

**PROCEEDINGS
OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
WINTER FLOUNDER MANAGEMENT BOARD**

**May 11, 2005
Radisson Hotel Old Towne
Alexandria, Virginia**

ATTENDANCE

Board Members

George Lapointe, Maine DMR	Fred Frillici, proxy for Sen. Gunther (CT)
Patten White, Maine Gov. Appointee	Lance Stewart, CT Gov. Appointee
John Nelson, New Hampshire Marine Fisheries	Gordon Colvin, New York DEC
Dennis Abbott, proxy for Rep. Blanchard (NH)	Pat Augustine, Chair , New York Gov. Appointee
Ritchie White, New Hampshire Gov. Appointee	Bruce Freeman, New Jersey FG&W
David Pierce, Massachusetts DMF	Ed Goldman, proxy for Assymn. Smith (NJ)
Vito Calomo, proxy for Rep. Verga (MA)	Tom Fote, New Jersey Gov. Appointee
William Adler, Massachusetts Gov. Appointee	Roy Miller, Delaware DFW
Mark Gibson, Rhode Island DEM	Bernie Pankowski, proxy for Sen. Venables (DE)
Gil Pope, proxy for Rep. Naughton (RI)	Harry Mears, NMFS
Everett Petronio, Rhode Island Gov. Appointee	Jaime Geiger, US FWS
Eric Smith, Connecticut DEP	

Ex-Officio Members

Steve Correia, TC Chair	Kurt Blanchard, LEC Rep
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ASMFC Staff

Bob Beal	Vince O'Shea	Ruth Christiansen
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Guests

Howard King, MD DMR
Bruno Vasta, MD Gov. Appointee
Peter Burns, NMFS
Doug Grout, NH Fish & Game
Daniel T. Dugan, Delaware AP
Dick Brame, CCA
Lew Flagg, ME DMR
Steve Heins, NY DEC
Tom Meyer, NMFS

There may have been others in attendance who did not sign the attendance sheet.

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MOTIONS

Move that the Board determine all states' commercial fishery proposals and all states' recreational proposals except New Jersey are determined consistent with the requirements of Amendment 1.

Motion by G. Colvin, second by V. Calomo. Motion carries.

Move that the standard against which conservation equivalency shall be judged is the Technical Committee's view of whether any proposed alternatives are equivalent to the 12-inch, 10-fish, and 60-day season standard that was adopted by vote in February of '05.

Motion by E. Smith, second by G. Colvin. Motion carries.

ATLANTIC STATES MARINE
FISHERIES COMMISSION

WINTER FLOUNDER MANAGEMENT
BOARD

Radisson Hotel Old Towne
Alexandria, Virginia

May 11, 2005

The meeting of the Winter Flounder Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Suite of the Radisson Hotel Old Towne, Alexandria, Virginia, on Wednesday, May 11, 2005, and was called to order at 8:00 o'clock, a.m., by Chairman Patrick Augustine.

WELCOME & INTRODUCTIONS

CHAIRMAN PATRICK AUGUSTINE: Ladies and gentlemen, if you would take your seats please we'd like to get this meeting started right at 8:00. We've only got an hour. Thank you. I'd like to bring the meeting to order. I'd like to welcome you all here, any folks from the public who will have an opportunity to speak later. We'll ask them to do so.

But first I'd like to compliment Lydia Munger on the work that she has done on the winter flounder plan up to this point in time on the amendment. As you know, Ruth has now stepped up to the plate and she will be taking the reins from here.

BOARD CONSENT

So I'd like to have board consent for some of the following things, how about the

agenda? Are there any additions, corrections or changes to the agenda? Seeing none, it stands.

Proceedings of the February 11, 2004, board meeting. I would like to entertain a motion -
- Mr. Adler; second, Mr. White. Any comments? No, none. Good. Thank you. All in favor, aye; opposed; abstain. Carries. The proceedings are accepted.

PUBLIC COMMENT

Public comment, any public comment? Thank you, seeing none we'll move along to Item 4, review and anticipated approval of Amendment 1 implementation proposals. That was supposed to be at 8:14. You know we're 30 seconds into the meeting and we're at Item 4 already. So, Ruth, if you would be -- I'm sorry.

MR. BRUCE FREEMAN:

It's just 8:00.

CHAIRMAN AUGUSTINE:

Well, it's actually 47 seconds after, Bruce, thank you. (Laughter) Ruth, if you would go ahead with the presentation, please, we'll turn it over to you. And then any questions you might have as we go along please hold them until the end of the presentation. Thank you.

**REVIEW/APPROVE AMENDMENT 1
IMPLEMENTATION PROPOSALS**

MS.

RUTH

CHRISTIANSEN: All right, good morning everybody. As you know with the approval of Amendment 1 states are now required to submit implementation proposals for both the commercial and recreational fisheries for winter flounder. So what I'm going to do is present a brief summary of those proposals along with the conclusions drawn by the

technical committee for those proposals.

The Amendment 1 standard for the commercial fisheries states that for the Gulf of Maine stock states must maintain the existing 12-inch minimum size limit and must remain consistent with the adjacent EEZ regulations, which is currently a 6.5-inch minimum diamond or square mesh size, and states must also maintain their existing seasonal closures.

For the Southern New England/Mid-Atlantic stock states must implement a 12-inch minimum size limit, a 6.5-inch minimum mesh size in the end and must maintain their existing seasonal closures. And that mesh size regulation includes a 100 point trip limit for winter flounder if a smaller mesh size is used.

So I'm going to go through each state proposal now for the commercial fisheries. For Maine, they propose a 12-inch minimum size limit, the 6.5-inch minimum mesh size and the maintenance of their existing commercial season closures which makes it unlawful during the months of April, May and June to fish for groundfish in Maine waters.

For New Hampshire, they proposed the 12-inch minimum size limit, the 6.5-inch square mesh size. There is no mobile gear allowed in state waters to take finfish or crustaceans. And they have a closed season for winter flounder from April 1st through June 30th.

For Massachusetts, the Gulf of Maine stock, they propose a 12-inch minimum size limit, the 6.5-inch diamond or square mesh size, and maintaining their existing seasonal closures and which also goes for the Southern New England/Mid-Atlantic stock. It's the same proposal.

For Rhode Island, they propose the 12-inch minimum size limit, the 6.5-inch minimum square mesh size, diamond or square mesh size. This does not apply to mid-water trawls or fyke nets. And they propose to maintain their existing seasonal closures.

For Connecticut, they propose the 12-inch minimum size limit, the 6.5-inch minimum diamond or square mesh size when in possession of more than 100 pounds of winter flounder. And their closed season is from March 1st through April 14th.

New York proposes the 6.5-inch minimum diamond or square mesh size and the adoption of other measures as detailed in Amendment 1 for the commercial fishing of the Southern New England/Mid-Atlantic winter flounder.

New Jersey proposes the 12-inch minimum size limit, 6.5-inch minimum diamond or square mesh size, and the maintenance of their existing seasonal closures by gear type. And for fyke net that's February 20th to October 31st and for all other commercial gear it's June 1st to November 30th.

And Delaware has no commercial fishery for winter flounder and trawling is prohibited in state waters but they do propose the 12-inch minimum size limit.

And so from those proposals the technical committee recommends that all state proposals for commercial regulations, they're found to be consistent with the Amendment 1 standard. The TC recommends adoption of all state implementation proposals for each of their respective commercial winter flounder fisheries.

Moving on to the recreational, the Amendment 1 standard says that for the

Gulf of Maine stock states must maintain the existing 12-inch minimum size limit and adopt an 8-fish creel limit. There are no required closed seasons for the Gulf of Maine stock.

The Southern New England/Mid-Atlantic stock, states must implement the 12-inch minimum size limit and a 10-fish creel limit. And states may have a 60-day open season split into no more than two blocks and 20 days must be closed to the recreational fishery during the months of March and April.

So, once again I'm going to go through each state proposal for the recreational fishery. Maine proposes the 12-inch minimum size limit and the 8-fish creel limit. And currently there is no creel limit on winter flounder and the DMR will initiate rulemaking to establish that limit so that it is effective no later than July 31st.

New Hampshire proposes the 12-inch minimum size limit and the 8-fish bag limit. For Massachusetts, their Gulf of Maine stock, they propose the 12-inch minimum size limit and the 8-fish bag limit.

For the Southern New England/Mid-Atlantic stock they propose the 12-inch minimum size limit, the 4-fish bag limit, and their open season will be from the third Saturday in April continuing for 30 days and from the last Saturday in September continuing for 30 days.

Rhode Island proposes the 12-inch minimum size limit, the 4-fish per day bag limit, and their open season will be again from the third Saturday in April continuing for 30 days and from the last Saturday in September continuing for 30 days.

Connecticut proposes the 12-inch minimum

size limit, the 10-fish per day bag limit, and their open season for winter flounder from April 1st through May 30th. New York proposes the 12-inch minimum size limit, the 10-fish per day bag limit, and a 60-day open season in spring.

And they're in the process of gathering public input regarding the exact season dates but the season will not begin until after March 20th in keeping with the Winter Flounder Board motion that 20 days in March and April be closed.

Delaware proposes the 12-inch minimum size limit, the 10-fish per day possession limit. And they have season options. The Number 1 option, the preferred option is to have an open season from February 11th through April 10th.

Their second option is to have an open season from February 11th through April 30th but with the closure from March 1st through March 20th. And they also will entertain other options meeting the requirements of the 20-day closure during the months of March and April and the 60-day open season.

From these proposals the technical committee finds that all state proposals excluding New Jersey for the recreational regulations are found to be consistent with the Amendment 1 standard.

The TC recommends adoption of these state implementation proposals for the recreational winter flounder fisheries excluding New Jersey. Moving on to New Jersey, New Jersey elected to pursue alternate management strategies that are intended to be conservationally equivalent to the measures specified in Amendment 1.

The methodology to determine the

appropriate combination of seasons, size and possession limits for the conservation equivalency were presented to the technical committee for review on April 11th, 2005.

From this approved methodology New Jersey presented 18 management alternatives for technical committee approval. Each alternative achieves a 43 percent reduction in recreational winter flounder harvest but the technical committee rejects 14 of New Jersey's alternatives because they have a size limit less than 12 inches, an unrestricted bag limit or both.

This is a chart of New Jersey's 18 alternatives. The highlighted ones are the ones that the technical committee would like the board to reject. The ones that are not highlighted are the four that the technical committee approves of with respect to the 43 percent.

So from this the technical committee cannot evaluate the percent reduction achieved by Amendment 1 recreational standards because they feel that these measures are intended to have a stock-wide effect rather than a state-by-state.

The time period in which the individuals states would take the 60-day open season is unknown. And the recreational landings are extremely low in Rhode Island, Massachusetts and Connecticut; therefore, the data precision by state is insufficient for evaluation and monitoring.

They cannot evaluate conservation equivalency proposals without a target reduction standard. And they request advice from the board regarding elements that are appropriate for consideration in developing alternative proposals and that are useful for defining metrics to be used in the evaluation of conservation equivalency. And that is

that.

CHAIRMAN AUGUSTINE:
Thank you, Ruth. We got to a blank screen. Any comments, questions at this point in time? Mr. Colvin.

MR. GORDON C. COLVIN:
Mr. Chairman, let's pick off some low-hanging fruit. **I would like to move that the board determine that all states' commercial fishery proposals and all states' recreational proposals except New Jersey's are determined consistent with the requirements of Amendment 1.**

CHAIRMAN AUGUSTINE:
Do I have a second to that motion?

MR. VITO CALOMO:
Second.

CHAIRMAN AUGUSTINE:
Mr. Calomo. Discussion on the motion.
Mr. Freeman.

MR. FREEMAN: This is going to be a very interesting meeting today. I see this as a continuation of the open session we had yesterday considering the fairness issue. We have gone through this process and we have followed the recommendations of both the board and the technical committee to do our analysis.

And now we feel that there is some arbitrary political intrigue that is coming into this particular situation. We're going to have to object to this motion. We feel that we've been acting in good faith to do this analysis.

We've gone through two iterations at the request of the technical committee and still after going through the process everyone agreed to we're being arbitrarily treated in this instance. We're going to object to this

motion and we'll vote against the motion.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Freeman. Mr. Gibson.

MR. MARK GIBSON: Yes, I'd just like to hear from Steve Correia a little more the technical basis for the I guess lack of comparability between New Jersey's proposals, the ones that were rejected, anyways.

As I understand it there is some lack of equivalency in terms of the spawning stock biomass per recruit and selection patterns and so on and could you just speak to that a little bit.

CHAIRMAN AUGUSTINE:
Thank you. Mr. Correia.

MR. STEVE CORREIA:
Yes, recall at the last board meeting when we were talking about conservation equivalency I requested to ask what the board was trying to achieve with the measures. And the board decided that they did not want to attach a specific percent reduction.

In order to judge conservation equivalency you have to have some sort of measure like that. In order to proceed with New Jersey's proposal I had received a question saying, "What was Amendment 13 trying to achieve?"

And I said it's somewhere between a 37 and a 49 percent reduction which is in the range of sort of what you'd expect to get here. We needed like a 37 percent to hit the threshold and a 52 percent to hit the target.

They took the mid-point of the range and they said, okay, use this for evaluating conservation equivalency, even though it

was not a percentage that came from the board. From the TC's perspective we said, okay, we'll analyze it relative to 43 percent but there are other measures in the plan. There are changes in selectivity and selectivity counts.

So for a given constant F if you have different selectivities you're going to get different production from the stock relative to spawning stock biomass per recruit, expected number of spawning events per recruit. You're going to get different yield per recruit and weight.

Now, I think 12 of New Jersey's 18 proposals have size limits less than what the other states have which means that if they were to achieve the F they still would not be achieving the spawning stock biomass per recruit that the other states were.

And the TC felt that that was an important component and that was the basis of rejecting the 12-inch size limit proposals from New Jersey. One of the problems that we have is we cannot evaluate what each individual state's reductions are going to do because they're 60 days, they go across waves. We didn't know exactly when those waves were going to be.

But the TC decided that any analysis has to be conducted on a wave basis, that we were unable to conduct analysis less than a wave. And so we have 60-day proposals that cut across waves so we can't analyze that on a state-by-state basis.

We have no selectivity curve patterns on a state-by-state basis because the assessment done is done on a stock-wide basis so that was the reason for our advice there. And I might as well throw in the reason for the advice with the bag limit was that if you look at even the wave data for New Jersey

it's extremely variable.

CHAIRMAN AUGUSTINE:
Steve, before we get too much farther into that we've already gone away from what the essence of the motion is so if we could hold that now and get back to it as soon as this motion is either passed or rejected.

MR. CORREIA: Can I just finish this? It will just take a second.

CHAIRMAN AUGUSTINE:
Go ahead.

MR. CORREIA: If you look at some of the percent by waves in New Jersey you will see that in a given wave the percent catch varies from 11 percent to 77 percent which means the outcome that you expect by closing that wave has extreme variability. And that was the basis for the TC saying you shouldn't have an unlimited bag limit so that was the thinking in terms of the TC.

CHAIRMAN AUGUSTINE:
Thank you for that, Mr. Correia. Mr. Colvin, would you like to get back to your motion?

MR. COLVIN: Yes, Mr. Chairman, thank you. Frankly, I don't understand Mr. Freeman's comment at all. It is a very common practice before all the boards of this commission when we're in the situation we are now with many state proposals before us and a technical committee review to make a simple, collective motion to approve those which are uncontroversial and which have technical committee recommendations in support and to separate one or more of those which do not for separate treatment. That's all this motion does. It's not part of any conspiracy and I frankly resent it being suggested.

CHAIRMAN AUGUSTINE:
Thank you for that, Mr. Colvin. Mr. Fote and then we'd like to get back to the motion for any other comments.

MR. THOMAS FOTE: I'll wait until this is taken care of.

CHAIRMAN AUGUSTINE:
Okay, thank you very much. Is there anyone ready to call the question, move the motion? Mr. Nelson.

MR. JOHN I. NELSON, JR.:
Move the question.

CHAIRMAN AUGUSTINE:
Mr. White. It has been called. Caucus. Seeing no need for a caucus, all in favor please raise your right hand, nine; opposed, same sign, one; abstentions, none; null votes, none. The motion carries. Now we'll get back to Mr. Fote, please.

MR. FOTE: Steve, can you explain the difference that we, I look at this the same way I look at summer flounder. In summer flounder we split waves, we have different size limits in states and we do exactly what we did because I think this is the analysis New Jersey did with the same as we do for summer flounder.

They both, one spawns in the canyon, one spawns in the bays. That's really the only difference. And I'm trying to figure out why if you're allowed to do this on summer flounder, if we're allowed to split waves, we're allowed to do this in a bunch of other species, why are we treating winter flounder different than we treat a whole bunch of other species?

CHAIRMAN AUGUSTINE:
Mr. Correia.

MR. CORREIA: The statistical design for the MRFSS is based on waves. We have no information on what the distribution of catch within a wave is. We know that winter flounder has a strong seasonal component.

In order to do a wave analysis you have to assume that the catch rates are uniformly distributed across the wave. The TC felt that was an unreasonable assumption to do. Furthermore, I think if you look at the history of how well these break-up-the-wave analyses work that you will find that they're not very good and that's why consistently you'll find states going over and under their quotas.

And it's not just the fact that it's noise in the system but you have noise in the analysis and you're making an unwarranted assumption, in my opinion. And in fact had I been on the summer flounder I would have presented the same arguments relative to seasonal distributions within waves.

CHAIRMAN AUGUSTINE: We have Mr. Smith and then Mr. Fote. All right, Mr. Smith.

MR. ERIC SMITH: Let Tom.

CHAIRMAN AUGUSTINE: Mr. Fote.

MR. FOTE: Steve, you didn't answer my question. My simple question is we have a formula that we have established over the years for allowing our summer flounder. This has been approved by the board, approved by the technical committee.

If you use this same analysis I want to know not how you feel but I want to know what is

the exact difference between summer flounder and winter flounder that you can't split waves according to the accepted practice of the commission.

CHAIRMAN AUGUSTINE: Mr. Correia.

MR. CORREIA: It's not the accepted practice of the commission; it's relative to the advice of the TC. And this TC looked at the data and said that we will not accept the assumption that there is a uniform distribution of winter flounder within a wave.

We know that there are strong seasonal affects that go on. We know that this stock moves inshore and offshore. We know they come in for spawning and then they move offshore to feed. We have no information. So, for instance, I'll just give you one example.

If you look at the average catch rate between Wave 2 and Wave 3, you will see a large decline. Under the assumptions of looking at waves what you would say, let's say you catch twice as many winter flounder in Wave 2 as in Wave 3, in essence what your assumption is saying is that you will have twice the catch rate on April 30th than you will have on May 1st.

That's what that assumption implies. And we know that's not true. We know these fish move. We know that within some of the waves that part of the waves those fish will not be available. They're not even part of the catch.

Conceivably if a state understands their fishery really well they could say, okay, we're going to close say the second half of Wave 3, get all the benefits when in essence the catch comes from the first half of Wave

3.

That's why we do not want to go down that route. There is no technical basis for doing that. You have to make an assumption that the catch rates are equal across waves. That is an assumption that this TC will not make - not my opinion, this TC.

CHAIRMAN AUGUSTINE:
Mr. Smith. Thank you, Mr. Correia.

MR. SMITH: Thank you. This is going to be a difficult 40 minutes and I think we all know that. I wish it was 2 hours and 40 minutes but I don't know if it would solve anything if we had the more time.

There are two issues I'd like to address and I don't necessarily have to talk to them both right in sequence but I will if it seems like it's the right thing to do. The first issue we have to deal with is what are we calling "conservation equivalency" here.

Now, I think in my view it's the standard that is in the plan for everyone else that has been voted for. I think the board chairman's letter in response to the New Jersey inquiry after the February meeting was, the chairman tried to help as much as he could and he said, well, okay, the number you're talking about is as good as any other number except that the technical committee hasn't approved that and it ultimately -- and this is the key part of the letter -- ultimately it's the call of the board.

So, I would respectfully disagree that there is anything arbitrary going on. Frankly I would argue that the 43 percent is something that was a hope, a straw man if you will, but it wasn't sanctioned by the board.

It has the technical committee troubled.

And I want to now devote my attention -- having said that about the 43 percent, what I really think the standard is that we ought to meet with conservation equivalency.

We had a plan that we took to public hearing and it called for a two-month season in March and April and then the other measures. When we had our January board meeting that was an enormous problem, principally for New Jersey.

And we spent most of the day, quite frankly, trying to solve New Jersey's problem because of the huge problem that created for them. And we bent over backwards. We turned the plan on its ear, much to the concern of Massachusetts.

As Dr. Pierce pointed out they had gone to hearing just with those options and didn't talk about anything else so we created a problem for them by trying to solve New Jersey's problem. But we did it.

We came up with an alternative. And what it basically said was everybody would live by 12-inch minimum length, 10-fish creel limit and a 60-day season and 20 days of Wave 2 could not be fished in. To me that's the standard we have to meet, not some percentage that comes about from the New England Groundfish Plan and where we think the various targets are in that plan.

So my view of conservation equivalency in this context, as much as I know it's going to discontent New Jersey, is if you want to have an alternative that is conservation equivalent to the 12-inch, 10-fish, 60-day season, and you want a longer season out of this you have to compensate with a larger size limit or a lower creel limit.

That's a tough message to send but that's the only thing that then treats all the other states

who are doing the standard fairly. And the proof in that is to look at the tables and the graph where there are some options where New Jersey under their view could have a longer season than 60-days, a lower size limit than 12 inches and a larger creel limit than 10 fish and the argument is that's equivalent to all the other states with the 12 and the 10 and the 60.

I'm sorry, but that makes no sense. The standard we need to meet is 12, 10 and 60 and if you want a longer season, then compensate with a bigger size limit or a lower creel limit. Thank you.

CHAIRMAN AUGUSTINE:

Thank you, Mr. Smith. Mr. Colvin and then Mr. Freeman.

MR. COLVIN: I want to agree with everything Eric said. And he said it very well. I'll make a couple of other points. I really do think that the threshold issue the board should address is the basis of the proposals on a 43 percent reduction.

I believe the board should reject 43 percent as the basis for conservation equivalency and suggest an alternative approach such as Eric has recommended for many of the reasons he suggested.

Let me point out one more. There was a motion made at the January 11th meeting to establish a program based on a 12-inch size limit, a 10-fish bag limit and above and beyond that a 45 percent reduction from a season and the board rejected that motion. That certainly would have resulted in more than a 43 percent reduction if that had been adopted.

So, it occurs to me that in the absence of that kind of guidance and with the decision that we ultimately made at the end of a very long

day where we all walked away, I believe, or drove away in a blizzard, frankly, that we were on the same page and had essentially informed consent and would walk home and do our best to implement them, that substituting a percent at 43 is just not an acceptable way to go to conservation equivalency.

And once we make that decision I think that everything else gets a little clearer. I want to also make one more point because I don't want to hide this from the board. I want everybody to understand straight up where I stand on this. And I take you back to the board meeting and recall the lengthy and somewhat tortuous discussions that we had.

It became clear over the course of the day that a very substantial part of the current winter flounder harvest in this stock unit occurs in Western New York and Northern New Jersey and much of that in the common shared water body of New York Harbor.

It also became very clear I think, if you will recall, that a substantial concern and the need to address in the course of our deliberations over that long day was to assure that there was some degree of equity between the regulations in the two states.

Now, New York has chosen to submit a proposal that is exactly equivalent to what the board decided, to what we all decided at the end of the day on January 11th. We've seen alternative proposals from New Jersey.

And it strikes me odd that some of those proposals that achieve a 43 percent reduction on paper have such things as a 12-inch size limit and a 10-fish bag limit and a season of up to 120 rather than 60 days. That just can't be equivalent.

And from New York's perspective that's

just not in the spirit of the agreement we reached on January 11th and it's going to be a matter of grave concern to New York state if we don't end up with some very equivalent and frankly equitable regulations in that shared water body. Thank you.

CHAIRMAN AUGUSTINE:

Thank you, Mr. Colvin. Relative to the first part of your comments when you agree with Mr. Smith's characterization of where we were and what we agreed to, you went on further to say that we should clarify, the board should clarify, to be on the same page that this 43 percent is not a number we should be working with.

If the board so desires and believes that a motion would be in order to make sure we are clear on the record I would entertain a motion from you, Mr. Colvin.

MR. COLVIN: Thank you, Mr. Chairman. I'll defer to Mr. Smith for a motion because I thought he had a very good way of putting the proposal on how to address this other than a percent. I would also mention that it is regrettable that we got this far with this 43 percent business.

I, too, noted that the chairman's letter was very specific and cautionary that the target percentage was offered to assist but was not definitive, was not dispositive and was subject to board review and approval.

Nonetheless, obviously New Jersey has invested a great deal of time, energy, and attention to proposals that are based on that number and it's regrettable that we come here today with some of us obviously very opposed to that number.

I want to assure everyone that the board members were not consulted and that board member advice is not reflected. We are not

changing signals here. To the contrary I think some of the board members from the very beginning and certainly from the date of the first technical committee deliberation on this matter where alarms were raised about the 43 have expressed concern about it. Thank you.

CHAIRMAN AUGUSTINE:

Thank you, Mr. Colvin. And to that point I regretfully say to New Jersey I'm sorry I wasn't clear in that letter but the intent was to try and give you some guidance along that direction. Do you want to jump in before we have Mr. Smith's motion? Mr. Correia. And Mr. Freeman, I haven't forgotten you. You're next.

MR. CORREIA: I just want to be clear from the TC's perspective that the TC did not say whether the 43 percent was valid or not. We had the 43 percent, we used that as a stick. We didn't call it conservation equivalency.

We said here is 43 percent that came from the letter. These proposals meet it. But we drew no conclusions as to the appropriateness of the 43 percent. We felt that the board should come up with that value.

CHAIRMAN AUGUSTINE:

Mr. Freeman, to that point? If not we'll go to the motion and then come back to you. Your choice.

MR. FREEMAN: Well, let's calm down here a minute, Mr. Chairman. I think we're just trying to push this a little too fast. There are a number of issues I think need to be raised here. We're moving forward in good faith to try to find a system that works.

As indicated several times, the major fishery

exists in Northern New Jersey and Western Long Island. The issues at other states, the bag limits and seasons and so forth, the testimony from their advisors indicates they're not catching fish.

They're not catching fish at four fish. They're not catching fish at ten fish. They're just essentially not catching fish. The information that we're using is being criticized by the technical committee as not being valid for the states.

Essentially the information we have that's being used is from the catches that exist and 90 percent of that is coming from New Jersey and New York. So if anything, the states, particularly of New Jersey, probably has more argument for using existing wave data than anyone because that's where the catches exist.

The argument is that there is great variation in the catch of New Jersey. If one goes back and looks at the technical information the reason for that is the catch in 2002. This is the information that has been rejected by many states dealing with summer flounder, scup and sea bass, because the new contractor in 2002 didn't execute the sampling properly.

The fisheries service in the MRFSS sampling essentially rejected the first four waves' data, averaged three years prior to that and used that for summer flounder, scup and sea bass which has caused a tremendous amount of difficulty for a number of states, particularly north of New Jersey and that issue has been discussed at length, both through the commission and through the Mid-Atlantic Council.

The 2002 data for New Jersey indicates that the spring fishery accounts for 14 percent of the catch. All the other information from

other years indicates it's somewhere between 50 and 70 percent, not 14.

On the Wave 6 data which is indicated by the technical committee as having great problems is that between 50 and 80 percent of our catch -- I'm sorry, between 15 and 30 percent of our catch is made in Wave 6. This would be the November-December.

And yet in 2000 85 percent-86 percent of our catch is indicated to be made during that wave. If you essentially reject taking the information from 2002 then the rest of the information certainly fits the pattern and avoids this problem of variation.

And yet the technical committee didn't discuss this at all which is somewhat surprising knowing the problems that the 2002 data has already shown in other fisheries. The issue that we face is that the winter flounder fishery is very important to New Jersey, both economically and socially.

That analysis has not been done by the commission and this is one of the criticisms. We look at the biological information and base our decisions almost entirely on the biological consequences.

It was indicated at our public hearing where we had in the order of 400 people show up to demonstrate the fact that it's a very important fishery and dramatic changes are going to have serious economic consequences to some of our coastal communities which depend on this fishery.

And yet when we come to the board these facts are simply either overlooked or not taken seriously. We have gone through the process that the technical committee has indicated. And as I said earlier this is the second iteration.

The first, we did the analysis as all of us do with summer flounder and that was rejected by the technical committee. They held higher standards. We went through that process in good faith.

And now we're coming to the board and essentially all this information has been rejected or it is suggested to be rejected. We have some serious concerns about the way this process is going forward. The analysis that we went through was demonstrated on the board and you all have copies of that.

We don't necessarily advocate a size less than 12 inches. And we don't advocate not putting the bag limit in place. The most recent information we have, we do have catches of 30 fish, 29 fish, 25 fish, 26 fish.

These aren't artifacts of an imagination. These are actual samples that the MRFSS contractor has found in our area. It doesn't necessarily mean we support an unlimited bag limit. But this is the analysis that we went through that now people are objecting to. And we find it very interesting that we now have different standards every time we try to do an analysis.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Freeman. Mr. Correia then we have Mr. Smith and then we have Dr. Pierce.

MR. CORREIA: Bruce, you're mischaracterizing the TC's approach. We looked at the seasonal analysis and we said if 43 percent is the standard and the only standard and you don't count selectivity, then you will achieve it.

And we gave a warning about the variability in the data. So, to characterize that we've rejected your seasonal closure argument is incorrect because our advice was quite clear.

If that was the standard then you meet the 43 percent.

When you talk about people catching 30 fish, 20 fish, that's a rare event. Your analysis show that 99 percent of the trips, 99 percent of the catch, are from people who catch 15 fish or less.

Ninety-seven percent of the catch is from 12 fish or less. And 95 percent of the catch is from 10 fish or less. That's the analysis that your technical person brought to the TC. And we weren't arguing against that.

And our advice was with the 43 percent with the closure. We didn't provide a higher standard. We said if the board chooses 43 percent and that's the only choice and you don't count selectivity then it meets it.

If you count selectivity then you're going to have to make changes to that or go with the 12-inch fish. You know we're not, the TC doesn't get involved in politics. We're just providing advice to the board.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Correia. Mr. Smith.

MR. SMITH: Thank you. I didn't realize I'd be called on to draft a motion but I did it while I was listening. And in spite of the "bull in the china shop" way I sometimes approach things I really don't like conflict.

And I'm wracking my brain trying to find a way out of this but frankly I don't know a way to solve New Jersey's problem without creating four or five other problems in the Southern New England stock. And I'm saying that sincerely.

I have a lot of empathy for their concern. We've debated all the other things about the

relative impacts that the other states have gone through because of the management actions taken in the '90s and stuff and it's too late to do that.

So, I'm going to offer the motion that Gordon thought I was drafting and it's what I would do if I was going to draft it myself. **The motion would be the standard against which conservation equivalency shall be judged is the technical committee's view of whether any proposed alternatives are equivalent to the 12-inch minimum length, 10-fish bag limit, and 60-day season standard that was adopted by vote in February of '05.**

CHAIRMAN AUGUSTINE:
Do I have a second? Mr. Colvin. Let's wait until we get it up on the board and then we have Dr. Pierce, Mr. Freeman and Mr. Gibson.

DR. PIERCE: All right, I had raised my hand before the motion was made but I think what I have to say is still relevant to the motion so I'll make those statements.

CHAIRMAN AUGUSTINE:
Please, go ahead. Why don't you get started with it. We're just about finished with it.

DR. PIERCE: Okay, the motion makes a great deal of sense. It certainly clarifies what we had intended back at our last board meeting so I can support this particular motion.

I had hoped that we would have arrived here today and we would have had some options that would have put us in a strong position to approve a New Jersey recommendation because I had hoped that they would have made every effort possible to get on the same page as New York and of course to be

on the same page as the board, the board decision at our last meeting.

That would have been highly desirable. Obviously, it has not happened. I should note for the benefit of the board that Massachusetts made that effort to get on the same page. We actually had to change what we had originally intended, to go with what we eventually did propose to this board and has been accepted by the board.

Actually we decided to be more restrictive than what we were required to do. We decided that it made sense to be consistent with Rhode Island. We share the same waters; therefore, in order to not confuse fishermen, in order to have the same conservation benefit we would be consistent with Rhode Island.

So we have the same measures. It makes a great deal of sense therefore every effort should be made by New Jersey to have the same measures as what New York has which are consistent with the board decision at the last meeting.

Now, the reason why I feel this motion, one reason why I feel this motion is appropriate is that I look at the table that shows the different options put forward by New Jersey and the ones that the technical committee has said do provide a significant reduction in harvest, those particular recommendations or those particular options actually were recommended by the technical committee as being approvable with specific caveats.

And Steve has done a good job in his memo to us describing what those caveats are. And the caveats are that there will be no recoupment. That is an important caveat for us to reflect on because I really do believe there will be recoupment and that the percent reductions that have been calculated

and shown in Table 1 actually will not be realized.

So I have no confidence in those particular options as doing the necessary job. So those options, the Table 1 options, that are in white, that are not bold faced, will not do the job. They're not consistent with the board vote at our last meeting.

And therefore I'm led to conclude that the only option that's acceptable to this board would be the option consistent with the motion that has been made by Eric Smith and that is the 12-inch minimum size, the 10-fish bag limit and then that 60-day season which, let's face it, is probably most important since we all know that the closed seasons are the best way to deal with the recoupment issue which I think is a real significant issue for us to consider, to factor into our decision-making process and to lead us to support and then adopt this particular motion.

CHAIRMAN AUGUSTINE:
Thank you, Dr. Pierce. Mr. Freeman, to the motion and then Mr. Gibson and then Mr. Fote.

MR. FREEMAN: Eric, the maker of the motion, the way I read it there is no conservation equivalency. You're saying there has to be conservation equivalency but it has to be equal to a 12-inch minimum size, 10-fish bag and a 60-day season. The question is, what did you have in mind?

CHAIRMAN AUGUSTINE:
Mr. Smith.

MR. SMITH: I explained that earlier. If you want a longer season you need a larger size limit or a lower creel limit then it's equivalent to a combination of the

three standards that everybody else — I freely admitted that's a difficult thing to have to say to you but to me that's the only responsible thing to do.

MR. FREEMAN: Well, the issue is there is conservation equivalency in the plan but if this motion passes you set the standard and there really is nothing you're going to do.

You may give up — you say you could give up part of a season which the technical committee says no you can't if it's in a wave, and then you could change your bag limit or your size. I mean essentially there is no conservation equivalency. What you're saying is here's what you're going to do, period.

CHAIRMAN AUGUSTINE:
Response, Mr. Smith?

MR. SMITH: Through you, Mr. Chairman. The intent of the motion is to level the playing field on the three management measures we're using. If a state chose to have a 30-day season, they could potentially have an 11-inch size limit or a 15-fish creel limit.

Or if they wanted to have a longer season they could do it at the expense of a size limit and a creel limit. That was the intent of my motion. The technical committee and the board, as Gordon Colvin points out, we tried for a percentage at the last board meeting and we couldn't get there. And to me if we're going to judge an alternative plan it has to be equal to what all the other states do. Thank you, Mr. Chairman.

CHAIRMAN AUGUSTINE:
Thank you for that clarification, Mr. Smith. Mr. Gibson.

MR. GIBSON: Thank you, Mr. Chairman. I guess in the interest of completeness and in view of the technical committee's discussions about the percent reduction in the chair's letter I'm wondering if we ought to also in this motion reject the 43 percent number for completeness in view of the amount of discussion that there has been around it so that there is a clear statement from the board that that's not the standard.

CHAIRMAN AUGUSTINE: Good point, Mr. Gibson. Mr. Smith, would you like to include two or three words or whatever it takes to clarify that?

MR. SMITH: Frankly, Mr. Chairman, I understand Mr. Gibson's need for the clarity of the issue but I think it becomes more of a flashpoint in this motion. This motion is a difficult enough thing for us to try and deal with. We may want a separate one to deal with that so there is no ambiguity but I wouldn't do it in this one. Thank you.

CHAIRMAN AUGUSTINE: Thank you, Mr. Smith. Mr. Fote.

MR. FOTE: I have two questions. One, did the technical committee then analyze the 43 percent reduction that New York is — 53 percent reduction that New York is using based on the same criteria? You've basically done it because I see a percentage reduction. Is it based on what this motion is or is it based on something else, the 53 percent reduction?

CHAIRMAN AUGUSTINE: Mr. Correia.

MR. CORREIA: We as a technical committee did not entertain an analysis from New York for 53 percent. We

applied the same standard that we did to New Jersey saying that you could not provide analysis within units smaller than the wave so that was very consistent.

The 43 percent was not based on a TC analysis. The 43 percent was based on the mean of the range expected from Amendment 13. I was asked what is Amendment 13 going to do. And I said it's going to be in the range of 37 to 49 percent, a large reduction.

And then someone said, "What's the mid point of that?" Forty-three percent. And that's how that 43 percent got in the letter. We never looked at analysis of New York with 53 percent.

In fact, the TC's advice was that we could not analyze the whole proposal coast-wide and we couldn't do analysis state-by-state because most of the 60 percent, 60 days goes across waves. On top of that you have one of the major players, New Jersey, that didn't put a 60-day proposal on the board anyhow. So without that you can't do the analysis.

CHAIRMAN AUGUSTINE: Thank you. And your second question, Mr. Fote.

MR. FOTE: No, I mean it answers my question. Then we just approved a 53, the board not the technical committee, the board approved New York's 53 percent reduction based on a reduction of catch not based on that.

I just want to get clear if somebody can answer my question there because from what I understand right now from the answer I got from the technical committee is that they did not evaluate New York's 53 percent reduction. They basically gave it the

same thing. Where New Jersey's at least was evaluated and they said it met the 43 percent reduction.

CHAIRMAN AUGUSTINE:
Response, Mr. Correia, and we've got to get back on the subject.

MR. CORREIA: Yes, we used a very simple standard. We said, New York has a proposal. Does it meet a 10-fish bag limit, a 12-inch limit, a 60-day season with 20 days out of the first wave? Their proposal met that and we approved it. We did not go with percent reductions. The board was quite clear at the January meeting that they did not have a percent reduction.

The only reason we used the 43 percent reduction was because I received that in a letter and we needed some standard to judge the New Jersey proposal. And we provided that advice with the caveat that we're not making any statements on the validity of the 43 percent and we asked the board to provide advice on that.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Correia. Mr. Lapointe.

MR. FOTE: My second question, Mr. Chairman.

CHAIRMAN AUGUSTINE:
Go ahead, Mr. Fote.

MR. FOTE: It's not my question, I'm going to make a statement here. Conservation equivalency has been pretty clear to me over the years. We use conservation equivalency to basically get a reduction in catch that is equivalent to what we're supposed to be doing.

I mean that's how we base it on summer flounder, how we base it on scup, how we

base it on striped bass and other species that we do use. And conservation equivalency is based on what your catch is and a reduction from that catch to get a 43 or 50 percent reduction.

We asked for a number. The number wasn't given at the last board meeting. There was a lot of debate on it. I appreciate all the debate that went on but we had to basically take a shot at something.

And we looked at what the commercial reduction for 49 to 43 and we basically took a middle road, especially since the commercial catch, especially up in New England and certain areas, is much larger than the recreational catch where we wind up being about 10 percent of the fishery if I'm not mistaken. And we took a fair shot.

What I find most troubling is not the rejection but the different standards that I find are conservation equivalent. Of course, we look at some states here. Some states are putting in regulations that will not do a reduction in catch from their previous that will match 43 percent. Some of them will be a lot less than 43 percent.

I understand that in history before those states did take different types of measures. The most troubling part I find of this is the same problem we have run into with scup, sea bass, tautog over the years, because New York wants to do something and it basically comes in here and New Jersey is supposed to do something.

Now I fish in South Jersey. I fish Barnegat Bay. That area has a winter flounder fishery. That is totally different from the fishery that goes on in the New York Bight yet we're going to disenfranchise those people more with what's going on there.

Now, the MRFSS figures don't show those figures so they don't do the intercepts at the time there. But it's a viable fishery in Barnegat that goes on. And you know we are being subjected to something again.

Now if you make a state-by-state decision, that's fine. But it shouldn't be a bag because we have different size limits as it goes in summer flounder and other species from state to state. It's a problem.

When we have a coast-wide we don't have the problem like we do when we have it with striped bass but we do that. Even with striped bass we use conservation equivalency. It's a natural method we have used over the years. If that's not what we're going to do, then I'll basically go back and tell people but it sends mixed messages. It really does.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Fote. Any more discussion on the motion? Mr. Colvin and then we'll go to the audience and then Mr. Freeman.

MR. COLVIN: Thank you, Mr. Chairman, a couple of specific things that arise. I'm prompted by Dave Pierce's comments to acknowledge, again going back to our January board meeting, we did.

I think I heard an analogy by our commission chairman yesterday about how often as not our approach to these problems is that we get into a wrestling match where we tumble down hill and are wrestling all the way and then when we finally hit the bottom maybe we stop.

And I think that's a good way to look at how that board meeting went. We wrestled all day to come to what we felt was a consensus, a solution that we could all walk out of the room and implement.

And I recall feeling distinctly at the end of the day that perhaps in our effort to resolve problems, particularly problems for New Jersey and New York, we might not have done as well as we could by Massachusetts and Rhode Island who already had very conservative regulations, particularly very low creel limits, in place.

And so again in the spirit of something I heard yesterday I want to specifically acknowledge Massachusetts' effort to address this problem after their original proposal could not be effectively reviewed by the technical committee to come back and put something in place that is consistent with what we adopted.

I think it's appropriate to do so. I also want to acknowledge something I heard Bruce say a minute ago and I don't know whether this is, you know, whether we're past the point where this can help or not.

An awful lot of attention and concern in this entire issue boils down to that Wave 6 estimate in 2002. Let's face it, we talked about it very clearly at the meeting. One of New Jersey's board members specifically stated that it was a bogus number and it to a very substantial degree created kind of weird results when you looked at season closures because that number was in the baseline time series.

If you take it out, it might change things. And I guess I don't know whether any of New Jersey's proposals that they submitted excluded 2002 because it might have changed the length of the season.

You know I alluded to this before, conservation equivalency with 12-10-60 comes out at 12-10-120, that's ridiculous. But if you took 2002 out I don't know if that

changes that or not. I just don't think we have that information.

But you know I acknowledge that Bruce pointed out that that might be something that they'd be willing to look at. Again, it may be too late now but I want to accept that viewpoint and say that that could have helped.

Just one more thing, Mr. Chairman, we've sort of had this discussion about, you know, whether or not the resource is in as much trouble in the southern part of its range as it is in the central and perhaps northern part of the inshore range.

And you know let's be aware that even in New Jersey winter flounder landings have really plummeted in recent years. We've seen those landings drop from over a million pounds in 2000 to under 100,000 last year of fish landed.

So it seems that even in the southern part of the range, the inshore stock of winter flounder is in freefall. And there needs to come a time when we stop talking about, you know, percentages and conservation equivalencies and economic impacts and everything else and start really addressing what is really important here which is what is happening to this resource.

If there were no offshore stock of winter flounder or maybe even if there were but if there were no offshore stock and all we had to look at were the inshore landings and the status of the inshore fisheries from the Gulf of Maine to New Jersey I'm not quite sure that we'd be thinking about this resource the way we are right now.

I'm not sure that what I see doesn't look very much like striped bass did in 1979-1980-1981 when we went to Congress and

got an emergency striped bass study done and when we started all kinds of extraordinary measures to address how to rebuild this resource and get outside the box of controlling fishing and doing other things. I think that's where we need to go with winter flounder and I hope we get there real soon. Thank you.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Colvin. We are pressing into reiterating what we've said before and maybe adding a little bit more. Unless we have new information at this point I'd like to recognize Mr. Freeman as the last comment and then Mr. Correia to respond to that.

MR. FREEMAN: Thank you, Mr. Chairman. Two things I want to raise, one, we need to realize, keep in mind the big picture as was indicated early on that the inshore fisheries of the states, particularly the recreational fishery, is accounting for between 5 and perhaps as much as 20 percent at the outside of the mortality.

The real issue here is what is going to happen to the commercial fishery in the EEZ. And under Amendment 13 which we certainly understand the economic consequences and the biological consequences of Amendment 13 which New England has been struggling with for over a year now, that winter flounder is a component of a number of species and there will be a reduction.

And we understand relative to 13 that that reduction is not a precise number. That's why we're given a range, a reduction between 37 and 59 percent. I think from our standpoint if it's closer to 59 percent that's good, it will probably work out.

But, we're complementing that reduction

with what we can control in state waters. And we believe that the commercial regulations we have in place will accomplish I think in most instances at least a 50 percent reduction.

We used the 43 percent to try to get some standard on which we could measure against and perhaps that 43 should be 50 and if it is 50 certainly we would use it. But the inshore catches really have a very minor part to play in this whole game.

But they do have serious consequences, especially to us. Our attempt on this was to go through the mechanics, the mathematical computations that come up and what they ended up, they ended up. And this was this table of 18 alternatives.

We did not -- and some of these obviously disturbed a lot of people and surprised us -- but we did not believe that we would have a size limit less than 12 inches. And what we wanted to do was go back to our council with these alternatives, make recommendations, and our recommendation would be a 12-inch size.

We also believe an unlimited bag limit was unreasonable. We do have very large catches and from our standpoint it would probably make more sense to spread those catches out over more fishermen than have people making 30 fish catches. So realistically we're looking at something between a 10 to 15 fish bag limit which is very close to, either the same or very close to what we have.

And as we indicated early on that despite the problem we have with that 2002 information that our important season is the spring season so we're looking at having a 60-day season in the spring of the year and it would start after March 20th. So we're looking at a

March-April-May, mid-March to mid-May fishery.

But nevertheless we went through the calculations as best we did in good faith to come up with the alternatives and as I indicated, the great majority of which we rejected from an agency standpoint.

We agree, Gordon, that we do have concerns in the fishery. The fact we do have large catches doesn't preclude us from having concern. We believe we do need to make severe restrictions, particularly in our spawning areas, and are willing to do that.

But we have difficulty essentially rejecting many of these calculations we did out of hand when we followed what we believe to be the guidelines that were provided us. And so we still philosophically have some difficulty with rejecting a large number of these and yet we weren't anticipating using them.

CHAIRMAN AUGUSTINE:

Thank you, Mr. Freeman. Any final comments, Mr. Correia?

MR. CORREIA: Yes, if you look at New Jersey's proposals the biggest bulk of the reduction is coming from the Wave 6 closure. That's where the bulk of that 43 percent reduction is coming from.

If you remove that 2002 data point, the percent reduction you're going to get from Wave 6 is actually going to go down not up, so that 85 percent is actually helping New Jersey with their percent reduction.

You take that out the average percent coming out of Wave 6 is going to drop which means that the overall percent reduction is going to drop. And finally I want to say that we did not reject New

Jersey's closed area analyses. We said if you use 43 percent they meet it. We questioned whether 43 percent is an appropriate standard.

CHAIRMAN AUGUSTINE:
Thank you. And I think it's time for us to seriously consider to move that. Mr. Smith called it.

MR. SMITH: Actually I was asking for time but if you're going to do the motion.

MR. FRED FILLICI: **I move the question.**

CHAIRMAN AUGUSTINE:
Mr. White did it and Mr. Frillici did it also. So second? Done. Do we need a caucus? Yes. Okay, we'll read it into the record. The motion reads, **move that the standard against which conservation equivalency should be judged is the technical committee's view on whether any proposed alternatives are equivalent to the 12-inch, 10-fish, 60-day season standard included in Amendment 1.** Motion by Mr. Smith; seconded by Mr. Colvin.

All in favor of the motion, a show of your right hand, please; those opposed, same sign, one; abstentions, one; null votes, none. The motion carries. Mr. Fote, please.

MR. FOTE: Gordon pointed out something interesting when he said "related to striped bass." I related it more to the weakfish discussion that we had yesterday. Massachusetts, Rhode Island, Maine has done some serious cut-backs over the last couple of years on their inshore fishery and we have not seen any recovery.

We should have seen recovery on a fish that

spawns similar to summer flounder and a comeback. We've seen the offshore where they don't depend on the estuarine and my problem here is I'm seriously concerned about the estuarine habitat of winter flounder and I think that's got to be having some dramatic effect, what we have changed over the last couple of years.

And I think it's important that we find the results because even with these cutbacks, and Maine and Massachusetts and Rhode Island have taken stringent cutbacks over the year, they have not seen any recovery.

We've seen it in the offshore fishery; we have not seen it in the inshore fishery. And that's my concern here. And you know Steve that's a question I've asked a long time and what is going on with winter flounder. Is it because we're putting so much chlorine in there and things like that? I'm not sure and I'm trying to figure it out.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Fote. Mr. Correia, we're bumping against our time and I want to know if there is any other business to come before the group. Comments from Mr. Colvin after Mr. Correia. Mr. Correia, Mr. Colvin and Mr. Freeman and that should wind it up. And Mr. Lapointe, thank you.

MR. CORREIA: Yes, I agree. I mean it's a combination of all things. The thing is the onshore fishery, the fishery in the offshore consists of fish from the inshore. And the fishing mortality rates still appear to be too high.

We'll get an update on this one so it's not like the fishing mortality rates are reduced on the stock and the inshore fish move offshore. But I agree there are other things that are going on.

The only other comment I want to make relative to this motion is, again, the alternatives can be very difficult to analyze. We still don't have a percent baseline to work from. And actually in this case it's going to be even more difficult because you basically have six waves that you can open and shut for equivalency and then you've got the bag limit. I mean you can do it sort of like that as long as you're comparing within wave.

CHAIRMAN AUGUSTINE:

Thank you. I think we have Mr. Colvin, Mr. Freeman, then Mr. Lapointe.

MR. COLVIN: Thank you, Mr. Chairman, I'll try to be brief. The comments just made, I think Bruce Freeman's last comment and the exchange between Mr. Fote and Mr. Correia, prompts me to suggest that this board should give very strong attention -- I believe there is going to be a review this summer of the initial effectiveness of Amendment 13 in addressing mortality reductions in groundfish stocks, including offshore flounder.

I think given what we're in the middle of doing here and the pain associated with it, it's perfectly appropriate for the board to strongly attend to how effective Amendment 13 is going to be in addressing reduction in winter flounder mortality and frankly in engaging fairly directly in a dialogue with the New England Council to try to -- particularly if we learn that we're not getting as much reduction as we hoped or not getting reduction, frankly, that's equivalent to what we will achieve in the inshore stocks -- to ask the council to do more, to target measures that further reduce exploitation of offshore flounder.

I think we need to explore the hypothesis

that is consistent with what Steve Correia just said that building those offshore stocks will help us rebuild the inshore stocks. I'd like to pursue that connection.

We've got to pursue everything, as I said before, that will make progress on the inshore winter flounder and I think that means we need to very actively and frankly aggressively engage the New England Council as this review comes forward. Thank you.

CHAIRMAN AUGUSTINE:

Thank you, Mr. Colvin. Mr. Freeman.

MR. FREEMAN: I'm trying to understand the implications of this motion that was just passed. And I have a question to the board relative to working within the 12-inch, 10-fish bag and 60-day season.

The technical committee had difficulty with any fish less than 12 inches. That issue obviously has been resolved but the technical committee also indicated it wouldn't use the information within a wave.

And if we, for example, determine to go with an 8-fish bag limit and have a longer season, which the board will allow under this motion, the technical committee is going to come back to you and say, well, we can't analyze it. We don't have that option.

Of if we decide to have something less than a 60-day season and a larger bag we're going to get back in this dilemma of the board directing one thing and the technical committee saying, well, we either can't analyze it or we don't recommend that you approve it.

And that's the problem we've had. And I don't see this improving so I need some direction as to what latitude we have or will

have if we determine that we want to change our bag, season or size limit.

CHAIRMAN AUGUSTINE:
Mr. Correia.

MR. CORREIA: Yes, I think it's going to be difficult. The only way we can do the analysis is if you were to put your 60-days in one wave and say, okay, I'm going to have say a Wave 3 fishery with a 10-fish bag limit and 12-inches.

And you say, well, I want to add Wave 2 to that so now I want to go with Wave 2 and Wave 3 fishery and then we'll turn around and say, okay, to do that you're probably going to need to have a bag limit of four. You could do that kind of analysis. But if you say my 60-day season cuts across Wave 2 and Wave 3 I have no clue how we're going to do the analysis.

CHAIRMAN AUGUSTINE:
Mr. Freeman, a response.

MR. FREEMAN: Well, we don't either and that's what puzzles us. And yet what we've seen in proposals, that the technical committee has approved that happening. So, again, we have standards where some of you can do this but others can't and that's where we have difficulty.

CHAIRMAN AUGUSTINE:
Mr. Correia, a final comment.

MR. CORREIA: Yes, that's not what we did. We did not look at New York's proposal and say, "Did this meet 43 percent." We had a standard which said 10-fish bag limit, 12-inch size limit, 60-day season with 20 days taken out of Wave 2.

And New York's proposal met that criteria. We did not look at percent reduction. We

did not look at percent reductions for Rhode Island, for Connecticut, for Massachusetts. All we looked at was did it meet a 12-inch limit, 10-fish bag limit, 60-day season with 20 days out of Wave 2. If your proposal met that, you were in.

CHAIRMAN AUGUSTINE:
Thank you. Final comment by Mr. Lapointe before we --

MR. FREEMAN: Mr. Chairman, let me just follow through because I haven't gotten an answer yet.

CHAIRMAN AUGUSTINE:
Go ahead, Mr. Freeman.

MR. FREEMAN: So this motion allows the latitude to do these things but the technical committee is saying we don't know how to do it and our recommendation to the board will be either we don't know how to do it or we don't suggest you approve it and yet we're given the latitude to do that.

I think the board needs to make a determination as to what can be done under this because we still have some latitude here as we understand it, at least from the board. And we would like clarification what we can do.

CHAIRMAN AUGUSTINE:
Fair point. Comments from the board. Mr. Lapointe.

MR. GEORGE LAPOINTE:
It was not to that point so I'll hold off for a minute if anybody else has a comment.

CHAIRMAN AUGUSTINE:
Okay, Mr. Smith. Thank you, Mr. Lapointe.

MR. SMITH: I'm going to

suggest in one sense we're kind of fortunate because we're really talking about a fishery where the heart of it is next spring and it's not often that we have the time to give an answer to Bruce that maybe he can go back and design a measure that the board will approve based on technical advice.

In the motion I offered I think you'll recall that it was very clear that I was not saying analytically precise technical committee review. What I said was the technical committee's view on whether something matched up.

And that's unfortunately how it is going to be with winter flounder because the data variability doesn't give you any better sense. And that's why we've been around and around with this before.

What I was going to try before, it was just too late, the question had been called, Bruce, through you, Mr. Chairman, on New Jersey's alternatives there is one that got quite close to the standard and that was the Option 9 which had a 12-inch size, a 12-fish creel limit and a 92-day open season.

Well, obviously the 92 days is something at issue but also I think everybody has, almost everyone has concluded 43 percent if it were the percent probably would be too low. Even in our own document it says our target for our own plan to hit the target fishing rate would have to be a 53 percent reduction so 43 is clearly too low.

I would urge New Jersey to look at that Option 9 and come back to the board for the August meeting with something that in fact maybe they work with New York on it and they work out a composite 12-inch, 12-fish, open on March 20th, close on May 31st so now you have a 70-day season, two fish off a little bit.

Maybe that's how you ease into something where there is a common plan for the people in the New York Bight that are all fishing the same puddle, if you will, and try and work it out that way. I don't think we can do it today but if you want some help from the board, I mean that's how I would approach this and come back in August.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Smith. Mr. Freeman.

MR. FREEMAN: I appreciate that because it does put us in the horns of a dilemma and something like that is certainly in our eyes very reasonable and we'd be willing to do it. We just need guidance on how to move if we want to deviate somewhat from the motion so I do appreciate that.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Freeman. Mr. Beal, do we have problem dealing with that in August.

MR. ROBERT E. BEAL: Well, you know the implementation date for Amendment 1 is July 31st; however, if I remember right the current New Jersey summer flounder recreational management program won't — winter flounder, wrong season — their fishery is closed in August anyway so there probably isn't a lot of impact by waiting until August given that the spring fishery is going on right now.

So, you know, it isn't exactly what the plan calls for so it's really up to this board how they want to handle the deadline for the implementation.

CHAIRMAN AUGUSTINE:
Thank you, Mr. Beal. Mr. Smith, response.

MR. SMITH: Mr. Chairman,

now I'm going to be a little bit bold. If what I suggested resonates with New Jersey and New York and if we freely admit that the technical committee is really in a strangle hold on this because of the paucity of data and the inability to analyze things mathematically the way we would like, would we be too bold to just try and resolve it in the next five minutes and say for 2006 if New Jersey and New York agree with that approach and the other states don't disagree, if they can live with it because it's close enough for the first step into more aggressive management let's not belabor the technical committee with a challenge they can't meet and another board meeting in August to go through the same debate all over again. But I would look to New Jersey and New York to try and reconcile that. Thank you.

CHAIRMAN AUGUSTINE:
Okay, I'm not sure we can take five more minutes but I'll ask Mr. O'Shea and our chairman says no we can't do it now so that's where we are so on to another subject. Mr. Lapointe.

MR. LAPOINTE: Yes, and it has been a difficult discussion in January and now. And I'm looking at the, I think it's important for board members to look at where we were a decade and a half ago with winter flounder and why we're going through the tough steps we're going through now.

I mean in the mid-1980s Maine's catch exceeded what happens in New York and New Jersey right now and so if we — and Gordon mentioned striped bass — keep our nose to the grindstone we hopefully we restore it to those former levels.

I think Gordon's comment about going to the New England Council as well is critical

in that to make sure that the New England Council's actions, particularly as regard Southern New England and the Mid-Atlantic, you know, pay attention to the seriousness of the issue as well. Thank you.

OTHER BUSINESS/ADJOURN

CHAIRMAN

AUGUSTINE: Thank you, Mr. Lapointe. Other business to come before the committee, the board, the meeting, the group, the public, anything. (Laughter) Seeing none, Mr. O'Shea.

EXECUTIVE DIRECTOR

JOHN V. O'SHEA: Thank you, Mr. Chairman. Before you adjourn while I have everybody's attention there was discussion about the importance of economic analysis. In response to that the workshop on economic analysis and modeling I'd suggest would start five minutes after you adjourn to allow folks a comfort break. Thank you, Mr. Chairman. It will be in this room.

CHAIRMAN AUGUSTINE:

Thank you, Mr. O'Shea. We thank you for allowing us the extra time this morning to really delve into a major issue. The meeting is adjourned.

(Whereupon, the meeting adjourned at 9:20 o'clock a.m. on Wednesday, May 11, 2005.)

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