting us some people on the advisory panel. For the last couple of years, it had basically been myself and one other individual, so it was nice to hear some viewpoints from other states, and we can more adequately help the Board. Thank you.

CHAIRMAN FREEMAN: You'll notice at the very end there's some nominations for advisors and we'll need to take action. Heather indicates those people were involved in the conference call, which is normally our policy and I think, if I'm not mistaken, Pat, that we anticipate several more. There's a number of states that are still in the throes of getting advisors.

DR. DONNELLY: Yes, it's my understanding that there were several other people who would be ready to go after we do something this afternoon. Thanks.

CHAIRMAN FREEMAN: Very good. Any other questions of Pat? All right, the law enforcement report. As we indicated, Rob Winkel is not here at the present time. I spoke with him yesterday. He anticipated being here, but he did have jury duty.

So depending on what action occurred earlier this morning, he may or may not show up. Heather, you do have some comments on enforcement?

MS. HEATHER STIRRATT: You're going to receive. prior to my discussion or my review of the public comments received by staff, a series of written comments which were submitted during the public comment period.

There are two comments in that packet that I will make note of when we get to that item on the agenda that were submitted on behalf of law enforcement representatives who do serve on our current law

enforcement committee.

As I mentioned, I will be happy to point those out. Since you don't have a copy of that in your hands right now, I will wait to do so when we get to the review of the comments received.

CHAIRMAN FREEMAN: All right, then we will review those when we get down to the comment period. Technical Committee Report.

MR. PAUL PIAVIS: All right, we have a few topics to discuss. First off, we'll have a couple of slides of the projections. The first set, preferred options 1 through 6 from the addendum, and those are the projections that the Board has already seen and they assume a 2002 start.

The second set of options will correspond to Options 7A through 7B and those assume a 2003 start to any management activity. Then we'll go through the reduction tables. There is an updated recreational reduction table from what was in the CD-rom.

And, finally, we have some updated landings for the 2001 recreational catch and those are through Wave V, so those would be landings through October.

We're going to go through the projections for each of the options in the addendum. The first set, as I said, corresponds to starting management in 2002, and the first is the existing plan target of F equals M , so the first option is F equals M of 0.15 beginning April of '02.

The second option is the incremental approach, whereby 50 percent of the reduction in F is taken in 2002, followed by a plan target of F equals 0.15 in 2003. Option 3 is a size increase in 2002, followed by the plan target F in 2003 of, again, F equals 0.15.

The fourth option is a 40 percent SSB target of F , which is F of 0.29. Option 5 is what we've been calling the rolling moratorium. We would have a closure of the fishery in 2000, followed by a fishing of status quo, which is currently 0.41; the following year, the next year, a moratorium, and then status quo alternating.

Option 6 is no action. That would be the status quo, assuming an F of 0.41. Again, these are abundance projections, and this is the same graph that the management board has seen the last couple meetings.

This is Option 6, or the status quo, and this would be fishing at 0.41 throughout the time horizon. Option 1 is this highest level and this would be fishing, going to F of 0.15 in 2002. Option 2 is the next line and this is the half reduction in F the first year, followed by the full reduction in 2003 to F of 0.15.

Option 3 is this curve and that is the one-inch minimum size limit increase in 2002, followed by the plan F in 2003. Option 4 would be the F equals 0.29 or the 40 percent SSBF.

So you can see, as we've discussed before, that they fall out into two distinct groups, with the status quo and the F-40 percent SSB underperforming the other options.

This is the rolling moratorium option. You can see the effects of zero fishing in one year, status quo fishing, a drop in the population, and then rebuilding in another year of moratorium.

Now the next suite of options are assuming status quo of 0.41F in 2002, followed by management action in 2003. Again, they correspond to the previous six options. The first one is the incremental approach with a 50 percent reduction in F, followed by a plan target in 2004.

7B would be the size increase, followed by the reduction to the plan target in 2004. Option 7C is the 40 percent SSB target. That would start in 2003 and the rolling moratorium is the same as before, except that instead of initiating the moratorium in 2002, it begins in 2003.

This, of course, is the rolling moratorium. Again, they fall out basically in the same groupings. It's just that the rolling moratorium -- of course, we're on the off year at the end of this projection so the next year it would likely go back up.

This would be Option 6, actually. It's just left in here for reference. This is the status quo. This would be the one-inch minimum size limit increase. You can see you get very minimal benefit from the one-inch minimum size increase on the fully recruited F, and then you get quite a bit of improvement when you get to the plan target. 0.15 would be initiated here.

This would correspond to Option 7A. This is a 50 percent reduction in F in the first year, followed by a plan target and this would be the plan target. That's not in the Options 7A through B. These two lines are just given for the reference.

Next we'll get into the reduction tables. The Board has, of course, the two options; the recreational fishing reductions only or commercial and recreational reductions. There was a mistake in arithmetic in the public hearing document.

As Gary Nelson and Paul Caruso formulated the reduction tables, there was just a very minor mistake. It amounted to anywhere between half a percent and two percent difference in the reductions.

These you have in handouts and these are finalized so each state

can look at just what the percent reductions would mean. Obviously, a full 63 percent reduction would be quite a hit, and these are based on 1999 to 2000.

Originally we had looked at 1998 to 2000, but it was obvious that a lot of the regulations, especially in the southern states, hadn't gone into effect until mid-year of 1998. So these are based on the years that have the most consistent regulations.

The only other difference, in the bag limit analysis for several states, there were entries above the maximum bag, so we had to delete those, use those as zeroes; otherwise, states would be getting a benefit for illegal fishing.

These are the commercial reductions. Again, they're provided by states, as is the norm, and, again, a 63 percent reduction should the commercial fisheries be managed as the recreational fishery would be quite a closure.

And the final slide is the recreational landings through Wave V, which is through October. Again, you can see that there's a 41 percent increase in the harvest for 2001 compared to 2000. Maryland went up 290 percent, but still about 1-1/2 percent of the catch.

North Carolina increased. New Jersey had a large increase and Massachusetts also increased. That's it from the technical committee. Do you have any questions that I can answer?

CHAIRMAN FREEMAN: Questions? Dave Pierce and then Harry Mears.

DR. PIERCE: Thank you. The last table that you put up, showing 2001 data, do we have a handout on that?

MR. PIAVIS: No.

DR. PIERCE: We do not. Can you just put it up again so I can copy some of those numbers down? It's the first I've seen those data.

MR. PIAVIS: I'm sure those are preliminary from MRFSS. I mean, I know they're preliminary from MRFSS. It's not a finalized data set, but it will give an indication of what numbers we'll be working with in the coming years.

CHAIRMAN FREEMAN: And as I understand, these are preliminary, Paul?

MR. PIAVIS: Yes, the 2000 would be final, but the 2001 are preliminary.

CHAIRMAN FREEMAN: David, do you have questions or just wanted to see that table?

DR. PIERCE: Well, I wanted to copy the numbers down because 2001 data are --

CHAIRMAN FREEMAN: Okay, a copy will be made, so --

DR. PIERCE: All right, that's good. So as a reminder, this is Wave V versus what we have in the addendum, which would be the entire year. The table on page 5 is the entire year.

MR. PIAVIS: Correct, yes, 2000 is landings through Wave V.

CHAIRMAN FREEMAN: Bear in mind there's no collection of statistics for Wave I.

DR. PIERCE: Okay, and this is pounds of fish, correct?

MR. PIAVIS: I'm sorry, no, these are numbers.

DR. PIERCE: These are numbers of fish; therefore, they're not -- this is the recreational fishery?

MR. PIAVIS: Correct.

DR. PIERCE: Okay, so it's not comparable then to the table on page 5 in the document, which is in pounds of fish as opposed to numbers of fish. Is there any page in this addendum that would provide us with numbers of fish? I don't think so. That would be helpful, though, if that table is available for comparison numbers versus numbers. I find that useful.

MR. PIAVIS: It would take me a little while, but I could --

DR. PIERCE: But it's not critical because you do have year 2000 and 2001, so there is some basis for comparison.

MR. PIAVIS: I do have the poundage by wave by state, but I would have to get the calculator out and go through it.

DR. PIERCE: Well, for now this is good enough after I get the other handout. Thank you.

CHAIRMAN FREEMAN: Okay, Harry.

MR. HARRY MEARS: Thank you, Mr. Chairman. Paul, in an effort to remind us where we left off since the last board meeting, I believe you made it a point that in looking at the various options, which were just put onto the screen, that none of them would really get us to the numbers of fish which we saw during the 1980 to 2000 period, which I think was somewhere in the neighborhood of 23 million fish; is that correct?

MR. PIAVIS: Yes, that's the long-term average. The best

performing of the projections and, again, that's assuming very good recruitment throughout the time horizon, I believe the best gets you just under 18 million fish.

MR. MEARS: Okay, so in looking at the options which were just taken to public meeting and the options which you just summarized, are the objectives of the options to reach a threshold to get us out of danger or is it in fact to get to a higher objective to rebuild this stock? Has there been any discussion similar to that within the technical committee?

MR. PIAVIS: No, there hasn't been discussion. I think we've been preoccupied with an initial rebuilding from a very, very low level, the lowest in the time series.

MR. MEARS: So if I hear you correctly, the options we're looking at is in fact to get us out of danger and not necessarily to get to a level to rebuild the stock to former levels of abundance?

MR. PIAVIS: I think that's a correct way of looking at it.

CHAIRMAN FREEMAN: Other questions? Go ahead, Jeff.

MR. JEFF TINSMAN: Yes, Paul, a question about increasing the size limit. It doesn't seem to do anything appreciable to increase the recovery rate, and it's my understanding the technical committee originally decided a 14-inch size limit was appropriate to be considered the fully recruited level, and that other states have subsequently gone to 16 for other reasons, such as curtailing the live market and that sort of thing.

Is the feeling of the technical committee any different than it was when the plan was written at this point?

MR. PIAVIS: As I remember, when we were adopting the size increases, it was more of a conservation equivalency. Those were before the VPA.

The VPA works on a fully recruited F, and that's why we don't project a big decrease in F because the F that we're talking about, whenever F is mentioned in an assessment or in the document, it's F on ages 7 and above.

So there are very few fish that are 15, 16 inches that are 7 years old. That's why that does not decrease the F that we're working with by a large degree.

CHAIRMAN FREEMAN: Does that answer your question?

MR. TINSMAN: I understand what you said; I'm not sure it answers my question, though. I'm looking for some kind of clear statement from the technical committee whether this is a recommended

conservation measure or whether it would just serve to make things equal up and down the coast.

MR. PIAVIS: The only consensus that the technical committee came out with was these options would be getting to the plan target as soon as possible. If you're looking for a technical committee preferred alternative, it's the plan target as it exists.

CHAIRMAN FREEMAN: Additional questions? Gil.

MR. GIL POPE: Thank you. I was just wondering if there is any information on a state-by-state basis relative to fishing mortality rates. Do you have that on a state-by-state basis or is most of the information that you're doing basically on either a regional or on a coastwide basis?

MR. PIAVIS: Everything is coastwide.

MR. POPE: And one of the reasons that we went to 16 a while ago is because we wanted to try and get a jump on this and see if we could do it. We weren't as concerned about the live market as we were just in general as to what we were doing. I highly recommend size increases at this point. Thank you.

CHAIRMAN FREEMAN: Other questions? Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. Would it be difficult for the technical committee to actually come up with a -- we'll call it a spreadsheet or a chart to show what the increase in conservation would be if we did go to a 15 inch or a 16, as the case may be? Would it be too cumbersome to do or would it be possible to do in a relatively reasonable short period of time?

MR. PIAVIS: As far as the projections?

MR. AUGUSTINE: A projection on if we went to 15-inch fish and/or all states went to a minimum of 16. I know we have a very live and healthy live fish market in New York; and with the limited enforcement we have, we need to do something to curtail the selling of these live fish; and if going to 16 inches will do it, it would seem to me that we should ask the technical committee, if you're the folks who can come up with the sheets on this or the projections on this, whether we would have a great or significant increase if we went to 15 in conservation or to 16 in conservation. So I guess the question is could you do it and is it practical?

MR. PIAVIS: Since some of the first addendums or actually even when the plan was being hashed out, I know it was definitely the technical committee's feeling that size increases don't reduce the F.

It just delays it and that's what we've seen in 1998 when everybody

went to the higher size limit. You know F did come down for those first years, but as those fish grew into the exploitable population, the effort was still there and it's the effort that really needs to be curtailed.

We haven't discussed it recently because we've discussed it before in the past, as far as the technical committee, but it's definitely the view that size limit increases just delay the mortality for down the road. As far as conservation equivalency tables, I'm sure it could be done and I'm sure it's not a minor exercise.

CHAIRMAN FREEMAN: Other questions? Dave Pierce and then Ernie.

DR. PIERCE: If you've mentioned this, I apologize for asking the question again. With the five-year projections -- this is N, this is number of fish, correct -- is this of all sizes or is it just the mature individual spawning stock biomass?

MR. PIAVIS: No, sir, that's all sizes.

DR. PIERCE: That's all sizes. Therefore, your projections would factor in the promising year classes of 1999 and year 2000 that are showing in the figure on page 7 of the addendum?

MR. PIAVIS: Correct. Again, I know you had the -- I believe it was Mr. Borden had the comment at the last meeting in Maine. The recruitment that's used for those projections is the average of the five years, so that includes the two years of very good recruitment in 1999 and 2000.

I remember there was a discussion in Maine about somebody had felt that the recruitment trajectory is up so the recruitment in the projections for each year should go up.

However, you know, obviously, it's difficult to guess what recruitment is going to be. I wouldn't hang my hat on the fact that recruitment is going to keep going up as it has the last two years.

DR. PIERCE: Neither would I, but as a follow up, I think you just said that when you put recruitment into your rebuilding equations, your projections, you take a five-year average of the year classes, which would mean what in terms of how year 2000 is treated?

Year 2000 right now, the estimate of recruitment is high, certainly, much higher relative to 1995 through 1998. Are you saying that because of the way the projection is done, the size of the year 2000 year class was decreased dramatically because you're doing a five-year average?

MR. PIAVIS: No, it's one-fifth of the recruitment for each year. That's held steady for each year and so that would be one-fifth of

the average.

DR. PIERCE: I guess I'm still not following you, sorry. It seems to me that -- well, just tell me I'm right or I'm wrong -- that the size of the year 2000 and 1999 year classes that look promising, have those relative sizes had a strong influence on the projection or has the influence been muted, decreased significantly, because of the way the projections are run, how you treat recruitment, the five-year averaging specifically?

MR. PIAVIS: No, I think that the projections, they are optimistic because the 1999 and 2000 levels are in there.

DR. PIERCE: So you still haven't answered my question, I don't think. The year 2000, okay, the high point, was that high point inserted into the projection and then the numbers cranked or was it somehow modified to reduce it because of the way you handled recruitment in the projection?

MR. PIAVIS: For the projections, we need to get a level of recruitment for each year in the future. We don't, obviously, know what that's going to be. So in order to see each year's projection, we need that number, and it's fairly standard that we take the average of the closest five years of recruitment and that's what we did.

So we have that number all the way across the board starting the projection and then each year that is reduced by the fishing and natural mortality, and then you sum up the ages for each year and that's the projection.

DR. PIERCE: Right, if you can't predict what recruitment will be, you have to use a five-year average in order to assume what might be. I'm going to assume that -- and this may be an unfair assumption or an incorrect one -- I'm going to assume that the projections are underestimating abundance going into 2004, 2005, and 2006, let's say, because of the fact that you did have to do some averaging of year class strengths and that, in some way, depressed the size of the 1999 and year 2000 year classes.

CHAIRMAN FREEMAN: It's Ernie Beckwith.

MR. ERNEST E. BECKWITH, JR.: Thank you, Mr. Chairman, a question for Paul. Paul, one of the concerns that I have is that not all the landings are being counted. I think we all are aware of the live market problem, but I think there is also a problem with lobster pots.

I know in the state of Connecticut we have an awful lot of lobster pots. We have far fewer now that we had in the recent past, but our data shows only about 5,000 pounds of tautog comes out of lobster pots and that's just really, really not even close.

So I guess the question for you or perhaps just a comment; if the catch out of lobster pots or the live market issue are not being counted, then in fact the stock size could be larger and, therefore, when you run your numbers through the VPA, you would be overestimating F.

MR. PIAVIS: Certainly, one of the assumptions in a VPA is that the catch at age is known. It would have an effect, but it may not have as large an effect as you would expect because this is a heavily tuned index.

There's fifty-some fisheries-independent indices that go into it, and those are really what's going to set that level of abundance. It's hard to make a blanket statement what would be the outcome of the assessment if there was a large unreporting problem.

MR. BECKWITH: Could I just put you on the spot, just to go off the top of your head. Say, just for the sake of conversation, 30 percent of the actual harvest wasn't being counted because of whatever reason, not legal landings -- and you just made a point about the tuning -- if 30 percent was not being counted, would the tuning indices be strong enough to not have the total stock size be seriously biased? How close would you come to the actual stock size?

MR. PIAVIS: That I could not answer off the top of my head. 30 percent is generally -- It's kind of a magic number in assessments. It's very difficult to get anything better than a 30 percent bias or variance in an assessment.

Again, without knowing exactly what the level is and just as a hypothetical, I really couldn't say exactly what that impact is going to be.

It would certainly make the VPA run differently, and the way it would make the abundance higher is if that F is at the same level or close, anyway, it's going to be applying a bigger catch on that F so the abundance would come out higher.

That's how the mechanism would work, where you would get higher catches but have a higher population level. So the population level is being scaled -- the catch is being scaled to the population level by the F level.

CHAIRMAN FREEMAN: Other questions? Paul, I have one. Relative to this table up here, do you have any recollection of what the coefficient of variation for the various states, are they reasonable?

MR. PIAVIS: I do not know the -- as I recall, when you break it down state by state, and certainly state by wave, it's very high. I would guess 50 percent or better PSE's. And then if you were to

break it down by mode, it would -- at any level, you're decreasing the number of observations and thereby increasing the variance.

CHAIRMAN FREEMAN: How about coastwide?

MR. PIAVIS: Coastwide, they generally came out -- and again, this is thinking back to the numbers used for the assessment. I believe they were fairly reasonable. I want to say -- again, this is just off the top of my head -- probably 30 to 40 PSE, somewhere in there.

CHAIRMAN FREEMAN: The reason I ask that is we need to be aware of some of these numbers could fluctuate greatly from state to state, but depending on the sample size, you may anticipate that.

If you've got coefficients of variation of 50, you could have some very dramatic changes from year to year in that you're going to go very low one year and very high the next. It's kind of a yo-yo effect, but on a coastwide basis the trend is certainly upward.

Bear in mind also that if we take -- just to remind the Board -- if we take no action on Addendum III and continue on the schedule we have, then come April 1 there's going to be some severe reductions in the harvest because come April 1 we're going to meet our F's, which will require those reductions.

No other questions of the technical committee? There's a question in the back. Would you please come up to a microphone and identify yourself.

MR. JIM DAWSON: Jim Dawson from Chincoteague, Virginia. I'm a commercial hook-and-line fisherman for tautog. I have a good question for you, a couple of things for everybody to realize. It states on Addendum III, page 6, that the VPA is independent data from Massachusetts through New Jersey only; is that correct?

MR. PIAVIS: There is a young-of-the-year index from Maryland which is included in there.

MR. DAWSON: Okay, but Delaware and Virginia are not included in this so basically you don't go from Jersey south?

MR. PIAVIS: Correct, those states don't have fisheries-independent indexes. It's nothing that was left out, it's just that we were using all the data that --

MR. DAWSON: I mean, I can understand that the levels and everything will be the same if you go to the same sizes, and I can see how the graph is going to work.

But, also on the same page I want everybody to be aware of that there is a -- and I'm sure you're aware of that there is a very

small commercial industry, more so in the south.

On that same page, that table shows the effect from 1995 through 2000 to where it's actually decreased on the commercial end, but relatively stayed the same.

The reason I'm mentioning this is that your particular runs, you're talking about increasing the size limits on both ends, which that, for us legal commercial fishermen, would hurt the industry.

We're the ones that have been hurt by this industry in the first -- you know, the illegal runs. Last year I couldn't sell my fish until mid-April because of all the people that were running these illegal fish.

I just wanted to make you aware of that, that it did say New Jersey only and you have no statistical data from the south, correct?

MR. PIAVIS: Correct.

MR. DAWSON: Okay, that's all I wanted to ask for now. Thanks.

MR. PIAVIS: Just one sidebar to that, we do have a good amount of age data from Virginia, Maryland, Delaware; I think 500 or more from Delaware, 350 ages from Maryland annually, somewhere between 250 and 350.

Virginia collects quite a bit. I think they're up close to the 500 fish per year range also. So the aging data is in there. I just didn't want it to sound like the southern states aren't providing anything.

CHAIRMAN FREEMAN: Okay, any other comments on the technical side? Seeing none, we'll move onto the draft Addendum III. Heather. Thank you, Paul.

MS. STIRRATT: Okay, just as a brief preliminary comment here, I want to just tack onto what Bruce has said earlier. It is important that some action be taken on Addendum III, the draft Addendum III today by this management board.

We do have a pending compliance schedule which would require us to meet the final plan target of F equals M equals 0.15 no later than April 1st of this year.

Draft Addendum III lays out a number of different options which would provide the Board with some alternatives to this schedule, and hopefully there will be some consensus around the table and we can make some progress today and take some action on this addendum.

Briefly what I would like to do is just walk all of you through the addendum. I'm going to apologize in advance. For those of you who

have held public hearings, it's a much shorter draft of the public hearing presentation which was prepared by staff for this purpose.

But nonetheless, I think it is good for those of you who didn't go to a public hearing to see this presentation because it will outline all of the options for your decision-making purposes today.

Basically draft Addendum III contains six primary sections. It contains an introduction, a goals and objectives section, a management program specifications section, program implementation, and recommendations for federal action, and we always put in a compliance section as well.

Section 1, which deals with the introduction, provides background information primarily creating a relationship between Addendum III and the original FMP. We provided FMP implementation information in this section.

You may recall during the October board meeting there were a number of suggestions by commissioners about things that needed to be included in this section, primarily current regulations; a description of the fishery; a description of the resource, which would include a status of the stock update; and habitat considerations.

All of this information was included in the draft addendum before it went out to public hearings. This would include the 2001 stock assessment information, which basically provides graphic representations of the landings by fishery from the most recent five-year period -- that would be 1995 through 2000 -- as well as spawning stock biomass and stock size; tautog landings and fishing mortality and tautog year class strength.

All of this information is available in the draft addendum. I'm sure you're all familiar with it so I won't spend very much time on it. If you have questions, certainly Paul is here. He can answer those questions for you.

Nonetheless, I'm going to move onto Section 2. Section 2.1 gets directly into the overfishing definitions. There are two options available for your choice. The first option would be to maintain status quo, which would leave the plan target at F equals M equals 0.15.

You may recall that in previous discussions of the Tautog Management Board, there was some desire by commissioners to allow states a little bit more flexibility in meeting their plan goals.

That is where Option 2 comes into play. It is suggested as an alternative F -based biological reference point, which could be based on either yield or spawning stock biomass.

There is an example that's provided in draft Addendum III which would be F-40 percent spawning stock biomass, which is currently based upon growth rates equivalent to an F of 0.29.

Now it is worth noting that if in fact you decided to choose that option and implement an F-40 percent SSB, that that number will vary on an annual basis because growth rates will vary. You should be aware of that up front. And certainly to the extent that the advisory panel has reviewed this document, that was pointed out to them as well.

For Section 2, Goals and Objectives, there is Section 2.2 under that section, which goes into a stock rebuilding program. This is really where the meat of this document comes into play. We've been discussing this morning, and you've seen in Paul's presentation, a series of options that would basically be split into two groups.

You could divide them into actions that could be taken during 2002 or actions that could be taken during 2003. Really, you have to know that the problem statement is that the current FMP requires an F target of 0.15 no later than April of this year.

Based upon the latest stock assessment information that came out of the 2001 stock assessment, we're at an F value of 0.41, significantly above our final plan target and I would add above our interim plan target of 0.24.

The technical committee discussed this and has determined that a 63 percent reduction in fishing mortality would be required to reach the final plan target; and because of the time line that's set up in the last addendum to the plan of April 1st, this presents an unreasonable time lime; and in addition to that, a 63 percent reduction, we fully recognize, if taken in year 1 or all together right up front by April 1, would result -- well, may incur significant economic cost to the industry.

So these considerations have basically resulted in the following options. I won't spend a lot of time on these other than to say we have options available for action in 2002. Options 1 through 6 provide an entire range of options for action.

Option 1 would be to maintain the current compliance schedule by April 1st. Option 2 would be an incremental approach, whereby you would reduce fishing mortality by 50 percent in 2002 and then have a secondary F reduction in 2003 to meet the final plan target.

Option 3 would incorporate a size increase in 2002, followed up by F reductions in 2003 to meet the final plan target. Option 4 would incorporate amending the plan target to F-40 percent SSB, which, as we discussed, would vary over time and it currently is equal to F equals 0.29.

Option 5 would alternate no fishing every other year and that would begin in 2002. Option 6 would be a no action, which would allow fishing to continue at the current rate that it is now at a fishing mortality value of 0.41.

Again, you've seen these projections. I won't spend a tremendous amount of time, other than to point them out to you. They are available in the plan itself and Paul has spoken to most of these, so I'm going to just breeze through these really quick.

As you can see, doing nothing is the furthest line down on the graph; sticking to the plan target is the yellow line; all of the other options in between.

The options available for action during 2003 would include a delay for a year. That option is available to the Board today. You all could decide that you wanted to delay a year and then take the time necessary to discuss the other alternatives for action in 2003, which would include an incremental approach, an F reduction of 50 percent followed by another F reduction in year three to meet the final plan target.

Option 7B would include a size increase in 2003, followed by a fishing mortality reduction in year 2004. Option 7C would be again to amend the plan target to F-40 percent spawning stock biomass. That would occur in 2003. And then Option 7D would be to alternate every other year no fishing beginning in 2003.

The projections associated with these options have also been included in the draft addendum. Again, Paul has covered these. I'm not going to really go back through them again.

Section 3 deals with the management program specifications. This really provides the states and you as commissioners with some options about what level of information you would like to have out of your stock assessments.

A lot of the questions here today have surrounded whether or not the data that you're presented with, the current fishing mortality is based on a coastwide level or whether or not we have state-by-state information.

As Paul has noted, it is a coastwide stock assessment. These options would allow you to implement a stock assessment on a much greater level of resolution for data. The three options which are available for a virtual population analysis or assessment are a coastwide assessment, which would be Option 1A; Option 1B, a regional assessment -- this has been often referred to by the technical committee as a north/south split -- and Option 1C, which would be a redefined regional, perhaps where you could get down to a state by state assessment or linking two states together.

For instance, Connecticut and New York may have a regional assessment and then so on up and down the coast. Option 2, which is outlined in the draft addendum, would include a tagging study estimate of fishing mortality.

I would note that this particular suggestion was not meant to replace the VPA. It was meant to be subsequent to, in addition to, and you'll find the rationale for that included in draft Addendum III, but this is also an option for employment in estimating F.

Section 3.2 is a complementary section to this section. It basically goes through the monitoring requirements that would be associated with each one of those options that I've just gone through.

Depending upon whether or not a state wants to have a coastwide assessment, they may only have to collect a hundred age and length samples to support that type of assessment.

The more resolution you want in your assessment; in other words, as you go to a regional or to a redefined regional, the more data you have to collect to be able to support those types of assessments. For instance, a regional assessment is going to require 200 age and length samples.

A redefined regional would require 500 age and length samples. Option 2, which included the tagging study, that would require 500 fish to be tagged per year per state.

Finally, getting into the management program specifications and implementation, we do have two options which are available today for consideration by the management board.

The first one would be to implement the management measures necessary for the reduction in the recreational fishery only. There is a rationale which has been provided in draft Addendum III for why that might be a good approach.

Option 2 includes implementing the measures necessary for the reduction across all fisheries, which would be commercial and recreational, and we've also outlined a series of options for the recreational and commercial fisheries.

Really, these are non-negotiable. We obviously are trying to provide the best available information on which to base our decisions, our management decisions. The reduction tables which were provided in the original FMP are outdated at this time.

They do not include the latest data and these reduction tables clearly do. I would note that in my presentation these numbers are the old numbers. These are not the revised numbers. You received a handout today with the revised numbers for the recreational

fishery, and certainly those are the numbers you should refer to.

For commercial fisheries, the same situation exists. We're trying to include the most recent information relative to harvest, and the numbers that you will find in this table are accurate and have been provided in the draft addendum itself.

Finally, Section 5, we get into the recommendations for actions in federal waters. This is a very busy slide. I apologize for that, but when we went to public hearings, I wanted individuals to be able to read the entire intent of each option.

So for Option 1, it's really to implement a minimum size and/or possession limit which is consistent with state requirements. Option 2 would be to implement possession limits and a 14-inch minimum size limit or apply the more restrictive of the state regulations, which in the situation of Rhode Island, where they have a 16-inch minimum size, that would be the situation there.

Option 3 would be to prohibit possession of tautog in the EEZ that are smaller than the longest minimum length in place in any state, again a reference to those states who have been more conservative with the higher minimum size limit.

It would prohibit possession of tautog in excess of the lowest trip limit in any state. Again, this gets back to any type of quota that may exist. Prohibit possession of tautog on any vessel or trawl on board with rollers or cookies larger than 18 inches in diameter, identify hard bottom EEZ habitat in the mid-Atlantic and prohibit any trawling in such areas, and identify each artificial reef in the EEZ as a special management zone and regulate fishing thereon consistent with applicable regulations of that state that constitutes and maintains the reef.

I think I may have missed one in there, but, anyway, you have the information directly in front of you. If you have questions about these options, I would be happy to try and answer them.

The last section in the addendum deals with compliance. I would like to simply note that most of the language in this section is canned language that the Commission uses in all of its FMP's.

I would like to note specifically that there has been no compliance schedule outlined in this section. So depending upon which options you all decide to go with today, staff will need to go back and draft that; and if you have specifics in terms of directives that you would like to be included in this section, I will be looking for that as well. Mr. Chairman, that completes my review of the draft addendum.

CHAIRMAN FREEMAN: All right, there's a lot of issues at hand. Are there any questions of Heather relative to the draft Addendum III

that she just reviewed? Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. Relative to number 5, recommendations for actions in federal waters, did anyone from -- I'll say Harry -- did Harry have a chance to look at those to see if in fact they're doable or are we still going to recommend them to him because we think they're very important?

CHAIRMAN FREEMAN: Harry, would you care to comment?

MR. MEARS: Our review of the recommendations, other than my personal comments during the drafting stages, would come subsequent to the formal recommendation.

CHAIRMAN FREEMAN: You're getting good at this, Harry. Any other questions? David.

DR. PIERCE: Yes, Heather, a question for you or maybe Paul regarding Option 1, B2, the redefined regional assessment that's on page 13. We have three options to consider here today regarding how the assessment should be done.

You mentioned that on page 14 there's a specific sampling requirement, an aging requirement that corresponds to each of those particular assessment options. So my question is, the redefined regional assessment, the third one, the third option, Option 1B2, is that doable in light of the fact that the sampling requirement is so significant, 500 ages per length samples per state, 15 per centimeter, that's what I say to Paul or you, Heather, is that really an option that we have to consider?

MR. PIAVIS: Actually, more so than the -- in the south, in general, it's not the ages. We get plenty of ages. It's the lack of surveys, fishery-independent surveys.

In the north, as best as I can recall, I don't think too many of the northern states get that many ages, but they have all the fishery-independent surveys.

So even on the redefined regional, each state does have probably data requirement issues that the respective agencies would have to address; and given obvious budget problems, that's not a light issue to take into account.

DR. PIERCE: So, therefore, if Massachusetts and Rhode Island, for example, were to support Option 1B2 for the redefined regional assessment, recognizing that tautog don't move too far away from Massachusetts and Rhode Island waters, at least the tautog in our area, with that, for us, we would have to somehow commit to the intensive sampling in order for us to meet the specific criteria of 500 age/length samples per state, right?

MR. PIAVIS: Correct.

CHAIRMAN FREEMAN: Okay, just to add to that, Paul, the recommendations here are what is needed from a biological perspective in order to carry this out; is that correct?

MR. PIAVIS: Just as much statistical as biological.

CHAIRMAN FREEMAN: Okay. But, in other words, the sample size you need is what you need in order to arrive at the conclusion, if one of those options are chosen.

So I think the issue, David, from the practical standpoint is if you opted for one of those, you would need to provide that sample. Otherwise, you won't be successful. Any other questions? Gil.

MR. POPE: Yes, it was one that I had earlier and kind of skipped over it. Heather, did you say something about growth rates were different somewhere or the growth rates were the same, or did I hear you incorrectly on that one?

MS. STIRRATT: You did hear me correctly. Let me just elaborate a little bit on that, and then I'll probably ask Paul to give you the specifics. Obviously, as your stock size and numbers change, your growth rates within a stock within an area, depending upon environmental factors or other things, will change on an annual basis.

Therefore, the number that's associated with the spawning stock biomass as an alternative will vary from year to year, and I would defer to Paul to give you more specifics on the calculation of that number, but that's my understanding of the situation.

MR. PIAVIS: Yes, in addition to the growth rates, Heather is right on the money there, but another parameter that goes into this is the selectivity of the fisheries.

Especially when you're changing the minimum size limit, that's going to change the selectivity pattern and those two factors combined are what will change that X percent SSB level annually and currently, for the selectivity pattern, it's generated from the VPA output.

MR. POPE: I'm sorry, I thought you meant the actual size of the fish as well; in other words, the growth rate of the fish itself and not the growth rate of the stock, but the actual fish size.

MR. PIAVIS: Correct, individual fish size, average size at age, that's what will affect it, but also the selectivity pattern of the fisheries.

If a fishery concentrates at the higher end in a given set of

years, that's going to come out with a different number if the same fishery was fishing intensely on young fish. So depending on what the selectivity pattern is on the age groups, that's going to change the percent SSB.

MR. POPE: How huge is that, though? I mean, how much of a change could that be, an inch on a five-year-old fish or two inches on a five-year-old or six-year-old fish? I mean is it something really, really large, a big factor?

MR. PIAVIS: Well, you can figure. If you're looking at a 40 percent SSB right now of 0.29, if it's a 0.03 difference, that's a 10 percent difference. I mean, we're talking about low levels so anything could be 10, 20 percent difference in just minor changes.

But again, we're talking about F-40. I just want to give you a perspective too as to -- we've been focusing in on F-40 percent. I look back at some of the earlier presentations that we made to you.

If we look at something like F-50 percent -- I'm throwing this out because the F-40 percent doesn't perform very well in the projections. The F-0 percent is around point -- it's close to the plan target. It's like 0.18, 0.19, something like that.

CHAIRMAN FREEMAN: Other questions? Any other Board questions? Okay, Jim, come forward. Just for the record, Jim, just your name again and your affiliation.

MR. DAWSON: Jim Dawson, commercial hook-and-line fisherman, state of Virginia. Heather, this commercial data that you have, this something I want the whole board to know and the panel to know.

A lot of commercial vessels, when fishing in the EEZ outside of three miles, were not required to report landings. Were these dealer reports that you're getting?

MR. PIAVIS: It's the National Marine Fisheries Service, what they term the general canvass data.

MR. DAWSON: In Gloucester?

MR. PIAVIS: I believe. It's the port agent reports.

MR. DAWSON: Port agent reports. Well, be advised that commercial fishermen are dealing -- especially with the live markets, we're going directly to the restaurants. There's no way for you to have data.

It states in there from 1993 you saw a steep decline of landings. That's when the live market started really picking up and everybody started finding out about it.

I just want to make you aware that a lot of sea bass vessels in 1997, starting May, started reporting their landings so that from May of 1997 up, you'll get more accurate landings as they became mandatory. Anything previous to that, you can expect a higher number. I just wanted to let you guys know.

CHAIRMAN FREEMAN: Jim, let me ask a question relative to the way you report. You report to Virginia since you fish there? Do you have a license you're required to report to the state?

MR. DAWSON: Only until January of this year they started implementing state landings outside of three miles. Once you start fishing in federal waters, your only mandatory report comes from the federal government when you become a federal vessel, a federally permitted vessel.

So, technically, if you had a fisherman fishing strictly for tautog, there is no federal permit, so there is no mandatory report unless it comes from that state.

CHAIRMAN FREEMAN: Okay, but do you not have National Marine Fisheries Service port agents in some of your major ports?

MR. DAWSON: None that I'm aware of as far as in my state, as far as tautog landings or anything else. Most of the fish we turn in we deal ourselves. I mean, I deal all my sea bass strictly myself, the same way with the tautogs and that's the way it's done.

You know, you cut out the middleman, you deal direct, and you get the highest price.

CHAIRMAN FREEMAN: All right, thanks, Jim. Other questions? Other comments? Ernie and then Harry.

MR. BECKWITH: Thank you, Mr. Chairman. Page 8, special comments 1.4.6.; could someone explain to me, second paragraph, third sentence, explain to me what that means. Essentially it says, "Additionally, the adoption of higher possession limits during some months of the year and seasonal closures that were adopted that fall within MRFSS sampling waves where catches are not evenly distributed may not have effectively reduced landings." Explain to me what that means, please.

CHAIRMAN FREEMAN: We'll get an answer. Do you have another question, Ernie?

MR. BECKWITH: Well, I just want to tell you why I'm asking that question because the motion that was passed at the last board meeting, amongst other things, said that we were asking whomever, I guess the technical committee, to provide the best assessment for the recent increase in F, and I think this goes to that point in the motion and I think it's a very important thing to be clarified.

CHAIRMAN FREEMAN: All right, Paul.

MR. PIAVIS: I believe the intent of that sentence is to address that there's limited benefit for going to, say, a one-fish creel limit in certain times of the year where the average person only catches two tautog a trip.

Additionally, recoupmnt is probably another issue that's addressed in that sentence. If you have these interwave differential bag limits, people are going to intensify fishing effort during the time periods when there is higher creel limits.

MR BECKWITH: If I might just follow up on that with a comment.

CHAIRMAN FREEMAN: Yes, go ahead.

MR. BECKWITH: I think we all recall, I think it was in 1998, we all had to put in measures to effect a 55 percent reduction in F, and we all put a combination of things in place, bags, seasons. Are you saying that perhaps some of the measures that states put in place were not effective?

MR. PIAVIS: Well, they were obviously effective to some degree because we're bouncing off the bottom. But, certainly, when you're talking, again, interwave differences, those benefits are probably overstated.

If you recall back to the Maine meeting in October, one of the documents that the technical committee produced was an effectiveness of harvest strategies.

We talked specifically of bag and season closures, differential bag and season closures, and it's obvious that the more restrictive, the longer the season closure, or the lower the bag limit, the less of an issue that becomes.

But if you're talking lopping off two to three weeks out of a wave or, again, going down to a very low bag limit and getting some sort of equivalency credit for that at a time when your fishery isn't very active, then those benefits are going to be very minimal.

MR. BECKWITH: If I might just follow up, Mr. Chairman. I'm not sure what the issue is here. I find it somewhat troubling in that the state of Connecticut put in a four-fish creel limit and a closed season; and if you look at our landings, you can see they've gone down and down every year.

I'm concerned some other states put in measures of one-fish creel for part of the year and then a ten-fish creel for another part of the year. I'm concerned that now we're all in a position where we all have to take a 63 percent reduction, and I really can't sort out in my mind whether that's fair for all the states.

If some states put measures in place back in 1998 that were more effective than other states, is it fair to have us all treated equally and all take part in the 63 percent reduction now? I can't sort that out in mind yet, but it just bothers me; and if you wish to comment on that and ease my mind, I would appreciate that.

CHAIRMAN FREEMAN: It's somewhat of a rhetorical question. I think certainly fairness and equity is a key element in all our plans, and this is a recurring situation, Ernie, where depending on what species and what a state does, you'll see certainly greater reductions in some states than others; and for those states who have those reductions to be asked to take additional reductions certainly doesn't seem to be fair.

It's a major issue and it's certainly paramount here, and I'll think we'll get the same thing looking at the commercial versus recreational. These same issues arise. I'm sure we'll get into that discussion. Harry, I had you next.

MR. MEARS: Briefly responding to the public comments earlier, it's correct. A federal permit is not required to harvest tautog in the EEZ. There is no accordingly mandatory or any other type of mandatory reporting requirement, other than if you have a permit in the fishery that does require reporting, in which case there is a requirement to report all species taken on a trip-by-trip basis.

The National Marine Fisheries Service does have two port agents in Hampton, Virginia, and we also have, through the years, grants with the state of Virginia relative to a statistics collection program that are administered, in large part, through an interagency agreement between the Service and the state of Virginia and all of the rest of the states along the seaboard to varying fashions in terms of who collects what, where and why.

I don't know the specifics of how that is currently done in Virginia, other than it likely combines a mix of port agent observations, state agent observations, a weigh-out type of data from the dealers, general canvass data.

I would also agree that in all likelihood information concerning the illegal live fishery would not be part of that reporting. Thank you.

CHAIRMAN FREEMAN: Yes, that last statement certainly is so. Other comments or questions? Gil.

MR. POPE: Thank you, very quickly to that. Could we add an option later on if we wanted to to this or is this the way it's going to be?

CHAIRMAN FREEMAN: Heather.

MS. STIRRATT: This document has already been out to public hearing, so I would venture to say that, no, the addition of another option at this point is not possible, with one exception.

That is that if the Board decides to defer the compliance schedule on the stock rebuilding target, specifically, if you wanted to add another option, and you decided to wait until 2003 to do that, then you've bought yourself a little bit more time to discuss the options available to you.

CHAIRMAN FREEMAN: Go ahead, Gil.

MR. POPE: I guess the options I mean are like in the federal part of it because I know there's been a lot of -- No?

MS. STIRRATT: The answer to that question would be no.

CHAIRMAN FREEMAN: Other comments? All right, we exhausted the comments. No motion yet. I know Pat's got one or two or three. Let's go through and we're down to public comments for the draft Addendum III. Heather.

MS. STIRRATT: Having been with the Commission for two and a half years now, I always struggle with the best approach to try and provide you with enough information from the public hearings to make your decisions with adequate public input.

But just a little bit of background. Back in October of 2000, this body approved the draft addendum for the purposes of obtaining public input. Hearings were held during the month of January in 2002.

Hearings were held in the states of Virginia, Maryland, New Jersey, New York, Rhode Island, and Massachusetts. I've elected to summarize the comments offered during these public hearings by providing you with majority opinions of the public participants in those hearings themselves.

Certainly you've received here today copies of the summaries provided by each of the states. If there's something that I haven't spoken directly to and there are those of you here who attended those hearings that want to add to that, please feel free.

But basically what I wanted to do was provide you with a majority outlook on each section for the public hearings themselves first, and then I will get into the written comments that were received by staff.

For the public hearing, Section 2.1, which deals with the overfishing definition, comments were basically divided between maintaining a status quo, F equals M equals 0.15, and adoption of an alternative F-based biological reference point.

Certainly, there were comments provided by all of the states in their hearings on this issue and they were divided.

Section 2.2., which deals with the stock rebuilding targets, there was overwhelming support for adoption of Option 7, and this comes specifically from the comments offered in New Jersey, Maryland, New York, and Virginia.

Option 7, as you know, would allow for deferral of any action until 2003, and then there are a set of options under Option 7 which would allow you to take some action at that point in time.

There was a specific preference in this section for Option 7C, which would clearly -- let me get to that section. 7C would be the amending of the plan target to the F-40 percent spawning stock biomass, and, again, that would happen in 2003.

For Section 3.1 and 3.2, assessing annual recruitment, spawning stock biomass, and fishing mortality, in general there was support for a regional-based assessment, and there was also support by the public for the associated monitoring that would go along with supporting a regional assessment.

Section 4.0, there was general support for applying the necessary reductions over both the recreational and the commercial fisheries as opposed to focusing solely on the recreational fishery for the reductions.

In Section 5, the federal actions, there was general support for Option 1, which would implement minimum size and possession requirements for tautog that are in accordance with state minimum size requirements.

Staff is in receipt as well of 19 written comments on this issue. I would note that the reason why you did not receive any of this information in advance is because of the fact that the comment period closed Friday at 5:00 p.m. That's Friday of last week.

So I do apologize that this couldn't get out to you sooner. Nonetheless, you should have copies of all of those 19 comments before you today.

To summarize the comments that were received, again, I will offer the majority opinions. Going through the addendum again, Section 2.1, the overfishing definition, there was unanimous support for Option 2 in the written comments, which would be the adoption of the alternative F-based reference point.

Section 2.2, the stock rebuilding targets, they were divided on this issue. Unlike those that were received verbally in the public hearings, there was support offered for Option 2, a combination of Option 3 and 4, which would be an adoption of an amended plan

target plus a size increase, and there was also support for Option 7, which again is that deferral of action until 2003.

Section 3.1 and 3.2, there was general support for a redefined regional stock assessment which provides even more resolution in terms of data provided on a state-by-state level. Those who submitted written comments also supported the monitoring requirements that would go along with a redefined regional stock assessment.

For Section 4, there was unanimous support for Option 2, very similar to those comments received in public hearing. Most participants are looking to achieve the reductions across both fisheries. So reductions would occur in both recreational and commercial fisheries to achieve the plan goals and objectives.

For Section 5, federal actions, the vast majority of the comments received supported adoption of Option 1, which is consistent with those comments that were received in the public hearings as well. This would implement minimum size and possession requirements for tautog that are in accordance with the state minimum size requirements.

Staff would also like to note that there were a few general themes throughout all of the comments that were received. Folks were concerned that all states should have the same size limit up and down the coast.

This was also raised by the law enforcement representatives. You'll note that there are a couple of written comments that were submitted from Mike Bloxom. Eric Nelson had also supplied some comments from Connecticut.

Many of the people that sent in comments noted problems associated with illegal fishing practices. I think you all have heard quite a bit of discussion here about that today.

As such, there was a general sentiment that stricter penalties for non-compliance need to be implemented by the state, not only implemented, but also enforced.

And, finally, there was concern over the reliability of the data used in the stock assessment. There seems to be a general consensus that what the fishing community is seeing out on the water isn't necessarily reflected in the results of the latest stock assessment. Mr. Chairman, that concludes the review of the public comments received on draft Addendum III.

CHAIRMAN FREEMAN: Okay, questions of Heather? Dave Pierce.

DR. PIERCE: Not a question, Mr. Chairman. When it's appropriate, I would like to give a summary of what happened in Fall River.

CHAIRMAN FREEMAN: All right, let's get some comments, see if there's any questions. I do have one comment relative to New Jersey's public hearing. The sentiment there was if any reductions are needed, it should be on the recreational.

As indicated, that accounts for the greatest amount of mortality at the present time. However, there was tremendous concern about the illegal live market and, John, you may want to comment.

MR. JOHN CONNELL: Thank you, Mr. Chairman. I wanted to point out -- I think it's important to point out the flavor of what was going on in New Jersey.

I have to reenforce what Bruce said about the feelings were that we should take the action against the recreational fishermen if any action is to be taken at all. However, the great concern in New Jersey was frustration.

There's a tremendous feeling within our state, and I support it, that there's really something wrong. New Jersey has taken a 60 percent reduction based upon our historical fishery. We've already taken a 60 percent reduction.

To add an additional 63 percent we feel would be untenable. We think the original process was faulted because it ignored our historical participation in this fishery. New Jersey had taken reductions prior to the plan being developed and we certainly never received any credit for that.

There is a great deal of concern about the flawed MRFSS data that is going to definitely lead us into a non-directed fishery. If we have to take the reductions, we'll be lucky if we have a one-fish bag.

We're concerned about the cumulative effects that may have taken place because we've changed our approach to MRFSS. We've increased our samplings. We're concerned about how that affected the data that had previously existed.

In addition, we have a concern with this fishery, and if you saw the numbers earlier, you'll notice -- and I'm not pointing to any state. I'm talking about data now -- you'll notice that New York had a 50.6 percent reduction in their fishery while New Jersey had a 128 percent increase in their fishery.

Now that's very surprising since we share the same waters and have the same level of participation as we historically had. In addition, this year, in Wave V, when New Jersey traditionally catches 46 percent of our black fish, or tautog, there was such an improvement in the scup fishery that boats that traditionally fished for tautog didn't fish for tautog this year.

They fished for scup and yet we're showing 128 percent reduction. There's something wrong here. There's something wrong. We did not direct on this tautog fishery in order to get that kind of an increase.

Obviously, we're concerned about the stock assessment. We feel the trawl survey is inappropriate. The anecdotal information we have is that it doesn't reflect what is going on in the fishery. There's a lot of fish out there.

In addition, we have grave concern here in New Jersey that we have already eliminated subsistence fishermen from docks and piers because of our size limits. Now, because of bag limits that are going to be implemented on the water, we're even going to eliminate them from that fishery.

People who depend on bringing fish home are certainly not going to pay to go out fishing, whether it's on their own boat or on somebody else's boat if they can only bring one fish back.

In New Jersey we feel there's one problem with this fishery and it's the illegal live fish fishery for the market. We believe that if there could be resolution to this through appropriate law enforcement activity, then the problems with our tautog fishery would go away.

An additional concern that we now have, when we look at these further reductions, is the socioeconomic issues that will be impacted upon our bait people, our party/charter boat people, because we know darned well -- since I mentioned the scup fishery earlier, we know darned well that there's going to be reductions in the scup fishery which we substituted for the tautog fishery last year.

Now you take the scup fishery away. We're taking the tautog fishery away. We're taking the fishery, we're taking fishing away during several of the waves this year.

So there was a general feeling of utter frustration, which I share, and wonderment about whether we should be moving on and I think that tends to be the feeling towards status quo at this point. Thank you, Mr. Chairman.

CHAIRMAN FREEMAN: All right, thanks, John. Other comments, anyone? Way in the back. Would you please come forward and identify yourself.

MR. JOHN KREMPASKY: My name is John Krempasky and I'm a recreational fisherman from Maryland. I primarily fish for tautog in Delaware, a very limited degree in Maryland, and recently had a very educational trip to Northern New Jersey to fish for tautog, and my rather extensive and probably too long comments are in the

first e-mail in the packet that was recently handed out.

I just wanted to try to briefly, much more briefly than in my e-mail, touch on some issues and I'll try to go in reverse order. First, is if you go to a division of the fishery for regional management, which is a very good idea, it's better than coastal management.

I'm very concerned about doing state by state because of small sample size, particularly in the south. One of the options where the division is recommended to be at the New Jersey/New York border, there couldn't be a division that's more illogical.

When I went to fish in northern New Jersey, we fished in an area where half the boats were New York boats, half the boats were New Jersey boats. They do in fact share the same fishery.

In contrast, the New Jersey/Delaware border, there is no fishing in Delaware waters from New Jersey boats and there is no fishing in New Jersey waters from Delaware boats.

And, a problem in any division, regionalized division of the fishery where New Jersey is included with states to the south, statistically New Jersey is such an 800 pound gorilla, then that management area becomes the de facto New Jersey management area because their catch is so high.

The habitat changes radically as you go south of New Jersey. New Jersey north, you're fishing on natural live bottom, and I was very surprised when I fished in New Jersey not to fishing on a reef or artificial wreck, so you have a habitat difference.

My understanding of the biology is that there are radical differences in growth rate as you go south of New Jersey. Again, I'm a little hazy on that. The nature of the fishery is radically different.

I would estimate in one winter weekend the port of Belmar, New Jersey, has more angler trips of targeted tautog fishing on party boats than every state from New Jersey south combined over an entire year.

It's entirely a small private boat and charter boat fishery, very, very limited headboat fishery south of New Jersey. So for all those reasons, if you do move to vote to have a regionalized fishery division, keep New Jersey out of inclusion with the states of the south because then you'll be managing those states to the south based on New Jersey catches.

And the next one is the commercial issue, whether you cut the commercial fishery along with the recreational fishery. I fully understand the legal commercial fishery is very small. I

understand it's 10 percent of the fishery.

The average recreational fisherman doesn't quite understand that and will probably never read Addendum III. I have to emphasize if you do impose these cuts to meet F equals 0.15, which probably won't happen this year -- if you do do it, I understand it would be, you know, next year or the year after -- and you tell that fisherman your bag limit for tautog now is one or two fish, he'll ask, "Well, did the commercials get cut?"

The answer will be no. Even though that may be fair because the recreational fishery for tautog is so huge and it certainly is not the legal commercial fishermen, that if it's causing a problem is causing the problem with this fishery; but if you do that, the level of outrage among Joe Fisherman, who doesn't quite understand all the issues, will be beyond belief; and that said, in addition to the outrage over summer flounder and scup.

Whether all of that is fair or not, part of the outrage, in my opinion, is fair and part of it isn't. You're going to see a total contempt for fisheries management, and this will add to that level of contempt, and I'm making an observation.

Whether it is fair or not to cut commercials along with recreationals, that's reality. And finally, the big issue, I certainly realize that you're probably not -- I guess I'll find out, but you're probably not going to impose a 63 percent cut this year.

But the reality is in fact if you do do that, go to 0.15 and you're looking at bag limits of one or two fish, that's the end of the boating directed fishery and I realize -- I'm a patron of party and headboats.

I realize there is a little bit of a cry wolf factor and I'm sure you've all seen it where a party boat captain will come in and say "If you cut X to this, I'm out of business." He comes out next year, he's still fishing -- "If you cut this, I'm out of business."

He comes back next year and he's still in business. Unfortunately, the result of that is when cuts really are extreme, it's a cry wolf effect, and then you don't realize when there actually are serious cuts that drives someone out of a fishery when that happens.

Anything below three fish per day for a bag limit, considering the effort needed, at least in the south where you're fishing wrecks and artificial reefs, to anchor up, to go out, and because you're only catching tautog, it's a very specific directed fishery using the baits and hooks that we use.

Your chances of catching other desirable recreational fish are very low. It is not worth the effort to anchor up on a wreck for two

fish or less; and instead of a 63 percent reduction, you're going to see an overshoot because of not only the bag-limit cutting, but a reduction in effort.

It's really an 80 to 90 percent reduction and it's a de facto moratorium. And if you do that, I would rather see a total moratorium on recreational and commercial fishing and not pretend that the fishery is open at an F equals 0.15.

Go ahead and just close it down if it's that bad, because I know I fish in Delaware with my friends. We charter boats, spending about \$70 apiece. We do fish during the Delaware spring season when there is a three-fish bag limit and we're only fishing for tautog.

If it were below that, we would not consider it worth our effort. And, finally, most recreational fishermen I know in Delaware, we haven't seen the great improvement in the fishery that I understand New Jersey has had, and I was very interested to see the data for 2001.

We did notice the fishing was very slow this year and I did see the Delaware -- that seems very believable to me, that 47 percent reduction in Delaware catch. The average recreational fisherman that I know doesn't want to see cuts.

They want to see a size increase. The captain I fish with would be very happy with a four- or five-fish bag limit at a 16-inch size. I know not all recreational fishermen would agree with that, but we would. But when you start talking about one or two fish, that is closing the fishery, and thank you and sorry for going on so long.

CHAIRMAN FREEMAN: Okay, other comments? Dave Pierce.

DR. PIERCE: Are you ready, Mr. Chairman?

CHAIRMAN FREEMAN: Wait, there was another comment in the back. Jim.

MR. DAWSON: Jim Dawson, commercial hook-and-line fisherman, state of Virginia. On Section 3, Option 1B1, north/south split, they are a different fish. We are fishing on different bottom. We don't have the same structure. All that is true.

If you look at the tables of statistics, North Carolina, Virginia, Maryland, and Delaware commercially equal out the 0.5 percent. Recreational and commercial above New Jersey add up to 99.5 percent.

That's why I feel this option 1B1 would be a more effective way of seeing results. I also feel as though I would really like to help you all in some way of some kind of assessment.

If you do opt out to add another year, maybe we could help with some inside information. What he's talking about, going from 14 to 16 inches on certain people in the industry, I believe is the same reason that you have a 14-inch commercial flounder, and the rationale for that is that on Table 6 you can see that you have a level line.

I really believe that if you develop into something like this, what you need to do is take a look at what the total commercial catch is and come up with some kind of quota to where we do have a level cap on what we are catching.

I would rather see that, and then it's up to us to what size we're bringing in. Fourteen inches is a good fish, but if you jump to 16 inches, you're talking 2 to 2 and a half pounds at times. That's a dramatic increase to a commercial fishery.

In my area, my average catch is anywhere from 125 to 200 pounds of fish in a day. You're talking about that much of an increase is going to, you know, potentially put an end to it. It's hard enough for us people that really do it for a living.

You know, we're out there in the cold. Sometimes we're breaking ice, and it's not something that I don't think these recreational fishermen would really know about themselves. It's hard enough to make a living as it is for us honest people.

We do have a problem with the live markets and the illegal fishing and I believe if we focus our attention on that, maybe we can come up with some kind of quota or something like that and have a north/south split.

Maybe somehow we could put our heads together. You know, I'm not an advisor now, but I certainly would like to be. I've told Jack Travelstead and I've told several people here. I'm willing to help, but I think we need a little bit more information, inside information, to get the proper statistics. Thank you.

CHAIRMAN FREEMAN: Okay, thank you. Any other comments before we take motions? Harry and then Dave Pierce.

DR. PIERCE: I've got no motions, Mr. Chairman. I'm still waiting to give my account of what happened at the public hearing in Massachusetts.

CHAIRMAN FREEMAN: Oh, I'm sorry. David, let me take you and then Harry next.

DR. PIERCE: Okay, thank you. I was there representing both Massachusetts and Rhode Island, at least initially. I decided to chair the meeting in lieu of having staff come up and do the job. Heather was already out straight with other things.

It made more sense for me to cover that job. David Borden was there as well, but he was in the audience, I think nursing his sore foot, listening to the comments from those who were in attendance.

We actually had two public hearings. We had one from five to seven and then seven to nine, a little bit of miscommunication there. The ASMFC public hearing announcement or meeting announcement indicated one time and the Division of Marine Fisheries Rhode Island announcement indicated another time.

So I had about four to five hours of rousing discussion on tautog, and I would say it was definitely an overdose on tautog, but it was all in the spirit of good fun.

So the presentation was given twice by Paul Caruso and helped drive home some of the points into my thick head about tautog. He handled the technical, and David Borden's staff was also present. They helped out to some extent.

Both meetings were well attended. We had approximately 50 people in attendance, fishermen and dealers. I think the audience felt somewhat disadvantaged by the fact that they had this 21-page draft addenda given to them at the meeting.

Obviously it's quite complicated. Heather has done an outstanding job on it. But, nevertheless, when the general public gets a document like that for the first time, they are pretty much taken aback.

I think we can all admit that in this addendum there are a lot of generalities, broad-scoped issues, very little specific, if any, regulations proposed. That will be the individual states' task.

So they didn't really have much meat to chew on, at least that was their point of view. They really weren't in a position to evaluate the direct impact on them. That seemed to be their general attitude.

Nevertheless, they did have quite a bit to say and they were certainly able to comment on the issue of whether or not these restrictions should be imposed on the commercial fishery and recreational fishery combined or whether it should just be on the recreational fishery.

We did take the time to indicate to the public that, indeed, as indicated earlier on by Heather, we have a real difficult date to deal with, April 1 of 2002 -- not too far away -- when we're all supposed to implement those measures to achieve fishing mortality of 0.15, an extremely aggressive target. We all know that.

They were told that at one time the target was April 2000, so clearly we all know that it's taken us a long time for us to get to

this point and it may actually take more time.

So we told them Addendum III was to update information, including the stock assessment information, and then, importantly, to confirm or change the course of the Board regarding tautog rebuilding.

Before highlighting the actions being considered for 2002, even though it's mid-February -- and for all of you who may not be aware, Massachusetts and Rhode Island fisheries begin in earnest in April.

We noted that right now F is at 0.41. In 1993 it was at 0.71. So we certainly have made some significant progress in getting mortality down on tautog, but still overfishing is occurring and spawning stock biomass is at 16.6 million pounds.

We highlighted for the benefit of those in attendance that from 1981 through year 2000, abundance was around 40 million pounds, so clearly we're looking at a long way to go.

We did note the increased recruitment. That's certainly positive and you've all been referred to that. I did spend a lot of time going over the addendum so that they would understand what was in it that was important, of course.

Regarding the options, actually, Options 1 and 5 were soundly rejected. They didn't feel that those options made sense. They did feel that Option 4 regarding -- the options 1 through 7 thereabouts that's on page 11 -- they felt that Option 4 -- some felt that Option 4 should be selected because the F target was not as low as the status quo, 0.15.

It was brought to their attention that the target with the 40 percent SSB would be about 0.29. Now we're at 0.41. That's year 2000. We don't know what it is in 2001 yet. So clearly the gap has narrowed with that particular strategy, rebuilding strategy.

Option 3 had support because it involved a size increase to 15 inches in the first year to get all states close to the 16 inches. Massachusetts and Rhode Island have the 16 inches. In Massachusetts, we implemented that back in 1994. I don't recall when Rhode Island implemented that.

The public felt that by keeping it at 14 inches, ASMFC continues to promote the live fish market and the illegal fishing to supply that market. That was a very important issue.

In 1994 I made the point that Massachusetts implemented this restriction to put the brakes on this expanding live fish market that was putting intense pressure on the resource itself and on enforcement, and certainly this issue was well covered in all of the newspaper articles that were forwarded to us by Heather in the

mailing.

The request was that all states should get to 16 inches and then achieve the F target in 2003. Commenters felt that -- some felt, anyways -- that without that minimum size parity, Massachusetts and Rhode Island would have to cut effort and landings even more so than already, and that would not be the wise thing.

A few others have been sent to you. I didn't see them in the packet. Douglas Sylvia of South Dartmouth and Walter Kelly of Marion, Mass, they submitted written comments and their concern was specifically about 2002.

They made the point I think that we all share, how in the world can anything be done in 2002, especially with regard to minimum size increases, especially if those increases must be done legislatively.

So there was emphasis on Option 7B, that we begin to do these things in 2003. No comments were provided on pages 12 through 16, although there was a great deal of curiosity about tagging information and movement of tautog between states and between states and the EEZ.

I think we still share that desire to learn more about the movement of tautog so we have a better feel for how each state's regulations impact the fishery in other state's waters.

For management measures shown on pages 17 through 19, commercial fishermen who were present felt that further restrictions on their fishery were not justified, considering the data on page 5 of the addendum.

The commercial fishery has been stable at about 500,000 pounds since 1995. On the other hand, the recreational landings appear to have doubled since 1998, up from 1.5 million pounds to 3.3 million pounds, although, admittedly, it's MRFSS data and I think we all feel a bit disadvantaged by continuing to have to rely on the MRFSS survey data to make these important management decisions for the recreational fishery.

The very large increase in New Jersey relative to other states, 1999 through 2000, that jumped out at them. I must admit I helped them identify that jump from 512,000 pounds to 1.8 million pounds. But then, again, is it a real increase or is it an increase that's come about just because of the way the survey is done?

Massachusetts also went up slightly, 363 to 428,000. Rhode Island dropped so that was noted by them as well. All recreational fishermen present were concerned that recreational landings potentially had to be cut with the status quo strategy by 63 percent.

The recreational fishermen felt that considering that they're hook-and-line fishermen and not responsible for bycatch and discard mortality that might occur in fisheries that take tautog as a bycatch or even directed and in some cases trawl, they just couldn't see the sense of there being such a dramatic decrease in their landings, 63 percent.

There was one question about the addendum statement on page 17. There's a statement there that says we're looking to achieve a spawning stock biomass that would assure long-term stability. I really couldn't answer that question.

I'm not sure what SSB will give us that long-term stability. That's it, Mr. Chairman. That pretty much covers the issues that were raised at our public meeting, and that's in addition to the bullets that were provided by Heather that do touch on a few other things. So with that said, that is all.

CHAIRMAN FREEMAN: Okay, thank you, David. I had asked Harry to comment. Harry, do you have a comment?

MR. MEARS: Thank you, Mr. Chairman. I actually have one editorial comment and one substantive comment. The editorial comment, we seem to be interchanging the word status quo and continue amongst the options.

As I understand it, continue would be to stick to the F equals 0.15 as the target fishing mortality rate, whereas status quo would be to stay on the track of what we've seen in recent years, the F equals 0.41.

That's one comment and I think we need to be very clear as we go forward, especially at such time we begin taking motions. I forgot what my main point was.

CHAIRMAN FREEMAN: I thought that was a good comment on the minor, but I'm curious what the major was.

MR. MEARS: Oh, I remember. Very crucial to any of these options, to me, would be any discussion of how the law enforcement committee may have, either verbally or informally or anecdotally commented, either in writing or in any way, on any of the avenues that we're about to decide upon here today. Can anything or any comments be generally made in their behalf?

CHAIRMAN FREEMAN: Okay, thank you. What I would like to do is there is three other states that had public hearings. John Connell indicated what New Jersey's feelings were; David also in Massachusetts.

I'm going to ask Brian and Jack and Eric; and we don't have a representative -- Paul, I guess you were at that meeting -- to ask

if there's any additional comments. Then I want to take a ten-minute break and then we'll return and go through these one by one, as Heather did, and ask for motions, so there is action required. So let me just back up. Brian, do you have any comments on New York's public hearings?

MR. BYRON YOUNG: Not really, Mr. Chairman. Our summary pretty much covers what went on. We had about 50 people at our public hearing, very active involvement. We tried to go through all the options and get comments on each one, and I think we've captured their sense and feeling of the plan.

CHAIRMAN FREEMAN: Okay, Jack, anything on Virginia?

MR. JACK TRAVELSTEAD: No, I don't have anything to add. It was a small hearing of only about a dozen people and the summary adequately describes what took place.

CHAIRMAN FREEMAN: Okay, Eric, anything you would like to add from Maryland's perspective?

MR. ERIC SCHWAAB: Same, outside of the written summary. I would defer to Paul -- he was in attendance -- if he had anything to add at this point.

MR. PIAVIS: No, I think the written summary pretty much covers it. There were twelve fishermen, all recreational fishermen, present. They preferred the alternative-based F as the reference point.

There was hope that there could be a conservation equivalency for perhaps only allowing one fish over a certain size limit, 20 inches or 22 inches. But other than that, I believe that the written comments covered it very accurately.

CHAIRMAN FREEMAN: Heather would like to make a comment and then we'll take a break. Heather.

MS. STIRRATT: Just briefly, I didn't get the opportunity before. I wanted to thank the states for being willing to hold these public hearings without the support of staff there.

The staff workload, as you all are probably aware, required me to be on travel pretty much through the months of November and December for lobster, and to back that right up against another month of traveling for public hearing for tautog would have been a lot of work outside of the office, one which would have not it made it possible for me to be fully prepared for this meeting week.

So I do want to thank the states for holding their hearings -- we appreciate it greatly -- and also for your assistance with providing the summaries that you have provided today.

CHAIRMAN FREEMAN: Okay, be back at 3:10.

(Whereupon, a short recess was taken.)

CHAIRMAN FREEMAN: Okay, would you take your seats. We've reviewed the technical part of it, we've reviewed the advisors' comments, we've heard some discussion on the enforcement; specifically, the difficulty I guess all states are having with the live fish market.

We could tell you some horror stories in New Jersey, both on the recreational side and the commercial side. But this live fish market, it's becoming a major problem and concern, I think, to all the states.

Okay, I think the best way to proceed is to go down by section by section, similar to what we had heard previously by Heather. Section 2.1, Overfishing Definitions; are there any motions relative to that definition? Gil.

MR. POPE: Thank you, Mr. Chairman. Before we get too much farther, I would like some clarification on a technical committee question that I had for Paul earlier about the growth on the fish, and I guess I got it mixed up and he wanted to explain it to me, during the break he did.

CHAIRMAN FREEMAN: All right, go ahead.

MR. PIAVIS: Yes, we were talking during the break and the issue was how the F can change if we go to a F percent SSB, and in the discussion we were talking differences in growth rates. The Board member's interpretation was spatial differences.

I wasn't even thinking spatial differences. It's the temporal differences. So it's not that growth rates vary drastically up and down the coast where we would need to manage with a different F up and down the coast. It's that within years or half decades, the growth rates may be changing, and that's where the differences in the F would be.

CHAIRMAN FREEMAN: Okay, overfishing definitions. The existing definition is $F = M = 0.15$ and there was another option. Are there any motions? Dave Pierce.

DR. PIERCE: I would move that we adopt an alternative F-based biological reference point target of F-40 percent SSB.

CHAIRMAN FREEMAN: Okay, a motion has been made by Dave Pierce and seconded by Jack Travelstead, and I'll wait until Tina gets it up on the screen. David, look at the screen and see if that captures your motion.

DR. PIERCE: Yes, it does, Mr. Chairman.

CHAIRMAN FREEMAN: Okay, any discussion? The motion has been made and seconded. Discussion? Ernie, go ahead. You just beat Pat by a hundredth of a second.

MR. BECKWITH: I don't like beating Pat by hundredths of a second so I am going to just defer to Pat and I'm going to make my comment later.

CHAIRMAN FREEMAN: Well, you may not get that chance because Pat is calling the question.

MR. BECKWITH: You're not calling the question already, are you? Okay, actually I wanted the time to go back and look at the figure. I was going to ask a question and maybe you can help me find it on the figure, Paul, the alternative F-40.

If I recall, that's only halfway, it only gets us halfway there in the timeframe we're looking at here. And, I thought from the material that was in the Addendum III and some other comments, that for the kind of species that we have in tautog, based on its life history and growth, that the appropriate reference point was F equals M.

I didn't hear any really strong arguments as to why we should select something higher like an F-40. F-40 didn't seem to be the appropriate reference point. Could you comment on that?

MR. PIAVIS: That's why I tried to bring it out that F-40 percent has been used. I think in light of the projections, especially, I believe the technical committee believes that that's more of an example.

I refer you to the reference point document that we presented in the October meeting at Maine. That's the document that the technical committee produced that we were hoping that the management board would take into account.

That, along with the projections, is showing that F-40 percent is not -- well, actually it's the second worst performing scenario. And in that reference point document that the technical committee produced, we brought it out that F-40 percent probably is not where we want to be long term.

MR. BECKWITH: Thank you, Paul, and, Mr. Chairman, if I could just follow up. I think there's a lot of issues with this stock and this plan that have to be sorted out, and I think we need some time.

I don't think the appropriate approach is to adopt a reference point that gives us some perceived breathing room, but when in fact it is not the appropriate reference point for that species. So I would, based on the information I have in hand now, I would have to

vote against this motion.

CHAIRMAN FREEMAN: David.

DR. PIERCE: I appreciate what has been said about the potential problems with this particular redefinition. However, I'm thinking ahead a little bit here, and I'm looking forward to a motion that will eventually be made related to the options on page 11, options that are described graphically on the two figures that were provided to us earlier today.

Maybe I'm mixing up the apples and the oranges here, but from my look see at the five-year projections, I see that by going with amended plan target of F-40 percent SSB, which translates into an F of about 0.29 at this particular point in time, we end up getting to the same abundance level of tautog in the year 2006, for example, as we would with some of these other options that have the F is equal to M is equal to 0.15.

At least, that's my take on it. So that's where I'm coming from regarding this particular motion, that I'm just trying to look ahead, and I see no difference.

CHAIRMAN FREEMAN: Harry.

MR. MEARS: Thank you, Mr. Chairman. The National Marine Fisheries Service as well cannot support this motion. We have a document we agreed to go out for public comment, and part of the narrative in black and white indicates that the technical committee considers this option to be inappropriate for implementation at this time.

It's very tempting. It makes the pain less, but the fact is what it will do is it will alienate any communications between this board and the ability of the technical committee to effectively provide advice and also to analyze not only the affects and anticipated benefits of plans, whether they're on a region-by-region or state-by-state basis, but if in fact we're even operating from the base we should be operating to rebuild the resource. I just feel if we voted for this motion, it would make that impossible. Thank you.

CHAIRMAN FREEMAN: We have a technical comment that needs to be made. Paul.

MR. PIAVIS: Yes, in relation to Dr. Pierce's comments about the projections, I just want to make clear that the F-40 percent is the second line from the bottom. The four grouped options at the top, none of those are F-40 percent.

F-40 percent is the line just above the status quo on either projection. That middling kind of line would be the F-40.

CHAIRMAN FREEMAN: All right, any other comments? Gil.

MR. POPE: Thank you, Mr. Chairman. After 2005 there's a slight drop, but up until then there is rebuilding?

MR. PIAVIS: Yes, the slope is positive. It is a decreasing slope as opposed to some of the other ones, but, yes, it is a rebuilding up through '05.

CHAIRMAN FREEMAN: Okay, other comments? Seeing no comments, we'll take the motion. All right, 30-second caucus.

(Whereupon, a caucus was held.)

CHAIRMAN FREEMAN: Okay, everybody caucused that needs to caucus? All those in favor of the motion, signify by raising your right hand; those opposed, same sign; abstain; null votes. The motion passes five to four with one abstention.

Okay, that's Section 2.1. Section 2.2 is stock rebuilding program and various options that were taken out to public hearing. Is there a motion? Pat Augustine.

MR. AUGUSTINE: Move that the Board adopt Option 7C.

CHAIRMAN FREEMAN: The motion has been made by Pat Augustine and second by Jack Travelstead. Option 7C is to amend the plan target to F-40 percent SSB.

DR. PIERCE: Clarification, Mr. Chairman?

CHAIRMAN FREEMAN: David.

DR. PIERCE: Yes, sir, this option has two choices. Which choice are you referring to, Pat? I believe it's two choices because it can either be amending the target to get F-40 SSB, F is equal to 0.29; or, the mean SSB, 1981 through 2000. My suspicion is that you're referencing the F is equal to 0.29 and not the SSB.

MR. AUGUSTINE: Yes, that was what I was referring to.

CHAIRMAN FREEMAN: Okay, Pat, does the motion on the screen capture your motion?

MR. AUGUSTINE: Yes, Mr. Chairman.

CHAIRMAN FREEMAN: Jack Travelstead.

MR. TRAVELSTEAD: I think it would help if you just clarify that part of that motion is to maintain status quo for one year because that's half of the motion, really.

CHAIRMAN FREEMAN: And the point that Harry raised earlier, the definition of status quo, Heather, in this instance would be to retain the --

MS. STIRRATT: Harry's clarification actually switched the definitions as they currently appear in here, so this would be to continue current fishing mortality at its current level of 0.41, current fishing levels. So it would be no action. It would be maintain it for this year and the next year --

CHAIRMAN FREEMAN: All right, is that clear, what status quo is so that we don't have a misunderstanding? What we have in place today would be continued for 2002 and then go to the 40 percent SSB, which is an F of 0.29. Further discussion? Eric.

MR. SCHWAAB: Doesn't that conflict with the action that we just took? It seems to me that we might have gotten ahead of ourselves. If we wanted Option 7C, we might have actually chosen to stay at status quo in the previous discussion and then simply adopted this motion at 7C to satisfy where the Board wants to be.

CHAIRMAN FREEMAN: I think you could look at it way. My understanding was we need an overfishing definition, which was the first motion. Now when that is implemented is actually modified, but I guess you could look at it either way. Bob, you have a comment?

MR. ROBERT BEAL: Yes, I think you basically covered it, Bruce, but as part of Dr. Pierce's preamble or postamble to his motion, he was saying that -- you know, he's making this motion in the anticipation of a series of motions on the different issues included in this document.

So, he was establishing the biological reference point and then the implementation schedule, it was anticipated on the record that there will be additional motions to follow.

CHAIRMAN FREEMAN: All right, does that satisfy your concern, Eric?

MR. SCHWAAB: I think so.

CHAIRMAN FREEMAN: Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman, it doesn't satisfy my concerns. My motion says that we are going to stay status quo for 2002, and I really don't want it to say that. I want it to say that it will be implemented in 2003.

So if Dr. Pierce would like to change his first motion to be more clear, that says maintain status quo, however he gets there, I really don't want it to show that my motion supports status quo because I don't.

So I would specifically say move that the Board adopt Option 7C with implementation in 2003, and that's exactly what Option 7C says in my document, unless you guys have a different copy.

CHAIRMAN FREEMAN: Well, Pat, I don't really think there is confusion, at least there's not in my mind, is that again the first motion established the biological reference point. Now when that's implemented was covered in the Section 2.2, which was the second motion.

So relative to the motion, we'll maintain an F of 0.41 for 2002 and then for 2003 -- because, again, the Option 7 is maintain a status quo for one year only. Don't forget this is just for one year.

MR. AUGUSTINE: Under 2003.

CHAIRMAN FREEMAN: No, no, no.

MR. AUGUSTINE: Well, then excuse me. It should not have been listed under action during 2003.

CHAIRMAN FREEMAN: Well, Pat, look at it this way. Unless we take specific action, the plan requires us to go to 0.15 right now if we do nothing. This motion essentially makes that change, because if we take no action, then come April 1, you're going to have to do something very different than what this motion indicates. Any other comment, questions? The motion says, "Move that the Board adopt Option 7C, currently F 0.29, with implementation in 2003. All right, 30-second caucus.

(Whereupon, a caucus was held.)

CHAIRMAN FREEMAN: Staff is trying to make sure this is technically correct so that all of us understand what action is taken. The discussion up at the head here is the status quo. Technically, we think of status quo as maintaining what we have in place, but the plan requires April 1 we go to a 0.15, so we're trying to clarify this whole issue of what status quo means.

The staff, trying to comprehend the thought of the motion and make sure it's technically correct, has offered some additional words and, Pat and Jack, I want you to look at those.

MR. TRAVELSTEAD: It's beautiful.

CHAIRMAN FREEMAN: Jack loves it. What do you think, Pat?

MR. AUGUSTINE: It's wonderful.

CHAIRMAN FREEMAN: Pat thinks it's wonderful. Jack thinks it's beautiful. Okay, I guess we're on track. So the motion would read: Move that the Board adopts Option 7C, currently F 0.29, for

2003, and require the states to maintain current or more restrictive fishing regulations during 2002. Gil, comment?

MR. POPE: Thank you. The only thing I would recommend is that those states that currently have a situation where they are either in fact or allegedly have a problem with their recreational fishery, that they consider alternative measures other than this to figure out a way to either shorten seasons or to do something if they do sincerely think that they have a problem. so that next year when we look at the information or a year down the road that even with status quo, it will double like what happened in one case in the striped bass that I remember.

Even though it was status quo, the commercial fisheries were kept level and then that next year, one of the recreational industries had a 50 percent increase in their harvest.

CHAIRMAN FREEMAN: Well, the wording is current or more restrictive.

MR. POPE: But it will still maintain that recreational fisheries in most states are a target of harvest. We know that. Even with bag limits and so on, it's still a target. If there's twice as many fish there, then you're going to see increased harvest, even with the current regulations that you have. That's why we're where we are.

CHAIRMAN FREEMAN: Okay, then we'll know from the vote how you feel on this. Any other comments? All right, we're going to take a vote. We've caucused. Those who favor the motion, please raise your right hand; those opposed, same sign; abstentions; null votes. The motion carries eight for, two against, no abstentions, no null votes.

Okay, on to Section 3.1, Stock Assessment Methodology. There are various options. Let me get Ernie.

MR. BECKWITH: Thank you, Mr. Chairman. I'm not sure where the appropriate place to make this motion is, but I'm going to give it now because it directly relates to the action that the Board just took.

I'm not sure this action is going to result in the stock being rebuilt. I guess we'll have to wait and see, but I think there are some other significant issues that need to be addressed to help us get to the position of having the stock rebuilt.

With that said, I would like to make a motion, and I would like to move that the Board charges that the Law Enforcement Committee investigate and assess the magnitude of unreported landings both for the live market and from non-directed commercial gear.

CHAIRMAN FREEMAN: Okay, we heard a motion. Vito, is that a second?

MR. VITO CALOMO: Yes, it is a second.

CHAIRMAN FREEMAN: All right, Captain Vito seconded the motion. David Pierce, comment?

DR. PIERCE: I can support this motion. As a matter of fact, I was going to make a similar motion after we were all through with this addendum, and it would have been along the lines that all states reported illegal fishery for sublegal tautog, supplying the live fish market report to the Board, the estimated magnitude of that illegal fishery, it's impact on the ASMFC rebuilding program for tautog, and steps being taken to curtail and stop that fishery.

I think your motion probably would do the same thing. It's to identify the fact that this fishery is taking place. Allegedly, it is seriously undercutting our ability to rebuild tautog to the targets that we've set for ourselves and now these revised targets.

I'm very concerned about it. The newspaper articles that I've read, supplied by the staff, and also comments provided at public hearings and written comments that I've received in the mail, indicate that this is a real significant problem.

New Jersey law enforcement has made the point as well. New Jersey seems to be on top of it. God bless them if they are. It's not an easy task. We can greatly benefit from the information that is being requested here.

CHAIRMAN FREEMAN: Any further comments on the motion? Gil.

MR. POPE: Ernie, could you clarify for me what you mean by non-directed commercial gear, exactly what that means?

MR. BECKWITH: It means non-directed gear that is not directed towards tautog, like lobster pots, bycatch in other gear.

CHAIRMAN FREEMAN: All right, Gil.

MR. POPE: Is that a law enforcement problem, or -- do you feel that's a law enforcement problem?

MR. BECKWITH: Absolutely.

CHAIRMAN FREEMAN: David.

DR. PIERCE: I would move to amend the motion by adding at the ends of the words up there "and requests that states with illegal fisheries for sublegal tautog supplying the live fish market report to the Board steps that are being taken to curtail and stop that

fishery."

In other words, I want this to be more than just an enforcement agency concern. It's, of course, theirs, but it's also a concern of the management agencies that work with those sister enforcement agencies. Pardon me? Report by the next -- well, I would assume by the next Board meeting, whenever that may be.

MR. BECKWITH: Mr. Chairman.

CHAIRMAN FREEMAN: Yes, Ernie.

MR. BECKWITH: That really doesn't make any sense to me at the moment because I don't know which states have a live market problem. I think the purpose of main motion is to find out which states have that problem; and once we have that information, then we can do the kind of thing that David is proposing.

DR. PIERCE: All right, with that clarification, Mr. Chairman, I would withdraw my motion to amend.

CHAIRMAN FREEMAN: All right, that has been withdrawn. We're back to Ernie's motion. Ernie, does the wording up here reflect --

MR. BECKWITH: Yes, that's fine.

CHAIRMAN FREEMAN: Byron.

MR. YOUNG: Just a question. Would the law enforcement committee be able to assess the magnitude of the unreported landings or is that something that goes back to the technical committee?

CHAIRMAN FREEMAN: Byron, it's difficult. In fact, that may be difficult to address. It seems there needs to be communication between the law enforcement and the technical committee on this.

One, I think, from the technical standpoint, what do they feel in numbers would affect their analysis; and then if the enforcement committee gives some idea what they feel the magnitude is, we perhaps could at least get bounds as to what we feel could occur.

I know in the instance -- and New Jersey has had a number of cases recently. When people violate this, they're violating the size limit and they're violating the bag limit. I mean they're just going out there and catching whatever they can.

So it's not that they're looking for large numbers of legal fish. They're taking anything they can get. So the implications in our case -- and this is both true of commercial fishermen violating the rules and the law and recreational doing the same, but I think that's something that needs to be jointly discussed. Ernie.

MR. BECKWITH: Yes, I just realized that I need to add something to that motion. I have to add "and report back to the Board by the fall meeting."

CHAIRMAN FREEMAN: Or sooner?

MR. BECKWITH: Or sooner, yes.

CHAIRMAN FREEMAN: The fall meeting being the annual meeting, Ernie?

MR. BECKWITH: The annual meeting, correct.

CHAIRMAN FREEMAN: Okay, anyone object to that modification? Okay, I had a couple of hands. I had Pat Donnelly and then I had Gil.

DR. DONNELLY: Mr. Chair, the AP panel felt that as much as the non-directed commercial catch, there was a lot of recreational sale of the fish that's going unreported also, and the motion is made and there's not really any mention of that going on.

We don't want to put the onus just on the commercial industry, so I would like to make that comment.

CHAIRMAN FREEMAN: Okay. And I don't think, Ernie, when you said commercial, it was a standpoint just commercial. It was the commercial sale any way it's taken illegally. Gil.

MR. POPE: Yes, that was to my point. When that first came out and when I first read it up there, it was like linking some illegal activity to commercial gear, and that may be true in some cases, but not in all, and it just kind of reinforced something in my head that it's like one sided, and I'm glad you brought that up.

I appreciate that. But the wording in that, just by using commercial gear instead of fishing gear, for example, tended to put that -- all of a sudden, well, there it goes again, there's that word again. So it was just a matter of wording, that's all.

CHAIRMAN FREEMAN: Ernie, what if on your motion we take out the word "commercial" so it would read "non-directed gear" and it wouldn't imply just commercial? It would be anybody catching these?

All right, if there's agreement, we'll remove the word "commercial" and, again, it's the illegal sale, regardless of method or means of taking. All right, further comment? Jerry.

MR. GERALD CARVALHO: Yes, I have a question for Ernie, and that is he has expressed in the motion his concern for what might be illegally sold fish. Does he have the same concern for compliance in the recreational fishery?

Do we have any kind of report on it and do we need to ask the same question, what is the rate of compliance in the recreational fishery where people adhere to the bag limit and so forth?

CHAIRMAN FREEMAN: Gerry, that information is available through the MRFSS, similarly as it is for fluke and scup and other species and we need to look at that.

In other words, when the people are sampled, if in fact the MRFSS sampler sees an undersized fish or over the bag limit, they're simply going to put it down on their form as the numbers. That then will be determined later that it exceeds either the bag limit or it's undersize and will be reported as non-compliance.

So we do have that information. Now the difficulty is in some, states because of the relatively low numbers, the possibility of sampling a person with a catch is low, and that's why we get these very high numbers in these coefficient of variation.

But we do have the information and it should be good on a coastwide basis and we'll look at that. Yes, go ahead, Gerry.

MR. CARVALHO: Thank you, Mr. Chairman. The reason I mentioned that is because my experience in the Rhode Island fishery, with the numbers of people participating in the tautog fishery being so great on the recreational end, the non-compliance or the unlawful activity that takes place is greater there than it is on the commercial end and poses a greater threat to the management plan. Thank you.

CHAIRMAN FREEMAN: I don't think -- and, again, I'm speaking for everybody, but don't think it's -- you know, we all recognize this whole issue of people understanding and abiding by the size and bag limits on the recreational side, and certainly it is an issue.

I think in this instance it's been pointed out, particularly at the public hearings, this problem of the sale, particularly to the Asian restaurant business, is becoming more and more of a problem.

I know it was originally reported in Rhode Island six or seven years ago and it's continuing down the line and it's becoming more and more prevalent, and what was warned by Rhode Island is coming true throughout the range. Gil.

MR. POPE: Yes, just to add to that, and it's not just tautog. It's scup. It's anything that can be caught from shore.

CHAIRMAN FREEMAN: Yes, we're seeing it certainly in sea bass. When commercial seasons close, it's a major problem. Any other comments? Byron.

MR. YOUNG: Just one more thought along with this line of

investigation into unlawful activities, our law enforcement officers report monthly on activities. I'm not sure about the other states, but we have some sense of illegal activities with blackfish with every other species.

That could probably be segregated from those reports and reported separately. It might be something I would recommend for other states to consider if their law enforcement folks do a monthly report of activities report. So it just would enhance the MRFSS data, even if it's just anecdotal information to put some bounds on the MRFSS data.

CHAIRMAN FREEMAN: Other comments? All right, do we need a caucus on this? For the record, the motion is move that the Board request that the Law Enforcement Committee investigate and assess the magnitude of unreported landings, both for the live market and from non-directed gear, i.e. bycatch, and report back to the Board by the 2002 annual meeting or sooner.

Indicating there is no need for caucus, we'll take the vote. All those in favor, raise your right hand; opposed; abstentions; null votes. The motion carries ten to zero; no no's, no abstentions, no null votes.

Section 3.1, Stock Assessment Methodology. Any comments relative to that section? This deals with coastwide versus regional versus redefined regional. Jack.

MR. TRAVELSTEAD: Page 13, right?

CHAIRMAN FREEMAN: Yes.

MR. TRAVELSTEAD: I thought the gentleman from Maryland earlier today spoke very well on this issue. I think I would probably end up being a little bit more blunt than he was, but it seems to me the regional approach is the way to go on this.

There are so many differences in the fisheries from north to south. There are different trends in the landings. This problem that has been mentioned several times of a live market, I don't even think exists, to my knowledge, in Virginia or most of the other southern states.

The only problem I have with the regional approach that's defined in 1B1 is that it includes New Jersey in the southern portion; and based on what I heard today, it would seem to me that the trends of New Jersey are more realistically associated with New York and some of the other northern states.

Based on that, I would move adoption of Option 1B1 with a modification that the boundary be the Delaware/New Jersey line.

CHAIRMAN FREEMAN: Okay, second? Byron seconds that. Dave Pierce, comment?

DR. PIERCE: Yes, this was not brought out to public hearing. Is it appropriate, therefore, to make this substantial change?

CHAIRMAN FREEMAN: Are you asking me or are you asking staff?

DR. PIERCE: Well, I'll ask the staff. It would seem to me that would be a very difficult change to justify, unless there was -- well, yes, I would think it would be hard to justify, but I'll turn to the staff for guidance on this one.

And I would say, as well, that by going with a regional assessment that includes New Jersey in with the New England states, including New York, of course, it doesn't solve the problem, as I see it, regarding the assessment dilemma and management dilemma that we now have with what was the reference to the 800 pound gorilla being thrown into the mix.

The 800 pound gorilla is causing grief for north and south. You're kind of in the middle there, Bruce, causing grief for all concerned. What can you do about that? So, first of all, can we do it?

Is it an appropriate motion and then, second of all, I couldn't support it because it doesn't solve the problem. I would be much more inclined to go with a redefined regional assessment, but I recognize that is parochial, and I'm looking specific to Massachusetts and Rhode Island interest where tautog don't move that far afield from Massachusetts and Rhode Island waters.

Ideally we would like to handle that important species by ourselves with a concerted effort by our respective states to get the necessary samples to do the required analytical work to justify separate treatment. But, again, that's not the motion. There is a motion on the floor and I'm seeking clarification.

CHAIRMAN FREEMAN: First of all, I'll have Heather respond to the issue of whether it's doable or not.

MS. STIRRATT: From a process perspective, it's fine for the Board to suggest a hybrid of what has been proposed here. From a data perspective, I think that David's points are well taken that this doesn't really solve the problem.

The data currently is not available for those states south of New Jersey, and so the problem, if you create a regional assessment for an area where you have no data, you're just going to get no information. It's something for you all to think about.

CHAIRMAN FREEMAN: Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman, just a question based on Heather's comment. Have those states that have not done an assessment to the south, has there been any commitment by them to do so in the near future or are we just going to come to another meeting and have the same kind of a situation?

CHAIRMAN FREEMAN: Any response? Jeff, go ahead.

MR. TINSMAN: Well, we kind of have a catch-22 in the southern sector in that we're doing a lot of age type work and willing to work on this species, but we don't have natural rocky habitat that apparently they do trawl surveys on up in New England.

We have flat sand bottom, more or less, with the exclusion of artificial reefs, and I really don't foresee using rock hopper rigs on artificial reefs as a reasonable way to assess that stock. I don't know what relief is possible in the technical committee as far as the requirement to get that fisheries-independent information.

CHAIRMAN FREEMAN: All right, Paul, you had a comment?

MR. PIAVIS: Yes, this dovetails into Mr. Augustine's comments and Heather's. Even if the Board were to have a motion that the southern states start collecting fisheries-independent surveys, it wouldn't do any good from the get go if we're sticking to a VPA.

You need the whole time series. So you're looking at, even if we could implement reasonable fisheries-independent surveys, you're looking at 10 years before an assessment would be done.

A corollary to that, a surplus production model, an ASPIC model, was taken to the SARC when it was reviewed by the SARC up in Woods Hole, along with the first VPA, and Tom Helser, who was at Delaware at the time, ran that and we looked it over and we didn't think it would past muster.

We took it up there anyway and the Stock Assessment Review Committee definitely did not accept the ASPIC model. So even if an alternative assessment were to be approved, I have reservations that it would be, you know, an acceptable assessment.

But, again, I just wanted to stress that even if we started tomorrow and started collecting fishery-independent data in the southern states, a VPA would be quite a ways down the road.

CHAIRMAN FREEMAN: All right, John.

MR. CONNELL: Thank you, Mr. Chairman. The state of New Jersey has provided significant amounts of data in the past and will continue to provide significant amounts of data in the future, regardless of where we end up.

However, it has been historically a major problem. New Jersey does feel this would be a substantial change in what we went out with for public hearing. All of the comments that were received in New Jersey and in every state were based upon this information.

We have long felt that this should be the way it is. It has been long argued at this table, and it's one of the reasons why it was included this way in the draft. So we are certainly opposed to the motion.

We believe that this is a substantial change and should be left as originally provided because it certainly would affect the comments from not only New Jersey, but any other state. Thank you.

CHAIRMAN FREEMAN: Jack.

MR. TRAVELSTEAD: I think I heard Paul say that we really don't have the data and won't have the data in the near future to do regional assessments. So in that sense. I guess the motion is not a very good one.

I guess I made it on the basis that this ought to be the direction we head with this management plan, that for now, given the levels of data and information that we have on this species, that we have to, out of necessity, continue with Option 1, the status quo coastwide assessment.

I would continue to offer the motion with the understanding that this is the direction we head when the data are available. But until those data are available, we have to continue to rely on the status quo.

CHAIRMAN FREEMAN: Do you want to modify your motion to reflect that?

MR. TRAVELSTEAD: Yes, I don't mind doing that. Maybe we could reword it to say move that the Board adopt Option 1A, status quo coastwide assessment, until such time as there are sufficient data and analysis to allow for a regional assessment approach. I'll just leave it at that.

CHAIRMAN FREEMAN: Byron, you had seconded that motion.

MR. YOUNG: I'll accept the change.

CHAIRMAN FREEMAN: Okay, you agree. I had Gil and then Dave Pierce.

MR. POPE: Thank you. The only problem that I have is there is no time certain with this. I've been looking for this for three years, only because the tautog fishery is significant in a number of states, and they do take the time and they do make the effort to

do as much as they can for all different kinds of data.

We happen to be lucky enough to be one of those states in one way and unlucky in others because when you get graded on the curve and you're working along and you got your "A" going here and then you've got some states that are either not interested in doing it or haven't got the money to do it or for whatever reasons they do not to do it, then what happens is it drags down the curve.

And so we've been talking about -- we just delayed it for a year with that option that we took. In many cases, I think this document is lacking in some options that really should be in here that aren't in here and if there are states -- and we use the example of the southern states in here, but it may not necessarily be so, but they could opt for a sort of a de minimis status like we have in other plans or fall back to a basic default type of situation where they don't have to go -- and I don't have to wait as a state for them to do this, or I don't have to continue to wait.

You and I have been talking about this for three or four years. People say, "Gee, Gil, a lot of other states would like to be doing exactly the same thing." Well, this should have been started and done a long time ago or it should have been resolved that we don't plan on ever doing this, and we don't want to be involved in this in that way.

Virginia and Maryland have done great things with assessing their striped bass, and it's a very meaningful fish to them in a certain sense and they devoted a huge amount of time to that and they got all kinds of data, and the technical committee basically said, sure, you can use this other methodology while I have to use another.

So, in this particular case, I think it's almost like the shoe is on the opposite foot here to where we now have all this information. Like the producer areas have for their striped bass, we have it for the tautog.

So I feel, in a way, that a lot of what we're discussing today still is kind of incomplete in a way and that there should be some more options for those states that don't want to go crazy with assessing.

If they think 500 is an outrageous number of fish, then they can just have a plan that they can adopt -- and I don't see that in this. If we are going to go ahead and wait a year, I don't see why in some ways we can't include some other options, even though it's already been out for public hearing.

But in short, I'm talking too long here. I don't really like this particular option, to be honest with you, and I would rather go

with 1B2, would be my vote.

CHAIRMAN FREEMAN: Okay, other comments? I had Dave Pierce and then Pat Augustine.

DR. PIERCE: Yes, I would like to know if the maker of the motion would accept a friendly amendment, that friendly amendment being that after the words "the regional," "or redefined regional assessment approaches."

In other words, I wouldn't want to forego the option of going with the redefined regional assessment if indeed the data suddenly are there for us to consider that sort of an assessment approach.

MR. TRAVELSTEAD: I'll support that as a friendly amendment.

CHAIRMAN FREEMAN: Okay, the motion maker will accept that. Byron supports that. Okay, David Pierce, the words have been put in there. Do they reflect your desire? Okay, Gil.

MR. POPE: Thank you very much. There still isn't a time certain, which kind of bothers me, only because I would like to see it a year or two years or less, as soon as possible.

CHAIRMAN FREEMAN: Jack.

MR. TRAVELSTEAD: Just to Gil's point, the time certain or the lack of bothers me, too, but I don't think we have enough information at this point to be able to define when that will happen.

Further down on page 13 and over on page 14, there's a description of some additional data collection that could occur, but it's not very specific and particularly in terms of the fishery-independent indices, and I would hope that if this motion passes, that the technical committee perhaps could help the southern states in particular identify things that they could do to speed up getting to the regional or redefined regional process.

MR. POPE: And I couldn't agree with you more, but it's just that I had started talking about this so long ago that it just seems like people keep saying, well, maybe someday it will happen. I just would like to get a little bit more concrete as to a process by which we get this done.

CHAIRMAN FREEMAN: Okay, Jeff and then Pat.

MR. TINSMAN: Just to respond to Gil's comments, he seems to be indicating that the southern states are somehow derelict in collecting our information here. I would like to just refer back to my earlier comment that we do a trawl survey in Delaware Bay, but we don't have rock habitat.

Our tautog are found almost exclusively on man-made wrecks, breakwaters, and artificial reefs and we might catch two tautog in our trawl survey in a year. That's not an indication of the status of that stock. So, you know, we're kind of at a loss to know how to fill that gap, I guess, and we're going to rely on the technical committee.

CHAIRMAN FREEMAN: All right, Pat, I didn't forget you.

MR. AUGUSTINE: Thank you, Mr. Chairman, I'm so grateful. In reference to what Gil was saying, it almost sounds like if we were to give a state some type of absolution or *de minimis* status -- we'll use that word, although I don't think it applies here -- to do what we're trying to do, would that not require an addenda of some sort to the plan, or is the plan flexible enough that at a later date we could go ahead and put a date certain clause in there for the issue he is making.

He has talked about it for the last couple of years and I do think it's a very important point. Now, if it's going to take five years, again, from the technical committee, what's the minimum amount of years of data collection you need, whether it's two fish a year or five fish a year, to have something that says they're a part of it; or, could we give them absolution of some sort through an addenda in the plan so we don't have to worry about them?

MR. PIAVIS: Well, from a technical point of view with the VPA, I certainly would like to see at least a time series of data equal to at least one generation of time, which for tautog is 20 years, but we are using a 12 plus age group. I would assume that at least a 10-year series would be needed.

CHAIRMAN FREEMAN: Other comments? Anyone need a 30-second caucus? All right, seeing no indication for a caucus, we'll move the question for a vote. All those in favor, raise your right hand; opposed, same sign; abstain; null votes. The motion passes eight yes, zero no, two abstain, and no null votes.

Section 3.2, Monitoring Requirements, this is page 13 and 14 of the draft. Any action needed here? The discussion up here relative to the item we just voted on is for regional management there will be requirements of collecting more detailed information and to date, although the states have indicated they want to do that, because of budgetary limitations or manpower limitations, or regulations or rules that don't allow them to do certain things, we haven't been successful and the question is do we need a motion to take some other action. Jack, did you have your hand up?

MR. TRAVELSTEAD: I don't see how we could have voted in favor of the last motion and then not take action to require all of the states to at least begin to collect the types of data we need to get where we said we wanted to go in the last motion.

So I think a motion is in order on this. It's a question of whether you want to go to the regional assessment level or the redefined regional assessment level in terms of the age data that need to be collected.

I think a lot of the southern states are already collecting some of those data, though I'm not clear to what level. And as I said before, it's still not clear to me at all as to what type of fishery-independent indices would need to be developed.

I would again ask that the technical committee investigate that and provide the states with a little bit more specifics. Having said all of that, I'm a little bit reluctant to be the one to make a motion, recognizing that the state of Virginia's budget is about \$3 billion in debt, but I would certainly support a motion that requires all of the states to at a minimum collect the regional assessment level of age data.

CHAIRMAN FREEMAN: I understand your feeling. I think we all share that, but be cognizant of the fact that if we're going to have a requirement, and you don't do it, you could be deemed out of compliance. Gil.

MR. POPE: Thank you. Just like in all the other plans that we have, there are certain things that you have to do by a time certain or else it's a compliance issue. And what's distressing in this particular fish, it's so long lived.

Like you said, some of the information may not be available to make the determinations that we want to make in all the states for eight years, and that's kind of distressing to hear. I don't know if that's true. Did you feel about eight years was the time period or ten or so? I'm not trying to put words in your mouth, I'm sorry.

MR. PIAVIS: I had said ten, just a ballpark figure.

MR. POPE: Eight or ten years and we had passed around earlier -- I don't know if this is the time to do this -- a memorandum that Najih Lazar had written for David Borden that talks about, in this particular plan that we have, the state of Rhode Island, we would really like to request to submit a report on the status of the stock in Rhode Island and have it reviewed by the ASMFC technical committee under the provisions adopted for the FMP that states that if a state can demonstrate that its current fishing mortality is less than identified in the plan, that state is only required to reduce it's fishing mortality by that amount.

So, in other words, there's already something in the plan that would give us some kind of relief. I don't mind if the states take a longer period of time to do it, but what's happening is we're being constrained and being asked to go even further in the hole, so to speak, or do something even further when our studies and our

data is showing that we are well below the target of 0.22.

We're at like 16 or 17 and we did that by going to a 16-inch size limit a long time ago and doing this. We've talked about it before with I guess it's conservation credits and in a way it's already written into the plan.

So I'm hoping that if it's going to take eight years, is that we get some kind of consideration here or the states that can show this can have sort of this regional assessment and say, "Look, we can show it. Is it acceptable to the rest of the Board?"

I know that in the case that I mentioned earlier with Virginia and the case of the striped bass, they did it successfully. They were able to show it, and it was allowed and I'm hoping that we can kind of do the same thing in Rhode Island too. And when you guys get a chance, if you could read it, I would appreciate it, and give me your comments on it. Thank you.

CHAIRMAN FREEMAN: All right, other comments? Any motion on this? The question then I would ask of staff, since the Board does not take any action on this, how does what we're doing continue or where does this get us? Bob.

MR. BEAL: If there's no action taken on this issue, the monitoring and data collection requirements simply revert back to the fishery management plan that we have in place right now, so no additional requirements are put on the states.

CHAIRMAN FREEMAN: All right, David.

DR. PIERCE: I recognize many of the concerns expressed by Jack and others about the problem of requiring that a state actually has to go out and collect these kinds of data and they're not easy to collect.

Nevertheless, we are managing this fishery and we do have some problems with this fishery. As a consequence of that, I feel it's justified for me to make this motion. I move that we adopt Option 1, supporting a VPA at one of three spatial levels, numbers 1, 2, and 3B; 3B being the regional assessment end to this, the 200 age per length samples per state, 5 centimeters; an amount of sampling that will be possible, I suspect, because we have plotted a path for ourselves, I believe, regarding the commercial and recreational fisheries allowances that will actually create opportunities for some recreational and commercial fisheries, enabling the gathering of data, as opposed to the opposite which would have been, for example, sticking to the 0.15 as a target, likely no commercial fishery, and a severely hamstrung recreational fishery providing us with no samples.

So I'm all in favor of gathering information and learning more

about what's going on with this resource and that can only be done with some recreational and commercial fisheries. So that's my motion, Mr. Chairman.

CHAIRMAN FREEMAN: Pat, you second that?

MR. AUGUSTINE: I'll second it, but I have a comment.

CHAIRMAN FREEMAN: All right, go ahead.

MR. AUGUSTINE: Thank you, Mr. Chairman. Dr. Pierce, when you talk about regional assessment, what is going to be our definition of regional assessment or are the states that would be together, would they be selected by the technical committee?

I agree with the concept and what you're trying to accomplish here, but had you come up with, in your mind, what the regional breakout would be?

DR. PIERCE: Yes, I'm going with what's in the document already. The New York/New Jersey boundary and recognizing that we've had a lot of discussion about that already. But that's the way I'm looking at it right now with an understanding that there may be some states that actually would be willing to go well beyond that and get to the point where we can actually have data to do that redefined regional assessment. I'm speaking specifically of Rhode Island and Massachusetts.

MR. AUGUSTINE: I really don't agree with the regional assessment of New York and New Jersey. We have a problem with that. I would still like to leave my second up there for further discussion, but unless I can get clarification beyond what regional assessment is other than -- if it's not different than New York and New Jersey, then I'll withdraw my second.

CHAIRMAN FREEMAN: Dave, go ahead.

DR. PIERCE: I would suggest, Mr. Chairman, that we could use the regional assessment boundary -- we could leave it undefined at this particular point. I don't think we've made any decisions that relate to the adoption of any regional assessment.

We've discussed it at length. I suspect it will be discussed at length again when it comes up for further consideration. But we at least need to get the states, New York, New Jersey, and all the rest into a situation whereby they can actually gather the 200 age/length samples per state, 5 per centimeters.

If after further reflection the states come back to us and say that they absolutely can't do it because of budget concerns, well, I can understand that. At least this Board needs to give a direction to the states; and those that supply the budgets for those states,

that this is important, at a minimum to get us into a position where we can do the regional assessments.

MR. AUGUSTINE: Mr. Chairman, that definition is okay with us. Thank you.

CHAIRMAN FREEMAN: David Pierce, relative to the motion, presently in the plan the collection of these samples is voluntary. Is your motion to make it a requirement?

DR. PIERCE: That's my understanding, Mr. Chairman. That's what 3.2 is all about, making it a requirement.

CHAIRMAN FREEMAN: All right, I just need that clarification. Pat, all right?

MR. AUGUSTINE: Yes, Mr. Chairman, that's okay.

CHAIRMAN FREEMAN: Okay, further comment? Ernie.

MR. BECKWITH: Well, maybe I dozed off here for a moment, but I really lost track of what's going on here. Didn't we pass a motion that adopted Option 1A, and it said until such time there is sufficient data analysis to allow for a regional or redefined regional assessment; didn't we just do that? What are we doing now?

CHAIRMAN FREEMAN: David.

DR. PIERCE: What we're doing now is sending the message to the states that we're not going to wait forever until data happened to be available through some mystical means.

There has to be a concerted effort by the state to commit to this and the only way to get states to commit to this is to make it mandatory. I would rather not go that route, of course. I would rather make it voluntary.

Voluntary collection of information has not gotten us very far to date. It's put the technical committee at a great disadvantage, and I think it's time for us to try to give the technical committee what they need to answer the questions we keep asking of them.

MR. BECKWITH: I would like a follow up, Mr. Chairman. I really do go along with what you're trying to do, and I think that if we don't have some kind of a plan as to what information we need to collect and by who, and some kind of timeframe, we're never going to get there.

I think I would rather see a motion to that effect that says that we would charge the technical committee with putting together a list of data requirements that are needed in view of where we're

going with some of our other programs like the ACCSP program.

Quite frankly, I'm probably missing something here, but I don't see where your motion gets us there, David. I think that all it does is just excludes Option 2.

CHAIRMAN FREEMAN: Gil.

MR. POPE: Ernie, to your point, as far as the region, it hasn't been defined as to exactly what we want to mean by regional. Whether it's one state, two states, three, four, maybe that's something we need to look at, and you give it either to the plan development team or to whoever would be the appropriate body to decide on what we mean by dividing it up into certain regions.

It may be that one region in one area, maybe in the southern area, will include three states and then up where you and I are, it may be able to be done on a state-by-state basis. That would be something that maybe we should explore.

We should look on going along that line and having it kind of a regional or a state by state, depending on how much information is needed or how much information is available. That might be a better way of looking at it.

CHAIRMAN FREEMAN: Bill Adler.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. Gil, does that mean -- and what we've passed so far and what we've at least got up here for possible and I can understand what we're trying to do here -- if we get this information, can we go ahead and discuss the regional system or does it have to go back through an addendum thing?

MR. POPE: The region that I'm speaking of would have to be identified by the plan development or whoever is the appropriate body to bring it back to the Board and say we think that this region should be this group of states. This region should be this.

It would be easy for us to monitor this in this fashion because it all fits like depending on the shoreline and all the different factors that go into what would be appropriate for that particular region and say, well, that fits for those three states, so we'll just include all three and they all three basically could come to some kind of agreement.

And then in the case of maybe Rhode Island and Massachusetts, say well, we've got enough information that we can, you know, have a state, and so that way it wouldn't have to be one system or another. It can be a blend of what we would consider to be the best of the systems.

MR. ADLER: Does that also mean that we could -- let's say all of that came to be. Can we do this without running through a complete addendum again under the rules that we're going to be passing?

MR. POPE: It depends on the definition of the region. The region could be a small region or a big region. See, that's the problem that we just ran into, and I think that's what Ernie was referring to. He's not sure what region means.

CHAIRMAN FREEMAN: Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. I think this is one that has got to either be answered by Bob Beal or Jack Dunnigan. It sounds to me as though we don't have specific states within clusters for it to be considered a region.

Until we have defined those, I think we're going to have to have someone come back to us with a recommendation of who they are and then as a Board we accept them or we don't accept them. It sounds like an addendum.

CHAIRMAN FREEMAN: As I hear the discussion, I would offer a comment. It seems to me that the comment made by Gil Pope has merit in that those states willing and able to take the initiative to collect the data and can come up with a convincing argument, then they can make their position that may be different than the rest; and when the states collectively feel that this is an important enough fishery to do the same, they'll be able to have that advantage.

That gets us out of this dilemma as to who is going to collect what. If it's important enough, you need the information, you take the time. If it's not, you're going to be grouped in with the rest and you're going to take the consequences, whether it's fair or not, and that may be a way to get us out of this. Ernie.

MR. BECKWITH: Mr. Chairman, I don't believe that's the proper way to go because I think we would all end up spending more time and effort and money than need be.

If we did what we had to do to satisfy our own particular needs, it's probably a much greater level of effort than if we all did something according to some plan and we all did it for the greater good. It would probably be less effort for all of us. We would have better data to do a regional assessment or whatever.

CHAIRMAN FREEMAN: I don't disagree, Ernie. The difficulty is we've been talking about this for a number of years and we're no further along, or we are somewhat further along, but not much further along than we were to begin with and we continue talking about it.

We're at the stage now as this motion would require some action. It's been voluntary up to this point. Perhaps we need that stimulus, but I'm trying to find ways that we can reach the goal and do it in such a manner that rather than being threatened to do something, there's an incentive to do it and, therefore, you're chasing something that's positive, rather than having someone chase you with a negative, but it's the pleasure of the Board. Any other comments?

All right, seeing no comments, we have a motion on the board. Is there need for a caucus? 30-second caucus.

(Whereupon, a caucus was held.)

CHAIRMAN FREEMAN: Okay, ready for the vote. The motion is move that the Board adopt Option 1, Numbers 1, 2, and 3B, supporting the VPA at one of three spatial levels. All those in favor of this motion, raise your right hand; all those opposed, same sign; abstentions; null votes. The motion carries seven to three.

All right, moving on, Section 4.0, Management Measures, page 17. It deals with two options, the recreational fisheries reduction only or both commercial and recreational reductions. Any comments? Dave Pierce.

DR. PIERCE: Yes, Mr. Chairman, I would like another datapoint on the figure on page 5. We were given 2001 data before and we were given a handout. It's in numbers of fish. Is it possible to get a feel for where we are in 2001 regarding recreational landings across all the states?

Has it gone up by another 100,000 pounds, a half a million pounds? Do we have any information to help us out with an up-to-date assessment as to where we stand with recreational landings, as judged for the MRFSS? We must always put that in.

CHAIRMAN FREEMAN: All right, answer?

MR. PIAVIS: I believe it certainly wouldn't be the 41 percent increase that we've seen in the numbers. I'm assuming that a lot of the fish are those faster growing, smaller, big year class in 1999 coming into the fishery.

I would think at worst, my best/worst guess is that slope will have continued. I don't know that slope will have declined any.

DR. PIERCE: If it was a 41 percent increase in harvest by numbers, year 2000 versus 2001, is it safe to say maybe a 25 percent increase in biomass?

MR. PIAVIS: Increase in biomass or increase in pounds landed?

DR. PIERCE: I'm sorry, increase in pounds landed.

MR. PIAVIS: Could you bear with me for just a couple minutes and I can figure out the actual pounds landed through Wave V. I mean, it's not going to take that long to do.

DR. PIERCE: That's fine.

CHAIRMAN FREEMAN: To give Paul some time to do this without rushing him and causing a mistake, we'll let him make those calculations and we'll come back to this issue.

What I would like to do in the sake of saving time is jump ahead to the EEZ issue and then we'll return to this. If we look at Section 5, the EEZ, again, it's page 20 on your draft document. It deals with three options: size possession limit consistent with state requirements; possession limits of 14-inch minimum size; or more restrictive or possession prohibition in the EEZ. Is there any discussion or motions? Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. I recommend that the Board approve Option 1 under Section 5 for action in federal waters; specifically, that the Secretary of Commerce fully implement minimum size and possession regulations for tautog in the EEZ that are in accordance with state minimum size requirements.

CHAIRMAN FREEMAN: All right, the motion has been made and seconded by John Connell. Any discussion? Ernie and then Gil and Dave Pierce.

MR. BECKWITH: Thank you, Mr. Chairman, just a question so I can understand what that means. Does Option 1 mean the same thing as Option 3, the first two items in Option 3, because I'm not sure what it means?

CHAIRMAN FREEMAN: Heather.

MS. STIRRATT: Ernie, the answer to your question is no. Option 3, number 1, contains specific language that notes that are smaller than the longest minimum length. That language would bind to the most conservative size limit that exists in the states.

In other words, for, say, Massachusetts and Rhode Island with 16 inches, that language does not bind Option 1. In other words, it would be to the coastwide minimum as established under the FMP, which is currently 14 inches.

MR. BECKWITH: I hear what you said, Heather, but could you perhaps phrase it a little differently so I can understand it? Under Option 1, what would NMFS do in federal waters?

MS. STIRRATT: They would establish a 14-inch minimum size limit

and the possession limit associated with that in the plan, what has been outlined in the plan.

MR. BECKWITH: What is the possession limit in the plan?

MS. STIRRATT: They vary by state, so that's a little bit openended, obviously.

MR. BECKWITH: Harry, could you help us here?

CHAIRMAN FREEMAN: Harry, go ahead.

MR. MEARS: In what way, Ernie?

CHAIRMAN FREEMAN: Tell us what you're going to do.

MR. BECKWITH: Well, I think it's clear that you would have a 14-inch minimum length. I'm uncertain what the creel limit would be in federal waters.

MR. MEARS: I don't think it's clear as well. I assume it would vary by state when we eventually get to the discussion of annual requirements to achieve whatever target we recently approved prior in this meeting. I do have some comments of my own once Ernie finishes.

CHAIRMAN FREEMAN: Ernie, my own perspective on this, it would appear to me relative to what the feds could do, if there were a coastwide minimum of 14, they could implement that in the EEZ. Bag limit, I think, if it varies from, you know, from nothing to let's say, 10, I'm not sure what they could do because some states may be open and some states closed.

It would seem to me all they could do at the present time would be the minimum size. Now, if it was such that all states could enact something, at least at one time, there may be a way of putting a minimum bag in place. But looking at what states have now, it would seem to me to be very difficult to do. Harry, go ahead if you have other comments.

MR. MEARS: Thank you, Mr. Chairman. I believe there's been a section for federal recommendations in the EEZ since the plan was written back in, I believe it was 1996.

However, the actual step for the Board to recommend through the Commission of exactly what the Secretary should do in terms of the plan, for one reason or another was never forthcoming until pushed to this point in terms of Addendum III.

It's my recollection that previous discussion of EEZ regs was predicated on the fact that tautog was primarily a resource found in state waters, and that in fact existing state regulations could

essentially achieve, through landing and possession limits, the objective of the plan.

I'm very sensitive to the type of analysis and time and intensity of the type of correspondence which would have to pass from this Board through the Commission to the Secretary for eventual response and also the basis of that response with regard to being able to identify regulations which are necessary for effective implementation of an interstate plan.

Also, we have yet law enforcement issues we have yet to discuss relative to their impact in the EEZ and also the requirement for the Secretary to only implement regs that were based upon the best available scientific information to end overfishing.

I will abstain from the vote, but I would encourage the Board to reconsider whether in fact the best approach might be to regulate EEZ harvest through individual state landing and possession limits. Thank you.

CHAIRMAN FREEMAN: I had Gil and then Dave Pierce.

MR. POPE: Thank you, Bruce. At the last meeting, in the summary of motions, there was one to make it 16 inches in federal waters, and that was brought up by David Borden and seconded by Mr. Pierce, but they withdrew the motion.

Does anybody here remember why that motion was withdrawn? Was it out of order? Can it be accomplished with, say, number 3.1 or 3.2? I see some advantages to that, especially with this live fish problem that they have; whatever that problem that they have on the live fish market and so on.

And it might just be the easiest thing that you can do out there outside of three miles is just have a basic size limit because I don't know about bag limits. When you look at number 2, it says possession of tautog with the lowest trip limit in place in any state.

Are there any states that have recreational fisheries that are closed at any time during the year? That could get really complicated. It would have to state when they're open. So the easiest thing that could possibly be done is just go ahead and get it over with and get a 16-inch size limit in the federal waters. That would be my recommendation. It would solve a lot of problems.

CHAIRMAN FREEMAN: Dave Pierce.

DR. PIERCE: Well, I was going to make somewhat of the same comment, that perhaps the most restrictive minimum size could be implemented in federal waters via the 16-inch minimum size as a way to affording the most protection for tautog in federal waters as it

relates to minimum size restrictions. So that's my preference, but the motion, however, is not along those lines.

CHAIRMAN FREEMAN: All right, I had Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman, a question to Harry. If this motion were simplified to ask the Secretary of Commerce to fully implement or to establish a minimum size of 14 inches within the EEZ -- not that I want to do that -- would that be more acceptable or doable and be less complicated than having the possession regulations in accordance with state minimum requirements?

MR. MEARS: It's difficult to respond to that, Pat. The sensitivity I was previously trying to emphasize was that whatever we do, whether it's one regulation or twelve, the regulation, either by itself or in combination with others, must meet the national standards under the Magnuson-Stevens Act, which includes a whole host of factors ranging from part of a plan to end overfishing of a resource as scientifically justified, along with enforceability issues.

So, to kind of comment out of context whether the wording of one particular recommendation would be preferred over another, I just can't prejudge what that response would be.

MR. AUGUSTINE: Thank you. Mr. Chairman, in that particular case, I would at least like to leave the motion as it is and let's move it forward and I call the question.

CHAIRMAN FREEMAN: A question just occurred to me and we don't have enforcement representation, but it would appear to me if we had -- all states have a 14 inch at the present time.

If in fact there were a 14 inch minimum in federal waters and we got involved in a live fish problem, that becomes a Lacey Act violation and not just a state violation, and it may also be a way to really put pressure on illegal live trade business.

But I don't know if you have a comment on that, Harry, whether that would be true or not. And, again, I'm just dealing with the minimum size because all states have that in place. Would that, in your opinion, be -- and fish were taken less than that, transported across state lines be a Lacey Act, or actually from the EEZ to a state?

MR. MEARS: Where is legal counsel when you need them? I don't really know the answer, Bruce.

CHAIRMAN FREEMAN: Jeff.

MR. TINSMAN: Maybe I wasn't listening, but my original reading of

Option 1 was that it would implement size limits and creel limits that would be identical with the state where these fish are landed, rather than the minimum for any state along the coast.

Does this put in place a 14-inch size limit coastwide then from fish landed from the EEZ or is it, as I said first, in line with the regulations in the state in which they landed?

CHAIRMAN FREEMAN: Well, I think, as you heard from Harry relative to what the feds would do, it has to meet certain requirements. So regardless of what we vote, we would ask them to take action. Now whether the Secretary would or wouldn't, that's a legal determination. I think that's what Harry essentially said.

MR. TINSMAN: I'm just trying to clarify what I'm voting on here.

CHAIRMAN FREEMAN: As I understand it, it would require a 14-inch minimum size taken from federal waters, regardless of what a state has in place. John.

MR. CONNELL: Mr. Chairman, I, like Jeff, maybe read Option 1 differently. I was under the impression we were going in the direction that Harry indicated, more in line with what we're going to do with summer flounder, that the state's minimum size and bag would be the rule that would be in effect in the EEZ.

That's what I thought where we were going. I thought that's the direction where Pat goes. Perhaps in rereading it, all it states is state minimum size. Perhaps we should add "and bag."

I've gotten confused by the discussion here, thinking that now all of a sudden in the EEZ we'll have one size limit where somewhere else it might be another.

MR. AUGUSTINE: Thank you, Mr. Chairman. In response, the state minimum would be the state where the vessel would land. So if it's 16 inches in Massachusetts or Rhode Island or wherever it happens to be, it's 16 inches.

And if you're in the EEZ and got boarded by the federal government and you were -- let's say you were taking illegal fish. Any one that's below 14 inches, you're nailed because our coastwide minimum is 14, and I thought that was the interpretation of Option 1 and the intent of it.

MR. CONNELL: Okay, I did, too, but I've gotten confused by the discussion over the last ten minutes.

CHAIRMAN FREEMAN: Jeff.

MR. TINSMAN: This section doesn't mention anything about season as well, and we presently have a season where we have a different

creel limit and a different size limit. I think everybody's going to have seasons shortly here. Shouldn't it also address seasons?

CHAIRMAN FREEMAN: Bill Cole and then Gerry.

MR. BILL COLE: Thank you, Mr. Chairman. Maybe I can try to say this a little differently than Harry did. We spent a lot of time at ACCSP trying to create a situation where the states could have the maximum amount of flexibility within their state boundaries.

The way we accomplished that was by creating a landing law provision. In other words, what we try to do is control harvest, regs, season, and all that kind of stuff at the interface of the state water, right there within your own boundaries.

Now when you come in here and you ask Harry and the feds to do something to impose your individual criteria that work for you at that interface out in federal waters, and then make it apply to some other state, that doesn't work.

And what Harry is also suggesting to you is that once you open up this can of legislative review worms, somebody might just ask the question, well, if 14 is good, why not a moratorium in the EEZ like we have with striped bass?

Now how many of us really want to go there again? So I think what Harry is suggesting is that with no more specificity than you have in this plan, with no more commonality than you have amongst yourselves in this plan right now, that you're probably better served to let your state landing laws get us through the near future.

CHAIRMAN FREEMAN: Let me get Jack Dunnigan and then Gerry.

MR. JOHN H. JOHN DUNNIGAN: Thank you, Mr. Chairman. Let me begin by saying I am here this week as an adjunct ASMFC staff member, so whatever I say, take it with that. Harry Mears and our other colleagues at NMFS will be speaking for the agency this week.

As far as this one is concerned, my understanding is exactly as Bill Cole and Jeff Tinsman have laid it out, that Option 1 is really all about telling fishermen that if you're fishing within the EEZ, you're going to be bound by the regulations, wherever they are, that you land the fish.

We don't want a separate management program for the EEZ, and we just don't want fishermen to be able to be in the position of telling the state of landing, "Well, you can't control me because I caught it in federal water."

This puts the federal requirement to be the same as wherever the fish get landed, and I think Jeff Tinsman is raising you a very

good point. You probably do need to add a couple of words, Heather, to that sentence in the document that says seasons or maybe even seasons or other landing regulations, just to make sure that you've got all of the state possibilities covered.

CHAIRMAN FREEMAN: I had Gerry.

MR. CARVALHO: Thank you. I'm very uncomfortable with the idea that two people can be fishing in the same area and held to two different standards and both fishing in the same fishing group.

The idea that the Coast Guard is going to say you can only have this many fish and they've got to be this long because you happen to come from that state, but the guy next to him can have a different standard -- I think it's almost impossible to enforce that without some real backlash.

I think if we're going to go in this direction, that it ought to be the most restrictive measure in the most restrictive state, and the same thing with the possession. If a state closes or has a closed season or something, then that individual can't bring it back to his state. That's strictly a state issue.

But when we're talking about in the EEZ and we involve fishermen from all the different states, they ought to be held to the same standard.

CHAIRMAN FREEMAN: Gil.

MR. POPE: And to follow up on that, I guess what they're trying to say is that it's better that they have no rules now and wait to figure out exactly what we're going to do later. That may be true, but one of the problems that we're running into now is the problem I was reading over my e-mail about a boat.

I guess it's the Northstar or one of those boats out of either New York or New Jersey where they're out in federal waters and there are no rules, and they were, I guess, caught on their way back in or something like that, I'm not sure.

But, eventually, what happens when we get to the point to where it's 14 inches in the federal and we've got a particular plan that reads a specific size, then you go back and you find out that later on everybody has gone to 15 and then everybody has gone to 16.

If that happens, then you have to go back and you have to change this, number one. Number two, it should be as restrictive as we possibly can outside of our states, especially during this period of time where we're both saying it's overfished, we're overfishing.

This will actually help in the long run, if we had a larger size limit, say, 16. It would help those bordering states that would

allow those fish outside of their zone to be able to get bigger, and it would actually probably add to the rebuilding and it may cut down on their, not only their rebuilding time but some of the things that they would have to do to meet their specified targets in that region.

So, I mean, I hate to be pushing for such a large size limit, but if it was just plain 16, didn't worry about a bag limit or all the rest of it, just make it 16 inches, it would be easier for enforcement. It would rebuild the fishery more quickly than at 14. Those are my comments. Thank you.

CHAIRMAN FREEMAN: Pat.

DR. DONNELLY: To that point, the Northstar was a boat out of Ocean City, New Jersey. All of the members of the advisory panel were in agreement that size limits have no impact on the live fish industry. These are people that aren't checking any place.

They're not reporting their landings. Once they've broken the first law, the rest follow like dominoes. So if you want to make it an extra inch or two, it's not going to have any impact.

Of the 150 fish that they were over, more than 40 percent of them didn't meet our 14-inch size limit, so we can't be looking at that as a deterrent. These people are already breaking the rules.

Quite frankly, you're penalizing the people who are following the rules. If in New Jersey they can land a 14-inch fish and in New York they can land a 14-inch fish, you're penalizing the people who are allowed to land a 14-inch fish.

That came from both recreational and commercial people at the advisory panel level. You're basically penalizing the people playing by the rules because the illegal trade will continue.

CHAIRMAN FREEMAN: Jack Dunnigan.

MR. DUNNIGAN: Thank you, Mr. Chairman. I think the points that Gerry Carvalho and Gil Pope make are interesting ones, but you've got to realize you're just trading one enforcement problem for another.

You're going to have fishermen coming dockside with either 16- or 14-inch fish and the poor enforcement agent at the dock has got to figure out whether it's legal or not.

Let's face it, the United States Coast Guard is not going to be able to make these a priority with all of the things that they have to worry about after 9/11, and the National Marine Fisheries Service is in the same position. This option is intended to implement state rules and make it simple.

CHAIRMAN FREEMAN: I have Gerry again.

MR. CARVALHO: Yes, Mr. Chairman, I don't like to adopt laws that can't be enforced. Based on Jack's statement, if the Coast Guard can't enforce it, then we're in trouble right off the bat.

Second, if it's unfair, like this gentleman stated, in regard to a person conducting an illegal activity, I can appreciate where he is coming from.

When we talk about two people both fishing lawfully in the same area and one person is subject to a 14-inch fish and the other person is subject to a 16-inch fish because his state may have opted to be more conservative in their approach to that resource, then it is the most conservative person coming from the most conservative state that is truly penalized, and that's the last thing we want to do.

CHAIRMAN FREEMAN: Okay, any other comments? We have some time constraints here, so what I'll do is take a 30-second caucus and we'll vote this issue.

(Whereupon, a caucus was held.)

CHAIRMAN FREEMAN: We have the motion up on the screen. We're going to vote. All those in favor, raise your right hand; opposed; abstention; null votes. The motion passed, seven yes, one no, two abstention, one null vote.

Again, we have some time constraints here. There's other meetings that should be going on right now in this room that doesn't include us. Paul has an answer to Section 4, the management measures dealing with the recreational versus commercial, the question that Dave Pierce raised.

MR. PIAVIS: Okay, as far as the recreational landings by pounds, it appears that trajectory will be almost exactly maintained. The weight increase in the landings through the first five waves is about 30 percent.

Depending what kind of assumptions you make for fishing intensity during the second half of the year, it's going to be either slightly less of a slope or about the same slope for the increase in 2001.

DR. PIERCE: So around 4 million pounds?

MR. PIAVIS: Excuse me?

DR. PIERCE: What would it be then, around 4 million pounds?

MR. PIAVIS: Yes, somewhere around there. Probably anywhere

between -- I hate to prognosticate, but somewhere probably between 4.1 million and --

DR. PIERCE: Thank you. I'll go with the assumption that we're looking at, and draw the line, close to 4 million pounds. Where she stops, nobody will know.

CHAIRMAN FREEMAN: Okay, wow we're back to Section 4. Questions have been raised. Any additional questions, any motions? Gerry.

MR. CARVALHO: I move that we adopt Option 1, move to implement regulations to reduce fishing mortality in the recreational fishery, only, to achieve the target according to the scheduled outline in Section 2.2 of this addendum.

MR. ADLER: I'll second it.

CHAIRMAN FREEMAN: Okay, the motion has been made and seconded by Bill Adler. Discussion on the motion? No discussion, are you ready to vote? Anyone need a caucus? All right, 30-second caucus.

(Whereupon, a caucus was held.)

CHAIRMAN FREEMAN: Okay, the 30-second caucus is concluded. We'll now take a vote on this motion. All those in favor, raise your right hand; opposed, same sign; abstentions; null votes. The motion carries five in favor, one opposed, three abstentions, and one null vote.

Okay, Section 6 is the compliance schedule and that's page 21. We need to know the feeling of the Board relative to implementation in 2003. At the present time it's April 1. Should that remain April 1, should it be moved to January 1 or some other date? Any comments? All right, I'm going to ask Heather to just comment on that quickly.

MS. STIRRATT: Okay, just for clarification, the compliance schedule would be as follows. It would be a date in which the states would need to implement the required measures to reach the new alternative F-based reference point in 2003.

So the question before you is would you like to keep with the current standard of April 1, 2003, or do you want January 1, which is the first fishing day of the fishing year? It's the pleasure of the Board.

CHAIRMAN FREEMAN: Okay, comments? Let's not all raise our hands at once. Pat.

MR. AUGUSTINE: We would love April, thank you.

CHAIRMAN FREEMAN: That would be April 1. Ernie.

MR. BECKWITH: April 1.

CHAIRMAN FREEMAN: April 1 second by Connecticut. Any discussion? Any caucus necessary? All right, we'll take a vote on April 1 for 2003. All those in favor, raise your right hand; opposed; abstentions; null votes. The motion passes eight yes, zero no, two abstentions, and no null votes.

Okay, we need a motion to approve the plan as discussed today. I'll ask Bill Adler to --

MR. ADLER: I so move.

CHAIRMAN FREEMAN: Second by Pat Augustine. That's an automatic. Okay, any discussion? The motion is on the board, move to approve the addendum as amended. All those in favor, raise their right hand; no's; abstentions; null votes. The motion passes seven yes, three no; no abstention, no null votes.

Because of our time constraints, there are a few other items that aren't critical that we will defer to the next board meeting. The approval of the nominees for advisors, those people will participate in the process normally. We'll take the action at the next meeting.

All right, that concludes the meeting.

MR. ADLER: Move to adjourn.

MR. AUGUSTINE: Second.

CHAIRMAN FREEMAN: Motion to adjourn and seconded. Approved and meeting adjourned.

(Whereupon, the meeting adjourned 5:25 o'clock p.m., February 18, 2002.)

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