

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

**December 19, 2002
Sheraton Hotel
Providence, Rhode Island**

ATTENDANCE

Board Members

Lew Flagg, **Chair**, Maine DMR
George Lapointe, Maine DMR, proxy for D. Etnier
John Nelson, New Hampshire Fish & Game Dep.
G. Ritchie White, New Hampshire Gov. Apte.
Dennis Abbott, proxy for Rep.
Paul Diodati, Massachusetts DMF
Bill Alder, Massachusetts Gov. Apte.
David Borden, Rhode Island DEM
Gil Pope, Rhode Island Gov. Apte.
Jerry Carvalho, proxy for Rep. Naughton (RI)
Ernest Beckwith, Connecticut DMR
Lance Stewart, Connecticut Gov. Apte.
Fred Frillici, proxy for Senator Gunther (CT)
Gordon Colvin, New York DEC
Pat Augustine, New York Gov. Apte.
Brian Culhane, proxy for Senator Johnson (NY)
Bruce Freeman, New Jersey DFG&W

Tom Fote, New Jersey Gov. Apte.
John DePersenaire, proxy for Assemblyman Smith (NJ)
Dick Snyder, PA Fish & Boat Commission
Gene Kray, proxy for Jeff Coy (PA)
Michael Doebly, proxy for Fred Rice (PA)
Roy Miller, Delaware DFW
Bernie Pankowski, proxy for Senator Schroder (DE)
Eric Schwaab, Maryland DNR
Bill Goldsborough, Maryland Gov. Apte.
Pete Jensen, proxy for Senator Colburn (MD)
A.C. Carpenter, PRFC
Jack Travelstead, Virginia MRC
Preston Pate, North Carolina, DMF
Damon Tatem, North Carolina Gov. Apte.
Melvin Shepard, proxy for Rep. Redwine (NC)
Anne Lange, NOAA Fisheries

Ex-Officio Members

Pat Keliher, Advisory Panel Chair

ASMFC Staff

Bob Beal
Megan Gamble

Vince O'Shea

Guests

Najih Lazar, RI DFW
Devin Smith, Columbia University Student, NY NY
Bud Brown, CCA-ME, Georgetown, ME
Bill Utley, CCA-ME, Harpswell, ME
Jay Sterne, Reed Smith, Washington, DC
Douglas Parker, CCA-MA, Acton, MA
Norm Hyett, CCA-MA, Winthrop, MA
Mark Gibson, SB TC, RIDFW, Jamestown, RI
Vic Crecco, SB TC, CT DEP, Old Lyme, CT
Gary Shepherd, SB TC, NMFS, Woods Hole, MA
Russell Cleary, Com. Angler's Assoc., Maynard, MA
Don Swanson, CCA-NH, Derry, NH
Bob Mitchell, CCA-NH, Goffstown, NH
John J. Kelleher, Jr., CCA-NH, Ogonquit, ME
Richard F. Colagiovanni, SB AP, Cranston, RI
Richard Abele, Commercial Fisherman
William Windley, RFA

Walter Peter Kelly, Commercial Fisherman
Ed O'Brien, SB AP & MD Charterboat Association
Kelly Place, SB AP & Commercial Fisherman
John Fuscaldo, SB AP, Charleston, RI
Stephen Medeiros, RI Marine Fisheries Council
Dick Brame, CCA
Bill Hubbard, CCA-NH & SB AP, Rye, NH
Bob Fjelstad, SB AP & Recreational Fisherman
Arnold Leo, SB AP, E. Hampton, NY
Zak Tucker, Swete Studios, E. Hampton, NY
C. Wayne Lee, SB AP, Kill Devil Hills, NC
Jim Moineau, CCA-MA, Swampscott, MA
Neil Delanoy, Captree Boatmen, Babylon, NY
Elgin Nininger, SB AP-proxy, Colonial Beach, VA
Dave Pecci, SB AP, Bathe ME
Fred Schwab, SB AP, Mattituck, NY
Bruno Vasta, SB AP, MSSA, MD
Rich Novotny, MD Saltwater Sportfishermen's Assoc.

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MOTIONS

1. Move that the Amendment 6 fishing mortality target on striped bass be set at Option 3, $F=0.30$, with a threshold of $F=0.41$ (F_{msy}).

Motion by Mr. Augustine, second by Mr. Diodati; Motion passes (11 in favor, 2 opposed, and 1 abstention).

2. Move to adopt the biomass target and threshold equivalent to Strategy 2, with a target of 46 million pounds and a threshold of 30.9 million pounds female spawning stock biomass.

Motion by Mr. Diodati, second by Mr. Augustine; Motion passes unanimously.

3. Move to increase the coastal commercial quota to 100% of the base period (1972-1979) and to maintain the coastal recreational measures at the level authorized in Amendment 5 (2 fish at 28") and maintain the Chesapeake Bay allocation at the current level of harvest.

Motion by Mr. Jensen, second by Mr. Borden; Motion substituted.

4. Move to amend with "Maintain the Chesapeake Bay quota not to exceed annual average harvest observed during 1999-2001".

Motion by Mr. Diodati, second by Mr. R. White; Motion withdrawn.

5. Move to substitute the previous motion with "Increase the coastal commercial quota to 100% of the base period (1972-1979) with the stipulation that Delaware's commercial quotas in effect in 2002 would remain unchanged."

Motion by Mr. Beckwith, second by Mr. Pate; Motion tabled indefinitely.

6. Move to table the substitute motion indefinitely.

Motion by Mr. Miller, second by Mr. Abbott; Motion carries.

7. Move that the coastal commercial quota will be restored to the base period average (1972-1979) with the stipulation that Delaware will maintain its current commercial quota; the coastal recreational measures will be maintained at the level authorized in Amendment 5 (2 fish at 28"); and the current Chesapeake Bay mortality rate will not exceed $F=0.27$.

Motion by Mr. Jensen, second by Mr. Carpenter; Motion passes (4 opposed, 9 in favor, and 1 abstention).

8. Move to implement a 3-year planning horizon, beginning in the 3rd year of implementation, with management measures that will be maintained for 3 years.

Motion by Mr. Colvin, seconded by Mr. R. White; Motion carries (14 in favor and 1 opposed).

9. Regulations pertaining to striped bass catch or possession promulgated by the Secretary of Commerce shall not apply to waters along the Massachusetts, Rhode Island and New York coast shoreward of the 12-mile contiguous zone extending from the point at which 71 degrees 30 minutes longitude intersects the Long Island coast to the point at which 42 degrees 17 minutes latitude intersects the Massachusetts coast. Any striped bass harvested or possessed in this "Exemption Area" must conform to applicable Massachusetts, Rhode Island and New York laws and regulations, which must be consistent with the Interstate Striped Bass Fishery Management Plan and approved by the Atlantic States Marine Fisheries Commission.

Motion by Mr. Diodati, second by Mr. Travelstead; Motion fails (4 in favor, 9 opposed, 1 abstention).

10. Motion to table until the February meeting week.

Motion by Mr. Abbott, second by Mr. Augustine; Motion withdrawn.

11. Move to substitute with "Recommend to the Secretary of Commerce allow the harvest of striped bass in the EEZ, Option 3".

Motion by Mr. Pate, second by Mr. Carvalho; Motion fails for lack of a majority (5 opposed, 5 in favor, 3 abstention, 1 null).

12. Move to establish a single biologically based standard size reference point for all users and jurisdictions as part of the next addendum.

Motion by Mr. Carvalho, second by Mr. Frillici; Motion tabled.

13. Move to table until the February Commission meeting week.

Motion by Mr. Adler, second by Mr. Carpenter; Motion carries (11 in favor and 2 opposed).

14. Move to recommend the adoption of Option 2, which is a recommendation to the Secretary of Commerce to allow the harvest of striped bass in the territorial sea portion of the EEZ.

Motion by Mr. Diodati, second by Mr. Carvalho; Motion tabled.

15. Motion to table until the February Board meeting.

Motion by Mr. Diodati, second by Mr. Abbott; Motion carries (11 in favor, 1 abstention).

16. Move that staff move forward with necessary action to restore the coastal commercial quota to the base period average (1972-1979) with the stipulation that Delaware will maintain its current commercial quota, effective January 1, 2003. North Carolina's coastal commercial allocation becomes available January 1, 2003.

Motion by Mr. Pate, second by Mr. Adler; Motion carries unanimously.

17. Move to adopt Option 1, rebuild the biomass to the target level.

Motion by Mr. Nelson; second by Mr. Beckwith; Motion passes (13 in favor).

18. Move to adopt Option 1 for Amendment 6, rebuild the biomass in 10 years or less.

Motion by Mr. Nelson; second by Mr. Adler; Motion substituted.

19. Move to substitute with "A rebuilding schedule to be determined when rebuilding is necessary and not to exceed 10 years".

Motion by Mr. Goldsborough; second by Mr. Miller; Motion passes.

20. Move to determine a rebuilding schedule when rebuilding is necessary and not to exceed 10 years.

Substitute motion carries.

**ATLANTIC STATES MARINE FISHERIES
COMMISSION**

**ATLANTIC STRIPED BASS MANAGEMENT
BOARD**

**Sheraton Providence Airport Hotel
Warwick, Rhode Island
December 19, 2002**

THURSDAY MORNING SESSION

The Atlantic Striped Bass Management Board of the Atlantic States Marine Fisheries Commission convened in the Ballroom of the Sheraton Providence Airport Hotel, Warwick, Rhode Island, Thursday morning, December 19, 2002, and was called to order at 10:00 o'clock a.m. by Chairman Lewis Flagg.

WELCOME & INTRODUCTIONS

CHAIRMAN LEWIS FLAGG: If you could take your seats, please, we'll start the meeting of the Striped Bass Board. I think we're about ready to start. Good morning, everyone. This meeting is scheduled to go from ten until five.

I hope we can move along fairly expeditiously. I know there are a lot of folks in the crowd that want to speak, too, and we will be giving some opportunity for public comment.

There are several proxies here today for folks that weren't able to be here and the staff has received your proxies. I think we've got them all. What I would ask is, as the proxies speak, if they could give their name and who they are here representing, that would be helpful to Joe and the staff in terms of keeping a record of the proceedings.

Also, I would like to just mention that e-mails were sent out to all the members of the board with information relative to this meeting. If there are those that didn't receive those e-mails or weren't able to access them, we do have written documents here.

So anybody that needs copies of documents, just raise your hand and we'll have staff bring them around to you. If you could keep your hands up until Megan gets those copies distributed, that would be helpful. Thank you.

MR. PAT AUGUSTINE: Mr. Chairman.

CHAIRMAN FLAGG: Yes, Pat.

MR. AUGUSTINE: Some of us were unable to open up the Massachusetts letter that was at the bottom. Do you have a copy of that? Thank you.

CHAIRMAN FLAGG: Yes, Bruce.

MR. BRUCE FREEMAN: Would you identify the documents that we should have, to make sure we have all those?

CHAIRMAN FLAGG: I can't hear you, Bruce.

MR. FREEMAN: I said would you identify the documents that we should have?

CHAIRMAN FLAGG: Okay, Yes. I'll let Bob go through those.

MR. ROBERT E. BEAL: In the e-mail that I sent out on Tuesday, there was the agenda for the meeting; probably, most importantly, a decision document that we're going to go through which steps you through all of the necessary decisions.

There were minutes from the November 19th meeting, the letter from the Commonwealth of Massachusetts on Amendment 6. I think those were the four attachments to the e-mail. If you don't have copies of any of those, we've got hard copies and we can get them run around to you guys.

CHAIRMAN FLAGG: Thank you, Bob. I would like to just talk a little bit about process for a moment. Relative to public comments, which we will entertain, we do have a lot of business before us, and what I would ask, those that make public comments, if you could -- if somebody has made the comment that you were going to make previous, we would like to have only people speak on things that haven't necessarily been addressed.

So if you could try to focus your comments on things that haven't been said by a previous speaker, that will help expedite the process.

Also, if there are certain interest groups that have a spokesman, that they could speak for a number of people, that would also be helpful and will help us in terms of time management.

The other issue that I wanted to talk just briefly about was the process. I hope that we won't have any

motions early on. I would like to get through some of the reports and have some general discussion of items in the decision document and then we will start to take motions later on.

I think people need to have an opportunity to ask questions about some of the issues associated with the decision document and so forth. I would like to do that.

And, finally, whatever motions are passed today, my intent would be to have the staff go back and finalize the Amendment 6 document, and then there would be an opportunity for the board, at the February meeting week of the commission, to take final action to approve the total document.

I think we need to have that opportunity to have board members review the entire document once it's completed and then do the final approval at our February meeting.

APPROVAL OF AGENDA

CHAIRMAN FLAGG: You have before you a draft agenda that had been sent previously. Are there any additions to the agenda? Seeing none, then, we will declare the agenda approved as written.

I would like to also mention that I would note for the record that we do have a quorum of members of the board present, and staff will be circulating a sign-in sheet to make sure that we get an accurate count of the attendance of the board members at the meeting.

PUBLIC COMMENT

CHAIRMAN FLAGG: At this time, I would like to entertain an opportunity for public comments; and so those that would like to make public comments, feel free to come to the microphone. Any members of the public? Yes.

MR. ED WOOLEN: My name is Ed Woolen and just a point of order. This will be on Amendment 6. Do you want public comments on 6 now or during the 6 process? I will be pleased to do it either way.

CHAIRMAN FLAGG: I think we'll give an opportunity for further public comment as we go through Amendment 6. We're going to try to do that. But if you have just some overall comments you would like to make, that might be helpful to us.

MR. WOOLEN: Certainly. This is related to Amendment 6. I just came in from Cape Cod, so it's one of the Massachusetts issues. Many of you I've seen before because I've been here.

This is probably my sixth year of trying to get, for the Cape Cod fishermen, some relief on the fishing east of Cape Cod and Nantucket, infamously known as the EEZ issue or the -- I notice smiles around the table.

I represent today three fishing groups, Cape Cod Salties, Cape Cod Charterboat, the Austerville Anglers, excuse me, and a fourth one and we've submitted a letter for the record already, the Nantucket Anglers Club; and then also petitions that were submitted to Department of Commerce for 2,000 fishermen who wanted opening of the twelve-mile limit out to the east of Cape Cod and Nantucket.

Those are matters of record. I know you've heard that before. I also went through the public comments and the voting on acceptance or rejection of change of fishing beyond three miles.

I noticed that the majority of states voted -- the public comment was strongly against and I would like to briefly focus on that. It seems like the only two states that were in favor of the opening beyond three miles were Massachusetts, and I believe it was North Carolina.

I note, and I think it's worth putting in for the record, that a number of states are fortunate in that they have either geography or islands that de facto give them the twelve-mile capability.

For example, off Portland, Maine, they have fishing from the placement of the vessels of eight to fourteen miles by right of having islands, particularly, and than on Southern Maine, Mohegan Island effectively opens out to twelve miles.

If you look at New Hampshire, off New Hampshire, particularly off the place I used to fish off the Merrimack River, effectively the Merrimack River has ten to twelve miles off from where you launch by right of having the islands and also by having the rock outcroppings to the south of that called Gloucester.

If you go down and fish, as I've done, out of the Montauk area, then I've got a good twenty plus miles I can go by right of that already being called Long Island Sound.

If I go down off either Delaware or Maryland, I can fish fifteen miles offshore in Delaware Bay. And I now have a working residence down to Virginia, so when I go fishing there, I can go ten or fifteen miles into the Chesapeake and fish, and it's perfectly legal.

The only two states that really don't have that opportunity where the fishing are -- one is Massachusetts, which is why this issue becomes a Massachusetts issue. It isn't really a Maine issue because they've already got effectively that kind of distance off the shore.

So it's not surprising to me that Maine, New Hampshire, and then on down the coast, the majority of, certainly, the anglers have said I don't need twelve miles -- effectively unsaid -- we have it.

So this is an issue that becomes a relatively narrow one. The disappointment that I have as a public citizen and the 2,000 people that signed the petition, and the anglers club is the fact that we -- maybe we need to put an island out there off Rosen Crown or somebody can put an island and we would have it done.

But there is probably another way to correct it, and I would ask this group to work on it. It certainly is not an allocation issue, it certainly is not a striped bass management issue. That has been looked at by the technical committee.

It's not a case of management or any change of quotas. That's been looked at over and over again. It becomes an issue of will. I would ask the assembled management board to please consider that some states do have theirs already.

There are some of us that don't and there is probably a methodology to correct it. There's a bureaucracy way to block it, but there's probably a methodology to reach acceptable capabilities so that Massachusetts has the advantage, particularly off Cape Cod, has the advantage that they have off New Hampshire and off Maine and in Connecticut and in Rhode Island and in New York and in Virginia and in Delaware and in Maryland. Thank you very much.

CHAIRMAN FLAGG: Thank you for your comments. Bud Brown.

MR. BUD BROWN: I'm Bud Brown. I'm the state chairman of CCA- Maine. Just for clarification of the record, Monhegan Island does exist offshore, but certainly it's not -- those are in my home waters and to make the leap of faith, the fact

that island is out there means that there could be effort on striped bass is just not true in fact.

CHAIRMAN FLAGG: Thank you, Bud. Other comments? Yes, Dick Brame.

MR. RICHEN BRAME: I'm Dick Brame with the Coastal Conservation Association. I just wanted to give the board a little background on CCA and our thoughts on Amendment 6 before you got started, because I think they're relevant.

First, for the board to understand, especially when it comes to an advocacy group, how we came about the decisions that we came about, and I'll do this very briefly.

Our committee was formed in 1999, and one of the first issues that we looked at was striped bass. We developed a position in February of 2000.

We developed that position based on the best stock assessment available, the best scientific information available, and what our members had told us. We looked at that and we came to a position.

We did not come to a position and then cherry pick the science to support it. We looked at the science and we came up with what we thought would be the position that best represented our interests.

We've been to every technical committee meeting, every board meeting, and every AP meeting since, and we've seen nothing yet that would have dissuaded us from that position which we adopted in February of 2000.

I would like to commend the Atlantic States Marine Fisheries Commission for a fine job in managing striped bass. Amendment 5 has brought about a high biomass of fish, lots of fish for folks to catch, and it's a remarkable recovery story.

I think I would be remiss if I didn't tell this board that they have done an outstanding job to this point. But we learned some stuff in Amendment 5, and one of things we learned is that at a mortality rate of 0.3, from what we've seen, the fish did not live much past age twenty.

We think that is a conservation problem. We believe that the mortality rate should be set at lower than 0.3. We decided that in February of 1999, or 2000, and we've carried that through ever since.

We've educated our members. And if you look at the public hearing comment, the vast preponderance of the people who commented on those options preferred a mortality target of less than 0.3. So the public hearing record I believe is important.

Why do we believe that it's necessary to do that? There are some folks who would say we just want to catch a bunch of big fish. And don't get me wrong, there are a lot of people who like to see big fish; and big fish, from our point of view, are 50 pound plus fish.

But that's not the primary reason. We look at it for the conservation benefit it would provide. Those fish, those larger older fish have the genes that allowed them to live that long and they would pass those on.

While we do have a large spawning stock biomass, it's important to note that when they calculate spawning stock biomass, age 10 females are 100 percent mature. But if you look at the calculation, it starts with age 4 and 5 fish in the males and the females.

So the vast preponderance of the spawning stock, in the latest assessment, is age 10 or under, and that will never change. You'll never flip flop that over, but we would like to see a larger proportion of the spawning stock be these older fish.

We believe it's a natural insurance policy against times when you do have poor recruitment to withstand the stock. There is a reason these fish evolved to be 25 plus years old. We would like to return to that sort of management.

The other thing that concerns us is we believe that if you go with status quo, and we're not even sure what status quo is -- I've had about six different definitions told to me in Amendment 6.

And if you go with status quo and everybody can fish at two fish and if you increase the coastal commercial quota and you go with a three-year management regime and you're fishing right now at close to target, where does that put you?

We believe in order to be safer, especially if you're going to go with a three-year management regime, you should go to a lower mortality target of 0.25. It will be safer for the stock, safer for the fishermen, and you will be allowed to do the things that you want to do with this stock. Thank you.

CHAIRMAN FLAGG: Thank you, Dick. Other comments from the public? Yes.

MR. RUSSELL CLEARY: My name is Russell Cleary, representing the Commercial Anglers Association, which represents commercial hook-and-line and harpoon anglers, mainly in the Northeast, based in Massachusetts.

At the beginning of the Constitutional Convention, I believe it was Benjamin Franklin who urged that the other delegates come to the convention prepared to give up something.

Rather than simply cling to regional interests, the interests of their colonies, the enterprise of establishing a viable constitution hinged on some degree of giving up something.

Amendment 6 is supposed to address inequities in the striped bass fisheries. The striped bass resource was declared restored in 1995. The recreational fisheries are fully restored and then some.

The producer areas commercial fisheries are fully restored and then some. Now it's time for the coastal commercial fisheries, held at 70 percent of their historic level, to be restored. Thank you.

CHAIRMAN FLAGG: Thank you. Other public comments?

ADVISORY PANEL REPORT

CHAIRMAN FLAGG: Seeing no hands, then we'll go to the next agenda item, and I will ask Pat Keliher to give us an advisory panel report.

MR. PATRICK KELIHER: Thank you, Mr. Chairman. The advisory panel met from ten to five yesterday. We used the decision document as our guide to bring us to several conclusions and several splits.

Mr. Chairman, if it's okay with you, what I would like to do is report out on each one of these issues that we deliberated yesterday as the board moves forward, instead of giving a full report now.

CHAIRMAN FLAGG: Yes, we will do that; and at the same time that we're taking up these individual items, Bob will also provide some information on the public comment relative to that. So we will do that.

MR. KELIHER: Good, thank you. I would like to say, so everybody knows, the meeting was well attended yesterday. There were seventeen members of the AP present. Ten of those were recreational, five were commercial, one was a person representing both rec and commercial.

The committee, as you'll hear when I give my report, was very much split on two of the major issues. We worked as hard as we could to reach consensus.

But as the AP mentioned several times at the last few meetings, this was a very complicated document, and I think our discussions yesterday reflected that fact.

Our discussions also reflected the fact that we are a very diverse group, split down the middle, representing not only different regions, but different user groups. I think was really the major factor of why we really didn't come to solid consensus. And, again, you'll hear that when I give my full report. Thank you.

REPORT ON SARC STOCK ASSESSMENT REVIEW

CHAIRMAN FLAGG: Thank you, Pat. At this time, we'll have a report on the SARC Stock Assessment Review and Bob will give us that report.

MR. BEAL: Just real quickly, the stock assessment that the technical folks presented at the annual meeting back on November 19th went through a peer review process, through the SARC process, the federal process in Woods Hole the first week of December.

The documentation for that meeting is still being put together. so I don't really have a presentation on what the SARC review concluded. The groups are still putting that together.

The one thing of note is that it wasn't your conventional SARC review. As John Carmichael and Alexi presented at the annual meeting, you'll remember there's a question on the aging of the older fish, scales versus otoliths, and how that played into the plus group of the VPA model.

The SARC was asked to not really select which is the best plus group for the VPA model. They were asked to provide advice on ways that the technical committee could work with the models, working with the information that they had to get the best answer they could for the stock assessment.

I guess that's pretty much the report that I have on that is just a notification to the board that it did go through the SARC review process, and forthcoming pretty soon there will be some reports from that group.

CHAIRMAN FLAGG: Any questions of Bob from the board? Yes, Pete.

MR. W. PETE JENSEN: There are some new estimates, I guess I would call them, or new numbers of 192 million total biomass and 53 million spawning stock biomass. Are those confirmed numbers or are they part of the SARC review that have yet to be confirmed?

MR. BEAL: Those are the numbers that came out of the assessment that the technical committee put together that forwarded to SARC. They have been reviewed by the technical committee and signed off by the technical committee.

CHAIRMAN FLAGG: Other questions? Yes, Bruce.

MR. FREEMAN: It would seem to me that the decisions we are about to make concerning Amendment 6 would be greatly influenced by this most recent stock assessment. If there's some dramatic news one way or the other, I think certainly we should have that before we make those decisions.

It would seem to be a situation where if we make a decision and find out that it's contrary to some findings of the SAW process, this would be somewhat of an embarrassment.

So my issue is, is there anything relative to the SAW process or the SARC process that is radically different than what we've been presented at the last meeting?

MR. BEAL: The assessment that the chair of the stock assessment subcommittee and the technical committee presented back in November still is the stock assessment. The SARC didn't go in and change numbers within that assessment. So, everything that's presented to the board, the management advice from the technical committees, still stands.

I think as part of John Carmichael's advisory report, he mentioned that no matter which approach the technical committee employed, we're pretty close to our current target, you know maybe a little bit above and maybe a little bit below, but overall we're in the

neighborhood of our current target. I think the technical advice from the tech committee still stands.

MR. FREEMAN: Then the presentation at the board meeting in Williamsburg is the most recent information we have?

MR. BEAL: Yes.

CHAIRMAN FLAGG: Gordon, you had a question?

MR. GORDON C. COLVIN: I would like to express a different point of view than that that was just expressed by Bruce Freeman; and just say kind of unequivocally, in our history of management of striped bass, every time we have changed management actions to respond to the most recent advice that came on stock assessment, we subsequently regretted it, every single time, and one time we regretted it hugely.

I would prefer not to think in terms of how we might respond to what we heard last in terms of assessment and begin this longer term process of thinking in a longer timeframe.

You know, one more thing. One of the things that I heard in the technical committee's presentation in Williamsburg was that there are some important unresolved issues in the current assessment, particularly with respect to the issues associated with aging.

A lot of the conclusions are dependent, at the present time, on which group of ages, the so-called plus groups, are relied on for mortality calculation, and that issue will be revisited after the upcoming aging workshop.

So here again, if we look at what we have now, that may change radically in just a month or it may not. We've got to start resisting this temptation to basically fly off down the road based on the latest set of overheads from the stock assessment subcommittee, and not just on striped bass either.

CHAIRMAN FLAGG: Thank you, Gordon. Bruce.

MR. FREEMAN: Let me just respond, essentially because it's a very different opinion. One of the issues that has been raised at the public hearing essentially is this issue of age. We've heard speakers, especially those who spoke from the public,

indicated their concern that more older fish, in their opinion, should be in the population.

One of the issues raised was the fact that the aging by scales tends to underage older fish. It's a major problem. And the information presented essentially at the meeting in Williamsburg, at least that John Carmichael presented from the technical committee, certainly demonstrated that in that there's a substantial difference.

If, in fact, age is of concern to the public, then it should be expressed that some of the numbers that we're using for the oldest fish may well be -- the fish may be five to ten years older, or perhaps even older, based on the maximum age of the fish, particularly as aged by otoliths.

I think we need to keep that in mind. If, in fact, had there been revelations that differ from that, certainly we should be aware of it.

But the information, if we agree, presented at the Williamsburg meeting is the most recent, then some of these issues that we're going to speak about, we need to keep in mind what was presented to us is the most recent.

I'm not suggesting we make radical moves, but I'm suggesting we need to keep in mind the information that had been presented. There's some things in there that are quite different than what we have understood in the past.

CHAIRMAN FLAGG: Thank you, Bruce. Other comments? John.

MR. JOHN I. NELSON: Thank you, Mr. Chairman. We've all gone through enough meetings on a variety of species to know that we never have enough information. I think I would have liked to have made some other decisions on facts for other species at other times that were different than what I did at that time.

But we've been working on this amendment for a few years. We did have a delay in there that would prove to be -- at that time it seemed to be a reasonable approach, and it turned out that it was perhaps not and Amendment 9 is supposed to -- I'm sorry. I've got groundfish on my mind, and I'm behind on that, too. It's grinding me down.

Amendment 6 provides us with a process, and I think we all feel that it certainly gives us the opportunity to

manage the striped bass in I would hope a more efficient way for the future.

Having said that, I would urge that we move ahead. I would also point out that we have adopted an action plan that does not continue with Amendment 6 next year.

CHAIRMAN FLAGG: Thank you, John. Other comments? Yes, Pete.

MR. JENSEN: Well, in spite of our esteemed chairman's statement, I don't see any compelling reason to act on Amendment 6 now, and there are a number of reasons.

One, you know, this process, even though it's been lengthy, has been useful, and I think it has been successful because it has aired a lot of ideas and it has allowed a full discussion of a lot of things, in some cases where people thought that it was broke.

But, really, when they looked at the options, the predominant public view came out to be status quo. Here we're considering an amendment that has a target of a total biomass of 132 million, and it's already at 192 million.

That's 60 million pounds above the target already before we even adopt the target; and the same way with the spawning stock biomass. I think there's another reason.

There's been some talk that states have not fully impacted Amendment 5, and two states in particular are planning to do that. If we adopt Amendment 6, they can't fully implement Amendment 5 simply because most of those options, not all of them, but most of them are based on a '96 to 2000 timeframe.

So unless you pick out a specific option that would allow those states to go back and pick up what they didn't do under Amendment 5, then we simply right them out, you know, level them out at where they are.

Further, the technical committee has said that they have some unfinished business. And, if you read the public hearing document, there is a reference to relatively high exploitation rates.

In fact, I think you'll find now the technical committee is saying they aren't necessarily high. They may in fact be low, below 0.3, and so some of the reasons we embarked upon this plan have changed rather dramatically.

I also think that under Amendment 5 we can increase the coastal quota, commercial quota, if we want to, under Amendment 5. We can address the EEZ issue without Amendment 6.

I would just remind those that are talking about the older striped bass, that it takes twenty years to grow a twenty-year-old fish; and if you look back twenty years, that was 1982, and we were just beginning to do what we have done.

I think states can fully implement the 5, and we can adjust the quota and measure it against the fishing mortality rate, and we can implement a three-year planning regime without adopting Number 6.

Number 6 has some potentially confusing issues, unresolved issues, definitions of status quo, and I think we should not rush to implement 6, even though rush is probably not the right word after three chairmen and having sat through this.

But, at the same time, the process has been useful. I think it's been well defined, and so I would urge that we attempt to fix some of the problems under Amendment 5 and let's not do Amendment 6 right away.

CHAIRMAN FLAGG: Any other comments? Yes, Paul.

MR. PAUL DIODATI: I'm not going to advocate either way for whether or not we try to fix Amendment 5 or we move ahead into a new amendment.

I did prepare what I'm going to call a position paper that lays out my feeling for what needs to be done. Whether we do it in Amendment 6 or some other structure, I think Megan is handing that out and it might be worthwhile to take a few minutes to read it.

I would be glad to go over it and summarize it, but I think I've detailed information from the last stock assessment, what it means if we increase commercial quotas along the coast. I think there's been some concern if we do that, that someone else in this process is going to have to pay back for that increase.

I think that's completely not true. So, Mr. Chairman, I'm going to offer this position paper for the board to consider as a point of discussion before we move into the various options.

CHAIRMAN FLAGG: I don't know if folks have had an opportunity to see this ahead of

time or read it. They have not, and I would like to give folks a chance to do that.

We can do that now and start to discuss this or we can put it on the agenda a little later on. What's the pleasure of the board? Do you want to have some time to look at this? Dave Borden.

MR. DAVID V.D. BORDEN: Thank you, Mr. Chairman. I would just offer the comment that I'm not sure it's entirely productive for us to get into labored discussions about whether or not we use Amendment 6 or whether or not we fall back on Amendment 5.

I think a better strategy for the board is simply to prioritize the problems that we think are definite problems and then figure out what the resolution of those problems is; and then to a large extent, I think the course of action we follow falls out of those decisions fairly neatly.

So if we take up the issues that we want to resolve, I think it will ultimately decide the course of action we're going to have to follow.

CHAIRMAN FLAGG: I guess my suggestion would be that I think we've identified those problems in Draft Amendment 6. If you look at the executive summary, there's five issues that the board approved as a reason for going forward with Amendment 6, and I think they're pretty well founded.

I believe we had some discussion in the past about why we needed to go forward with Amendment 6, and I don't think it would be productive at this time to try to rehash those issues because I think they're pretty well laid out.

I'm very concerned about going that route, because I'm not sure we'll ever come to conclusion about what we ought to do with respect to Amendment 6. Ritchie.

MR. G. RITCHIE WHITE: I agree with Dave and yourself, Mr. Chairman, and we have a decision document. Let's get started on it.

CHAIRMAN FLAGG: Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. I think the options that are identified and clearly defined in this should be addressed, and maybe we should take a look at which one might be the least intrusive and the least argumentative.

I don't want to make a motion because it's too early, but we might want to look at something as simple as the planning timeframe to get us in the process and move forward. I'm not sure whether you want to focus yet or you want to wait until after lunch.

REVIEW AND TAKE ACTION ON AMENDMENT 6

CHAIRMAN FLAGG: I think we are at that point in the agenda. We do have that as the next agenda item, and I think it might be helpful if we focus our attention on the decision document which staff has put together dated December 17th.

I think all of you should have copies. If you don't, please let us know and staff will provide those to you. I know we had some thoughts earlier about how we might want to approach this, and it seems that it might be helpful for perhaps a half an hour to have just a general discussion of each one of these items, going down through them, but just generally discussing them, perhaps the pros and cons, and then we'll go back and start out with making a decision relative to these various items that are in front of us. If that's the pleasure of the board, perhaps we can proceed in that way. Yes, Pat.

MR. AUGUSTINE: Mr. Chairman, does that mean you're willing to take a motion?

CHAIRMAN FLAGG: I don't think we need a motion if there's no objection from the board if we proceed along that line. Yes, Ritchie.

MR. WHITE: I just have a concern that we're going to get into spending a lot of time discussing these, and why don't we start with a motion and that will start the discussion on that issue.

In other words, it sounds like we're going to discuss these, go back, make a motion, and then discuss it again. So to make it simpler, let's just start at the top. Let's start with a motion and then the discussion will unfold at that point.

CHAIRMAN FLAGG: I guess if that's the sense of the board, we can certainly do that. It seems as though it might be helpful if we perhaps would just follow the decision document as it's laid out. And as a preface to making a motion, perhaps what we can do is we'll look at the first item, and then we can ask for the advisory panel's report and also have Bob summarize the public comments on that particular item.

So why don't we proceed in that manner, if it's the pleasure of the board to do so. Hearing no objection, we'll do that. I'll just turn it over to Bob and he can start this off for us.

MR. BEAL: Thank you, Mr. Chairman. The first issue in the decision document is biological reference points, and there's two parts to that decision. The first one is the overfishing definition and the second one is the biomass target and threshold. I suppose we should take each one of these individually.

The first issue on the overfishing definition is selecting a fishing mortality target and threshold. As far as fishing mortality threshold goes, there's not a series of options.

It's just F at MSY, which is currently estimated to be F equals 0.41 or a 31 percent removal in any year, an exploitation rate of 31 percent, so that's relatively straightforward.

As far as fishing mortality targets go, there are three options. They range from F of 0.2 to F of 0.3. In the table on page 2 of the decision document, there's percentages next to each of the fishing mortality targets that represent the exploitation rate.

The third column is something that I just kind of quickly did the math on, and it represents the change in landings if we were to implement any one of these three options relative to if we were currently fishing at the 0.31 target, which is in Amendment 5.

So in other words, if we were fishing at 0.31, to go down to the 0.25 level, Option Number 2, we would be required to have a 16 percent decrease in total landings. The third column there gives you a relative idea of what the magnitude of the change is going to these different fishing mortality targets.

Option 3 is from 0.31 to 0.3. It's a 4 percent decrease and the current estimate is 0.29, so we are a little bit below that. So in reality we don't have to have a decrease to get to 0.3 since we're already below that, but this is just if we were fully fishing at the 0.31 target that's in Amendment 5. Should I go ahead into public comment?

CHAIRMAN FLAGG: Sure.

MR. BEAL: Okay. The public comment on this issue was somewhat split between Option 2 and 3. Option 1, there were a few fishermen that were

interested in Option 1, but the comments were definitely much less than for Option 2 and 3.

As a broad generalization, the commercial fishermen that commented at the public hearings and through the written comments were interested in Option 3, F equals 0.3.

The recreational fishermen up and down the coast were split between Options 2 and 3. The northern end of the range, Maine and New Hampshire, favored the 0.25.

Fishermen in Massachusetts through the New York area were split between the 0.25 and the 0.3. In New Jersey, 0.3 was probably the leading option received at the public comments. Delaware, 0.25 was the preferred option.

Maryland, Virginia, and North Carolina all preferred the 0.3 option. So there is a split between the Options 2 and 3 as part of the public comment.

CHAIRMAN FLAGG: Thank you, Bob. Pat, do you have some comments from the advisory panel on this issue?

MR. KELIHER: Yes, Mr. Chairman. Actually, this is one of the issues that we didn't wrestle with too much. As far as the fishing mortality threshold, actually the AP did suggest not only the fishing mortality threshold of 0.41, but also the range of the mortality targets.

We stuck with our guns on the 0.41 as far as the mortality threshold, but fishing mortality target, there was a fair amount of discussion, but the vast majority of members in attendance yesterday were in favor of 0.3, with a smaller minority favoring 0.25.

As far as Option 2, the 0.25, most of the comments revolved around one of the goals in Amendment 6, which is growing out older year classes of fish, and as well as favoring Option 2 because of the three-year planning horizon, growth, overfishing, and too much pressure on those fish as far as what they're calling the fish of tomorrow.

The '93 year class, as the note says, are providing a decent year class, but many members who were in favor of the 0.25 are worried about depending on these big spikes in the year class instead of worrying about more of the average and below average classes and concerned that they were not going to grow those old fish because of the current mortality rates.

Option 3, again, the majority were in favor of that. Again, just quickly, because more and more fish — people are pointing to more and more fish being offshore as the stock increases.

Also, there was a concern of what price the recreational industry will have to pay to grow older fish and in what timeframe.

If we go to a lower mortality, we have to pay a larger price up front. Most people say staying at the 0.3 we're still going to be growing the spawning stock biomass, and we'll still have a comfortable level that more older fish will be in the population in the future.

One of the last comments is wanting to favor Option 2, but the ecosystem needs a stronger forage base; again, pointing at menhaden and the concern of too much of a capacity with the striped bass stock affecting other stocks. That's all I have as far as mortality targets.

CHAIRMAN FLAGG: Thank you, Pat. Yes, Pat Augustine.

MR. AUGUSTINE: Are you ready for a motion, Mr. Chairman?

CHAIRMAN FLAGG: Yes, I think we can entertain some now.

MR. AUGUSTINE: **I would like to move that the Amendment 6 overfishing definition be set at Option 3, F equals 0.30.**

CHAIRMAN FLAGG: Is there a second? **Paul Diodati seconds.** We have a motion to adopt Option 3, F of 0.30 for our reference point for fishing mortality targets. Okay, Ernie.

MR. ERNEST E. BECKWITH, JR.: I have a question for the maker of the motion. **Pat, do you intend to make another motion for the threshold or would you consider including the threshold in your motion with the target?**

MR. AUGUSTINE: **I would include the threshold in with this motion; that was my intention.** I wasn't sure we needed one or two, but I believe you're right and I stand corrected, so could we add that? Thank you for that, Ernie.

CHAIRMAN FLAGG: We have a perfected motion then. I have A.C. and than Paul Diodati.

MR. A.C. CARPENTER: Judging on the comments that you had made earlier about we wouldn't make the final decision until February, Dave Borden's comment about let's go through the issues and then solve whether it's going to be Amendment 6 or some adjustment to Amendment 5, can we take the reference to Amendment 6 out and say that the goal of the modified plan or new plan is going to be an F of 0.3 and a threshold — I just don't want to get us locked into that idea that we're definitely going down the route for Amendment 6 just yet.

CHAIRMAN FLAGG: Well, I'm a little concerned because we've advertised the meeting as a meeting to deal — I mean, the agenda items all relate to Amendment 6, and now we're saying, well, maybe this isn't going to be Amendment 6.

I'm a little concerned about what type of message we're sending to the public here in that we're here to talk about a specific document, Amendment 6, and make some decisions relative to what we want to do with that document.

So I'm a little concerned about — I would like to also state that in my earlier commentary about how we would proceed, my intent, and maybe I wasn't very clear on that, is that hopefully we would be able to deal with the various items in the decision document, vote on those, and get those concluded with some certainty so that the staff can then put together the final document that represents the board actions today, and then they would have a chance to see this again before we did the final approval.

But the final approval in February is, I don't see that we're going to make any major changes then. It's just to allow the board an opportunity to see the document, make sure that it truly reflects the board decisions at this meeting, and then go ahead and approve that as a total document for purposes of implementation.

MR. CARPENTER: Perhaps it's just a nomenclature problem that I have.

MR. BECKWITH: Thank you, Mr. Chairman. Quite frankly, I'm surprised that we're talking about not moving forward on Amendment 6. I mean, that's why we're here. That's why we've worked on this thing for three or four years.

And personally, and correct me if I'm wrong, I don't see any difference whether we make these changes under Amendment 6 or Amendment 5.

We're here to do certain things and it should happen. Perhaps some of the people on the other side of the room can tell me what their problem is with going forth with 6 and doing something under 5 as another option.

CHAIRMAN FLAGG: Paul Diodati.

MR. DIODATI: Well, I guess to the Amendment 5/Amendment 6 point?

CHAIRMAN FLAGG: Yes.

MR. DIODATI: And then I would like to address the motion on the table. On this point, as I said earlier, I'm not wedded to the nomenclature here, whether we do 5 or 6.

But if we do 5, it's my understanding that we are going to make some action changes for managing this resource; and if we're going to do that under Amendment 5, then we would require Addendum VI be drafted to do that, which means that the staff would have to go away, draft a new addendum, a new round of public hearings.

We have to adopt that draft and go through the whole process. Amendment 6, we've already done that. So, I guess, just given that process, the amount of work that's been done, I'm more than willing to stay with Amendment 6 even if the changes that we adopt for the coming year or two are nominal compared to those in Addendum V of Amendment 5. So that's one point and I can stop there, or I can address the motion.

CHAIRMAN FLAGG: Well, just to reemphasize a point that our chairman has made is the fact that we're not in a position with respect to resources, manpower, funding to do an addendum at this point.

So what you have on the table is what we have to deal with, as far as I'm concerned. Paul, you wanted to make a comment to the motion.

MR. DIODATI: Yes, Mr. Chairman. I fully and strongly support maintaining the status quo mortality rates of F equals 0.30. We've seen under this scenario that the age structure of the population is continuing to expand, the stock is continuing to grow.

Just between the most recent years, we saw a 13 percent rise in stock size, and all aspects of our

fisheries under this scenario have prospered during the past ten years. It's not a recent situation.

All of the mortality estimates that we've estimated are actually below this target. We're not quite at it. The argument that we've heard today, and we've heard a number of times over the past several years, is that there's a lack of older fish in the population.

That's a question that I've looked at very closely. I've looked at stock structure based on length distributions from the 1930's, the 1950's, the 1960's, and the 1970's right up to the present, and I personally cannot determine what the ideal natural age distribution in the population should be nor when it occurred historically.

And if someone does know that, if someone wants to tell me how many age 20 plus fish in the population we should have, I'm open to that discussion.

You know, furthermore, it's already been substantiated that the age differences between scale and otolith is much different, that you get a much older age when you age otoliths. All of our VPA work is based on scales.

So the fifteen plus groups are likely much older than that. We certainly see fifty- and sixty-pound fish in our catches. I realize that Massachusetts is historically known to get larger fish, but we see them. I know several people that caught fish over sixty pounds this past season.

So, again, I support that. I support an F of 0.30 as our target. I strongly support the threshold value of maximum sustainable yield. This is a sound biological threshold.

It's been used traditionally in many fisheries as a target, so I would consider this a conservative action for managing striped bass. I hope that we approve this motion.

CHAIRMAN FLAGG: Thank you, Paul. I have Tom Fote and then Gordon and Anne.

MR. THOMAS FOTE: I'm listening to this debate of whether we should have Addendum VI or Amendment 6, and I don't want to postpone this process any longer.

I basically, at the last meeting, said we shouldn't have this meeting at this date and time because I thought it should be later than that. But, truly, we've gone through this for a long time.

Whether it's Amendment 6 or Addendum VI, it's really going to be the same dress we're going to put on this thing. It's the same rules and regulations.

We would probably had not needed an amendment to the plan. We probably could have done an addendum, but at this point in time we just need to bring it to closure.

We need to stop all the debate and basically just go out there to the public, because they're really waiting for us to come through with Amendment 6 and I think it's about time.

I don't need to make any points. Paul made the points beautifully for me, so I'll just agree with what he just said on 0.30. Thank you.

CHAIRMAN FLAGG: Thank you, Tom. Gordon.

MR. COLVIN: Thank you, I'll try to be very brief. The issue of whether or not we proceed with Amendment 6 is an issue that I do personally have very strong feelings about.

To me, it's not a question of whether we take actions under Amendment 5 or under Amendment 6, and they could be the same. I don't think they can be. I'm not going to get into why now and burden the record with it. I will if the issue comes up again. We need to move on with Amendment 6.

With respect to the motion, I want to just offer my personal support actually for a different option, and that is Option 2, F of 0.25. That would be my personal preference for these reasons.

First, as noted by some of the advisors, there is a clear indication in this amendment of an objective that would accelerate, to the extent that it's reasonable to do so, the aging of the population, and it will accelerate faster at a lower mortality rate.

Our own analysis show that consistent with the stated objective of the plan. That said, I also agree that even if this motion were to pass and become part of the amendment, we're going to see a restoration of the age structure.

The older fish will come back. That's inevitable at this mortality rate. I'm just convinced it will be a little quicker and a little more consistent with our goal with the lower rate as a target.

The other reason is that when we get to it, I'm going to speak strongly in favor of a multi-year management horizon, of trying to adopt measures that stay in place for three years.

And, generally speaking, I'm more comfortable doing that with a somewhat slightly more conservative fishing mortality rate target, and it's for those two reasons that I prefer 0.25. Thank you.

CHAIRMAN FLAGG: Thank you, Gordon. Anne.

MS. ANNE LANGE: I agree with Gordon's comments about the extra conservation under the 0.25. But the reason I raised my hand was Gary Shepard pointed out to me the way this motion is worded, we would be overfishing at anything over 0.3, where it says the overfishing definition of F equals 0.3, so we really should say the target. It needs to be included in there. It's overfishing target.

CHAIRMAN FLAGG: Thank you, Anne. Jack Travelstead.

MR. JACK TRAVELSTEAD: A couple of questions just for clarification. Maybe Bob Beal can answer these. The F of 0.3 that is in the motion for a target, what age groups is that associated with?

MR. BEAL: I wish our tech committee chair was here. I think all the overfishing definitions, or all the targets and thresholds for overfishing definitions are associated with fully recruited fish. So, in the latest stock assessment, the technical committee used age seven to ten fish to represent the fully recruited group.

MR. TRAVELSTEAD: Okay, and in Williamsburg we learned that the F on those ages in 2001 was 0.29.

MR. BEAL: Exactly.

MR. TRAVELSTEAD: Okay. The other question is all of the technical issues that have been discussed or mentioned, the problem with the plus group in the scale versus otolith, when all of that is decided down the road a few months from now, will any of that potentially change this value that is 0.3 today; that we're getting ready to vote on, or is 0.3 going to be 0.3? And the same thing for mortality, is that F at MSY or is that 0.41 we're adopting?

MR. BEAL: The way the plan is written with respect to the threshold, the 0.41 is the current

estimate of FMSY, but the threshold will be FMSY, and that can change as the estimate of FMSY changes.

There are some tech committee folks in the back of the room that could probably answer your first question better on how the potential changes in scales versus otoliths in the plus group could affect the targets in the plan.

Unfortunately, our technical committee chair is not here today to answer that. I don't know if I feel comfortable making a definitive statement on how those might be changed or if they'll stay the same.

MR. TRAVELSTEAD: I think that's a concern of mine. I just want everyone to recognize that even though the motion says 0.3 and 0.41, in just a few months down the road we may actually find that those values are something different.

CHAIRMAN FLAGG: Any of the technical people, would they care to respond? Mark, would you like to respond to Jack's question? Could you come to the mike, please? Thanks, Mark.

MR. MARK GIBSON: Board members who are on the weakfish board will remember we had this problem with Atlantic weakfish when we were making conversions between scale and otolith-based aging, and it made a remarkable change in the assessment from when we were estimating F's on the order of 1.5 in some years.

Those dropped down. There was still overfishing occurring, but they weren't nearly as high because the conversion expands the fish into the older age groups.

And in the case of striped bass, Alexei did a run with a sort of a prototype scale/otolith conversion matrix and it changed the terminal F on fully recruited from 0.29 to 0.21.

Now that wasn't a definitive run. More work needs to be done on the mechanism by which we do the translation between scales and otoliths. But the directionality is pretty clear in all the research that it will extend the age composition in the catch samples and the index samples and likely generate a lower F in the VPA.

CHAIRMAN FLAGG: Yes, Gary Shepard. Is it to that point, Gary?

MR. GARY SHEPARD: Just to answer the other part of the question regarding whether the F target or the FMSY would change after scale/otoliths changes, right now the way the FMSY is calculated, it assumes that there's a flat-top exploitation pattern.

In other words, F is constant once it's fully recruited. If once we do a change with scales and otoliths, if that remains flat top, then FMSY would remain at about 0.41.

The F target is pretty much an arbitrary choice on where you want to fish, so that's not based on any calculations, per se. With the FMSY, when we do the conversion changes, if that turns out to be a decreasing exploitation pattern with older ages, then it will change FMSY and likely decrease it, I believe. The answer is we don't know right now.

CHAIRMAN FLAGG: Thank you, Gary. I have Gil Pope and Ritchie and then Ernie.

MR. POPE: Thank you, Mr. Chairman. I have some of the same concerns that A.C. and Pete have in a number of ways here. The public seems to be very uncomfortable with Amendment 6 because they seem to want status quo, which would be Amendment 5, so that's confusing to me there, number one.

Number two, Amendment 6 goals and issues, when I was trying to read through them, Issue 4 stated -- and one of things that Amendment 6 was supposed to do -- was it's concerned that Amendment 5 management program has had differential impacts on the recreational, the commercial, and the coastal and the producer area sectors of the striped bass fishery.

That's one of the issues in Amendment 6. And then one of the goals was to provide a management plan that strives to maintain coastwide consistency of implemented measures while allowing the states to find flexibility to implement alternative strategies.

When I read through Amendment 6, the way that it's written now, beautifully written and everything is great, but it doesn't achieve very many, if any, of its real goals and objectives, which is to try to bring us more together as a whole unit.

The way we are managing it now is we basically have three or four different management schemes. It's not one whole scenario anymore. You have producer versus the coastal states, and then you have the commercial and the recreational being handled in different manners.

So one of the main things, when we sat down with Jack four years ago, and he sat fifty of us around the table and said, "Do you want an addendum or do you want an amendment?"

And what came out of that was they wanted an amendment, and they wanted to address some of the main concerns, which are things that are very difficult for us to look at, which is changes in the size limits is probably the most difficult thing that we could ever accomplish and the most difficult thing that nobody seems to want to talk about.

That, in my mind, was one of the goals in Amendment 6, was to try and talk about something like that. So, we can go ahead with Amendment 6, but I think that in most people's minds it's basically going to be like an Amendment 5 with maybe possibly a little adjustment on the commercial here and little odds and ends.

But I don't think it's a major change, and it's not the product that I thought Amendment 6 was going to be when we started down this road four years ago, that somewhere along the process it just got watered down to status quo. Thank you very much.

CHAIRMAN FLAGG: Pat, to that point about public comment relative to status quo?

MR. KELIHER: Yes, Mr. Chairman. Gil, I disagree that the public comment was status quo. When it relates to the fishing mortality target, the public comment was -- if you look, it was really for a lower mortality rate than 0.3. The only thing that relates to status quo within the public comments was the allocation issue.

CHAIRMAN FLAGG: I have Ritchie White.

MR. WHITE: Thank you, Mr. Chairman. I would first like to speak to the motion. I would agree with Gordon that even though 0.30 will increase our population of older fish, I would rather get there faster, and in the process of getting there faster, be more conservative with the three-year planning horizon, which it sounds like we will go to.

I will not support this motion and hope that we have a chance at voting on 0.25. Secondly, I'm concerned of the discussion here that we're going back and forth on this Amendment 5/Amendment 6 when we have a motion on the floor, and I think we should deal with this motion.

Then, if this is an issue of concern, then let's vote it that we're going to go ahead with Amendment 6 and we can stop this discussion; or, if that fails, then we go back to Amendment 5. But I think we should deal with this motion and then deal with that issue and finish it.

CHAIRMAN FLAGG: Thank you, Ritchie. I have Ernie Beckwith.

MR. BECKWITH: Thank you, Mr. Chairman. I'm going to support this motion for several reasons. But before I state those reasons, let me just make this other comment -- and I see Bob left, but maybe some of your technical committee can address it.

But today I've heard it a couple of times mentioned that the current estimate of F is 0.29; and if I recall from the last board meeting we had, we had two estimates of F. There were two runs, if I recall, and I thought that it was 0.23.

That's what I walked out of that meeting with, 0.23. And the other estimate of 0.29 was based on a run with a different span of age classes; and if you recall, the question that I asked at the last meeting was -- let me just tell you what the age spans were.

For 0.23, I think the run was for ages five through ten, and for 0.29 I think the ages used in that VPA was seven to ten. And I asked the question, it appeared that in Amendment 5 we used an age span for the VPA that was closer to the five to ten.

It could have been three to eight or four to ten or something like that, and it seemed to me that going with the 0.29 was we are actually adopting a different standard for Amendment 6 than we had in Amendment 5. That was one point that I want to make, and I just wanted to put that on the table.

Now, let me comment to the to the motion. I think it's important to have some idea of where we are with the fishing rates when we select the target in particular.

If, in fact, we are at 0.29, and I personally feel we're less than that. If you recall the tag-based estimates, which haven't been mentioned here today, are less than 0.2.

So, anyway, my personal opinion is that the current fishing rate is quite low. It is not 0.29. But the point I was going to make is if in fact we select a target less

than 0.3, then it really creates a problem, and it doesn't address one of the issues that Amendment 5 was supposed to address.

One of the issues or problem is that some of the states did not avail themselves of the full opportunity under Amendment 5. For instance, Massachusetts and New York, in particular, are fishing at one fish.

If you select a target at 0.25, that doesn't give them any opportunity to go up to the full capability they had under Amendment 5. That's one of the reasons I think we should go with 0.3.

The other reason is that in all good conscience I could not go back home -- well, maybe I'll have to, but I hope I don't have to go back home and tell my fishermen, hey, the fishery is great. We're seeing lots of fish, we're seeing big fish, not quite as many as they see in Massachusetts, and it's really great, but we're going to have to cut back.

What does 0.25 mean? What does 0.2 mean? Does it mean I go from two fish to one fish? Does that mean I have to put in a closed season? That is not going to go over well. Let's just keep in mind what other alternatives mean.

We know what status quo means. And, by the way, status quo is 0.31. How the heck did we ever get 0.3 in here? How come it isn't 0.31? That's probably too late to put an issue on the table, but I was just curious about that.

CHAIRMAN FLAGG: I have Jack, Paul, Pat, and Eric.

MR. TRAVELSTEAD: Ernie has raised a very significant point in my mind, and that is we're not just voting on numerical values of F for a target and a threshold.

Amendment 6 proposes changes in the ages that mortality is associated with. The target F in Amendment 5 is 0.31. I'm afraid some people are going to vote in favor of this motion thinking that because it's 0.3, you really mean status quo.

But if you read Amendment 6, it proposes to change the age group that F is associated with from ages four to ten to ages seven to ten, and the current mortality, or the 2001 mortality on ages seven to ten is 0.29. On four to ten, it was 0.23.

So it seems to me the motion is incomplete, and it either needs to be followed up with another motion or

it needs to be amended to specify what age group these targets and thresholds are to be associated with.

CHAIRMAN FLAGG: Respond, Bob?

MR. BEAL: I can try to respond. I think you could include the language in the motion that these targets are based on fully recruited fish, which I think may change from year to year, depending on some of the things that Gary talked about with the flat-top or dome-shaped recruitment and those sorts of things.

So I think if you incorporate the concept of fully recruited striped bass into this motion, it may give the technical committee a little bit of flexibility to change the actual year classes that are fully recruited from year to year, depending on if technical advice changes from year to year, so you're not locked into seven to ten or six to ten or whatever it is.

CHAIRMAN FLAGG: Paul Diodati.

MR. DIODATI: Actually, I share Jack's concern and I want to echo Ernie's comments. There is no way I am going to go back to Massachusetts at the end of today and tell my constituents that we just adopted a new amendment for striped bass, keeping in mind that this resource is in better condition than we've ever seen it, that these exploitation rates that have been prosecuted on the fishery are resulting in prosperous fisheries, growth of the resource, expanded age distribution, and we're also achieving dominant year classes.

I think we have another dominant year class last year. Recruitment is higher than we've ever seen it. I'm not going to go back home and suggest a season on my fishery or something less liberal than we've had during the rebuilding process.

I think there's something wrong with our concepts here. I am going to be very disappointed -- I strongly support a status quo scenario, although I understand Jack's comments are right on the mark. As the seconder of this motion, I'm willing to consider some modifications of it if Pat does. Thank you.

CHAIRMAN FLAGG: Yes, Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. It really depends upon whether it adds to the body and clarifies our position any better. In listening to what Bob has said in response to Jack's comment, it appears that our age structure may

change from the seven to ten. It may be six to ten, I don't know.

Is going to seven to ten in this motion going to lock us in? If it does, then we're going to have to go and do another addendum after that. I would like clarification on it before I agree to it.

CHAIRMAN FLAGG: Yes, Vic Crecco, to that point.

MR. VIC CRECCO: When we run these models, it does vary. The terminal value, you guys have already been admonished about how the sensitivity of the model in the most terminal and the more recent year, it's very likely that, as Mark Gibson pointed out, that when we go back to converting scales to otoliths and look at the catch at age matrix somewhat differently, it will shift back.

It could shift back to age five again, and we could end up with a different fully recruited age. Not only that, we could have a fully recruited F that's different, probably lower, as Mark indicated.

And again, as Ernie indicated, the tag-based F's, particularly the coastal ones on fish seven plus, 28 inches and greater, are around 0.2 to 0.22, depending on which ones you looked at. But the average was close to 0.2.

So there is some uncertainty about the most recent value as well as the partial recruitment vector. So at least in my view, as a scientist on the assessment committee, there is a great deal of flux from one year to the next, and, really, seven plus might change dramatically next year when we make these changes in the new assessment. I just wanted to make those comments to the committee.

CHAIRMAN FLAGG: Thank you, Vic.

MR. AUGUSTINE: Mr. Chairman, with that having been said, it would seem then if we put in fully recruited, that would accomplish what we're trying to accomplish.

CHAIRMAN FLAGG: Okay.

MR. AUGUSTINE: And that gives them the flexibility of whether it's five year, six year old fish. So if we said "fully recruited fishing mortality target" right after Amendment 6.

CHAIRMAN FLAGG: We'll have staff get that on the board in just a moment. Is that acceptable to the seconder?

MR. DIODATI: I think it should read "Amendment 6 fishing mortality target on fully recruited striped bass."

MR. AUGUSTINE: That's fine, Mr. Chairman.

CHAIRMAN FLAGG: To that point, Ernie?

MR. BECKWITH: It's exactly to that point; that doesn't help me. In fact, that makes me feel less comfortable because I had just said, and it was confirmed, that the VPA, as it runs now, if you run it with seven to ten -- and I believe Vic told me that the partial recruitment vector shifts to ages seven to ten, so the fully recruited F, based on the current VPA run, is 0.29. But as Vic said, that can change from year to year and run to run.

It also disregards the F estimates from the tag base that we have. You're just going with one estimate and those two estimates currently are quite far apart - - 0.2 range to 0.29. It's significant.

I don't have an answer for you, but I think I would like to take "fully recruited" out of there. I think the issue of how we determine F has to be resolved at another date. I don't think we should include it in the motion because it locks us into something.

CHAIRMAN FLAGG: I have two other people that wanted to make comments, Eric Schwaab and Bill Goldsborough.

MR. ERIC SCHWAAB: Thank you. My concern was to this point that has been discussed here, and I agree entirely with everything Ernie has said from the beginning to his most recent comment.

It appears to me that what we have done is essentially changed the currency. And there was discussion -- I think Jack suggested that change was in this amendment, and I don't see that in the amendment.

I see that as something that was done in the stock assessment report, and I understand that that was done with the concurrence of the technical committee, and I don't object to that.

But given the fact that this fishing mortality target is essentially a relative measure, changing the currency

by which we measure our progress could pretty dramatically shift the way that we are viewing what we are doing in relation to the plan.

I mean, if you look back to that advisory report and you see that just in 2001, when the F was measured on four to ten, it was at 0.23. If you look at seven to ten, it's at 0.29.

Now I don't know whether that trend will carry from year to year or whether that will shift back and forth, but for the sake of illustration, our target had 0.25 in that period, under one measurement scenario, we would be within the target and under a different measurement scenario we are overfishing, and I think this is a key point that suggests to me that Ernie's last comment is exactly right.

While I want to support this 0.3, supporting it with this fully recruited standard in here, in fact, I think, makes it less acceptable, and I would much rather have this topic of discussion and advice at the technical level as opposed to in this amendment.

CHAIRMAN FLAGG: Thank you, Eric. Bill Goldsborough.

MR. WILLIAM GOLDSBOROUGH: Thank you, Mr. Chairman. Notwithstanding the specific wording of this motion that is currently under discussion, I did want to speak in support of the concept of choosing F of 0.30 as the target.

But I want to start by also voicing support for the concept of ultimately attaining a broader age class distribution. I do think that's important. I think it's important for the stability of the stock, if not for the various parts of the fishery.

But I would note that is already an objective in Amendment 6. I believe it's Objective B, that we would attempt to attain an age structure that provides adequate spawning potential. I think that's well stated.

Clearly, in recent years we have had adequate spawning potential by the young of the year production we've had. But, I think the implication here is that we've probably had favorable climatic conditions for juvenile survival, and that we could anticipate at some point in the future having something less than favorable climatic conditions.

Let's be sure we have the potential to be able to account for that and maintain the stock at the level we would like it to be.

Given that, we have to think in terms of growing the age class distribution, and I would refer to I think it's Figure 29 in Amendment 6 that shows the projected increase in age fifteen plus fish under the three different proposed target fishing mortality rates.

And it shows an increase in that class of fish for all three, albeit a lower one for F of 0.30 and higher, of course, the lower you go in that target F.

I would offer that I, for one, am comfortable with the rate of increase that's shown in that projection under F of 0.30. I'm comfortable that would account for whatever type of decline in favorable climatic conditions, vis-a-vie, juvenile survival, that we might expect to see in the near future.

But even having said that, I think what we've heard about the scales versus otoliths suggests that all three of those projections would become steeper were we to improve our estimate of age by going to otoliths.

I would offer that when they get very steep, as the projections for 0.25 and 0.20 are even now in Figure 29, that it actually is somewhat fanciful because they assume that you have somewhat limitless habitat, that you don't have limitations of forage base and so forth.

I don't think that's realistic, and I would speak just from a Chesapeake Bay perspective on this point, and I think that parts of what I'm about to say apply elsewhere as well.

But we are clearly, from many different observations, we are clearly hitting up against a carrying capacity for striped bass in Chesapeake Bay right now.

We have dissolved oxygen problems. There is a phenomenon that's called the temperature/oxygen squeeze that's exerting physiological stress on striped bass and other species.

We have about 15 percent of the historic grassbeds in Chesapeake Bay, about one percent of historic oyster reefs, both very important habitats for striped bass.

We have shifted from a twelve-inch minimum size to an eighteen-inch minimum size during the last decade, effectively moving to a fish that depends almost entirely on menhaden as opposed to a smaller fish, which depends on invertebrates.

And we know that we've had menhaden recruitment failure in Chesapeake Bay during the last ten years,

and there's clearly a forage-based limitation for striped bass in Chesapeake Bay.

We're seeing the results of that in lower weight per length of striped bass in Chesapeake Bay, and we're seeing what most people believe to be the result of poor nutrition in bacterial infections, micobacteriosis in particular, which has been discussed at this table in the past; as much as 70 percent infection rates of striped bass in Chesapeake Bay.

That's, most believe in the scientific community, a result of physiological stress from poor nutrition and/or water quality. So I think while it would be nice to be able to boost the rate of increase in older fish, at least from a Chesapeake Bay perspective, I don't think that we would be able to boost it much over what it is now.

I think we have a limited carrying capacity, and where we are right now is about as high as we can go. I think that while I support the ultimate objective of obtaining a broader age class distribution, I think it's more a matter of when we do it or how quickly we do than if we do it. I think F of 0.30 under the current circumstance is a responsible rate of increase. Thank you.

CHAIRMAN FLAGG: Thank you, Bill. Ernie.

MR. BECKWITH: Thank you, Mr. Chairman. I would like to amend the motion by removing the words "fully recruited." I would offer that as a friendly amendment, first of all, and if that's acceptable I won't need --

MR. AUGUSTINE: Thank you, Ernie. I was going to raise my hand and say the maker of the motion would like to take that out based on the recent comments that have been added to the discussion.

CHAIRMAN FLAGG: Is that okay with the seconder, Paul? It is. Then by mutual agreement then we will excise those words from the motion. We've done that. Yes, Roy.

MR. ROY MILLER: Thank you, Mr. Chair. Mention was made of the tag-based estimates, and I just wanted to point out a possible fly in the ointment in our discussions concerning stock restoration and 0.3 and so on.

And that fly in the ointment was the only measure available of fishing mortality for the Delaware stock indicates that in fact the tag-based estimates indicate

that fishing mortality for that stock may be currently exceeding the 0.3 level, perhaps as high as 0.41, as reported to us at the November meeting.

That type of argument might argue in favor of adopting a lower mortality rate. But, realistically, and not withstanding those people that have those opinions, I can't see holding the rest of the coast hostage if, in fact, overfishing is occurring on the Delaware stock.

There may be some quirk in the migration routes of the Delaware stock that subjects them to a higher than typical mortality rate. We don't know exactly what the cause is there. But my inclination is to support the majority with an F of 0.30 rather than insist on some lower target mortality rate because one stock appears, by one method of estimation, to be overfished at this point in time.

CHAIRMAN FLAGG: Thank you, Roy. Yes, Bill Adler.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. I would like to move the question.

CHAIRMAN FLAGG: Okay. David had his hand up and did you have a comment, Dave?

MR. BORDEN: I was going to ask the same thing and ask for a caucus.

CHAIRMAN FLAGG: Bill.

MR. WILLIAM J. WINDLEY, JR.: Mr. Chair, just one quick note about public comment. The Recreational Fishing Alliance and the Maryland Saltwater Sport Fishing Association and I believe -- Commissioner Fote can correct me if I'm wrong -- the JCCA used a different form to express their public opinion.

In the SFA, we used our board, which is made up of all of our chapter members, as well as some elected members at large, to come up with a policy and presented it in one letter, one formal document to the commission in the interest of simplicity.

RFA caucused by telephone the chairs of each state involved and came up with a policy that way and presented, again, one document, and I believe JCCA used their board to do the same thing.

All three of these positions support 0.30 and support status quo. I just want to remind the commission that

in the interest of simplicity, we may have made it appear that the over 100,000 people represented only sent in three letters.

I just want to make sure everybody is aware that there is a very strong sentiment for this in the public that probably doesn't show up in the document that accounts for public comment.

CHAIRMAN FLAGG: Thank you, Bill, for that clarification. At this point, can we have a caucus? We need the motion read. I'll read the motion for the record.

Move that the Amendment 6 fishing mortality target on striped bass be set at Option 3, F equals 0.30, with a threshold of F equals 0.41 FMSY. Motion by Pat Augustine, second by Paul Diodati.

MR. FOTE: I know Bill was sitting at the table waiting to make his comment. I don't know if there's anybody else, before we vote on the motion, in the public that wants to comment. Some of the people said they wanted to wait until we get to a particular thing and we haven't gone to the public.

CHAIRMAN FLAGG: Okay, other members of the public that would like to comment on this issue on any points that haven't yet been heard? Seeing no hands, then we'll proceed to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN FLAGG: Please take your seats so we can call the vote. **All those in favor of the motion, please signify by raising your right hand, eleven; those opposed, two in opposition; abstentions, one abstention; null votes. The motion passes.**

Okay, it's quarter of twelve and check out time is noon. I would like to break for lunch. I would like to get people back at quarter of one because we have a lot still on the agenda. So we'll break until quarter of one. Thank you.

(Whereupon, the meeting recessed at 11:45 o'clock a.m., December 19, 2002.)

THURSDAY AFTERNOON SESSION

The Atlantic Striped Bass Management Board of the Atlantic States Marine Fisheries Commission reconvened in the Ballroom of the Sheraton

Providence Airport Hotel, Warwick, Rhode Island, Thursday afternoon, December 19, 2002, and was called to order at 1:05 o'clock p.m. by Chairman Lewis Flagg.

CHAIRMAN FLAGG: Let's get started again, we're running a little late. If you could take your seats, we'll begin the meeting. We have about a dozen other items on the decision document, and we also have other agenda items to take care of.

I would urge for all of us to move along as expeditiously as we can because I would like to get through this whole decision document today so that staff can then begin to integrate these decisions into the final document for our approval at the February meeting.

So without any further ado, we can begin to go to the next item on the decision document. Pete.

MR. JENSEN: I think, Mr. Chairman, we might change the order in which we address some of these issues simply because I think one plays upon the other, and I would suggest that we move to the allocation issue, particularly in regard to the coastal commercial quota, because that is important to a lot of the things we're going to be talking about. I would like to suggest that we move to that issue in the decision document.

CHAIRMAN FLAGG: I wonder if we could move on to that just as soon as we finish up with these biomass reference points, and then I certainly would have no objection. Yes, Paul.

MR. DIODATI: I would like to make a motion, Mr. Chairman. **I would like to make a motion to adopt the biomass target and threshold with the target being 17,500 tons for female spawning stock and the threshold being 14,000 tons.** And if I have a second, I'm willing to talk about that.

MR. GEORGE LAPOINTE: Before you get a second, can you convert that to pounds because that's what's in the decision document.

MR. DIODATI: That is equivalent with Strategy 2.

CHAIRMAN FLAGG: Yes, Pat Augustine.

MR. AUGUSTINE: **I'll second that for discussion purposes, Mr. Chairman.**

CHAIRMAN FLAGG: We have a motion on the floor to adopt Strategy 2 under the biomass target and threshold. Paul.

MR. DIODATI: I support this strategy for several reasons. Currently, we're at a biomass level that's at or slightly exceeds 17,500 tons. Female biomass has been the coin of the realm in the scientific community relative to the reproductive segment of the population.

The 14,000 ton threshold is equal to the level that we observe the stock condition to be at back in 1995 when we declared this stock fully restored.

So, it's nothing near the early '80 period. When we started the stock rebuilding, it was about 6,000. It's a very conservative threshold, that if we ever reached it, we would have a lot of reproductive momentum in the stock, and it would be a relatively easy matter to regain and rebuild the stock from that threshold. For those reasons, I support this strategy.

CHAIRMAN FLAGG: Thank you, Paul. Before we get to questions, I would like to ask Bob if he has any comments relative to the public comment relative to this issue. Yes, Tom.

MR. FOTE: Before we go to that, I'm looking at million pounds, not metric tons. Can we basically put what's in the document, and I'm looking at Strategy 2. So let's get a conversion of what we're basically looking at, there's no metric tons there, and I don't have my calculator here.

MR. FREEMAN: It's in metric tons?

MR. FOTE: It says 30.9 million pounds, and it says 46 million pounds, so it's not metric tons. Thank you.

CHAIRMAN FLAGG: Okay, Bob.

MR. BEAL: Okay, real quickly, the public comment was divided between Strategy 1 and Strategy 2. The difference between these strategies is Strategy 1 is based on total biomass of the population, and Strategy 2 is only based on female spawning stock biomass.

So either of these approaches the tech committee felt were appropriate ways to go with biomass targets and thresholds. The public, again, was split between 1 and 2. Some folks felt that we should implement both 1 and 2 to give the board more metrics or more

tools to evaluate where the population stands. So the comments were split between 1 and 2.

CHAIRMAN FLAGG: Pat, do you have an advisory panel recommendation?

MR. KELIHER: The AP really looked at this as a chance to build in some risk aversion and suggest, with unanimous consensus, that Strategy 1, total biomass, and Strategy 2, female spawning stock biomass, be used simultaneously.

CHAIRMAN FLAGG: Thank you. Are there comments from the board members? Any discussion of the motion?

MR. AUGUSTINE: A point of information, Mr. Chairman. Do we want anything in there that the advisory panel suggested or not? I'm not sure it's necessary. If not, I would call the question.

CHAIRMAN FLAGG: Yes, A.C.

MR. CARPENTER: I would like to support the motion mainly because the spawning stock biomass is part of the routine monitoring that we have been doing and will involve no additional cost. In all due respect to the advisory panel, I think that one of these measures is probably sufficient.

CHAIRMAN FLAGG: Seeing no further hands, can we take a few moments to caucus. While we're caucusing, I will read the motion:

Move to adopt the biomass target and threshold equivalent to Strategy 2 with a target of 46 million pounds and a threshold of 30.9 million pounds female spawning stock biomass. Motion by Paul Diodati, second by Pat Augustine. Bruce.

MR. FREEMAN: A point of clarification. The existing female spawning stock biomass is 57.2 million pounds; is that correct?

MR. BEAL: Yes, that's the latest estimate from the stock assessment.

(Whereupon, a caucus was held.)

CHAIRMAN FLAGG: While we're waiting here for a moment, is there anybody in the public that wants to comment on this motion? Seeing no hands, back to the board, is everybody ready to vote on this motion?

All those in favor, signify by raising your right hand; those opposed; abstentions, no abstentions; null votes, no null votes. The motion passes.

MR. AUGUSTINE: I was wondering whether you were going to entertain Pete's motion. It just seems to me, in looking at the other options that we have, one of the least contentious of all that would seem would be most important that we address and have approved would be the one on the planning -- what was it called -- on the horizon.

And it would seem to me, listening to what we have heard and reading what the advisory panel has said and the notes on the distribution that we got from all of the various locations that were looked at for public hearing, it would just seem that if we went ahead and did the planning horizon now, get it out of the way, we'll at least have gotten two or three of the major things in place before we do the other. I would suggest we do that unless there is opposition from the chairman.

CHAIRMAN FLAGG: Pete.

MR. JENSEN: Well, I would agree with that except I'm not sure we know what we're doing for three years at this point. We need to do a few more things before we agree we want to put it in place for three years. I agree with the principle, but not the timing.

MR. AUGUSTINE: Mr. Chairman, I think the biggest concern is that we still have a lot of business to attend to today and some of the issues are very contentious.

If we go ahead and put in place this planning option plan, it will give us the opportunity in February, if other changes come up that have to be addressed at that point in time.

It just seems to me this is one of the root issues that we've got to get over. And I agree with you, Pete, there are still some contentious issues, but I think this is an option-building amendment, if I understand it correctly.

CHAIRMAN FLAGG: Pete.

MR. JENSEN: Well, may I make a motion and then if Mr. Augustine wants to amend it, why he certainly may.

I move to increase the coastal commercial quota by 30 percent and maintain the coastal

recreational measures at the level authorized in Amendment 5, that's two fish, 28-inch reference, and maintain the Bay allocation at the current level of harvest.

MR. BORDEN: **Second.**

CHAIRMAN FLAGG: Dave Borden had the second to Pete Jensen's motion. Let's wait until we get the motion up.

MR. JENSEN: I make that motion, Mr. Chairman, as an allocation motion.

CHAIRMAN FLAGG: As an allocation motion, yes. We'll get that up on the board here and then have some discussion. Ritchie.

MR. WHITE: A question. If we adopt this and we've already adopted 0.30, won't this take us over 0.30?

MR. BEAL: Potentially. The question that's still out there is what are the states that are more conservative than Amendment 5 allows them to be? In other words, New Hampshire, Massachusetts, New York are at one fish, and they could be at two fish.

So if those states were to switch over to two fish and with this 30 percent increase in commercial quota, we would go over the F target.

MR. WHITE: A follow up, Mr. Chair. The way this is worded, though, it's not talking about what these states are presently fishing at. It's saying two fish, 28 inches, so don't we have to figure this as all the states are fishing at two at 28?

MR. BEAL: We have a plan right now with two fish at 28 and a target of 0.31, so what this motion does is essentially takes most of the components of Amendment 5 and carries them forward.

It's hard to predict exactly what the effects on fishing mortality rate would be under this scenario. If those states were to avail themselves at two at 28, the fishing mortality rate would go up.

CHAIRMAN FLAGG: Pres Pate.

MR. PRESTON PATE, JR.: Thank you, Mr. Chairman. I think it's as much a matter of degree and perspective as it is a matter of substantive impact on the stock.

Mr. Diodati has tried to create some perspective of what at least the change in the commercial allocation will make in the memo that was handed out from him this morning, and that's in the first full paragraph on page 2 where he explains that the 30 percent of the increase is only 50,000 fish.

We all have worked with VPA's and other types of stock assessments to know that there is considerable amount of noise and uncertainty in those estimates, and it's my estimation that 50,000 fish is well within the limits of uncertainty and the noise, and will probably never be realized in terms of any impact on the stock assessment.

And you might say the same about the recreational harvest should Massachusetts and New York go to a higher bag limit, so I support the motion.

CHAIRMAN FLAGG: Thank you, Pres. Gordon Colvin.

MR. COLVIN: Just a little question, Pete, to clarify the motion for the record. I think it's probably necessary to specify the current level harvest in what year or years just so we have that straight in the record.

CHAIRMAN FLAGG: Eric.

MR. SCHWAAB: My interpretation of that was at the 0.28 F target, and I think that was Pete's purpose as well.

CHAIRMAN FLAGG: Pete.

MR. JENSEN: I think the intent is try to fix it at a level. Of course, the way we figure the harvest is we attempt to achieve an F of 0.28. I guess, Gordon, you're looking for a specific poundage quota limit; is that what you're looking for?

Because, the F of 0.28 is how we've figured it and it's been relatively constant for several years. It goes up and down a little bit, but it's been relatively constant.

MR. COLVIN: It may be that the answer to my question is that the intent of the motion is to establish a Chesapeake Bay quota that achieves the same level of fishing mortality in the Bay as has been achieved in some current period of time.

What I'm trying to do is pin those details down, and that's fine, but I would like to get the details into the

record. I mean, as opposed to specifying a quota number itself.

I'm also going to ask a question at some point, and that question is what did the Chesapeake states think the immediate effect of this will be on the level of quota. That question can wait until we pin down the detail I'm asking for.

CHAIRMAN FLAGG: Thank you, Gordon. I have Tom Fote.

MR. FOTE: I was trying to figure out where the 30 percent comes. Are you basically saying that we go to what was during the base years or are you saying we increase the existing commercial quotas by 30 percent, so I'm clear what we mean by that 30 percent?

CHAIRMAN FLAGG: Bob.

MR. BEAL: That's actually a good question. If you take 30 percent of the current quotas and then add that on, you're not — it's a percentage thing. You don't get to 100 percent.

MR. FOTE: Right, that's what I meant.

MR. BEAL: If you take 30 percent of the base period and add it to your current quotas, we get to 100 percent of our base period, so that probably needs to be clarified.

MR. FOTE: That's all I'm saying.

MR. BEAL: Is the intent, Pete, to increase the commercial quota by 30 percent from what they have right now or is the intent to increase the commercial quota to 100 percent of the base period? It's about a 10 percent — yes, it's about a 34 percent increase to get you to 100 percent of your base period quotas for the coast.

MR. JENSEN: Well, my intent was to increase it by 30 percent, but I don't have any objection to that different definition if it's easier to understand and is consistent with some of the options that have been put forward. Is that consistent with one of the options that was put out there, the 34 percent?

MR. BEAL: Yes, the way they finally ended up in the document, it's not real specific if it means a 30 percent increase relative to exactly what they have right now or tacking on 30 percent from

the base period; in other words, taking 30 percent of your smaller quota or 30 percent of your bigger quota.

MR. JENSEN: Well, my straightforward intent was to increase it by 30 percent from what it is right now.

CHAIRMAN FLAGG: Thank you. Paul Diodati and I have Gil, George, and Roy and Anne.

MR. DIODATI: Following the comments that Gordon made, I think I would more comfortable — I'm going to support this motion, but I would be more comfortable with it if it said maintain the Chesapeake Bay harvest at the current level of landings not to exceed average landings in 1999 to 2001, something to that effect.

CHAIRMAN FLAGG: Are you proposing that as an amendment, Paul, or do you want to think about that a minute?

MR. DIODATI: **I'll reword it so that it makes a little bit more sense, but what I would say is maintain the Chesapeake Bay quota not to exceed annual average harvest observed during 1999 to 2001.**

And with that, if this is seconded and this motion is approved, I probably will not support a three-year planning horizon at this time.

It would be somewhat less until we determine the ramifications of this motion and a reevaluation of the harvest control model that's been used in the Bay and give us an opportunity to revisit some of that information.

CHAIRMAN FLAGG: Is there a second to Paul's amendment? **Ritchie White seconds.** We do have an amendment on the floor. I have Gil Pope.

MR. POPE: Like Tom Fote, I'm not very sure about exactly what that 30 percent meant. In Options, I think it's 4 and 7, Bob had told me that it meant to bring the 70 percent to the 100 percent level of the base years.

Now there is a little bit of a difference there, but in our case where we have such a small quota, it's about 15 or 20,000 pounds. I would like to ask the maker of the motion, if he would agree, to make it more consistent with options in the allocations Options 4 and 7, if he could make it to come to 100 percent of

the base years rather than just the 30 percent increase?

MR. LAPOINTE: Mr. Chairman, a point of order. Shouldn't we be talking about the amendment to the motion at this point and not the main motion?

CHAIRMAN FLAGG: Yes, we should be. It's what we're on right now. We will get back to that. I have George.

MR. LAPOINTE: Mine was on the main motion, so I will wait until we get through with this one.

CHAIRMAN FLAGG: Okay. Roy Miller.

MR. MILLER: Mine is on the main motion as well.

CHAIRMAN FLAGG: Dave Borden.

MR. BORDEN: Thank you, Mr. Chairman. On the motion to amend, I guess I'm a little bit unclear as to what the intent is. If the intent is to cap the Chesapeake states at the mortality rate that they're currently inflicting on the population and therefore the level of landings goes up and down in response to the changes in the population, then I think the motion ought to say that.

What this basically will do is cap them at a number, at a quota number, that is then fixed, the way I understand it. I would just ask Paul in particular, and Ritchie, to reflect on that.

I think what they're really trying to say is to fix the mortality rate at the mortality rate that was present last year, so that they don't increase the mortality rate the way they are currently allowed to do with the harvest control rule.

CHAIRMAN FLAGG: I have Pete. Did you have your hand up, Pete?

MR. JENSEN: Well, I think, Mr. Chairman, I could accept this as a friendly amendment if in fact it was the average of '96 to 2000, which is what the basis of most of Amendment 6 is. All we're trying to do is just indicate that we're willing to hold at the level we are, but not a fixed number because it does go up and down year to year, as we all experience, and if we exceed F of 0.28, then we've got a pay-back situation.

So people shouldn't be concerned that we're going to go above F of 0.28. We're already taking the reduction from 0.31 down to 0.28.

CHAIRMAN FLAGG: Paul, to that point.

MR. DIODATI: My concern, in suggesting this amendment, was that in some recent years the harvest within the Bay was below the level projected by the harvest control model, and at the same time the F that was estimated from your tagging database was pretty much near or at the target.

So, that suggested to me that maybe the harvest control model needs to be revisited. If you had fished the whole quota that the harvest control model estimated, you would have overfished your F target. I thought that was evident from the information that I looked at.

MR. JENSEN: Well, you'll notice the harvest control model language is not in there, because if you use the harvest control model, it's two and a half million pounds more than we've been taking, and so we acknowledge that exceeds the F 0.28.

CHAIRMAN FLAGG: I have Jack and then Eric.

MR. TRAVELSTEAD: Well, I can't support the amendment. I think I want to make the same remarks that Dave Borden made. I mean, what we're trying to do in the Chesapeake is to achieve a target F, just like we're trying to do on the coast.

And as recruitment changes from year to year, the quotas are going to go up and down. In some years they're going to go down, in some years -- with this 2001 year class coming through in a few years, they're going to go up. But the point is we don't want to exceed that F equals 0.28, which is basically status quo, which is what we've talked about for the coast.

CHAIRMAN FLAGG: Eric and then Paul.

MR. SCHWAAB: I think the practical affect, in recent years, that gets to Paul's point, is that while landings have been below the number that was set by the harvest control rule back in -- and I don't even remember exactly what year it was most recently, but that number was clearly not accurate over that multi-year period.

And, in fact, what we have done is fished to that 0.28 target even though there was a remnant quota on paper that allowed something higher than that. I don't know if that's clear or not.

But if you look back over the period of years, even though our landings have fluctuated up and down, what we have tried to do is maintain that F target. I would suggest that if there are members of the board that are uncomfortable with that, that we focus on that F target, that rate of harvest, and the board could take whatever steps it wants to ensure that on an annual basis that number is calculated and put before the board as an annual quota that is directly related to that F target, which is the point at which I think we've gotten away from, at least from the board's perspective, the original intent of that application of that model.

CHAIRMAN FLAGG: Paul.

MR. DIODATI: **I'll withdraw the amended motion.**

CHAIRMAN FLAGG: Thank you. Ritchie, do you agree with that? Thank you. **So the amended motion is withdrawn.** We're back to the main motion and I have some folks that are on my list to speak on the main motion. Gil Pope.

MR. POPE: Do you want me to repeat it, Mr. Chairman? The maker of the motion, to be consistent with Options 4 and 7 that are in Amendment 6, to make it 30 percent -- to bring it up to the 100 percent of the base years average '72 to '79, rather than a 30 percent increase. It's a small amount for us, but it's a meaningful amount for us.

CHAIRMAN FLAGG: To that point, Pete?

MR. JENSEN: I don't know if Gil was making a specific amendment to the motion, but I'm willing to accept the language that says 100 percent of the base period equal to the 34 percent, or equivalent to 34 percent, however it's said. I'm willing to accept that as an amendment.

CHAIRMAN FLAGG: Okay, Dave Borden, is that acceptable? He was the seconder. We'll take that as an affirmative. Well, we have a perfected motion I guess you would refer to it as. George LaPointe.

MR. LAPOINTE: I want to echo some of the concerns raised by Rich White just about whether in fact the combination of these measures will kick us

over the mortality target that we don't want to exceed. I understand Pres' comments about noise in the system.

But I'm concerned about all the noise in the system moving one way and getting ourselves in a situation where we're going to exceed the fishing mortality target of 0.30.

CHAIRMAN FLAGG: Roy Miller.

MR. MILLER: I would like to inquire of Pete first, and then I have a follow up comment. Pete, this motion says nothing about other producer areas such as the Delaware and the Hudson. Did you have some intention for those other producer areas or are they lumped into this category of coastal?

MR. JENSEN: I assumed that was the case, that the Bay was the only other specific producer area. I don't know about the Hudson River. I think that has its own regime, but we haven't talked about that for a lot of years. I mean, Delaware Bay is part of the coast, right?

MR. MILLER: Not necessarily. And then I'll go into the second part of that. In fact, the state of Delaware's present commercial quota is not strictly based on the '72 to '79 base period.

Instead, when Delaware managed to convince the board that the Delaware stock was restored, their quota was adjusted to be in concert with measured levels of fishing mortality on the Delaware stock.

In point of fact, our quota is more than the base period at present. So, therefore, I would oppose your motion, and that's why I'm specifically getting at what your intention was in regard to the Delaware and the Hudson stock.

CHAIRMAN FLAGG: Pete, did you want to respond?

MR. JENSEN: Well, I guess what Roy is saying is that the 30 percent fits him better than the modified language. That was my original intent.

MR. MILLER: I would say 30 percent of the present, yes.

CHAIRMAN FLAGG: I have Anne and then John Nelson and Tom.

MS. LANGE: I guess my question was how this relates -- it doesn't exactly match any of the

options if there is significant differences in the impact that this would have relative to the options that were presented to the public.

And the other concern is the fact that we're really close to the F target as it is now. Will this increase to go over the F target, and I guess part of that is we won't know until something is done.

So it relates back to Paul's comment that we should not go to a three-year management window if we're going to make significant changes or potentially significant changes to the allocation of the quotas.

CHAIRMAN FLAGG: Thanks, Anne. John Nelson.

MR. NELSON: Thank you, Mr. Chairman. Mine is for either Bob or the technical committee, and it really deals with the current level of harvest, and I believe that what we had with the discussion is that would be looking at using the F 0.28 as the target.

I guess I just need to hear again that -- I think the F 0.28 was what we were using when we were dealing with an F 0.31. Now we're using F 0.30 now.

Is it still the valid number to use or does this change by some other percentage? I have no clue on that right now and I just need to have that clarified before we move ahead with that.

CHAIRMAN FLAGG: Bob.

MR. BEAL: I'm not sure exactly. The Chesapeake Bay has a lower fishing mortality target than the coast due to the fact that they're at 18-inch fish instead of the standard of 20-inch fish.

So, yes, I'm not sure how moving from 0.31 to 0.30 would affect that target. I don't know if any of the technical committee folks have any opinions on that or not.

CHAIRMAN FLAGG: Vic, would you like to comment, please? Could you come to the mike?

MR. CRECCO: It would reduce it by about 3 or 4 percent proportional to the reduction from 0.31. Now I should say, though, that the directed numerated values in the Bay only in one year did their F equal 0.28. Every other year the directed numerated F's were below 0.28.

I mean, these are values they give us every year. So, every one of their F estimates that are based on their quotas in the Bay have been below except one year which was at 0.28. I just wanted to make that clear.

CHAIRMAN FLAGG: Thank you. John.

MR. NELSON: I just need a clarification. I think I heard Vic say that 0.28 is not the number that would be appropriate to use for the language on current level harvests, and I just need to make sure that's clarified.

I doubt if he can give us a number that is correct right now, and we might want to just use some language in there that reflects that would be developed by the technical committee, et cetera. But is that correct; it's not 0.28 or --

MR. CRECCO: It's just a very small reduction because we reduced the target from 0.31 to 0.30. It means that the value would probably be 0.27 or something like that. It would be a miniscule reduction from 0.28. It wouldn't be measurable in the ways that we measure F.

MR. NELSON: Okay, because I thought you said, Vic, when you first came up, that it would be something like 4 percent.

MR. CRECCO: Well, it's like whatever that is.

MR. NELSON: 4 percent of 0.28 is what you're saying?

MR. CRECCO: It's what?

MR. NELSON: Or one.

MR. CRECCO: Okay, so that would be 0.27.

MR. NELSON: Okay, that's fine, that's why I was trying to make sure.

MR. CRECCO: That's what I'm saying, 0.27.

CHAIRMAN FLAGG: Paul, to that point?

MR. DIODATI: Yes, I already calculated it. It goes down to 0.27. That's consistent with going from 0.31 to 0.30, which is a 3.2 percent decrease. You decrease 0.28 to 0.27 and that makes everybody happy.

CHAIRMAN FLAGG: Tom Fote.

MR. FOTE: Well, you let Vic get away from the table because I wanted to ask him a question. One of my concerns is that 2000 and 2001 we were taking -- a lot of the Virginia catch that was supposed to be basically the F mortality in the Bay was coming out of the coastal catch, and I've really never been answered, to my satisfaction, to what that million pounds meant as far as the F value on the coast and the F value in the Bay.

Did it basically show that we stayed at a 0.28 because the million pounds that was supposed to be coming out of the Bay was taken out of the ocean, so there was less tag returns or producing area F on this.

So I would like to have that clarified, and I've got a second point. And Vic ran back or somebody else could answer that question. What was the affect on the mortality rate?

CHAIRMAN FLAGG: Go ahead, Bob.

MR. BEAL: I think Gary or Vic or anyone - all of the Virginia commercial landings were counted against the Chesapeake Bay quotas in the directed numeration study?

MR. JONES: The coastal commercial harvest last year was approximately 45,000 fish, and that relates to the average '96 to 2000 harvest in the Chesapeake Bay of about 1.6 million fish.

So whether you include or exclude those 45,000 fish, it has a very insignificant affect on the estimate of F. So it might change from, for example, from 0.30 to 0.22 -- or, I'm sorry, 0.23 to 0.22 or 0.23 to 0.24. But it would be very modest.

MR. FOTE: The second part was when you changed the motion -- and I know it's only a small percentage of this, Gil -- when you changed and went from 30 percent of what you're having now to 100 percent of the base years on the commercial fishery, there's a message out there that basically says to the recreational sector out there that we are not -- and I will hear this as soon as we walk out the door -- we're not at 100 percent that we were harvesting back during the base years of '72 to '79.

Well, I would feel more comfortable when you were talking about a percentage of an increase. When you start talking about going to the 100 percent, I think it's measures that I'm going to get screamed at for

because when you basically say that you're going to 100 percent of the commercial fishery that existed during '72 to '79, and yet the regulations along the coast, as far as what the recreational sector can harvest, is a lot different than it was during '72 to '79, is basically going to be reason for a big press and a big argument.

CHAIRMAN FLAGG: Thank you, Tom. I have Ernie Beckwith.

MR. BECKWITH: Thank you, Mr. Chairman. Looking at this motion, I'm really not sure whether it should be divided into two motions. I think there's two issues here and the first issue I don't have any issue with.

I think that the coastal commercial fishery has been shorted over the years, and that issue should be addressed. But the way that it's structured leaves me a little uncomfortable. Those additional fish have got to come from somewhere.

Either they come from someone's quota or they come from someone's F rate, and the way that it's structured here it appears to me that it comes out of the coastal recreational fishery, because what this motion does is it essentially caps the Chesapeake Bay, which means they can fish at their F rate up to their certain levels and the additional fish come out of the coastal recreational fishery.

I think we need to know that. If I'm wrong, please state that. I think I would rather see this addressed in a two-step process; have a motion that just deals with the increase for the coastal fishery.

Therefore, I am seeing some people shake their heads. I will move to amend, to divide the question - I'm not sure what the second question is. The first half of it that deals with the coastal commercial fishery, I'm comfortable with. Let's deal with that.

As to the second part of it, I'm not sure what that motion should be, so I don't want to divide this motion. I would just offer a substitute motion and the motion will read:

Move to increase the coastal commercial quota to 100 percent of the base period 1972 to 1979.

CHAIRMAN FLAGG: Is there a second? Pres Pate seconds, so we have a motion to substitute. I have a list of people that I haven't gotten to yet. Bill Goldsborough.

MR. GOLDSBOROUGH: My comment relates to this, but not to the motion to amend. Do I need to speak to that now?

CHAIRMAN FLAGG: Do you want to wait until we get back to --

MR. GOLDSBOROUGH: Perhaps I should.

CHAIRMAN FLAGG: Okay, George.

MR. LAPOINTE: Well, my comments slop over both the amended motion and the main motion. So with your discretion, I will make them anyway, if that's all right.

CHAIRMAN FLAGG: Go ahead.

MR. LAPOINTE: For the guy who was snooty about rules of order before. I think it's a question and then a comment. I thought I heard a comment earlier today to say that if we move to increase the commercial quota, and the number this morning was 30 percent, that it would impact the coastal recreational harvest by some percentage. And I remember 10, but please correct me if I'm wrong.

CHAIRMAN FLAGG: It's 4.

MR. LAPOINTE: Four?

CHAIRMAN FLAGG: Yes, with a 30 percent.

MR. LAPOINTE: Oh, that's better.

CHAIRMAN FLAGG: Yes.

MR. LAPOINTE: I am concerned about, again, the comment I made before, that we're incrementing the mortality in a number of manners and that will come back and impact our coastal recreational fisheries, which, of course, is Maine's fishery, and I will go back to Paul's comment that's going to be an incredibly hard thing for me to support at a time when the stock is increasing.

CHAIRMAN LAPOINTE: Jack Travelstead.

MR. TRAVELSTEAD: I'm going to go back to Ernie's comment that he didn't know where the fish would come from or that they were going to come from the recreational coastal fishery to make up for all these increases we're going to allow.

I would suggest that there is a different scenario in that since we have not decided the age group that our target fishing mortalities apply to, one scenario is that we continue to use ages four through ten, as we have for a number of years, and the current fishing mortality rate in 2001 was 0.23, which is substantially below the target we just adopted.

So there is more than enough room to accommodate the increases in the original motion and probably to still allow some room for increases in the recreational coastal fishery.

So I don't think it's necessarily a given that all of these increases are going to be coming off the backs of recreational fishermen on the coast.

CHAIRMAN FLAGG: Thank you, Jack. I have Bill Goldsborough and then Roy.

MR. GOLDSBOROUGH: Thank you, Mr. Chairman. I think the point I was going to make is relevant here in that it puts the original motion in a little bit of context in the process of speaking to Anne Lange's first point about this being an option that did not go out to public review.

In fact, what this essentially is is the new Option 5 under allocation that the AP developed yesterday, which was an attempt to distill, together, what we've been hearing from the public and what they were hearing around their table.

They basically came up with a new option that was status quo plus some addition for the coastal commercial fishery. What this main motion does is just spell out what that status quo is. Perhaps Pat Keliher wants to speak to that. I think I've got that right.

They did not reach a majority support for their new Option 5, but I would hazard a guess, from having listened to their discussion, that had they had a lot more time for that discussion, they might have gravitated toward majority support for that amended motion.

So I think it is supported by the general public, or this approach is supported by the general public comment that we've been getting from all fronts.

CHAIRMAN FLAGG: I'm going to recognize Roy, and then we will get to Pat to give us some insight about the discussion the advisory panel had relative to allocation. Roy.

MR. MILLER: Mr. Chairman, if we can reach back in time for a moment, the base period, the original reduction that was agreed upon for a coastal commercial harvest, was it 70 percent of the base period or 80 percent? Was it 70?

MR. BEAL: Under Amendment 4?

MR. MILLER: All right, what I wanted to point out is what adoption of this amendment would do to Delaware. Our present commercial harvest, as agreed upon over the past 6 or 7 years, is 193,000 pounds.

If this measure is adopted today, we would have to reduce our commercial harvest down to about 48,000 pounds. Now that's nonsensical in lieu of everyone else increasing their commercial harvest.

I'm trying to point out that we treated the Delaware differently. In the '72 to '79 base years, the Delaware stock was depleted because of pollution. That stock was restored by the basin states due to pollution control measures and tight constraints on fishing mortality.

This throws us back in time to that polluted error, and I strongly oppose this the way this is worded and would strongly support, instead, going back to Mr. Jensen's previous wording of 30 percent over the base period as defined by the recent years.

I would like to return to the original wording. I would move to return to the original wording that Mr. Jensen had on the board.

CHAIRMAN FLAGG: We already have a substitute motion from Ernie right now –

MR. MILLER: On the substitute.

CHAIRMAN FLAGG: -- and I hoped we might be able to deal with these before we get too many going here. I would like to ask Pat Keliher for comments on the allocation issues that the advisory panel discussed the other day.

MR. KELIHER: Thank you, Lew. You have some notes that have been handed out to you, and I'm going to throw a little bit of a fly into the ointment because there is a change.

The AP meeting yesterday, we spent the majority of our time talking about allocation and there was very much a split. The majority, or ten of the AP

members were in favor of Option 1, which was status quo.

But there was a lot of discussion about commercial increases along the coast. There were two AP members who did vote in favor of status quo who were amenable to some increase in the coastal commercial harvest, but they would not go as far as 30 percent.

In fact, they weren't even willing to discuss Option 3, which I believe is a 12 percent increase. There was, at a time, several AP members who were in favor of Option 5, but in the spirit of compromise — let me back up a little bit.

There were several AP members who -- I guess you could call it a compromise move, but I'm still not sure how this is — it's not worded correctly, but I don't know how else to say it.

They created what they called Option 12, which was status quo of the allocation of the striped bass resource plus a 30 percent increase.

I don't know how you can have status quo with a 30 percent increase, but in a sense they were recognizing the fact that the coastal commercial harvest has been held static.

CHAIRMAN FLAGG: Could we not have the other discussions so that we can make sure that Joe can get an accurate rendition of the record, please? Thanks.

MR. KELIHER: Thank you. There were three commercial representatives that were in favor of Option 5, but due to the fact that this new option, Option 12, was put on the table, as the AP meeting ended yesterday, in the spirit of compromise, they asked to have the AP record show that they were in favor of Option 12, status quo plus 30.

The AP recommendation would break down in favor of, in light of this, Option 1, status quo, twelve in favor, all of whom were recreational, and then Option 12, seven in favor. There were some recreational interests as part of that option, Option 12, who were in favor of that 30 percent increase.

So what you've got is pretty much a split right down the middle, and, again, that is a factor of public comment, regional differences, as well as the complexity of the document, but, again, the true division between recreational and commercial that you see on the AP. At this time, I'll hold my

comments as far as the two at 28. That's basically speaking to the substitute motion.

CHAIRMAN FLAGG: Thank you, Pat. I have Tom Fote and Gil Pope.

MR. FOTE: I'm listening to Roy's comments here about the Delaware Bay and remembering when those increases were made by the board. New Jersey and Pennsylvania both voted against it numerous times because we were concerned about what the stocks are.

We also remember that we had talked earlier, and Roy brought it up, that we're at 0.41 in the Delaware Bay. We're not sure, we're hoping it's a mistake somewhere, but we are exceeding the target.

I would basically, if we're going to do anything in the Delaware Bay as far as the commercial, which the other two states do not have a commercial fishery, that we should freeze the quota as is, not reduce it, but freeze it as is until we find out what's going on with 0.41.

I don't know if, Roy, that's acceptable to you, because I don't want to take any chances. We're getting close to that level. We increased that a long - - as you said, we started at 42,000 and we're way ahead of where we were during the base years.

Let's see what's happening with this 0.41. We're doing a lot of research between the two states, the three states, to see that. So I would have no problem if we want to freeze at the present level they are until we basically decide what's happening in the Delaware Bay. I don't know if that's acceptable to Roy.

CHAIRMAN FLAGG: To that point, Roy?

MR. MILLER: Mr. Chairman, I have some wording to suggest as an addition to the substitute or the — yes, I guess that's a substitute motion. If you tack on the phrase at the end “**with the stipulation that no commercial quotas in effect in 2002 would have to be reduced**”, I think that would accomplish what Tom was suggesting.

CHAIRMAN FLAGG: I guess I could ask Ernie. Ernie, would you have any objection to that as a friendly amendment?

MR. BECKWITH: Well, I'm not sure what that means. Does that apply to the Bay also or just to

the -- does it apply to the coastal fishery and Delaware Bay? But how about the Chesapeake Bay?

MR. MILLER: I can answer it from the standpoint of our particular fishery. Ours is a statewide quota, but most of our landings come from Delaware Bay.

MR. BECKWITH: I don't think I can accept those words.

CHAIRMAN FLAGG: Okay, we'll need a -
-

MR. BECKWITH: But I think you're going in the right direction.

CHAIRMAN FLAGG: We'll need a second to Roy's amendment to the substitute motion. Tom.

MR. FOTE: Could the wording just be that because of the uncertainty of what is going on the Delaware Bay, we're asking to freeze the Delaware Bay at the present levels of commercial harvest?

Roy, that would accomplish the same thing, and that way we're clarifying and saying exactly what it states and I can second that motion.

MR. MILLER: All right, if you've got that wording, that would be acceptable.

CHAIRMAN FLAGG: Dave Borden.

MR. MILLER: "Quota" rather than "harvest."

CHAIRMAN FLAGG: Yes, Dave.

MR. BORDEN: Mr. Chairman, I don't have any problem with Roy's suggestion, and I don't have any problem with the motion that's on the board, but I'm a little bit apprehensive about doing this piecemeal.

It seems to me -- and this speaks to the motion -- it seems to me that we would be better served, in terms of getting on with the business today, if in fact we combined Roy's statement with the motion that's on the table and the latter portion of the first motion into one complete motion. Then everyone knows what they're getting and you deal with everything all at once.

CHAIRMAN FLAGG: Is there other objections? I think we've got to clear up some of

these motions before we get too far. But I know, Ernie, I think your issue is --

MR. BECKWITH: I'm not sure what the correct procedure here is, but I think we're probably dancing on the fringe of what's right and what's wrong, but I would rather see the motion that I put up and with Roy's amendment, vote it up or down. If you want to make a friendly amendment, I'll include it in my motion, or do you want to do it separate? It's up to you.

CHAIRMAN FLAGG: Gordon.

MR. COLVIN: I was simply going to say that -- and I absolutely agree with Ernie that he has every right to put that substitute motion forward for consideration, but I happen to personally agree with Dave Borden, given what we're dealing with here, it would be best to try to craft a single motion that deals with it all, and for that reason I will vote against the motion to accept the substitute motion.

I need to say even though I fully support the substance of it, but I prefer to support it in the context of all of the stuff together.

CHAIRMAN FLAGG: Okay, Pete Jensen.

MR. JENSEN: The intent of my motion was to avoid what we're just about to get into, worrying about where it's going to come from, who is going to give up this, who is going to give up that, and the intent of the original motion was so we could see everything at once.

We all know that we sit around the table and have to make various compromises, and I tried to incorporate all of them in that original motion so that we didn't spend hours and days worrying through all of the individual decisions.

And they're all linked, and so I just wanted to reiterate I tried to do and tried to avoid what it looks like we're getting ready to do, and that is treat them separately and that's not the way to go. May I suggest that we take a short recess to craft an acceptable motion?

CHAIRMAN FLAGG: Yes, why don't we take five minutes to see if we can resolve this issue.

(Whereupon, a recess was taken.)

CHAIRMAN FLAGG: Okay, I think we're ready to proceed here, if you will take your seats,

please. We need to move along. Are we about ready?

Okay, before we proceed, the maker of the substitute motion is not going to withdraw the motion. I would like to move the question on the substitute motion and then we will hear about any other motions that may be forthcoming.

We have a substitute motion which was made by Ernie, and that substitute motion is to move to substitute the previous motion with increase the coastal commercial quota to 100 percent of the base period, 1972 to 1979, with the stipulation that Delaware's commercial quotas in effect in 2002 would remain unchanged.

Motion by Ernie Beckwith and second by Pres Pate, and I want to call the question on this If you will caucus, we will call the vote shortly.

(Whereupon, a caucus was held.)

CHAIRMAN FLAGG: Okay, are we all set to vote on this substitute motion? Roy.

MR. MILLER: Mr. Chair, to let you know what we intend to do, we have another motion crafted during the break, so I would move to table this particular motion.

MR. DENNIS ABBOTT: **Second the motion.**

CHAIRMAN FLAGG: Okay, we have a motion to table.

MR. ABBOTT: Second the motion.

CHAIRMAN FLAGG: Seconded by Dennis Abbott. Motion by Roy and second by Dennis. It's not debatable. George.

MR. LAPOINTE: A point of order. It should be until a time certain or indefinitely.

CHAIRMAN FLAGG: Is it indefinite or for a time certain?

MR. MILLER: **Indefinitely.**

CHAIRMAN FLAGG: Indefinitely, okay. Are we all set to vote on the motion to table? **All those in favor of the motion to table, please raise your right hand, eleven; those opposed, one;**

abstentions, two; null votes, none. The motion carries.

We have tabled the motion to substitute. I guess that brings us back to the main motion. Yes, Pete.

MR. JENSEN: Mr. Chairman, I have a substitute motion for the main motion, and I believe it is right there:

Move to increase the coastal commercial quota to 34 percent above the current quotas, maintain the coastal recreational measures at the level authorized in Amendment 5, two fish at 28 inch, and maintain the current Chesapeake Bay mortality rate not to exceed F 0.27.

CHAIRMAN FLAGG: Do we have a second? **The motion by Pete Jensen and second by A.C. Carpenter.** Discussion on the motion? Gil Pope.

MR. POPE: Thank you, Mr. Chairman. There is a lot of confusion about this. In order to get to '72 to '79 base years, 100 percent, which is what is in Table 4 and Table 7, it's not 34 percent. The math is wrong.

In order for us to go from our 170,000 pounds to get to our 243,000, which is our hundred percent, is a 43 percent increase. Now, listen, everybody is like shaking their head no.

The point is that in those motions it was -- the intention from the very beginning was to go to the 100 percent of the base years and not 30 percent, because I called Bob Beal on this two months ago when this first showed up, and I said, "Bob, the numbers don't add up".

"Oh, okay, well, then we'll put it into the options." And so he put it into the option and it reads: "TAC's would be increased 30 percent to bring the coastal commercial tax to the average level from the '72 to '79 base period".

Now it doesn't do that. So I said, "Well, what is the intent of the board?" And he said, "The intent of the board was to go to '72 to '79".

Basically in the first shot, in 1990, the 100 percent of the base years went to 20 percent of their value, which for us was about 40,000 pounds. Then in 1995 it went to 70 percent of the average, which was 170,000 pounds.

In order for us to go to 100 percent of that — it's adding 30 percent, but adding that last 30 percent requires that you multiply — it's just basic, simple math only you're doing it backwards.

So I just want them to get the math right or is it the intention not to go to the '72 and '79 and go to something below that? I don't know what to do with this other than either get the math straight or it's a change in what the original intentions were. Thank you, Mr. Chairman.

CHAIRMAN FLAGG: Thank you, Gil, for that clarification and, Bob, just to be sure, is that correct, Gil's interpretation of the percentage increase necessary to meet the '72 to '79 100 percent criteria?

MR. BEAL: Yes. For example, if a state had a 70,000 pound commercial quota and you increased that by 30 percent, 30 percent of 70,000 is 21,000 pounds, so that gets you 91,000 pounds, which isn't 100 percent. 100,000 pounds would be the 100 percent.

So to go from the current quotas to the base period quotas, it requires an increase of 43 percent relative to the current quotas. But, you know, if you're equating the increase back to the original base period, you have to add 30 percent of your base period landings to our current quotas to get the full 100 percent.

So 30 percent is correct if it's relative to the base period; 43 percent is correct if it's relative to the current quotas. Ultimately you get to the same point. It's just two different percentages depending on what you're relating it back to.

CHAIRMAN FLAGG: Okay, so I guess my question is, from the maker of the motion and the seconder, what is the intent? Is the intent to increase the quota to 100 percent of those base years or —

MR. JENSEN: I'm not going to dispute the numbers. My intent is what is on the board.

CHAIRMAN FLAGG: All right, so everybody understands. I have Dick Snyder and Tom Fote.

MR. RICHARD SNYDER: Withstanding Roy's concern on the Delaware Bay, there is a public perception here of a 100 percent increase or a 34 percent increase. If the intent is to increase the coastal commercial quotas to that average of that

base set of years, why don't we just say that rather than worry about percents.

I know some of you, as you've mentioned in your jurisdictions, a 34 percent increase catches an eye pretty quick, and I don't want to be deceptive here. But if the intent is to bring it up to what it was at one time in history, just say that rather than worry about the percents.

CHAIRMAN FLAGG: Thank you, Dick. Tom.

MR. FOTE: I'm still trying to figure out where this addresses my concern about the Delaware Bay catch. Will that allow the Delaware Bay catch now at 192,000 to go up by 34 percent?

Then we can't support this motion as it is written right now. I don't think we could probably support it, anyway, but it's definitely not supported with that option in there.

CHAIRMAN FLAGG: Ernie.

MR. BECKWITH: Thank you, Mr. Chairman. I'm not really sure what the heck we're doing here. I mean, this is essentially the same motion that we had up before I made my substitute motion.

I have the same issues I had with the first motion, where do the fish come from? But then I'm looking at this and there is a change. Instead of specifying that the Chesapeake will be capped at harvest levels, now we're talking about at a rate not to exceed 0.27.

Well, is that necessary? We just adopted a target of 0.30; and if Chesapeake maintains their current size limits, they'll have to fish at 0.27, so why is that part even necessary?

CHAIRMAN FLAGG: Pete.

MR. JENSEN: It's not necessary, but it clearly expresses the intent to freeze it at where it is, and that's what the average has been over the past six or eight years, and so 0.27 freezes us where we are. That's the intent.

CHAIRMAN FLAGG: I think in defense of those that did craft this motion, we've had a lot of discussion today about trying to bring clarity to these motions, and I think it was an honest attempt to try to do that. Ernie and then Gil.

MR. BECKWITH: One other point that I forgot to make. The way I see this motion, this precludes some of our options. I think the eleven options in the plan were assuming that we made a decision whether to go with a TAC or not, and then all those allocation issues dealt with that TAC.

If we pass this motion, that precludes us making that decision because this essentially makes that decision for us. I just can't support this motion.

CHAIRMAN FLAGG: Thank you. Gil.

MR. POPE: **I would like to make a motion, a friendly motion to amend the 34 percent to 100 percent of the '72 to '79 base years, and I would also like to exempt the state of Delaware from this motion, seeing as how they are no longer connected, in a way, with the '72 to '79 base years.**

In other words, since the Bay was declared restored, they have come to a certain level, so they're basically, again, on another different system. I would like to exempt them from this. I don't know how to put that into a motion, but —

CHAIRMAN FLAGG: I need some wording. If you want to propose an amendment, we need some specific wording for that. Are there other comments? No, I haven't heard a second, but I haven't heard an amendment, a specific amendment, with some wording for our staff. We need to have that. Does that reflect your concern? Does that reflect your thoughts on the amendment, Gil?

MR. POPE: Yes, it does.

CHAIRMAN FLAGG: Do we have a second?

MR. ADLER: **I'll second it.**

CHAIRMAN FLAGG: Gordon.

MR. COLVIN: I fully support what everybody is trying to do here. I think we have a little bit of a fine detail still with Delaware, though, because a complete exemption might be somewhat welcome, but I don't think we can go quite that far, Roy.

I think we just need to nail that little down, Gil, if you or somebody could suggest how to accomplish what the original substitute motion did in the amendment, in the form of the amendment. I think that's a necessary detail.

CHAIRMAN FLAGG: Bob.

MR. BEAL: Gil, if we change this to read: **Move to amend that the commercial quotas will be increased to 100 percent of the base period with the stipulation that Delaware will maintain its current commercial quota; is that what you intended?**

MR. POPE: Yes, I did, **and I would also like to change the 100 percent of the base years to the average of the base period; so the '72 to '79 average rather than 100 percent of the base year period.**

CHAIRMAN FLAGG: Yes, Pres.

MR. PATE: A question for Gil. Was it your intent, Gil, to capture the Chesapeake Bay language in the original motion in your amendment or is that the full text of your amendment?

CHAIRMAN FLAGG: Did we have a second on the motion to amend, I can't remember? Yes, it was Bill. Yes, Pete.

MR. JENSEN: If that's the language, I will accept that as a friendly amendment.

CHAIRMAN FLAGG: A.C., is that okay with you? Then we have it as a friendly amendment and I want to recognize Gene.

MR. EUGENE J. KRAY: Yes, Gene Cray. Why do we need the 100 percent? I think when Gil made the change there he didn't say the 100 percent. I don't think it's necessary. That just jumps out at me.

I think if we took out the 100 percent, it wouldn't hurt anything because we're just returning to the base period, the average of the base period 1972 to 1979. We don't need the 100 percent.

CHAIRMAN FLAGG: Yes, Bruce Freeman.

MR. FREEMAN: Thank you, Mr. Chairman. A question I have of the Rhode Island delegation. The change from the wording that was the base period 1972 to '79 as opposed to the base period average, what was the need to add the word "average?"

MR. POPE: Because you add all the eight years together. and we had landings as high as

600,000 and we had some as low as 100, and it was an average of those eight years.

MR. FREEMAN: But that was the regular plan -- the plan itself, Amendment 5, called for that base period, which was an average of that time period. Oh, so you just thought it would clarify, all right.

MR. POPE: Yes, Bruce.

MR. FREEMAN: My understanding of the original plan was that the base period, '72 to '79, would be an average, and I was just curious. It seems like it's repetitive, and I'm just curious as to why. But as I understand it, it was meant to be very clear that it was an average. No scheming here.

CHAIRMAN FLAGG: Remember, we're moving along here. It's 2:30 in the afternoon and we've got a long ways to go. Any other discussion of this motion? Yes, Dave Borden.

MR. BORDEN: Just a quick point, Mr. Chairman, and it speaks to the point that Ernie Beckwith raised before. I know he has some concerns, which I share, about this motion specifically eliminating discussions on other alternatives.

I think, to be fair, this motion should not necessarily eliminate the discussion of other items. It may preempt the implementation of other items, but I think it's fair game that we had a wide range of items that were included in this public hearing document. We would do a disservice to the public if we didn't discuss some of those other items. They may not get implemented, but I think they should be discussed.

CHAIRMAN FLAGG: Any other comments about the motion? Yes, Gordon.

MR. COLVIN: Thank you, Mr. Chairman. I will support the motion and congratulate Pete for his effort in putting together something that addressed the thorny issue of allocation straight up front, across the board.

It's no secret that the allocation issue is the toughest here. It's the one that frankly we got somewhat odd input from the public on. I don't think they really surrounded the issue and so we didn't get a lot of help there.

But, we certainly came here today prepared to confront a very lengthy and difficult discussion,

specifically on allocation, with a lot to say that hasn't been said, and frankly probably now doesn't need to be.

There is one little facet of this situation I wanted to just make the board aware of, and that is hypothetically New York could have the same concern in the Hudson River fishery that Delaware pointed out with respect to the Delaware fishery.

We don't, and we only don't because of the unhappy historic circumstance of the contamination of the Hudson River resource by PCB's.

If that problem were to happily go away some day, we might have a concern with respect to the inclusion of the Hudson in the coastal pool and in the coastal quota that's allocated to New York.

Be that as it may, we'll accept this motion, anyhow, in the spirit of getting something done. One thing we may wish to visit some day in the future, and probably not those who are presently here visiting the issue, because unfortunately I think it's going to take a little longer than our time in this process to get to that point.

But, presumably, some day in the future we may need to revisit the issue, and that would actually be a happy occasion, I think, to revisit the issue of a fishery that had been contaminated and that can be considered again at some point in the future. But with that reservation and with that kind of a little placeholder, I would say that we will support this approach to resource allocation and management. Thank you.

CHAIRMAN FLAGG: Thank you, Gordon. It sounds like maybe Amendment 7 or 8 for that purpose. Okay, Bill.

MR. ADLER: Mr. Chairman, I would like to move the question.

CHAIRMAN FLAGG: Yes, Jack.

MR. TRAVELSTEAD: Is this now the main motion? We're not amending anything? This is now the main motion; right?

CHAIRMAN FLAGG: Well, no, my understanding -- was that a substitute motion, Pete, to the original main motion?

MR. JENSEN: It was a substitute from the original motion before the break, and we accepted

that language as a friendly amendment to the motion. It's a perfected motion.

MR. TRAVELSTEAD: It is the main motion?

CHAIRMAN FLAGG: It is the main motion, yes. Pres had his hand up before the question.

MR. PATE: Thank you, Mr. Chairman. Just a matter of clarification for the record, and that is that these increases will apply to the 2003 fishing season?

CHAIRMAN FLAGG: Well, I'm not sure about that because I think that will be decided relative to the implementation schedule for the amendment, I believe. We have to have that discussion as to when Amendment 6 will be implemented, and it's on the agenda as an agenda item, so I can't answer that at this point.

We will discuss that, certainly. Is there public comment, very briefly, if anybody in the public would like to speak? Yes, Dick.

MR. BRAME: Thank you, Dick Brame with CCA. I would be remiss in representing our members if I didn't say from our point of view, this is pretty much a train wreck.

You're not going to harm the fishery, but at some point, especially if everybody goes to two fish at 28, this increase will come out of the coastal recreational fishery. It doesn't come out of the air, it doesn't come from Oz. That's where it's going to come, so we're going to tell our members we stayed at status quo, but we're going to reduce.

We were willing to reduce our harvest to obtain the ultimate goal of an expanded age structure at something other than, you know, a glacial pace. I don't think they will be willing to take a cut with no added benefit, and I think you should be ready for that. Thank you.

CHAIRMAN FLAGG: Thank you, Dick. Other public comments?

MR. RICHARD W. ABELE: My name is Richard Abele. I heard someone mention they were concerned about the implementation schedule.

The inside of the first page, I think, of this whole amendment draft said that it would be implemented

before January of '03, and everyone has planned on that.

We have seasons coming up, and I would hope that you could get your job done and in place so that people fishing in '03 would be able to benefit from what you're doing today, this historic thing I see happening here, that we would all benefit. I thank you.

CHAIRMAN FLAGG: Thank you. Other comments? Yes, Arnold.

MR. ARNOLD LEO: Arnold Leo, New York representative on the advisory panel. I would be remiss if I didn't say thank you. After eight years of waiting to see something like this develop, it's really a pleasure today to see that we've got here. It kind of renews faith in the process.

I do want to point out there seems to be some crying in the background that recreational fisheries are going to suffer. I think we all realize that had the commercial fishery been allowed to develop with the same flexibility that the recreational fishery developed, the recreational fishery today would not be nearly the size it is, because we would have been approaching the F target and it would have been necessary to slow the recreational fishery down.

And so today we're just dealing here with trying to restore some measure of equity in management of this fishery, and I thank you very much.

CHAIRMAN FLAGG: Thank you, Arnold. Other comments from the public? Seeing none, we'll return to the board and has everybody had an opportunity to caucus? Are we ready? Okay, let's just take a moment to caucus.

We'll read this motion: Move that the coastal commercial quota will be restored to the base period average, 1972 to 1979, with the stipulation that Delaware will maintain its current commercial quota. The coastal recreational measures will be maintained at the level authorized in Amendment 5, two fish at 28 inches, and the current Chesapeake Bay mortality rate will not exceed F equals 0.27. Motion by Pete Jensen, second by A.C. Carpenter.

(Whereupon, a caucus was held.)

CHAIRMAN FLAGG: Has everybody had an opportunity to caucus? Are we ready for the vote?

MR. ABBOTT: A question of the chair.

CHAIRMAN FLAGG: Yes, Dennis.

MR. ABBOTT: Could I request a roll call vote?

CHAIRMAN FLAGG: Okay, it will be a roll call vote. We'll have a roll call vote and I'll turn it over to Bob to poll the states.

MR. BEAL: All right, thank you. As is our process, one vote per state. Maine.

MAINE: No.

MR. BEAL: New Hampshire.

NEW HAMPSHIRE: No.

MR. BEAL: Massachusetts.

MASSACHUSETTS: Yes.

MR. BEAL: Rhode Island.

RHODE ISLAND: Yes.

MR. BEAL: Connecticut.

CONNECTICUT: No.

MR. BEAL: New York.

NEW YORK: Yes.

MR. BEAL: New Jersey.

NEW JERSEY: No.

MR. BEAL: Delaware.

DELAWARE: Yes.

MR. BEAL: Pennsylvania.

PENNSYLVANIA: Yes.

MR. BEAL: Maryland.

MARYLAND: Yes.

MR. BEAL: The District of Columbia is not represented today. Potomac River Fisheries Commission.

POTOMAC RIVER FISHERIES
COMMISSION: Yes.

MR. BEAL: Virginia.

VIRGINIA: Yes.

MR. BEAL: North Carolina.

NORTH CAROLINA: Yes.

MR. BEAL: U.S. Fish and Wildlife Service.
(No Response) National Marine Fisheries Service.

NATIONAL MARINE FISHERIES
SERVICE: Abstain.

MR. BEAL: Thank you. Mr. Chairman, you have **four votes against, nine votes in favor, and one abstention.**

CHAIRMAN FLAGG: **Okay, the motion passes.** Bill Goldsborough.

MR. GOLDSBOROUGH: Mr. Chairman, just a note. The problem with the way we've been managing the coastal commercial fishery, as we well know, is that the quota has been both rigid and small. Today we've dealt with the smallness, but not the rigidity.

In other words, we have adopted another rigid quota for the coastal commercial fishery, and now I'm sure it's one that will satisfy, at least for the planning horizon for this amendment, but I would just note that I think ultimately we ought to be trying to get to a point where the coastal commercial quota fluctuates based on stock size, just the way we attempt to do in the Chesapeake.

I think that makes a lot more sense. It could go up further and it could go down some, but it would be much more appropriate from a management standpoint.

So perhaps this means task the technical committee to start looking at that, I'm not sure, but just a note for the next round, whenever that is.

CHAIRMAN FLAGG: Thank you, Bill. Ritchie.

MR. WHITE: Mr. Chairman, since we're going out of order, I would recommend that we choose a planning horizon next.

CHAIRMAN FLAGG: Thank you. I've just received that advice from staff, so I would like to move right along and talk about the management planning horizon. It's on page 4 of your decision document. Ritchie.

MR. WHITE: I'll make a motion, but I would like Gordon to help me out on the wording. We talked about a one year, but a phase in to three, and I don't know if Gordon could help me on trying to figure out how to say that.

CHAIRMAN FLAGG: Gordon.

MR. COLVIN: Yes, Mr. Chairman, we talked a little bit about this because a couple of comments have been made. I thought Paul Diodati and some others made an important comment that the allocation option we just chose presents some uncertainty, which has been the subject of much discussion here today, that may cause us to want to be cautious about plunging into a three-year planning commitment, which I think many of us would like to do, and certainly there is support for that on the comment record.

So we wondered whether it might be appropriate to institute a motion that commits the amendment to a three-year planning horizon, but initiates that after two years of management on a year-by-year basis to enable us to have some degree of certainty about the effects of the actions that we've taken.

Basically, **the motion would be to implement a three-year planning horizon beginning in the third year of FMP implementation.**

CHAIRMAN FLAGG: **It's a motion by Gordon Colvin and the second by Ritchie White.** We have a motion on the floor. I would like to ask the advisory panel for their comments. I think there was some discussion of this issue. Perhaps Pat can enlighten us about the advisory panel recommendation.

MR. KELIHER: I can try, but the advisory panel recommendation was based nothing on the fact that we had the past motion. The advisory panel has been unanimous, and was unanimous yesterday, that the planning horizon be three years.

I can't speak for every member of the advisory panel, but I can't imagine that the advisory panel would continue with that support unanimously considering what just happened.

CHAIRMAN FLAGG: Thank you, Pat. Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. I wonder if the maker of the motion would -- no, he won't take a friendly amendment, he never does -- if we just added to that, as we would have said in Option 1, in the third year of implementation with management measures that will be maintained for three years, and that would complete the cycle because we've got the first two years that are going to be managed on a year-by-year basis.

MR. COLVIN: Ordinarily, I would say that there is no such thing as a friendly amendment from a member of one's delegation.

MR. AUGUSTINE: I knew it; I knew it.

MR. COLVIN: However, in this case I'll make an exception and accept that suggestion.

CHAIRMAN FLAGG: Ritchie, is that okay with you? So we have a friendly perfection. Any discussion? Tom Fote.

MR. FOTE: That means if we implement this in 2003, we will basically, for 2004, we would basically have a meeting in 2003 to decide 2004 and in 2004 we'll decide for 2005 and then after 2005, we'll go to a three year? Okay.

I mean, I want to be clear about it. I would have sooner waited until 2005 to do that because we never get one year. One year is never a good radius to see what's happening. It usually takes two years. But I can live with this.

CHAIRMAN FLAGG: Anne.

MS. LANGE: That's my question as well. How long will it really be before we're able to measure the impacts of the change in fishing? Will one year, two years be enough or are we looking at three years; and then at that point, have three years' worth of data to look at. I mean, unless there is some drastic impact.

CHAIRMAN FLAGG: Bob can respond to that.

MR. BEAL: I think during year 2003 -- well, to evaluate the effects of the previous motion, we need a full year's data, 2003. We'll be able to compile the assessment by summer of '04.

The other thing that's going to be happening in '03 is we'll have the aging workshop, we'll work on some of the technical issues dealing with scales and otoliths and those things.

So by the summer of '04, we'll know the impacts of this and we should have a handle on the scales versus otolith issue. Both of those things should be resolved, and we can adjust the program accordingly, if necessary.

CHAIRMAN FLAGG: Anne, to that point.

MS. LANGE: Yes. I guess will, in fact, one year of data, with the new measures, especially if states aren't able to implement them until the middle of next year -- I mean, I think a lot of states may have difficulty implementing in January, especially if we don't have a final vote until February.

Is one year of data going to be enough or would it be better to start off with a three-year plan with the understanding that at that point, after the first three-year period, we would have the data, the analysis, and everything else ready to make an accurate decision on what changes might need to be made. Does that make sense?

CHAIRMAN FLAGG: Tom, to that point.

MR. FOTE: What I'm looking at, especially after what Bob says, we're not going to do anything even in the fall of 2003 for 2004. Really, what we're saying is we're going to leave these in 2003, 2004, and make the next change in 2005.

So it's a two year; it's not a three year, so that makes more sense -- at least we'll have one year's data. We might not have the complete data, and we can also see the trends of the second year.

So I would sooner, if you would accept a friendly amendment, Gordon, is basically cut that to a two year because we're really not going to do anything until 2004. We're not going to do anything in 2003.

MR. COLVIN: There's no such thing as a friendly amendment from New Jersey.

CHAIRMAN FLAGG: Bruce.

MR. FREEMAN: It appears to me that there is no need to make an amendment. This motion would allow a decision to be made in a year or a two year, and, therefore, it really doesn't need to be amended.

MR. FOTE: Okay.

MR. FREEMAN: I can't agree with Gordon about this friendliness stuff.

CHAIRMAN FLAGG: I would like to deal with this shortly, but I have two or three more people. Ernie.

MR. BECKWITH: Thank you, Mr. Chairman. I don't see any need for this motion. What we've done so far today is essentially adopt status quo. The one change is we are going to increase the coastal commercial fishery.

But it's been discussed here that's probably of little consequence. We're talking about 47,000 fish, if I recall, and the way I see it, it's pretty much status quo. I think there was a strong sentiment, at least originally, amongst the state directors and certainly from the people that came to the public hearings, to adopt a three-year planning horizon, and I think that's where we ought to go.

We're being overly cautious. I just might mention that when we do eventually adopt Amendment 6, don't forget there's all those biomass and F triggers in there and they could kick in in year 1 and 2.

CHAIRMAN FLAGG: Thank you, Ernie. Dennis Abbott.

MR. ABBOTT: Thank you, Mr. Chairman. I think this is a good amendment, but I don't think that the board is bound by the contents of the amendment. We can always change what we did today in a future year. I think that we should leave the amendment as stated and move the question.

CHAIRMAN FLAGG: Thank you, Dennis. I have just Gil Pope and then we're going to --

MR. POPE: Thank you. I'm just curious as to what the difference between this and Option 2 is in choosing a planning horizon. That's all. Thank you.

CHAIRMAN FLAGG: Go ahead, Bob.

MR. BEAL: The intent of Option 2 was really to capture a phase- in approach. In other words, if the management board wanted to make some changes, they would have said -- you folks could have said in '03 the management program is this, in '04 it's this, in '05 it's that.

I think the idea with this motion, or with Option 1 versus Option 2 -- under Option 1 everything is constant for the three- year block. In Option 2, things could change in each of those three years.

CHAIRMAN FLAGG: Thank you. I have to read the motion for Joe:

Move to implement a three-year planning horizon beginning in the third year of implementation with management measures that will be maintained for three years. Motion by Gordon Colvin, second by Ritchie White. Let's have a caucus and the vote.

(Whereupon, a caucus was held.)

CHAIRMAN FLAGG: Okay, are we all set? Everybody has had a chance to caucus? **All those in favor of the motion, signify by raising your right hand, fourteen; opposed, one opposed; abstentions, no abstentions; null votes, no null votes. The motion carries.**

The next issue I would like to deal with is the EEZ issue because there are some folks -- I want to make sure we deal with that while there are still some folks here. Paul.

MR. DIODATI: Thanks, Mr. Chairman. This issue has become somewhat of a narrow one for the Commonwealth of Massachusetts. But, in Massachusetts this is a very important issue to our fishing community, especially in the southeastern part of the state.

Right now, about 50 percent of our catch taken by recreational anglers is reportedly taken from the EEZ. What we've been attempting to do for over six years now is to legalize ongoing recreational fishing activity.

I think it's very critical that the board give this some very serious thought. Although I think that administratively the easiest way to deal with the EEZ fisheries is to have a complete opening of the EEZ, but I've gotten the impression that's not the sentiment of the board.

I'm going to ask that the board consider a very narrow, limited opening that addresses the needs of the Commonwealth, and then I have a chart that I think Megan can make available that actually demonstrates the area that we're talking about.

So as that chart is being handed out, I'm going to ask

that the board support my request for consideration of this limited opening in the southeastern part of our state by adopting the following language as part of Amendment 6, and I will certainly be willing to entertain any amendments to this.

But I think I can put this in a motion, that the Board adopt this language to be included in Amendment 6, recognizing that ASMFC unilaterally does not control fishing in the EEZ. That is done through the Secretary of Commerce, but the Secretary certainly is not going to make any changes in management in the EEZ without consideration from this body. Thank you.

CHAIRMAN FLAGG: Thank you, Paul. Jack.

MR. TRAVELSTEAD: **I'll second the motion.**

CHAIRMAN FLAGG: We have a motion from Paul Diodati and a second by Jack Travelstead. We'll get that up in just a moment. I would like to ask the advisory panel for their report on this issue, and then we will get to the board members and the audience.

MR. KELIHER: It's unfortunate that the advisory panel didn't have use of this document yesterday and was not able to deliberate on specifically what Massachusetts is looking for.

The AP looked at just the full opening of the EEZ. On two different occasions, the AP has unanimously recommended that the EEZ remain closed, and the majority support yesterday during our short discussion was just that, that the EEZ does remain closed.

There is a little bit of change. We do have a minority now as far as the EEZ. Massachusetts and North Carolina both, as well as the commercial representative from New York, spoke in favor of opening of the EEZ. Again, this is full opening and closing. It has nothing to do with Mr. Diodati's motion on the table. Thank you.

CHAIRMAN FLAGG: Dave Borden.

MR. BORDEN: Thanks, Mr. Chairman. I can support the motion, but I would ask the maker of the motion to consider extending the western boundary to incorporate the same waters off of Rhode Island.

And as a rationale for doing that, as I've stated before, we don't have the same situation that Massachusetts does in terms of the bottom configurations and so forth.

There is a limited amount of large fish that are present in that zone that I'm referring to. But, what we do have there is very significant commercial fisheries that take place in the zone, and those fisheries are regulated by our regulations with possession limits that very strictly control the harvest by that group.

And what we would do by extending our regulations to that area is essentially convert discards, dead discards to landings, which will help the striped bass population. I would ask Paul to consider moving the western line to the Rhode Island/Connecticut/New York border.

CHAIRMAN FLAGG: Paul.

MR. DIODATI: Yes, I think the language - I'm very willing to do that. I think what you're talking about is extending that line west to the point of Montauk. Does that do it?

MR. BORDEN: Yes.

MR. DIODATI: So east of the 71 degree longitude extending to the eastern point of Montauk. I believe that does it. I think to perfect that, it would say east of the 72 degree longitude, extending to the Long Island Shore.

CHAIRMAN FLAGG: Okay, Paul, is that your perfected motion?

MR. DIODATI: Yes.

CHAIRMAN FLAGG: Okay, Pres and then Tom Fote.

MR. PATE: Thank you, Mr. Chairman. I think it was Paul that noted or someone noted in their comments earlier today, there are two advocates on that record for opening the EEZ. One is Massachusetts, now Rhode Island has joined in, and the state of North Carolina.

The timing of the motion has made it more difficult for North Carolina to make a compelling argument for a solution to the problem that we have, which is not the same as that of Massachusetts.

Our Marine Fisheries Commission and a group of trawl boat operators, primarily out of the Wanchese area, strongly support the reopening of the EEZ to alleviate a problem, a serious problem of discards in the harvest of striped bass by a trawl.

We open our commercial fishery for the harvest of striped bass by trawls normally in February. Those fish are widely distributed laterally off of our coast and can occur as close to a half a mile of the beach to as far out as fifty miles, as do other species that are being targeted by this same group of fishermen.

What can happen with some regularity is that the stripers are encountered as bycatch beyond the three-mile limit during the targeting of such other species as weakfish and croaker.

Because they are not allowed to be possessed in the EEZ, those fish have to be returned; and, honestly, there probably is a lot of discard mortality from that type of fishery.

But, the trawlers understand also that they're entitled to land their allocation, or their trip limit, and on their way in, once they get into the three-mile zone, they would then target the striped bass and bring them in.

So you have the landings of what is allowed under the quota added to the discard mortality that has occurred just because that same group of fish were encountered farther offshore.

And the reverse can happen from that. If they set first in the state waters and incidentally take striped bass, but know that they are going farther offshore on that same trip to target other species, they have to discard those fish that are taken in the state waters, go into the EEZ for their target species, come back in the state waters to catch their trip limit of stripers, and that's only because they cannot possess the stripers while fishing in the EEZ.

From a management standpoint, that makes no sense. It's a quota-based fishery. They're held to the daily trip limits, and North Carolina is held to its annual quota allocation, regardless of where the fish are caught, and it seems to be very counterproductive.

But that problem would only be alleviated with a motion, approval of a motion, that would open the EEZ along the entire Atlantic coast and not just in this one area.

I'm concerned that if this motion passes, that North Carolina would be disadvantaged in making the

argument that I just made with another motion that would satisfy our problem.

CHAIRMAN FLAGG: Okay, I have Tom Fote, Dave Borden and Anne.

MR. FOTE: The EEZ question has been a controversial issue in New Jersey. The last time we discussed it, we had a total of about, I think it was about 1,700 people show up at public hearings, the most NMFS ever had of any public hearings. This is a very contentious issue.

I'm going through what we've done so far today. This amendment started out protecting big fish. Where are the big fish caught, a lot of them? In basically those areas up in Rhode Island, Massachusetts in the EEZ.

Where are the big fish being caught in New Jersey? A lot of that is on ridges that are in the EEZ. We've been enforcing it and making sure those fish are not there and people are not fishing for them.

I run into Pres' problem. I've got the Cape Bay rips where people now are being ticketed and they basically are just staying off those rips. I've got people that can fish the Klondike, which is four miles off the coast, or the Barnegat, which is 17. There's another one that's 11 miles. We have the same problem.

We need to do a comprehensive way of handling the EEZ. Doing this patchwork, we'll only wind up in a state-by-state argument, which is going on. It will do nobody any good, and I think it sends the wrong message at this time.

Here we are, we're increasing the commercial quota, and we're further going to complicate this by opening up the EEZ or recommend that we open up the EEZ at a time that we have started this whole process to be more restrictive, which is not what's happening.

So, I mean, it's a kind of interesting measure. I would sooner work, as I have tried with Paul and a few others, to work on a solution to this overall problem. I think it's a state's right issue.

I think we really need to go to Congress and basically give us permission to manage our fisheries 12 miles out, since we seem to be doing a hell of a better job than the feds. Excuse me, Anne, but I really do.

And I think some of the commissioners that are out there are even saying that. And so at this time I could

not support this motion, especially since my fishermen in my state want something from this the same way as Pres' fishermen do. We can't do it patchwork. We need to do it for the whole EEZ not by one state at a time.

CHAIRMAN FLAGG: Dave Borden.

MR. BORDEN: Yes, thank you, Mr. Chairman. I would actually like to just comment on Pres' statement because, I didn't go into great detail on our situation and just almost generically characterized it.

But if you just remove North Carolina from that discussion, that very eloquently characterizes the situation that I'm trying to avoid in the state of Rhode Island.

I mean, the issue to me is if you look at the Magnuson-Stevens Act, one of our charges is -- and many of us our council members -- one of the charges is to reduce discards. This discarding is taking place.

There's a very simply way to reduce the discards; you convert it to landings, and then we avoid exactly the type of situation that Pres described.

So, I think it's irresponsible not to pass this type of motion. If you're really concerned about the health of the striped bass resource, we should be passing motions like this so that we convert the discards to landings instead of increasing the mortality and waste in the fishery.

The last point I would make is that I think it's totally appropriate for Pres Pate to make a motion, a separate motion, to deal with North Carolina after this one, or add it to this motion.

CHAIRMAN FLAGG: Thank you, David. Anne Lange.

MS. LANGE: Thank you, Mr. Chairman. As you all realize I would not be able to vote on this, so I would have to abstain because it would result in a recommendation to the Secretary of Commerce.

However, I do want to remind everyone of the analyses that this commission requested of NMFS last year, two analyses. One would be the legal and the policy implications of opening only a portion of the EEZ, and the other one was opening the entire EEZ.

We had concerns with the first option or the first request, which basically is the Massachusetts request, in that it would impact National Standard 4, fairness and equity amongst fishermen up and down the coast.

But for both that option and the opening the entire EEZ, one of the things that we stated was that we would need to have an analysis. The Secretary of Commerce would need to know what the impacts of any specific proposal related to the EEZ would be prior to following through on such a recommendation.

If it's the commission or the board's desire that this motion or another motion related to the EEZ were to be recommended to the Secretary, it would behoove the board to have a technical analysis that would evaluate the impacts of a very specific motion or a very specific recommendation and technical evidence or analyses that evaluates the impact of that specific request or recommendation. Thank you.

CHAIRMAN FLAGG: Thank you, Anne. Paul and then Gordon.

MR. DIODATI: Thank you. First, to Pres' comments, I would support North Carolina's efforts to develop a similar motion as this one in a separate motion. As to Mr. Fote's comments, I think that given the stock assessment that I've been looking at, there is no evidence of additional protection needed at this time.

And if we want to protect striped bass, I think there are better ways to do it other than on the fishing grounds where we're discarding fish of mixed stock in very cold saline waters.

This is really the place -- the Shoals off Massachusetts is really where you want to catch striped bass; so if you want to protect striped bass, I think we can talk about that more effectively in a technical analysis.

I understand fully Anne's concerns about what NOAA Fisheries and the Secretary of Commerce would be dealing with, but this is the very first positive step that this body has to take in order to move this kind of action forward. I hope that people will agree and support this motion.

CHAIRMAN FLAGG: Thanks, Paul. Gordon.

MR. COLVIN: Thank you. I have a suggestion with respect to the motion, but first let me

say that some of the issues that have prompted the Commonwealth of Massachusetts to offer this proposal are also applicable in some of New York's waters.

Most particularly, the waters to the east and south of Montauk are areas in which beyond three miles there are extensive recreational fisheries and particularly charter fisheries for striped bass.

From Montauk Point to Block Island is just about 12 miles. That means you have three miles of state territorial sea, six miles of EEZ, and then three miles of state territorial sea again.

There is an awful lot of boat traffic that goes back and forth and around in circles all through that area fishing for striped bass pretty continuously. Those grounds do extend around Montauk Point and to its south and slightly to the west.

So, frankly, we'd like to suggest that the western-most boundary, the area encompassed by the motion be defined such that it encompasses those areas for the same purpose.

Now, that said, I just want to offer a suggested amendment to clarify the motion in that regard. The motion right now relates to the so-called "contiguous zone", which is that zone of the ocean that's part of the EEZ extending out to 12 miles from the baseline from which the territorial sea is measured.

The motion speaks to the contiguous zone east of 72 degrees longitude extending to the Long Island Shore. To me that's a little unclear because 72 degrees longitude is a line that crosses the south fork of Long Island near Montauk, and so I'm not sure in that context what "extending to the Long Island Shore" means.

I would suggest a friendly amendment that says the following, beginning in the fourth line, "**along the waters of Massachusetts, Rhode Island, and New York Coasts, shoreward of the 12-mile contiguous zone, extending from the point at which 71 degrees 30 minutes longitude intersects the Long Island Coast eastward and northward to the point at which 42 degrees 17 minutes latitude intersects the Massachusetts Coast.**"

MR. PATE: Lew, I'd like to be recognized when they --

CHAIRMAN FLAGG: Okay, yes, I've got several on the list, Pres. Okay, that's a friendly

amendment. Is that all right with the maker of the motion?

MR. DIODATI: Yes, it is.

CHAIRMAN FLAGG: And the seconder. I have Pat Augustine, Bruce, Dennis, Tom and Pres.

MR. AUGUSTINE: Thank you, Mr. Chairman. I think this is a good motion, a good first start, but it's interesting that we end up taking the whole EEZ and treat it as an MPA, which in the state of New York MPA are bad letters.

And it's rather interesting that if you look at what controls we have on each state relative to what you can land and what you can't land, both from a commercial point of view and a recreational point of view, the question is, well, what's the difference if you've got 40 miles offshore or you get it 3 miles offshore?

I haven't talked to Gordon about this and he hasn't beaten me down yet, so we'll probably support this, but I think it's chances of passing the Department of Commerce or about that of a snowball in hell.

CHAIRMAN FLAGG: Thank you, Pat. Bruce Freeman.

MR. FREEMAN: Thank you, Mr. Chairman. There are several issues relative to this motion. As the stock of striped bass increases, we're seeing not only more striped bass but we're seeing them in places they haven't occurred at least in over the last 30 years.

We have testimony from our commercial fishermen of taking large catches of striped bass 30 miles offshore where they've never been seen, and at that time had been discarded along with other directed species.

We have a situation in New Jersey where we have a number of shoals, anywhere from 6 to 20 miles offshore, where there has been an apparent directed fishery for striped bass first as catch and release and then as a take.

We have taken action, in cooperation with the National Marine Fisheries Service, to bring violations upon those people who are directing their fishery in these locations because they are against the law.

We've made a considerable effort to stop this. There are records of advertisements, both in print and over

the radio, about fishing in federal waters, which is in direct violation of the law.

My comment would be to the maker and the seconder of the motion that this issue needs to be addressed on a coastwide basis, not on a piecemeal basis.

I would suggest that if this motion be made, it should look both at the 12-mile contiguous zone for all the coastal states, from Maine through North Carolina, and also out to 200 miles, an analysis be completed in order to see what that impact would be.

We've heard from the public, at least some of the public, during our Amendment 6 process of concerns of taking large numbers of large fish.

If we believe there's merit to that, then extending the fishery in either 12 or 200 miles offshore will probably lead to an increased catch of large fish, which I don't really necessarily have a difficulty with.

However, there should be an analysis of what this means so far as the catch is concerned, because in our opinion it will be increasing catchability, and there will also be an increase in the average size of the fish.

And, again, if there's concern of taking large numbers of large fish, this needs to be looked at. I cannot support this motion made on a piecemeal basis. I think it's certainly the wrong thing to do. It will set unfair advantage for some areas and a disadvantage for others.

CHAIRMAN FLAGG: Thank you, Bruce. Dennis Abbott.

MR. ABBOTT: Thank you, Mr. Chairman. It has surely been an interesting day today as we've sat here and debated Amendment 6, and in my mind we did reduce the F and then we commenced to increase everything that has come before us.

We have now increased the commercial harvest. We're talking about increasing the EEZ. So to me, as I say, it has been a very interesting day.

Be that as it may, do I not remember that there were law enforcement issues regarding the opening of the EEZ? And seeing no law enforcement personnel here to represent them, I think that we shouldn't take action on this until we have that opinion offered by the Law Enforcement Committee.

CHAIRMAN FLAGG: Yes, Paul.

MR. DIODATI: The law enforcement agency of Massachusetts is completely prepared to enforce this regulation, as we do. If you see the dark area, we already enforce all of Nantucket Sound regulations.

Most of you know that the most effective law enforcement for striped bass is at dockside, not three miles from shore or two miles from shore or one mile from shore. And if you're looking for regulations that make for the best law enforcement, I guess we'll go back to the American Lobster Plan and take a look at that one. I'm very prepared to do that.

The Commonwealth has been working for six years on this single issue. This is a historical fishing ground for us. Fishing is already going on out there. It goes on all summer long. During the summer months, we have recreational anglers that have fished these areas, people who live, born, raised on Nantucket, Martha's Vineyard, who fish these areas.

Vessels with families on them are stopped by Coast Guard patrol boats with 17-, 18-year-old Coast Guardsmen doing their job with M-16s, asking if they have striped bass on board. This will legalize an ongoing activity.

There is no evidence, when you look at the MRFSS data, that it's going to increase mortality. The technical committee has been dealing with this for six years, as well. They have provided no credible evidence that it's going to increase mortality.

There's a number of reasons why we need to do this. I have tried to do it in a consistent fashion over the past six years. I have offered as many as five different alternatives to do this, from a complete opening off the 200-mile limit to this very small opening that is getting larger as we speak, as people begin to recognize that this is a sensible thing to do and they want it for their state waters as well.

So, again, I am going to ask you all to consider this as a very important policy issue, a very important issue that deals with legalization of ongoing activity. I'd appreciate your support on this motion. Thank you.

CHAIRMAN FLAGG: Thank you, Paul. Tom Fote.

MR. FOTE: Again, Paul, I understand your problem. But, again, I have a problem in New Jersey about how we handle this and what is going on in this

process. We're doing Amendment 6. Amendment 6 basically is the regulations we've put in state. This is actually a federal regulation.

And it's really on a letter going to the National Marine Fisheries Service, you know, because that's all this would be eventually is a letter going to the National Marine Fisheries Service recommending that we open up certain portions of the EEZ under Amendment 6.

I guess the National Marine Fisheries Service asked us to address this under Amendment 6. So if that's all we're going to address in Amendment 6, we're only going to be addressing a few issues in a few states.

We need to really address the whole EEZ issue and not state by state if we're going to put that forward as a motion to the National Marine Fisheries Service under Amendment 6. It's just not fair to the other states involved.

CHAIRMAN FLAGG: Thank you, Tom. Pres Pate.

MR. PATE: Thank you, Mr. Chairman. I agree with Paul and his motive and intent for making this proposal, but I can't help but believe it is doomed to fail for the reason that it is favorable to his state; and although it's grown to include some other areas, it is still regionalized in its effect.

And if we have any opportunity at all in succeeding in getting the EEZ open, it needs to be done in such a way that it will satisfy the needs and provide solutions to problems that all of the states are experiencing.

So to foster the achievement of that goal, **I'd like to offer a substitute motion the board approve Option Number 3.**

CHAIRMAN FLAGG: You're offering that as a substitute motion, Pres?

MR. PATE: Yes, sir.

CHAIRMAN FLAGG: Okay, do we have a second? **Jerry Carvalho seconds. Okay, we have a substitute motion offering Option 3, which would be to recommend that the Secretary of Commerce to allow harvest of striped bass in the EEZ.**

I have a couple of other folks that wanted to speak on this issue, Pat Keliher, Gordon and A.C. Pat.

MR. KELIHER: Thank you, Mr. Chairman. The new motion changes this somewhat, but particular to the motion that was put on the table by Mr. Diodati and its growth into Rhode Island and down to New York, that particular motion did not have any public input in it at all.

The public had input strictly to the Options 1, 2, and 3. I think it would be a very bad move by this board to continue to entertain that particular motion without having it go to the public if we're going to start focusing on individual areas. The motion by Pres I think would be much more in order at this time.

CHAIRMAN FLAGG: Thank you, Pat. Gordon.

MR. COLVIN: Thank you, Mr. Chairman. I would support the substitute motion, obviously, if it fails, the original, main motion. Two other points I just thought would be worth mentioning that influence my thinking a little bit.

One is that it has come to the attention of the board, through the commission's tracking of legislation, that this matter is being pursued on many fronts, including in the United States Congress. Frankly, I can't think of a more complicated, over-kill sort of a way to deal with something that has a simple solution than to micro-legislate it.

I think that just opens up a can of worms that would be truly unfortunate. Now that's my personal opinion, and I don't say it to be critical of anyone who may be thinking about legislation in this regard, because I understand what motivates them.

But I'm saying it because I think this board and the National Marine Fisheries Service have a much simpler, clearer solution that's consistent with what we do in all the other fishery management programs we implement that don't happen to involve fish with stripes on them, and that's this motion.

The second thing that influences me is this. Considering everything they have to do, including what they have to do to support us fishery managers, as well as the rest of their mission, I can't think of very much that I would rather the United States Coast Guard and our marine fisheries agents not do than check recreational vessels for striped bass in the EEZ considering that all of those vessels, when they land, are subject to state striped bass regulations. It just doesn't make sense to me.

CHAIRMAN FLAGG: Thank you, Gordon. Anne, to that point.

MS. LANGE: I just remind everyone that the National Marine Fisheries Service six or seven years ago tried to open the EEZ and received quite a bit of negative response to that.

In our response to the request from the board and from North Carolina last year regarding opening the EEZ, it wasn't a matter of the National Marine Fisheries Service saying "no."

The issue was what types of measures would be implemented that would ensure the sustaining of the stock. And that's not to say that the current measures won't do that if state landing laws apply.

The issue is whether an evaluation of that can be made and submitted, and that's -- you know, there may be no impact. The concerns were that there are larger fish purportedly in the EEZ than in state waters, and there may be an impact on the size and age distribution based on that distribution of fish.

But there are evaluations that can be made, analyses that can be conducted, measures comparable to what we've just done with the 30 percent increase in the commercial harvest, after a year or two, whatever additional impacts are made can be evaluated, overall coastwide management measures can be modified to account for whatever those changes may be, whatever those impacts may be.

CHAIRMAN FLAGG: Thank you, Anne. A. C. Carpenter.

MR. CARPENTER: I don't have a dog in this fight, and it occupied more attention or more time at our public hearing than I thought it would certainly gather.

But, at our public hearing the public voted or recommended keeping the EEZ closed because it considered it a refuge and a buffer at that point.

I do have a suggestion that regardless of how this vote goes, that this issue be added as a Number 11 under the "Measures Subject to Change" so that as future conditions of this stock change, then the issue can be dealt with without having to go through an addendum or an amendment.

CHAIRMAN FLAGG: Thank you, A. C. Ritchie White.

MR. WHITE: Thank you, Mr. Chairman. The public in New Hampshire were extremely clear on this, that they were 100 percent opposed to opening the EEZ. And one of the scenarios given, because we do have substantial structure outside the EEZ that do hold fish, that a recreational angler from New Hampshire who is presently at one fish, and hopefully soon to be at two fish, is anchored next to a boat, a commercial boat, from another state that is catching fish after fish after fish and the recreational angler is limited to one or two fish. The fairness of that is felt that it is not fair at all, so I cannot support this.

CHAIRMAN FLAGG: Thank you, Ritchie. Pat and then I'm going to go to the public for just a few comments. Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. New York was basically the same, heavily populated by recreational folks at all our meetings and heavy interest in keeping the EEZ closed.

And the question I asked, as I made a point earlier, the EEZ has remained as an MPA area for the whole coast of the United States. And the question is if we're going to have MPA's, why not have MPA's and call it what it is. I'm definitely in favor of supporting this motion. Thank you and call the question after the public speaks.

CHAIRMAN FLAGG: Thank you, Pat. Are there any comments from the public at this time? Yes.

MR. CLEARY: Yes, Russell Cleary of the Commercial Anglers Association. I'd just like to say that the restoration was well underway before a prohibition on possession of striped bass in the EEZ was imposed.

That came in with Magnuson-Stevens, 1990. It was implemented I believe in '91. The resource was coming on like gangbusters before this imposition came about. These are traditional areas we're talking about where fish have been harvested.

I'd also suggest that the commissioners, when considering public comment coming from areas where there is very little understanding of fishing in the EEZ because it isn't done, I suggest that you simply evaluate the quality of the public comment.

Yes, listen to the public comment but make some determination as to whether or not that public comment reflected a good understanding of the issue.

The New Hampshire vessel sitting next to another state's vessel, one in the recreational fishery and one in the commercial fishery, there has never been any incompatibility between recreational and commercial fisheries prosecuted in Massachusetts waters.

People can come in from other states and fish in our commercial fishery provided they are properly licensed. They can come in from other states and fish in our recreational fishery. In fact, Massachusetts is host to recreational and commercial fishermen from states not just coastwide but considerably inland. Thank you.

CHAIRMAN FLAGG: Thank you. Other comments from the public? Yes, John Kelleher, come forward, pleas.

MR. JOHN J. KELLEHER, JR.: My name is John Kelleher and I live in Ogunquit, Maine. When I first read the document, draft document for Amendment 6, I was very optimistic because it talked about addressing the question of big fish.

I've sat here all day and, for the life of me, I can't think of one instance where I saw a concern about big fish addressed in anything that has passed or been discussed. Thank you.

CHAIRMAN FLAGG: Thank you, John. Yes, Bill Hubbard.

MR. BILL HUBBARD: My name is Bill Hubbard. I'm a member of the advisory panel from New Hampshire, and I'd just like to echo what John Kelleher just said. You've have done nothing today to protect large fish. You've done a lot to hazard the large fish and this would be another measure in the same direction.

I just have one comment. Mr. Diodati twice today has alluded to the fact that they know there's a directed fishery outside of their territorial waters in Massachusetts in the EEZ. A few minutes ago he said that they could control this if the 12-mile limit was open. I ask why it's not being controlled now.

CHAIRMAN FLAGG: Other public comments? Yes.

MR. W. PETER KELLY: Pete Kelly, fisherman from Massachusetts. I'd just like to say

because of the fact that we're all governed by quotas, taking fish from the EEZ goes toward the quotas, and we're limited as to what we can take there.

Secondly, the concern over mortality discards in the EEZ makes a lot of sense. Those fish would go towards landings. I think the policing of that area is a difficult thing to do, and the Coast Guard and other search and rescue people would probably be better off focusing on other things other than striped bass out there. I think the EEZ should be available for the public. Thank you.

CHAIRMAN FLAGG: Thank you. Other comments from the public? John Pappalardo.

MR. JOHN PAPPALARDO: Thank you, Mr. Chairman. John Pappalardo, I'm a member of the AP, commercial, Massachusetts. I just wanted to make a comment.

I haven't seen any technical analysis of any numbers that would back up some of the claims that it would increase mortality, but I have seen numbers to the other effect that shows that it's conservation neutral.

CHAIRMAN FLAGG: Thank you, John. Other comments? Yes.

MR. BRUNO VASTA: I'm Bruno Vasta. I'm president of the Maryland Salt Water Sports Fishermen Association. From a recreational standpoint of view, I would go along with what the public sentiment has been all the way through, where essentially most of the people have voted in favor of Option 1 to continue the closure of the EEZ and as well that the AP yesterday also went that same direction.

To open this up, again, from a recreational standpoint of view, I think we're doing so much for the conservation of these fish, I just don't believe that's the right direction that we should take at this time. Thank you.

CHAIRMAN FLAGG: Thank you. Other comments from the public? Okay, I think we've debated this pretty much, and so why don't we caucus and we'll call the question in just a moment.

(Whereupon, a caucus was held.)

CHAIRMAN FLAGG: Okay, are we all set? Okay, I'm going to read the motion for the record.

We are voting on the substitute motion, which is move to substitute with recommend to the Secretary of Commerce allow the harvest of striped bass in the EEZ, Option 3. Motion by Pres Pate, second by Jerry Carvalho.

MR. ABBOTT: A roll call vote.

CHAIRMAN FLAGG: A roll call vote. Okay, Bob, would you call off the jurisdictions.

MR. BEAL: Maine.

MAINE: No.

MR. BEAL: New Hampshire.

NEW HAMPSHIRE: No.

MR. BEAL: Massachusetts.

MASSACHUSETTS: Yes.

MR. BEAL: Rhode Island.

RHODE ISLAND: Yes.

MR. BEAL: Connecticut.

CONNECTICUT: Null.

MR. BEAL: New York.

NEW YORK: Yes.

MR. BEAL: New Jersey.

NEW JERSEY: Abstain.

MR. BEAL: Delaware.

DELAWARE: No.

MR. BEAL: Pennsylvania.

PENNSYLVANIA: No.

MR. BEAL: Maryland.

MARYLAND: No.

MR. BEAL: Potomac River Fisheries Commission.

POTOMAC RIVER FISHERIES COMMISSION: Abstain.

MR. BEAL: Virginia.

VIRGINIA: Yes.

MR. BEAL: North Carolina.

NORTH CAROLINA: Yes.

MR. BEAL: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: Abstain.

MR. BEAL: **You have five votes against; five votes in favor; three abstentions and one null.**

CHAIRMAN FLAGG: Okay, **the vote it tied so the motion does not carry**, and so that puts us back to the original motion. This was a substitute motion. Now we're back to the original motion, which is the one that was previously presented by Paul Diodati.

MR. PATE: Mr. Chairman, a point of order.

CHAIRMAN FLAGG: Yes.

MR. PATE: There was some confusion about what the votes were for and against. I'd like to hear the numbers. Something didn't add up with some records that others were keeping.

MR. BEAL: There were five votes in favor; five votes against; three abstentions and one null, n-u-l-l.

CHAIRMAN FLAGG: Dennis Abbot.

MR. ABBOTT: **Yes, I'd like to make a motion to table this motion.**

CHAIRMAN FLAGG: And the second was by?

MR. BEAL: Pat Augustine.

CHAIRMAN FLAGG: Pat Augustine. Okay, **we have a motion from Dennis Abbot, second from Pat Augustine to table the main motion.** Tabled indefinitely or to a time certain?

MR. ABBOTT: Indefinitely, please.

CHAIRMAN FLAGG: Indefinite table. Okay, it's non-debatable so we will have a caucus, and we will vote on this in just a moment.

MR. BORDEN: Yes, Lew, if my recollection of Robert's Rules of Order is correct, the motion to table for an indefinite period of time is a debatable motion.

CHAIRMAN FLAGG: Oh, okay.

MR. BORDEN: If it's a motion to table to a time certain, it is not debatable.

CHAIRMAN FLAGG: Oh, I'm sorry. Okay, is there debate? Okay, Dennis and then Paul.

MR. ABBOTT: If that is the case -- and I will not question the gentleman from Rhode Island -- I will change it to a time certain.

CHAIRMAN FLAGG: And when is that?

MR. AUGUSTINE: 2071.

MR. ABBOTT: I was trying to be a little more reasonable, Pat. I would say I would table it until the next time we discuss Amendment 6.

CHAIRMAN FLAGG: That will be the February meeting week, the board meeting during the February meeting week.

MR. ABBOTT: That would be fine.

CHAIRMAN FLAGG: Okay. Yes, Paul.

MR. DIODATI: Robert's Rules: to postpone to a certain day is a debatable. It is not non-debatable. It is debatable. You've already changed this twice. I'm ready to debate this motion.

CHAIRMAN FLAGG: Okay.

MR. DIODATI: Mr. Chairman, I think that if this board hides behind this kind of an action, this is an allocation issue. This is an issue of allocation between fishermen who do not leave the shore or venture very far from the shore, and those fishermen that have access to fertile fishing grounds outside of three miles. That's what this is all about.

And I think it's embarrassing to sit here and listen to this kind of debate. I think this board needs to deal with policy in a consistent fashion. It needs to deal

with fairness and equity as described in the Charter of the Atlantic States Marine Fisheries Commission.

It's an embarrassment to hear this kind of discussion, and I hope that this motion fails and everyone stands up and votes for this motion one way or the other, so that we have a predictable process in the Commonwealth of Massachusetts so I can deal with these issues as I see fit. Thank you, Mr. Chairman.

CHAIRMAN FLAGG: Thank you. Yes, Dennis.

MR. ABBOTT: Yes, thank you. My reason for tabling was not as Paul feels. My reason for tabling is the refined motion talked about extending two other areas, refining the boundaries, and I thought that going back to the main motion was a more crude motion, and I thought it would be more fair to table it for that reason.

CHAIRMAN FLAGG: Paul.

MR. DIODATI: What I've heard in the discussion that does not favor this motion has to do with commercial fisheries; that perhaps this might be an extension of commercial fisheries.

I've heard that this might be an intrusion on the recovery of older striped bass, all things that have no bearings. There's no foundation for any -- I've heard about law enforcement.

I can cite you actions that these boards have taken within this commission that have nothing to do with those things, and certainly none of those issues have bearing here.

This is a plain issue of allocation between nearshore fishermen and those that have the opportunity to fish further from shore. Our fishery is a global one. We harbor fishermen from all over the world in Massachusetts for striped bass fishing.

Restoring this resource is about bringing benefits to the nation, and that's what we're doing here. And to vote this way, as I said earlier, it's an embarrassment. I think we have to deal with policy and policy is about fairness and equity.

CHAIRMAN FLAGG: Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. I won't debate what Mr. Diodati is saying. I think, quite frankly, if you look at what it's going to take the Department of Commerce to

approve a section or an area that would actually offer a benefit to a given regional area, I don't see it happening. If we're going to deal with the fishery on an Atlantic Coast basis, then it's either all or nothing.

The other issue that was brought up was this home security. And it seems to me everybody soon forgot 9-11. It's in the past; we're living with it.

But in reality most of your Coast Guard and a lot of our local law enforcement people are involved with those issues right now. As has been stated around the table, it's ludicrous to believe that we can go ahead and have our DEC folks, enforcement folks, spend added time out there doing what they're doing with this open area that we're going to have.

And I firmly agree with what you're saying, Paul. It's important that all fisheries be treated equally. We have a tremendous number of party boat and charter boat people that fish in EEZ waters regularly out of Montauk.

And I'm not sure there's a hood and a wink from the Coast Guard folks, but they realize that several areas out there are prime fishing areas. And they kind of let it happen.

But why should we continue to allow this illegal practice to go on when in fact, as stated before, every single state along the coast is controlled by a bag limit. Where you land the fish, where you land your boat, that's how many fish you can have on your vessel.

Commercially, most states, with the exception of a couple, are controlled by tags. Who gives a rat's damn if you get it 200 miles offshore or half a mile from shore, where in fact I think you're going to kill more fish in a single trawl or a single drag trying to get in New York State seven fish.

I hate to use the word "lousy", but seven lousy striped bass that they can sell at market and probably kill 100 to 200, that's ludicrous.

So if we're going to treat this fishery right, if we're going to be concerned about conservation, why not do it right? Why play Mickey Mouse games and have one regional area, including New York. We want to be included if this is the way we're going to go.

Is it the right way to go? The answer is no. I agree with Pres Pate, and I would hope if this motion fails,

that we're able to somehow get a motion back on the table, reword it and address the whole EEZ as one body again. Thank you.

CHAIRMAN FLAGG: Dennis and then Paul and then I believe Tom Fote.

MR. ABBOTT: Yes, thank you, Mr. Chairman. With due respect for my colleague from the Commonwealth of Massachusetts, and I did not intend to offend him, **I will withdraw my motion to table.**

CHAIRMAN FLAGG: Okay, the seconder?

MR. AUGUSTINE: **I will withdraw the second, thank you.**

CHAIRMAN FLAGG: Okay, thank you. Paul, you were next and then Tom.

MR. DIODATI: I withdraw my comment.

CHAIRMAN FLAGG: Okay, Tom.

MR. FOTE: Paul brought up a very good point, my colleague from Massachusetts. It is an allocation from the nearshore to the offshore anglers. We have one that with a whole bunch of species, and it took no problem in doing it.

When we raised the size limit on summer flounder, when we raised the size limit on sea bass, when we raised the size limit of tautog, we raised a whole bunch, we basically disadvantaged the people that fish in Bays.

It's an example of Maryland. They never catch a legal inside the Chesapeake Bay. It's very hard to catch a legal summer flounder. We've done that all along and we've basically advantaged the offshore boats.

So, I mean, it's hard for me here to feel the bleeding heart for the offshore when we basically have done that to the inshore fishermen when it comes to fish after fish.

If we open the EEZ two years from now and we find out we're way over and it basically starts interfering, one thing we're going to do is raise the size limit, which is basically are going to affect the inshore fish.

And that's the people that are going to be penalized the most, who gets penalized the most because they

don't have boats. They maybe can't afford them. So that's one of my concerns.

CHAIRMAN FLAGG: Okay, a comment from the audience? Yes.

MR. RICK KNOVOTNY: Thank you, Mr. Chairman. My name is Rich Knovotny. I'm executive director of Maryland Salt Water Sport Fisherman's Association. We adamantly oppose opening of the EEZ.

If you look at the AP report and all the other reports that you all gathered up and down the whole coast, excluding Massachusetts, every recreational fisherman that I know wants to keep the EEZ closed.

I don't know why we have public hearings if we're not going to listen to the public, and the public says they want the EEZ to remain closed. Even A.C. Carpenter brought it up, even though he is locked in, you know, even those people want the EEZ closed. Hopefully he will change his vote this next time around.

But just because Massachusetts wants their border opened up more than the rest of the Eastern Coast, the gentleman before us made a good claim that, hell, they can't protect and enforce their laws now, which is supposed to be within three miles.

Now he's telling us they're allowed to go out twelve miles and they're not even enforcing that. So, how does he expect to really keep the enforcement for just the twelve miles if that's what he wants?

So with those comments I hope that this committee look and listens to the public hearing and the public comments and keep the EEZ closed. Thank you.

CHAIRMAN FLAGG: Thank you, Rick. I think we've had sufficient debate on this item. Dick.

MR. BRAME: Dick Brame with CCA. If memory serves, I know my members have never had a chance to see this or comment on it, nor was the AP charged or saw this and commented on it. So this particular measure, regardless of the merits, has not had any public comment or scrutiny or chance for input.

CHAIRMAN FLAGG: Thank you, Dick. Let's caucus and we'll vote on this in just a moment.

(Whereupon, a caucus was held.)

CHAIRMAN FLAGG: Okay, are we all set? Are we ready to vote? I have to read this motion into the record for Joe.

The motion is regulations pertaining to striped bass catch or possession promulgated by the Secretary of Commerce shall not apply to waters along the Massachusetts, Rhode Island, and New York Coast, shoreward of the twelve-mile contiguous zone extending from the point at which 71 degrees 30 minutes longitude intersects the Long Island Coast to the point at which 42 degrees 17 minutes latitude intersects the Massachusetts Coast. Any striped bass harvested or possessed in this exemption area must conform to applicable Massachusetts, Rhode Island, and New York laws and regulations, which must be consistent with the Interstate Striped Bass Fishery Management Plan and approved by the Atlantic States Marine Fisheries Commission. This motion was made by Paul Diodati; seconded by Jack Travelstead.

(Whereupon, there was a request for a roll call vote.)

CHAIRMAN FLAGG: Okay, we'll have a roll call vote. We're all set to go. Bob, can you read the roll.

MR. BEAL: Maine.

MAINE: No.

MR. BEAL: New Hampshire.

NEW HAMPSHIRE: No.

MR. BEAL: Massachusetts.

MASSACHUSETTS: Yes.

MR. BEAL: Rhode Island.

RHODE ISLAND: Yes.

MR. BEAL: Connecticut.

CONNECTICUT: No.

MR. BEAL: New York.

NEW YORK: Yes.

MR. BEAL: New Jersey.

NEW JERSEY: No.

MR. BEAL: Delaware.

DELAWARE: No.

MR. BEAL: Pennsylvania.

PENNSYLVANIA: No.

MR. BEAL: Maryland.

MARYLAND: No.

MR. BEAL: Potomac River Fisheries Commission.

POTOMAC RIVER FISHERIES COMMISSION: No.

MR. BEAL: Virginia.

VIRGINIA: Yes.

MR. BEAL: North Carolina.

NORTH CAROLINA: No.

MR. BEAL: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: Abstain.

MR. BEAL: I have **four votes in favor, nine votes against and one abstention.**

CHAIRMAN FLAGG: **So the motion fails.** Yes, Pres.

MR. PATE: Mr. Chairman, I would just like to make a statement on the record to clarify the vote that I took on this issue, and it's not that I disagree with the idea of opening this up.

Obviously, my previous motion, which failed very clearly, is to the contrary of that, but this is not the right way to do it. Piecemealing it is just not going to gain any traction with the Secretary of Commerce.

CHAIRMAN FLAGG: Thank you, Pres. A.C. and Gerry.

MR. CARPENTER: I would also like to express my no vote in this case, because it was a regional approach, it wasn't a coastwide approach. That was the basis for my decision on this one.

CHAIRMAN FLAGG: Thanks, A.C. Jerry Carvalho.

MR. GERALD CARVALHO: Thank you, Mr. Chairman. My understanding of this Amendment 6 was to address the inequities in the fishery and in the plan.

In Issue Number 4, the Amendment 5 management program has had differential impacts on the recreational, commercial, the coastal and the producer area sectors of the striped bass fisheries. That's Issue Number 4.

Objective Number 3 is provide a management plan that strives to maintain coastwide consistency of implemented measures while allowing the states to find flexibility to implement alternative strategies that accomplish the objectives of the FMP.

Having said that, I would like to make a motion to establish a single biologically based size standard for all users and jurisdictions.

Now this issue is mentioned in Options 2 through 7 and Tables 24 through 29 in the amendment. It would establish a uniform size standard reference point, would be applied throughout the range of the resource but would continue to allow states to select or maintain a minimum fish size appropriate for their respective user groups.

A uniform size standard reference point could be phased in over a period of time. Settlement of this issue will help to determine a single reference point in which to establish the long-term fishing mortality rates.

This provision helps the commission to manage fishing mortality to maintain an age structure that provides adequate spawning potential and a fishing mortality target that will result in the fastest net increase in the numbers of age 15 and older striped bass in the population relative to the 2000 estimate, which is included in Objective Number 2 and Objective 7.

By the way, the objectives and the goals are not numbered, they're bulleted, but I numbered them; and if you number them they'll match up.

This provision would help settle the equity issue by applying the same uniform size standard reference point for all jurisdictions and all user groups throughout the range of the fish.

And that's included in the Charter, and that relates to fisheries resources shall be fairly and equitably allocated or assigned amongst the states.

And Section 3 on the standards, conservation programs and management measures shall be designed to achieve equivalent management results throughout the range of the stock or sub-groups of that stock.

CHAIRMAN FLAGG: Just a little bit of a clarification here. Gerry, are you suggesting that we -- I think that previous motion, at least the way it stands right now, that was approved, it presumes that we're at -- I assume it presumes that we're at the 20/28 scenario, which we have had under Amendment 5, so you're proposing an amendment that would change that current 20/28 scenario? And do you have a specific motion you'd like to offer?

MR. CARVALHO: The motion that's up there now, Mr. Chairman, is the motion. I don't want to establish or suggest at this time what that size should be. I've suggested, after that, that whatever we do to meet a uniform size standard, that it could even take place over a period of years because somebody has to come down and somebody has to come up to come to that standard.

But we need to measure the fish, the penalty and the benefits based on a single size standard, and I think that this would do the biggest thing to serve the cause of equity.

CHAIRMAN FLAGG: Okay, thanks. So, we need a second to Gerry's motion. You see it up on the board. Fred Frillici will second the motion. Dave Borden.

MR. BORDEN: Thank you, Mr. Chairman. If I understand Gerry's comments correctly, I think what his intent here is in the -- and he can correct this if this is wrong -- is in the next addendum or amendment we will specifically address this issue.

In other words, if we're not going to take action on it today, it has to be at some subsequent point, so I think it's appropriate to define what that point is.

So if that's what his intent is, I would suggest to him that at the end of that he add "in the next addendum or amendment".

CHAIRMAN FLAGG: Gil.

MR. POPE: Thank you. Before Issue 1 in Amendment 6, it states that everything hinges on what we do for sizes. Now we've been beating this around for probably 12-15 years, and we have yet to sit around the table as a board, and not just sit around having dinner and a nice time, and discussing this philosophical question.

We've been sitting around for 12 years saying, "You can't do that. It would ruin us. It would kill us." Well, it's time that we actually sat down and we actually talked about this at some time, because once Amendment 6 is done and once Amendment 6 gets voted on, this cannot be taken up except through amendment.

And it can't be done again -- it probably won't be done again until 2010 or whenever, if ever. The reason that Gerry brought it up, I think -- and I'm not going to try and speak for him, but I think the reason that he brought it up was because we've been talking about it for a long, long, long time.

I really would like to get some discussion on this, and I'd like to get some reasons as to why and why not on the record. Thank you.

CHAIRMAN FLAGG: Yes, Ernie.

MR. BECKWITH: Thank you, Mr. Chairman. I'm really mixed up at the present. I think it's an issue that we need to talk about. I'm not sure we can talk about it now.

And the reason I made that statement, I went back and looked at the previous motion that was passed, and it did say for the coastal recreational fishery maintain the -- recreational measures will be maintained at the level authorized in Amendment 5, two fish at 28, so we do have a motion that states that.

But when I went back and reread this motion, thinking about the entire fishery we have, there is no mention of a length standard for the producer areas. All it says is for Chesapeake Bay, and the current Chesapeake Bay mortality rate not to exceed F 0.27.

There is nothing in there that tells me what the length limit standard should be for Chesapeake Bay or the other producer areas, so I'm not really sure where we are today.

CHAIRMAN FLAGG: Jack and then Gordon.

MR. TRAVELSTEAD: I think the motion that Ernie is referring to specifies a fishing mortality rate of 0.27 in the Bay. The implications are that maintains the 20-inch standard in the Bay, because our fishing mortality rate would have been higher if the standard had been 18 inches. We're fishing at 18 inches, but against a 20-inch standard and that's why our target fishing mortality rate is what it is.

CHAIRMAN FLAGG: Thank you. It was my assumption, also, with respect to that motion, we were looking at a 20-inch minimum size in the Bay jurisdiction with an 18-inch floor, as we've had in Amendment 5. Yes, Dave.

MR. BORDEN: And to that point, Mr. Chairman, I would suggest you restate that and then simply ask the question that unless someone objects, the record will be modified to reflect that statement.

CHAIRMAN FLAGG: Thank you. With respect to the previous motion, which we passed, it was my understanding, with respect to the Bay jurisdictions, the minimum size would be established at 20 inches with an 18-inch floor; that is, they could go down to no less than 18 inches for harvestable fish.

If anybody here feels that's not correct, I would be willing to entertain your comments. Is that everybody else's understanding? I don't see anybody objecting to that understanding, so we'll go on the basis that was the intent.

We do have a motion on the floor, and I'd like to have some comments from the board members relative to that motion. Yes, Gordon.

MR. COLVIN: Thank you, a couple of points on this underlying issue. First of all, with respect to what was just brought up, I had my hand up to bring the same point forward, and I appreciate that it was and how it was handled.

I just wanted to add to this discussion that when the final text of Amendment 6 is composed, I will look to see that that issue is specifically stated in the text. I believe it needs to be just for the record.

I want to address the question of so-called producer areas and size limit differentials and tell you what I think we've done. Amendment 5 was the last amendment, up until now, in the sequence that put forward a management approach that was predicated, presumably as it is stated in its text, on a different

approach to management in so-called producer areas and coastal areas.

What Amendment 5 said it was going to do never happened, and that's part of the reason we're here. There's a lot to that that I'm not saying today because I promised before I wouldn't.

But the fact is that what evolved out of Amendment 5 was never a producer area and a coastal area harvest program; never. What evolved was a management program that essentially manages three different ways in three different geographic areas; one way in the Albemarle-Roanoke Sound area; one way inside Chesapeake Bay, and one way everywhere else.

So we now have a management program that manages those three geographic areas differently and only -- there is really no truth or accuracy or appropriateness even to maintain a characterization that our management program is managing producer area fisheries one way and coastal area fisheries another. It simply isn't true.

We're managing the Chesapeake Bay fishery one way, using one set of tools. We're managing the Albemarle-Roanoke fishery another way, using another set of tools. And all the other fisheries, whether they're up in the Delaware River, the Hudson River, the Kennebec River or anywhere along the coast, are being managed another way under another set of rules.

I went so far, in fact, seeing that we were headed in the direction of maintaining this approach in Amendment 6 -- and I believe the motions we've passed today does in fact maintain this approach -- I went so far as to tell my staff member on the PDT -- and I might have mentioned this to Bob somewhere along the line -- that when the final version of the text of Amendment 6 came to me, I was going to do a word search; and if I found the words "producer area" in it anywhere, there was going to be hell to pay because it doesn't exist and we've got to stop using those terms.

Now, the motion we passed earlier today sets a standard of two fish at 20 inches for the coastal areas, and that's everything other than Chesapeake Bay and Albemarle-Roanoke.

And it just hit me like a ton of bricks, when I woke up five minutes ago, that includes the Hudson River, and it includes Delaware Bay and the Upper Delaware River. And you know what? So be it.

That's our standard. That's what we'll live with for now.

That said, I also want to just point out that all along, for some time, we've put forward the view that the evidence suggests increasingly that we ought to really be looking at managing this entire resource as a single stock with perhaps a single set of size limits and more commonality in measures.

I support that. I think that's where this motion is coming from. I hope that this board will continue to discuss and debate and move in that direction. I don't think we can get there today, but I appreciate the fact that the motion was offered.

I will continue to lend my support to anything that we can do collectively to bring us closer together on that issue because I do believe that biologically the reasons for maintaining the distinctions we had in the past have become less and less worthwhile and bona fide.

I don't know whether I can support this motion or not, because I don't think it has the specifics and the particulars in it we need, but I can certainly support what is motivating it, and I would hope that the board can find a way to keep this dialogue in front of us and to continue to request, receive and debate technical advice and advisory advice on this issue. Thank you.

CHAIRMAN FLAGG: Tom Fote.

MR. FOTE: Gordon said it more eloquently than I can, and I support everything he just said. We need to address this sooner or later. I mean, we manage it, as Gordon pointed out, for three separate reasons, actually four, because we do have a separate commercial quota that is basically allowed in the Delaware Bay. We really needed to go to this step.

I don't know, we can't do it tonight. We can't do it under Amendment 6, but it really needs to be done. And I think that should be -- as soon as we finish with Amendment 6, this should be the number one priority and we should move from there to basically let this happen. Thank you.

CHAIRMAN FLAGG: Dave Borden.

MR. BORDEN: Thanks, Mr. Chairman. I'd like to suggest the same perfection that I suggested to Gerry before, that at the end of this he add "for all users and jurisdictions as part of the next addendum."

CHAIRMAN FLAGG: Is that a friendly amendment? Gerry, would you accept that as a friendly amendment?

MR. CARVALO: Yes.

CHAIRMAN FLAGG: Okay, we have a perfected motion, then. Any other discussion on the motion? Yes, Eric.

MR. SCHWAAB: I guess that helps me a little bit because it makes it a little clearer at least as to what it is exactly we're talking about.

Adding to some of the comments that have been put on the table here, I would perhaps suggest that -- and I'm not sure what Maryland is going to do in relation to this motion at this point, but should this motion go forward, that it include some charge to the technical committee, in the context of evaluating these kinds of standards, that the committee look very closely at some of the allocation issues associated with such a move.

And make no mistake, there are very clear distributional patterns of sizes of fish that would affect dramatically allocation in a much different way than what we have done historically, and what we just did earlier today in relation to this Amendment 6 document.

In addition to that, I would remind you again of the comments that Mr. Goldsborough made earlier in relation to carrying capacity in Chesapeake Bay. And make no mistake, we've brought this up before, these issues relating to carrying capacity and the health of the stock in the Chesapeake Bay are very real. They're not going away.

We very much also want to make sure that an important agenda item for the technical committee moving forward from this amendment is a full investigation of some of these carrying capacity issues and their relationship to the health of these fish and the stock.

CHAIRMAN FLAGG: Thank you, Eric. I certainly would view this particular motion, that there would have to be an extensive technical analysis of this, so that we would have a good understanding of the implications of this. Vince.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Thank you, Mr. Chairman. I have sort of two comments. The first one is kind of noting we

haven't even gotten through an amendment, and we're already talking about an addendum.

But I guess the second part is it strikes me that "move to establish" is pretty binding language at this point, and I would just caution you all about that type of language. Again, the overarching thing being, I'd sure like you see you get on with Amendment 6 here.

CHAIRMAN FLAGG: Thank you, Vince. Pres Pate.

MR. PATE: Thank you, Mr. Chairman. Vince made the point that I wanted to make. The way the motion is worded it presupposes that there is no longer any justification for having differential size limits, and I cannot support that.

CHAIRMAN FLAGG: Thank you, Pres. Yes, Dave Borden and then Ernie.

MR. BORDEN: Yes, thank you, Mr. Chairman. I'd just like to first respond to Pres' comment. I mean, what the motion specifically refers to -- and I'd call everyone's attention to it -- size standard is what the reference is. It does not necessarily mean you will have uniform sizes up and down the coast, so that to me is an important distinction.

The second point I would make is to Eric's point. I totally concur with his comments. I think there is a great deal of analytical work and technical work that needs to get done on this point.

I don't think there's anyone that's sitting around this table that doesn't understand the profound allocation implications of having a dual size standard, and we have to get on with that discussion.

All of the public comments at the Rhode Island meetings, both our advisory committee meeting and our public hearings on this issue, this issue comes up at every single hearing. And we have to be right up front with it. We have to address it right up front and the cards will sort out as they may.

The last point I would make is this does not essentially cast a particular course of action. I think it leaves open a wide variety of alternatives for future board consideration in terms of phase-in periods and how you get to a single size standard and so forth as means to mitigate the impacts on some of the southern states.

CHAIRMAN FLAGG: Thank you, David. Ernie.

MR. BECKWITH: Thank you, Mr. Chairman. This motion really locks us into one outcome, and that's one single length limit for the whole coast, and I understand there's some members of the board want to move in that direction.

But, you know, perhaps we should say instead of one single-based standard, say "move towards examining alternative-based standard reference points", and therefore we could look at other options. For instance, maybe we'll still and we could end up with a dual size limit but different dual size limits than what we have now.

I would offer that as a friendly amendment, because it also addresses one of the concerns that have been expressed here. This is extremely binding and it says "move to establish." Mine goes along the lines let's look at it and see what the outcome is.

CHAIRMAN FLAGG: Are you suggesting that as a friendly amendment at this point?

MR. BECKWITH: Yes, and if he wants to turn it down, that's fine, I will not pursue it any farther.

CHAIRMAN FLAGG: Okay, does the maker of the motion want to accept that as a friendly amendment?

MR. CARVALO: Mr. Chairman, I don't accept it as a friendly amendment.

CHAIRMAN FLAGG: Okay. John.

MR. NELSON: Mr. Chairman, you know, I certainly appreciate the discussion on this, but I'm not sure that this is part of the Amendment 6 document, and I think it's something that should be taken up after we finish with the Amendment 6 document.

CHAIRMAN FLAGG: Okay, does anybody have any objection to that? Bill Adler.

MR. ADLER: Mr. Chairman, I'd like to table this to time certain, the February meeting.

CHAIRMAN FLAGG: Okay, we have a motion to table until the February commission meeting. Is there a second? Yes, A.C. Carpenter seconds. Discussion? Okay, we'll caucus.

(Whereupon, a caucus was held.)

Okay, while we're caucusing, I'm going to read this motion for Joe:

Move to establish a single biologically based standard size reference point for all users and jurisdictions as part of the next addendum. Motion by Jerry Carvalho; second by Fred Frillici.

As a follow up to that, there has been a motion to table this motion until the February commission meeting week, and that was made by Bill Adler; second by A. C. Carpenter, and that's the motion that we are voting on. Everybody all set?

All those in favor, signify by raising your right hand; those opposed; abstentions; no abstentions; null votes. **The motion carries on an 11 to 2 vote.** Yes, Paul.

MR. DIODATI: Mr. Chairman, before we leave the EEZ issue completely, there was another option in the public hearing document that did go to public hearing. It is an option that allows equal access out to the Territorial Seas for every state that is a partner in this program.

So, before we close on this issue, I would like the record to show that there is this other option, and I'd like to give the board the opportunity to vote this down before I leave today. Under the most outstanding resource conditions we've ever seen for this resource, **I'd like to make a motion that recommends an adoption of Option 2, which is a recommendation to the Secretary of Commerce to allow the harvest of striped bass in the Territorial Sea portion of the EEZ.**

CHAIRMAN FLAGG: Is there a second?

MR. CARVALHO: **Second.**

CHAIRMAN FLAGG: Okay, we have a motion on the floor. Discussion? Yes, Bill Goldsborough.

MR. GOLDSBOROUGH: I have a question perhaps for Anne Lange and that is, is there a way that if the Secretary decided to entertain this, that it could be established in a way that an individual state could be granted the right to fish in the Territorial Sea by their state's waters, contingent on them proposing an accepted program for monitoring and

evaluating the effect of that extended fishery on the fishing mortality rate in the recreational and commercial fisheries?

MS. LANGE: Would you ask the question again?

MR. GOLDSBOROUGH: I'm wondering whether -- well, I guess it's two part. It's whether the Secretary would entertain the possibility of granting individual states access to the Territorial Sea for the striped bass fishery, and do that contingent on the state offering a program that's accepted that would monitor and evaluate the effect of that fishery on the fishing mortality rates. Do you see what I'm getting at?

MS. LANGE: Well, I think I do. I think the motion that Paul has made is to open -- my understanding is to open the entire Territorial Sea, which I believe, you know, again assuming the impacts are evaluated and the recommendation includes an analysis of those impacts, that certainly is a possibility.

If you're asking would individual states -- aside from individual states landing laws, if you're asking if individual states would have the authority over other vessels in the Territorial Sea beyond three miles, that's a different question and I don't think that's possible. That's one of the problems that we had with the original proposal.

CHAIRMAN FLAGG: Okay, yes, Bill.

MS. LANGE: But I'd have to go through legal.

MR. GOLDSBOROUGH: What I was attempting to recognize is that there are some states that would be interested in taking advantage of this and some that would not; and that if we were to consider this somewhat of a pilot program, perhaps for the management planning horizon of Amendment 6, something like that, in which we wanted to evaluate what the effect would be and whether it would push the biological reference points of the amendment or not, then could we do it in a way in which conditions were set up for the individual states that did want to take advantage of it, such that those effects were monitored?

MS. LANGE: Well, I think what you're asking is essentially what was voted down before where four states requested that their Territorial Seas

be opened, and I'm certain the understanding was that there would be specific monitoring involved.

If now you're asking if any individual state could open out to 12 miles and be responsible for managing the fishery in the EEZ beyond 3 miles and out to 12, again, I think that's a difficult question.

Certainly, it would need legal advice on that, but our analysis before was that's against the Magnuson Act where the Secretary of Commerce has authority.

If you open up the entire Territorial Sea, that's something totally different. There's equity. The National Standard 4 is not an issue because any state could fish off the waters, the state waters of another state, any vessel from any state. And that would be, again, very easy to evaluate and would be conceivably possible, depending on the impacts.

CHAIRMAN FLAGG: Paul.

MR. DIODATI: If this helps, Bill, I think you're absolutely right that some states would choose not to fish, and I encourage them not to fish outside of three miles, if that's what they choose to do.

I think that monitoring in a pilot mode is a commendable suggestion. Massachusetts would be certainly willing to do that, and we would probably even have different regulations for our portion of the Territorial Sea.

But whether or not NOAA Fisheries or Commerce can enforce this or administer it is a question that we will find out next, and probably sooner if we approve this, because it's very consistent with what the ASMFC Weakfish Board approved at its last meeting, part of the adoption of the amendment.

You did approve a measure that would allow each state to have their rules applied out into the EEZ -- not just the territorial waters but out into the EEZ. So, to be consistent with the way we treated weakfish, I think that this motion is very much in order. Thank you.

CHAIRMAN FLAGG: Anne, to that point.

MS. LANGE: Yes, I believe there's a difference. With the weakfish, you were looking at landing laws applying so a state's landing laws would apply. I believe the difference here, from what Bill is suggesting, is that a state in whose territorial seas you're fishing would regulate other vessels.

So if a vessel from New York were fishing off Connecticut and were landing in New York at 7 miles offshore, that the New York landing laws would apply -- or, excuse me, the Connecticut landing laws would apply to the New York vessel because they were fishing in Connecticut's Territorial Sea, and that becomes, I mean, that's not, I don't think, very doable.

CHAIRMAN FLAGG: Paul.

MR. DIODATI: Again, I don't think these are the issues that we should try to address here. I think we should try to address whether or not we want to recommend to the Secretary of Commerce to allow the harvest of striped bass in the Territorial Sea portion of the EEZ. And that's one issue.

The administrative, legal and federal policy issues are something else that Anne can deal with on her own time later on if we approve this.

CHAIRMAN FLAGG: Anne.

MS. LANGE: That's my point, Paul's motion is opening the EEZ. That's a very straightforward, something that's very easy to evaluate yes or no.

Bill's suggestion is totally different than that. If I understand correctly where you're saying each state could mangle out to 12 miles off its state with its own regulations; that's different than opening the EEZ with comparable measures, with one single regulation.

CHAIRMAN FLAGG: Okay, is this to this point, Bill?

MR. GOLDSBOROUGH: It was not my intent to suggest that the states would manage those waters from 3 to 12 miles. It was my intent to investigate whether it was feasible, under the way the Secretary approaches these things, to apply a requirement on any state that wants to take advantage of this approach, that they conduct the monitoring necessary to evaluate the impact, whether it's boats from their state or boats from some other state that come into those waters and fish.

I think the main issue here that most people have expressed a concern about, about opening the EEZ, is the degree to which it would impact upon our management program and the ability to maintain or stay within the reference points. That's what I'm trying to get at. Can we construct this motion in a

way that puts that kind of a requirement on a state that's going to move in this direction?

CHAIRMAN FLAGG: Anne.

MS. LANGE: Yes, but, again, if you open the Territorial Sea between 3 and 12 miles, those measures would have to go in effect for every state. Once the Territorial Sea is opened, one state couldn't decide that they weren't going to allow fishing between 3 and 12 miles.

Either the Territorial Sea is opened or it is not. Now a state can control its own vessels and say that their own vessels can't fish between 3 and 12 miles, but they can't prevent another state's vessels from fishing in that area.

So it's not a matter of requiring a state who wishes to participate in that fishery to do the monitoring, every state would have to participate in the monitoring, or some monitoring system would have to be set up coastwide.

CHAIRMAN FLAGG: Okay, I have George, Pres, and Dave Borden and two more after him.

MR. LAPOINTE: It strikes me within the context of today's discussions and the arguments and perceptions we've heard on all sides of this EEZ debate, that Options 2 and 3 are distinctions without a difference, Mr. Chairman, and I'd ask we call the question.

CHAIRMAN FLAGG: Okay, we did have a couple of others and then we will call the question. Pres and then Dave Borden.

MR. PATE: I was going to make the observation, Mr. Chairman, that whatever we send to the Secretary needs to be equitable, clear and without baggage to the extent that we can achieve that, and I support the call for the question.

CHAIRMAN FLAGG: Thank you. You have the last word, David.

MR. BORDEN: Thank you, Mr. Chairman, I'll be brief. I don't see a great deal of difference between what Bill was proposing and what others have proposed in terms of ultimately allowing states to adopt regulations which are more restrictive for vessels that are registered in that state.

I mean, we have a similar arrangement with a number of the different species, lobster being one, where states have the right to affect regulations that are more restrictive on vessels that are registered in that particular state.

And, it seems to me that's the way to make this work. That gives the states that want to keep the EEZ closed the flexibility to do it and allows the other ones that want to open it the flexibility to do it, but it becomes an enforcement and administrative burden on the state that wants to do that. It becomes a possession law. It's very similar to the lobster type regulation.

CHAIRMAN FLAGG: Thank you, David. Anne, to that point.

MS. LANGE: Yes, I just want clarification. The state can control its own vessels in the Territorial Sea but not other states' vessels. That was the only point I was making.

CHAIRMAN FLAGG: Thank you. The question has been called. Caucus and we'll have a vote, and I will read this motion into the record for Joe:

Move to recommend the adoption of Option 2, which is a recommendation to the Secretary of Commerce to allow the harvest of striped bass in the Territorial Sea portion of the EEZ. Motion made by Paul Diodati; second by Gerry Carvalho.

MR. CLEARY: Yes, I'd like to make one comment. Russell Cleary, Commercial Anglers Association. I'd like to say that we feel a little like a ping pong ball at this point. When we first saw this imposition back in 1991, we were astonished. We knew that it would bring to a halt the traditional fishery.

For about 5-6 years we have lobbied hard to see this EEZ prohibition lifted. We were told that's too comprehensive; it pertains to too many states. You have to craft it very narrowly to suit your traditional fishery.

We just did that about an hour ago. That was voted down. This time I urge that you support this motion because it is a compromise. It's not out to 200 miles, and it does allow a traditional fishery to reemerge in areas where they have been. It's, put an end to this ping pong ball that we've become on this issue. Thank you.

CHAIRMAN FLAGG: Okay, Paul, just one more comment before we vote. Thank you.

MR. DIODATI: **Mr. Chairman, I'm going to recommend to table this motion to the very next meeting so that I have the opportunity to perfect this language to try to meet everyone's concern.**

So at the next meeting, if it is voted down, I'll know exactly what the will of this board is and I will have a free hand to pursue other ways and avenues to get our fishery back.

MR. ABBOTT: Could I second that motion?

CHAIRMAN FLAGG: Okay, we have a motion by Paul Diodati, second by Dennis Abbott to table this motion.

MR. ABBOTT: But I do have a question -- oh, time certain.

CHAIRMAN FLAGG: Until the next board meeting. Anybody have any discussion on this? Okay, caucus? Can we vote? Everybody ready? Okay, those in favor, signify by raising your right hand, eleven; those opposed; abstentions, one abstention; null votes. Okay, the motion carries to table.

Okay, we have a number of other items to go. I don't know what the committee's desires are, but we do have a couple of things that we haven't gone over. If we can do these fairly rapidly, I think it might be helpful. Bruce.

MR. FREEMAN: Just back on that other subject, I think it would be very helpful, when we discuss this issue at the February meeting, that the Service also give us some briefing of the steps they would normally go through, the information they would seek in order to take action because I think that's something we all need to be clear on.

Anne has probably done it before, but I think when this discussion comes up, let's have the Service indicate if it was acted on favorably, what steps would have to be taken, what information would have to be known before this could go forward, just so we have a clear understanding.

CHAIRMAN FLAGG: Thank you, Bruce. Anne.

MS. LANGE: That's reasonable if we can get the perfected motion from Paul in time to get to our legal people.

CHAIRMAN FLAGG: Thank you, Anne. On advice from staff, I think we need to have -- before we do any more of these issues, one of the things we really need to discuss is the implementation schedule. I'd like to have some discussion on that particular item.

I'd like to entertain comments from the board about what the problems are and issues are associated with implementation so we can give the staff some guidance in this area. Paul.

MR. DIODATI: Mr. Chairman, are we talking about implementation of Amendment 6?

CHAIRMAN FLAGG: Yes, what type of a timeframe.

MR. DIODATI: I guess I assumed that we were looking at the 2003 year?

CHAIRMAN FLAGG: Well, I know there has been discussion amongst some of the board members about how soon some would be able to implement this.

MR. DIODATI: I would suggest that we move forward to adopt this as quickly as possible and the implementation becomes retroactive. Some states, their fisheries have already begun. Others, they have not.

For instance, in Massachusetts we'll probably be able to implement all of these new rules, if we change our rules, for the 2003 fishery and we'd like to operate that way.

CHAIRMAN FLAGG: Okay. Yes, Gordon.

MR. COLVIN: Thank you, Mr. Chairman. I'd certainly agree with Paul. There is one slight reservation I have and that is that whereas most of what we've done would be implemented through increasing many opportunities; and from a lot of the commercial fisheries up the coast, we have a little bit of time to put changes and rules in place, come back through the ASMFC approval process, which, let's not forget, is going to be part of this.

There are some instances in which more restrictive measures may be needed, and I alluded to that earlier

when I spoke of the application of the coastal standard size and creel limits to the Hudson River.

That will require, in all likelihood, a more restrictive regulations. And, as you know, those sorts of rulemakings have to go through the full state administrative procedures process.

So while we look to implementation in 2003, I think we need to look to craft a schedule where compliance requirements are involved that enable states to complete their rule-making process which might take us, you know, sort of well into, if not through, the calendar year for those measures.

CHAIRMAN FLAGG: Yes, Bob.

MR. BEAL: Well, I think if everyone is comfortable with the approach that Paul Diodati recommended where -- I think the gist of what Paul was saying is that the commercial quotas would be allowed to essentially increase on January 1 of next year, and the amendment may not be fully approved until the February meeting week.

If in the interim, between now and the February meeting week, if states could contact staff with issues such as what Gordon has and let us know how long some of these processes within your state might take, then I think we can probably put together some options and include those in the document for review in February, and then we can resolve the schedule pretty quickly in February.

CHAIRMAN FLAGG: Okay, is that satisfactory to everyone? Yes, Pres.

MR. PATE: It's certainly satisfactory, Mr. Chairman, with some clarification about Bob's statement on the quota change being effective January 1st. If that's so, I'd just like some strong confirmation of that before I leave today.

And the reason that I say that, Mr. Chairman, is the need for expediency in North Carolina's case because our 2003 season will soon be over. The fish will be gone from our area; and if the implementation of the quota increase is delayed much past the end of January, we will not have a chance to take advantage of that.

CHAIRMAN FLAGG: Yes, Bob.

MR. BEAL: There is another approach that would potentially make a cleaner record for you, Pres, and that is under Amendment 5, which is what

we're currently managing through, the board has the authority to increase the commercial quotas based on changes in stock size.

Another way to do it is to pass another motion right now that brings the commercial quotas in Amendment 5 up to the same level that we just approved for Amendment 6. Then effective at January 1, 2003, those quotas are changed under Amendment 5, and when Amendment 6 takes place or is finally approved by the commission, then the consistent increased commercial quotas will be part of Amendment 6, and it will be essentially seamless in '03.

MR. PATE: Mr. Chairman, would you take a motion to that effect at this time?

CHAIRMAN FLAGG: I would.

MR. PATE: And so moved.

CHAIRMAN FLAGG: Okay, we have a motion by Pres. Anne.

MS. LANGE: I have a question. Is Amendment 5 even in effect any more? Doesn't it expire December 31st?

CHAIRMAN FLAGG: I presume Amendment —

MS. LANGE: Do we need another addendum in order to --

CHAIRMAN FLAGG: -- Amendment 5 is in effect until such time as Amendment 6 is approved.

MS. LANGE: I thought that we were under Addendum 5, and that it expires December 31st. That was my recollection.

CHAIRMAN FLAGG: Bob.

MR. BEAL: That's right, Anne, Addendum 5 to Amendment 5 expires December 31st. Amendment 5, the base document is still in place indefinitely until Amendment 6 is approved. So, if the motion that Pres is proposing is implemented, that commercial quota portion to the Amendment 5 would be changed.

CHAIRMAN FLAGG: Gordon.

MR. COLVIN: I had a related process question and that is -- and I think this discussion may be part of the answer to it, and that is to implement this motion, would not an addendum have to be developed and approved by the board?

MR. BEAL: In the commercial quota section of Amendment 5, it states that the commercial quotas can be adjusted in response to changes in population, in status of the stock. It's silent as to whether that has to be done through an addendum or not. So, it's somewhat up to the comfort of the board.

MR. COLVIN: It would seem to me to have a complete process that is not subject to any kind of a prospective law that it would -- you know, considering that there is no addendum that lays out 2003 management measures, that it would be useful to prepare a short addendum, assuming this motion passes, that bridges the gap and enables the quota increase.

That would be my recommendation. I don't know that a motion is needed to do that, I just see it as, you know, is it the will of the board to use that mechanism to implement this action, and also to address interim management measures until Amendment 6 is adopted by the full commission.

CHAIRMAN FLAGG: George.

MR. LAPOINTE: It strikes me as odd that we would be potentially approving quotas that were inconsistent with Amendment 5 in Amendment 5. Wouldn't they be consistent with the Amendment 6 motion that we --

MR. MELVIN SHEPARD: Mr. Chairman, a point of order. We need a second with this.

CHAIRMAN FLAGG: Yes. We haven't got the motion perfected at this point, but we will need a second to it. David.

MR. BORDEN: Yes, thank you, Mr. Chairman. It's the magic witching hour that we're rapidly approaching where we do strange things that we can't necessarily predict the results of the action.

And it always makes me nervous when we get to this point in the meeting and we start dealing with these types of issues. I think Pres' intent is simply to authorize the staff by the most expedient means to implement the commercial quota increases effective fishing year '03.

And, simply, I'm not sure we shouldn't pass a motion to do that. Then the staff will review the record, review the procedures, and then it will be very clearly on the record that our intent is those quota increases are effective in the fishing year that starts '03, which Pres is already into, and it's also very clear that the staff is authorized to proceed by the most expeditious manner.

CHAIRMAN FLAGG: I've been thinking a little more about this and, Pres, is the issue for North Carolina that obviously your fishing season is ongoing in January, and we wouldn't be approving this document until the February commission meeting?

MR. PATE: That's correct, Mr. Chairman. In fact, we're fishing on our 2003 quota now, as is allowed in the plan. And my concern is if the plan is not implemented until after the February meeting, then our opportunity to harvest the increase in the 2003 quota will be lost.

CHAIRMAN FLAGG: Do you have a December fishery? Is it possible to make that up in the fall or winter, as long as it is still within the calendar year?

MR. PATE: I'd have to go back and look at the way that the exception to the fishing year is worded in the plan. I had that same idea, but I'm uncertain as to what the answer to that is.

If the exception says that the 2003 fishing season starts December 1st for North Carolina, then I think the answer to your question would be no for December. And the availability of the fish in November is certainly not as certain as it is in December and January for us.

So I would hate to lose the opportunity to harvest them during January and the early part of February while the fish are certain to be there.

MR. PATE: So, Mr. Chairman, if the wording of the motion is a problem -- and I think Dave was suggesting that we did need a motion; is that what you were saying, Dave, but worded in such a way as that we are asking the staff to move forward with the implementation of the quota increases as approved under the vote on Amendment 6 today by the most expeditious way possible. I'm fully confident that they can do that in such a way as to satisfy our needs.

CHAIRMAN FLAGG: Okay, we're getting a motion to that effect. Pat.

MR. AUGUSTINE: Just a technical question, Mr. Chairman, if this were to be a change in the form of addendum, because it's just one small segment of Amendment 5, if it were to come under Amendment 5, would it have to go to public hearing? I thought this would be the kind of thing that the board could do without public hearing.

CHAIRMAN FLAGG: Bob.

MR. BEAL: The public hearing process on an addendum is up to the individual states as to whether they do or not do not want to have a public comment on this issue.

CHAIRMAN FLAGG: Yes, Bruce.

MR. FREEMAN: It would seem to me if this time issue that Pres is asking for cannot be worked out, that it would be possible to extend an additional quota for the 2004 season. One way or another, I think North Carolina could utilize or would be able to utilize any increase in the quota.

And the point I'm trying to make is if in fact there is a problem with the timing, and by the time the commission gets to approve an increase for North Carolina, the fish are no longer available, it seems to me we as a board could allow an increase the following season or the following year so that one way or another they wouldn't be denied a catch everyone else would be.

MR. PATE: Mr. Chairman, I actually wanted to make a comment about Bruce's statement, and that's certainly a good fall-back position.

If we lose the opportunity to harvest this January and February, then I would certainly rely on the board to be considerate of our need to make that loss up sometime next fall.

However, it is preferable to us to have that opportunity this year, mainly because of a problem that we experienced with our quota management already.

Our 336,000 pound quota is divided up into three equal opportunities for the beach seiners, the drop netters and the trawlers to take 100,000 pounds apiece. We opened our beach seine fishery up for three days and they landed 234,000 pounds during that three days.

The plan was to take their overages off of the drop net fishery, much to the dissatisfaction of the drop netters, as you might expect. So, to relieve some of that dissatisfaction and inequity, the opportunity to harvest those fish in January by that fishing segment would be greatly appreciated.

CHAIRMAN FLAGG: Thanks, Pres. Okay, we have a motion on the floor. Do we have a second? Yes, Bill Adler. Discussion on the motion? Dave Borden.

MR. BORDEN: Not to delay this, Mr. Chairman, but would it be clearer if we simply added to the motion a sentence that said, "North Carolina's increased allocation becomes available January 1st, 2003"?"

CHAIRMAN FLAGG: Is that all right with the maker of the motion?

MR. PATE: Yes, sir.

CHAIRMAN FLAGG: Okay, can we add that language. Yes, it's North Carolina's coastal allocation. I will read the motion into the record for Joe.

Move that staff move forward with necessary action to restore the coastal commercial quota to the base period average, 1972 to 1979, with the stipulation that Delaware will maintain its current commercial quota effective January 1, 2003. North Carolina's coastal commercial allocation becomes available January 1, 2003. Motion by Preston Pate, second by Bill Adler.

All those in favor, signify by raising your right hand, thirteen; those opposed; abstentions; no abstentions; null votes; no null votes. The motion passes.

MR. PATE: Mr. Chairman, you just turned a white hot flame down to a bearable temperature. Thanks to the board for that consideration.

CHAIRMAN FLAGG: Yes, John Nelson.

MR. NELSON: Mr. Chairman, going back to Amendment 6, I think you're on Page 3, you had a couple options that had to be dealt with.

CHAIRMAN FLAGG: That's right.

MR. NELSON: **And, I would move for a stock rebuilding target, we adopt Option 1.**

MR. BECKWITH: **Second.**

CHAIRMAN FLAGG: And do we have a report from the Advisory Panel on this particular option? Pat, I thought we did.

MR. KELIHER: At this point I don't know.

MR. BEAL: Page 2, half way down.

MR. KELIHER: Yes, Mr. Chairman, as far as stock rebuilding programs and stock rebuilding targets, the majority of the AP supported Option 1 to rebuild to target levels.

The minority supported Option 3 to rebuild to biomass to a point half way between the target and the threshold. I won't take up any more of your time with the comments. It's right there in front of you.

CHAIRMAN FLAGG: Okay, we have a report from the Advisory Panel supporting this particular option. Any other discussion by members of the board? Okay, caucus.

(Whereupon, a caucus was held.)

CHAIRMAN FLAGG: Ready for the vote? **All those in favor, signify by raising your right hand, thirteen; those opposed; abstentions; null votes. The motion passes thirteen to zero.** John Nelson.

MR. NELSON: All right, Mr. Chairman, for the rebuilding schedule, I would move that we adopt Option 1 for the Amendment 6.

CHAIRMAN FLAGG: Okay, we have a motion seconded by Bill Adler to adopt Option 1, the stock rebuilding schedule, rebuild the biomass in ten years or less. Yes, John.

MR. NELSON: Mr. Chairman, I think most people are familiar with this type of language. The intent is to rebuild it as rapidly as possible. If there is something that comes about that you cannot rebuild in ten years, then you revisit that and look at what other timeline you run. And that's certainly my intent of putting this forward as the motion.

CHAIRMAN FLAGG: Okay, thank you, John. Did we have a report from the AP on this issue?

MR. KELIHER: Thank you, Lew. Yes, the AP discussed this for a fair amount of time and actually didn't reach consensus on any of the options and suggested that this stock rebuilding should be addressed at a point when it was deemed an issue by the technical committee the AP and the board. In other words, it's all up to you.

CHAIRMAN FLAGG: Thank you, Pat. Yes, Bill Goldsborough.

MR. GOLDSBOROUGH: Mr. Chairman, it seems to me that we rebuilt the striped bass stock from near collapse to opening a fishery in five years and to declaring it fully recovered in ten, so I'm wondering if we really need this kind of latitude because we would only be rebuilding it from, presumably, just beyond the threshold, so it would hopefully not have anywhere near that far to go. I'm wondering if Option 3 isn't preferable.

CHAIRMAN FLAGG: Discussion? John.

MR. NELSON: Well, I understand that point of view, and I think it certainly is appropriate for many of the species and may be for this one also, but what I would point out is that we are on the New England Council are looking at, under Amendment 13, basically adopting the ten-year rebuilding schedule, and that's to bring it more in line with what the Magnuson Act calls for. And so this is really looking at a consistency.

The "or less" I think certainly provides that opportunity, as Bill has pointed out, to rebuild it as rapidly as we can, if we're lucky to get recruitment.

I think is they key point, that you never know if you're going to get the right recruitment, and so you want to allow yourself that flexibility of the time. That's why the ten years or less timeframe I think is a reasonable approach.

CHAIRMAN FLAGG: Thank you, John. Yes, Gerry.

MR. CARVALHO: Yes, thank you, Mr. Chairman. I was prepared to support Option Number 2. It doesn't restrict us. It just sets the pace, and the pace is as rapidly as biologically possible, and that's what you've been saying. But you put a ten-year cap on it, unless I misunderstood you.

CHAIRMAN FLAGG: John.

MR. NELSON: To that point, I think what we're all looking at is certainly to rebuild it as rapidly as possible, but at some point you do need some time line of saying, hey, this is our goal and it's ten years, and, therefore, we're going to take the actions that will do it within that ten-year period rather than the more nebulous "as rapidly as possible."

That's a definition I think that most people would have different definitions of for everybody around the table. So the ten year gives you a mark. If you can do it earlier than that, great. If something comes along that biologically says you can't do it that way, you have the opportunity to address that also.

CHAIRMAN FLAGG: Bob Beal.

MR. BEAL: Yes, just a comment on Option 2. As rapidly as biologically possible means just that, let the biology take care of itself, which means moratorium on the fishery until we're rebuilt, so that may not be what exactly the board has in mind.

CHAIRMAN FLAGG: Paul.

MR. DIODATI: It's my recollection that the commission became very active in striped bass management beginning in 1978 with the occurrence of the strong '78 year class; so given that, as of today there are still some people, some in this room, that don't believe the stock is restored, I would vote and support this motion and the very longest term that we need.

The ten years is also consistent with SFA. I think ten years should be no problems, given that the threshold and target that we're dealing with is much larger than where we started with back in 1978 and '79, '80, '81, and '82. I would support this motion.

CHAIRMAN FLAGG: Thank you, Paul. David.

MR. BORDEN: Yes, thank you, Mr. Chairman. I'm going to vote in favor of the motion, but I'd like to go on the record totally in support of the points that Bill made. If we ever get -- and, God, I hope we don't ever get to the point where we have to trigger this type of thing, I will be sitting here arguing for a period that's a lot shorter than ten years.

CHAIRMAN FLAGG: Bruce.

MR. FREEMAN: I think we need to weigh in. We could support this motion, but, quite frankly, we could support rebuilding within five years. I

think we need to make it clear to the public, especially in the actions we've taken earlier to make some changes in the harvest rate, that indeed we're serious about rebuilding if we see that the stock needs to be rebuilt, and personally I'd like to see it done in less than ten years.

CHAIRMAN FLAGG: Yes, Bill Goldsborough.

MR. GOLDSBOROUGH: Mr. Chairman, I think the recommendation offered by the AP is actually much more than passing the buck. I think it actually incorporates a fair amount of wisdom and recognizes that the situations that we would be confronted with, where we would need to implement a rebuilding program, could vary quite a bit.

Thus, the preferable rebuilding schedule could vary quite a bit, too, and, therefore, suggest that the rebuilding schedule be determined at that time.

I'd like to offer as a substitute motion that the rebuilding schedule be determined by this board at that time and not to exceed ten years.

CHAIRMAN FLAGG: Okay, we have a substitute motion. Okay, a second from Roy. Okay, we have a substitute motion on the board. Discussion from board members on the substitute motion? No discussion? Okay, let's caucus.

(Whereupon, a caucus was held.)

CHAIRMAN FLAGG: **Okay, I'll read the substitute motion: Move to substitute with the rebuilding schedule to be determined when rebuilding is necessary and not to exceed ten years. Motion by Bill Goldsborough, second by Roy Miller.**

Okay, everybody ready to vote on the substitute motion? **All those in favor, signify by raising your right hand, ten; those opposed, one; abstentions; null votes. Okay, the motion passes.**

Okay, **now the substitute motion becomes the main motion so now we're voting again on the main motion. All those in favor, signify by raising your right hand; those opposed; abstentions; null votes. The motion carries eleven to zero.**

MR. BEAL: To continue to go out of order and keep you confused, the section on recreational management measures, this is a section -- there's four

options. It's on Page 5 of the decision document. There's four options here.

This is a pretty big issue. I'm not sure if the management board really wants to dive into it right now. The one thing that is somewhat time sensitive on this is that the Management and Science Committee has formed a subcommittee to evaluate the use of circle hooks to determine the impacts on hook-and-release mortality.

At the Policy Board meeting last month in November in Williamsburg, the Policy Board asked the Management and Science Committee to link their evaluation of circle hooks to striped bass to hopefully get some information in time for some of the decisions on Amendment 6 or soon thereafter.

So the Management and Science group that's working on this is looking for some input from the management board on exactly what questions the management board has on the use of circle hooks. So, however you want to handle that, Mr. Chairman.

CHAIRMAN FLAGG: Okay, are there any comments or directions to staff? Dave Borden.

MR. BORDEN: Thank you, Mr. Chairman. I've raised this point again so I won't belabor it, but from what I have read, there are definite advantages to using circle hooks in terms of reducing discard mortality.

Since 70-some percent of the mortality on striped bass is being implemented by the recreational fishermen, it seems to me that what we really need to do is have the technical committee look at the issue and give us recommendations on how we provide incentives for states to go to circle hooks and thereby essentially convert some of that discard mortality in the recreational fishery to landings.

That's what I think is needed. It's good for the resource. It's good for the recreational fishermen, but what we need to do is get some technical guidance on it.

CHAIRMAN FLAGG: Gordon.

MR. COLVIN: I believe the board needs to commit itself to more than just education. That said, I don't think it is time now to unequivocally commit to a regulatory approach or implementation schedule.

I guess I agree with what Dave was saying. I would like to even suggest we might want to go a bit farther

because I think there are more than technical issues involved.

One thing I would like to suggest strongly is that the commission -- and there are different entities within the commission that can do this effectively, not the least of which is the Striped Bass Advisory Panel -- reach out to the hook manufacturers and marketing companies with our law enforcement personnel and challenge them to work together to write an enforceable definition of a circle hook that can be used as a standard enforceable definition and marketing instrument, so that we don't have to deal, when inevitably regulation is an option we want to choose, we don't have to deal with a marketing-based communication that differs from an enforcement-based communication that is different from what the managers want and the scientists want in place.

I'd almost like to see us commit ourselves, within a defined period of time, of having ready an enforceable regulatory definition of circle hooks for application in this fishery. We need to address the release mortality in the recreational fishery.

Simply saying we're going to address it with education isn't enough. And it's more than circle hooks. I think circle hooks should be at the top of the list of priorities, but I think we also need to address the use of bait and bait fisheries in conditions where mortality is likely to be high.

I'd like to see us put together a scientifically supportable framework for closures or restrictions on use of bait under conditions that maximize the likelihood of release mortality, and, perhaps, there again, commit to the development of a standardized regulation within three-year timeframe. Thank you.

CHAIRMAN FLAGG: Thank you, Gordon. And, obviously, there are many things that the technical committee and the staff can do in regard to these issues.

I think it's going to be -- it's going to take some time, obviously, for these problems to be addressed, and so to me it would seem as though these would be appropriate issues to be addressed in addenda to Amendment 6, that we wouldn't anticipate that we would have any answers to any of these issues for the February meeting, but that we would move along with them as expeditiously as we can. I have Paul Diodati, Pat and Ernie.

MR. DIODATI: Yes, it seems that the states of Maryland and Massachusetts, for sure, have

already done a fair amount of work on circle hook studies. I know we've done some work on bait fisheries, treble hooks. We've already done a lot of that.

I think we know the outcome in terms of favorable versus less favorable survival for fish caught under the various conditions of temperature, salinity and that sort of thing.

I think that Gordon's point on a useable regulation, the actual language that's enforceable, and even with that, how you actually apply that under a fishery-specific situation in recreational fisheries becomes problematic.

But if we head in that area, the Commonwealth would be glad to set up an experimental fishery of circle hooks only within the Territorial waters. So, thank you.

CHAIRMAN FLAGG: Thank you, Paul. Pat Keliher.

MR. KELIHER: Thank you, Lew. The AP talked about this, and much like the situation the board is in, it was at the end of a very long day, and we didn't spend a lot of time on it.

But on all the issues under the recreational fishing management measures, it did come right down to more education but, again, if we spend a lot more time on it, you would really get to the point of I think the vast majority of members on the AP who support the use of circle hooks.

Gordon is exactly right, what we have here is it's not an issue of circle hooks as far as their use. It's the standardization of the circle hook. The best example and what we just went through in Maine is the fact that when we had a bait fishing regulation on the Kennebec River, it just said "circle hooks."

A vast majority of circle hooks I guess are really -- I mean they're all different. The wire sizes are all different. But what you do have are a lot of offset circle hooks compared to an in-line circle hook which really makes a massive difference on catch and release mortalities.

Personally, as chair of the AP, I would love the challenge to sit down with law enforcement members, as well as hook manufacturers, because if we don't bring hook manufacturers into it to help create a standardization, we're going to go nowhere. Thank you.

CHAIRMAN FLAGG: Thanks, Pat. Ernie and then Paul.

MR. BECKWITH: Thank you, Mr. Chairman. I certainly agree with the comments that have been made. I just wanted to point one thing out. I'm not sure this came across, but if we decide to go with circle hooks, that affects all other fisheries in our waters in our state that are pursued with bait.

That means a person fishing for catfish at night in the Connecticut River or white perch, he's got to use circle hooks. I think that's the kind of issue that's not technical, but we certainly have to look at what kind of impact would this have on our other fisheries, and what kind of reaction would we get from our angling public?

MR. KELIHER: That's exactly why education came right back to the AP.

CHAIRMAN FLAGG: Paul.

MR. DIODATI: We've been working pretty hard the past four years or so in trying to advocate the use of circle hooks on a voluntary basis. We've done brochures and we've worked with some manufacturers, hook manufacturers that have provided us with these neat little sample bags of five to ten hooks, different sizes and that sort of thing.

And we found that by giving those out free, it really hooks the angler quite a bit; because once you use them, you rarely go back. What we don't know is -- we have the idea that there's actually a lot of use of circle hooks now.

People that are conscientious recognize the benefits. All the shops carry them now. They're pretty easy to get. What we don't know is exactly -- we haven't quantified who is using them, but that would be easy enough to do by adding a couple of questions to the MRFSS surveys.

We can probably come up with something to quantify in some ballpark at least what the use is now. And that might help us in terms of considering biological benefits that may have been achieved over the past few years.

CHAIRMAN FLAGG: Thank you, Paul. Gil Pope.

MR. POPE: Thank you very much. I don't want to take too much time, but in my state, 1, 2 and

4 were not very popular. Mandatory use of circle hooks in bait fisheries, again, is very difficult.

Like Pat said, there's lots of different sizes, types and so on, and some of them can be as much as a dollar a piece. And in the case of the giant tuna hooks, super Mutu's are about \$10 to \$15 a piece.

And the second one, the prohibition of the use of treble hooks, guys would have to throw out probably three-quarters if not 90 percent of their swimming plugs, because if you try and use anything other than a treble hook, which I have on a swimming plug, it just doesn't swim right and doesn't catch.

So, a lot of these things are great ideas, but I'm telling you, to getting the average angler to want to get rid of his swimming plugs and get rid of his treble hooks is going to be a real task, to be honest with you, because they just don't want to do it.

They were kind of confused about warm weather periods. They didn't realize that it was temperature of the water. They said, "I like to fish in the summer, you know, I don't want to fish in the winter".

So, I don't know what to tell you other than they didn't mind Number 3 so much, but they found that "mandatory," they didn't really like that word too much. Thank you very much.

CHAIRMAN FLAGG: Thank you. Dave Borden.

MR. BORDEN: Thank you, Mr. Chairman. It seems to me that there's consensus around the table that we ought to charge the technical committee with working with the AP to try to resolve some of these issues. What I would suggest we do is simply leave it at that and move on.

CHAIRMAN FLAGG: Thank you. If there's no objection from the board members, we will take that advice. Yes, Roy.

MR. MILLER: I was just going to add to what David suggested, and that would be that the technical committee be charged to work with the AP and the Law Enforcement Committee to come back to the board within a year, during 2003, with perhaps a recommendation regarding these particular hook issues, so that board action could be taken, if the board deems it important to do so, in 2004.

CHAIRMAN FLAGG: Okay, those are good suggestions. Yes, Gordon.

MR. COLVIN: I guess the only question that lingers in my mind at this point is how the PDT will capture this discussion in the text of this section of Amendment 6.

I would personally like to advocate that the text say more than this is a concern and we're going to continue to do education. I really would like to see a much more focused, driving commitment that accepts a clear objective to reduce recreational fishing mortality and to develop addenda over time that will address and potentially regulate the use of tackle to reduce release mortality.

And then, you know, if that's where everybody thinks we are, I'd be comfortable with that. Otherwise, I might have to start thinking about making a motion, which I really don't want to do at this point.

CHAIRMAN FLAGG: Roy.

MR. MILLER: I have scribbled down some suggested wording to that effect. If you're comfortable with me suggesting some wording to Bob, I could do so.

CHAIRMAN FLAGG: Would you be willing to do that?

MR. MILLER: Sure.

CHAIRMAN FLAGG: And get that to staff and we will take care of that. We can move on now, and I think, Bob, the next item you have on the agenda is on Page 3, at the bottom.

MR. BEAL: Yes, there's a few more items in here. None of them were written into the public hearing document with options. I just wanted to bring to your attention how they are written right now and make sure that's what the board actually wants to see in the final document.

On Page 3 in the decision document, at the bottom of the page, there is a bycatch reduction program. This actually ties into the last discussion. The way the document is written right now is a two-step process, and it involves two different addenda to the plan.

During the first two years of implementation, the board would develop an addendum with some mandatory monitoring requirements to get a handle on where the discards are coming from, both recreational and commercial, what's the magnitude of

mortality associated with discards; basically, compile information on striped bass discards from fisheries that are targeting striped bass, as well as fisheries that incidentally catch striped bass while targeting other fisheries or targeting other species. So that's kind of step one.

Step two, once we've collected this data on bycatch and discard mortality, there would be a second addendum developed to deal with the areas of excessive discards is how it's worded now. It's kind of an ongoing process. We'll learn more and then we'll deal with it once we've learned more, I guess is the simplification of it.

CHAIRMAN FLAGG: Thank you, Bob. Pat, do you have any comments from the AP relative to bycatch issues?

MR. KELIHER: Yes, quickly. The AP supported the implementation of bycatch and monitoring research programs and subsequent management programs, as well, not only for commercial but for recreational fisheries as well.

CHAIRMAN FLAGG: Any comments from the board to the staff? Any issues? Next, Bob.

MR. BEAL: Okay, the next outstanding issue, I guess, is on Page 5, commercial fishery management measures. The document right now includes the requirement for all commercially caught striped bass to be tagged.

I think all states are actually doing this other than Massachusetts, so this is something that is an issue that probably needs to be discussed, whether it should or should not be included in the final document. So, the PDT just needs to know what to include in the final version.

CHAIRMAN FLAGG: Okay, Bill Goldsborough and then Paul Diodati.

MR. GOLDSBOROUGH: Thank you, Mr. Chairman. Our colleague from the Potomac River, who had to catch a plane, asked me to pass along one issue on this point, and I think the way he did it implied support for a tagging requirement.

He was referring to that section of the plan, which is Page 40, 4.2, that lists three different criteria that need to be covered by tags: the state of landing; unique numerical identifier; and the year the tag is valid.

And he said that the feedback from his fishermen -- and they have been using tags in the Potomac for some time -- is that they would rather have the tags be color coded per year rather than indicate the year on the tag; and that this is good because they don't like having fish in their freezer that indicate a certain year. And so what we would need, then, is to have an agreed-upon color coding schedule for the coast.

CHAIRMAN FLAGG: Thank you, Bill. Paul.

MR. DIODATI: Massachusetts has, in fact, to this day, we still provide tags for any of our seafood dealers and processors that plan on shipping striped bass out of state.

What we don't do is we don't provide tags in wholesale amounts to every dealer demanding, through regulation, that every striped bass that is brought into either a retail or a wholesale facility be tagged.

We've done that in several years over the past decade and in those years, we've demonstrated, from our statistics program, that the numbers of striped bass that we estimate is very consistent with the tags we've given out, so we don't really see any real benefit.

It just creates a lot of administrative work for the agency. There's certainly a cost to do that and we don't see any major benefit as long as the tags are available for those fish that show a point of origin in Maryland or wherever they are going.

So I wouldn't support the mandatory tags on every commercially caught striped bass because I don't know what the purpose is of doing that.

CHAIRMAN FLAGG: Comments from other board members on this particular requirement? Yes, Gordon.

MR. COLVIN: Just to lay this down so everybody is aware of it, we require every fish that's sold in New York to be individually tagged, that the tag be applied under the supervision of the jurisdiction in which the fish were landed.

Many of you have communicated with us about that over the years as we have made arrangements state by state. Now we do this for three reasons.

First of all, we required it of our own fish because we manage our striped bass quota as an IQ, and each

fisherman is issued the number of tags that comprise their IQ and they're serialized and they are trackable.

We do it secondly because a large part of our state, as I alluded to before, is closed to commercial fishing for striped bass because of chemical contamination. We take extra precautions with this fishery for that reason, precautions that we wouldn't take in other fisheries that we're managing for other reasons.

And, thirdly, because we find that the requirement for the tag is a useful tool to identify bootleg striped bass in commerce. The absence of a tag is clearly evidence of impropriety.

And over the years we've improved the performance of the tags that we have used to where we're getting closer to having some degree of assurance that the presence of a tag is indicative of legitimacy, not always but the vast majority of cases.

We're not going to change that, and that means that the markets of New York will continue to require fish to be individually tagged. I just wanted to get that out there right now so that folks would understand that regardless of what goes into Amendment 6, that's going to be the rule in New York for the reasons I just indicated.

CHAIRMAN FLAGG: Thank you, Gordon. Pat, do you have comments from the AP on this issue?

MR. KELIHER: Yes, Lew. The AP discussed this issue for some time and unanimously recommended that all commercially caught fish should be tagged. There was a lot of talk about concerns about added burdens to states, as well as financial burdens.

But the fact still remains that a tagged fish, you know the tagged fish was caught commercially. There is no chance that a recreational fish could be sold through the back door of small restaurants. And when it came right down to it, the AP unanimously supported it as the right thing to do.

CHAIRMAN FLAGG: Thank you, Pat. Other comments from board members. We need to give the staff some direction. We have this in the document now. Shall we leave it in the document? Yes, Paul.

MR. DIODATI: You know, again, I'm not going to support it. We will provide tags to those dealers that request them so that they could legally

ship fish into those states such as New York that require them.

But, as far as bootleg recreationally caught striped bass, I don't see how tags would -- I mean, if they're bootleg, just the very nature of that suggests that the tags aren't going to prevent that from happening.

You know, where you have bootleg fish, those are fish that are being filleted at the dock or at the sea, they're going into the back of probably establishments that don't even have properly -- they're probably not properly permitted.

So if that's going on -- and we've never been able to detect that at any level. We never have any major violations of large amounts of bootleg striped bass in our states.

And, as I've indicated, in our reporting system, we require both dealers and commercially permitted anglers to report the numbers of striped bass that they're catching and selling. They both have to do that.

And by a simple audit program, we've come to find out that our numbers are very accurate for striped bass. I don't see how this perception of the tags would prevent any bootlegging or anything like that. Of course, we don't have the chemical problems that New York has and neither do we administer an IQ, so it would be very difficult for us to comply with this, so I can't support it.

CHAIRMAN FLAGG: Other comments from the board? I'd like to be able to give the staff some direction on this issue so that we can either have it in or out of the plan when it comes before you in February. Yes, Bruce.

MR. FREEMAN: What was the recommendation of the Enforcement Committee? Do we have any recommendation?

CHAIRMAN FLAGG: Bob.

MR. BEAL: Yes, they are in favor of this.

CHAIRMAN FLAGG: Jack.

MR. TRAVELSTEAD: All of the states are now doing this with the exception of Massachusetts. Is there any state that will stop doing this if it is not made mandatory? I mean, I think most of us are going to continue to do this regardless, so I don't

think we need to make it mandatory, and we'll still be in the same situation.

CHAIRMAN FLAGG: Okay, I think we can handle that in the document to the effect that states are encouraged to do this if it helps their enforcement and accountability issues. Yes, Dave Borden.

MR. BORDEN: I just want to be clear, Mr. Chairman. Does that mean that a state that wants to stop tagging has the authorization to do it; that interpretation?

CHAIRMAN FLAGG: Yes, I believe they would, David. As long as it's not a mandatory requirement, then it's voluntary on the state whether or not they want to continue to do that. Jack.

MR. TRAVELSTEAD: If the state stops doing what they're doing, maybe they ought to just report that in their annual report to the board so that we know what's going on up and down the coast.

CHAIRMAN FLAGG: That would be helpful. Okay, I think we can move on from that. Bob, the next item.

MR. BEAL: The only remaining issue in the decision document is management program equivalency. Conservation equivalency is allowed, obviously, under Amendment 6.

The one new twist here is that states would have to -- after one year of implementation of a conservationally equivalent management program, the states would have to go -- you know, given that one year of data, states would have to analyze that data and actually prove to the management board that program was equivalent with the standards that are in Amendment 6.

The previous process has been once you have an approval for conservation equivalency, it's implemented and away we go. This one has kind of a second step where the state needs to verify that it actually works.

The concept of being more conservative or if a state wanted to use conservation equivalency, they would have to be more conservative than the standards in Amendment 6. It was taken out to public hearing.

We didn't receive much comment at all on that issue, so the intent now is to just go ahead with the current

conservation equivalency program where the state implements a program.

One year later they evaluate it; and if it's consistent, then they can perpetuate that. There is no additional penalty for implementing a conservation equivalency program.

CHAIRMAN FLAGG: And, Pat, you have some comments from the AP on conservation equivalency issues?

MR. KELIHER: Yes, quickly, the AP recommended unanimously that after one year, states do need to provide proof that the plan continues to be conservative in its nature.

CHAIRMAN FLAGG: Thank you, Pat. Yes, Gil.

MR. POPE: Thank you, very quickly. The only thing that bothers me, I think it's a great idea, but I'm just wondering if one year is enough time. It seems like that's an awfully quick judgment. To me, it just seems like it's too quick.

I think it's a great idea, but I'm just wondering if the one year is enough, maybe if it shouldn't be two, because there's a lot of information you're not going to know for a year or two.

CHAIRMAN FLAGG: Comments from other board members relative to Gil's issue? Yes, Paul.

MR. DIODATI: Can we discuss very quickly what I view as the last item on Page 5, the measures subject to change through the adaptive management process.

CHAIRMAN FLAGG: Yes, thank you, Paul.

MR. DIODATI: Can I make a suggestion that we add a Number 11, which would be to conduct fisheries in the EEZ.

MR. BEAL: Well, that probably needs to be the recommendation to the Secretary of Commerce on EEZ fishing because that's really what it is from this board. It's just a recommendation to the federal government.

MR. DIODATI: Right, you can put the word "recommendation" in there; recommendations to conduct fisheries in the EEZ.

MR. BEAL: Okay.

CHAIRMAN FLAGG: We will include that. Are there other items that should be included on the bottom of Page 5?

REVIEW AND TAKE ACTION ON 2002 FMP REVIEW

CHAIRMAN FLAGG: Okay, hearing none, we will move on. Under the agenda, we do have the FMP review, the 2002 FMP review.

There are copies of it available, and I believe that was one of the e-mailed items that was sent to the board. We have to review that and take action on that. Okay, Bob.

MR. BEAL: Yes, it's the same format as all the previous FMP reviews. It has just been updated to reflect the latest stock assessment information and the landings information from 2001. The regulations from the states for 2001 were updated in the document, so it's a pretty straightforward FMP review, I think.

CHAIRMAN FLAGG: And my understanding is that all the states were found to be in compliance with the various compliance measures?

MR. BEAL: Yes.

CHAIRMAN FLAGG: Roy.

MR. MILLER: Mr. Chairman, I just want to make it clear in my mind that the action that we've taken today is, in fact, binding for 2003; and that if I initiate the administrative procedure process for regulations in 2003, that we're not going to revisit some of these issues in February that we've voted on today. Is that my understanding? Is that your understanding, as well, that I can go ahead and begin the administrative process on implementing regulations to enact the measures that we took today, even though the plan itself has not been approved yet?

CHAIRMAN FLAGG: Yes, Bill.

MR. ADLER: I would think so except for the ones that were tabled until February.

CHAIRMAN FLAGG: Does anybody on the board have any objection to Roy's sense of what we've decided today? Gordon.

MR. COLVIN: I'm real sympathetic with where Roy is coming from, but the fact of the matter is that as a matter of due process, it's the commission that approves fishery management plan amendments. We can express the intent of the board, but we can't bind the commission.

I don't know that we can also preempt future reconsideration by the board itself, frankly. You know, I think we can all probably agree, and I'm quite sure we do, that we do not intend to revisit these issues. We can pass a motion that says that, but that's all we can do. We cannot, I do not believe, guarantee.

My own advice would be, which I will probably at some point initiate action on myself, is that it may well be appropriate to initiate administrative action, the administrative process, but I wouldn't recommend anybody conclude it before the board meeting in February. That's my advice.

CHAIRMAN FLAGG: Thank you, Gordon. Yes, Vince.

EXECUTIVE DIRECTOR O'SHEA: Thank you, Mr. Chairman. I'm not exactly sure if this helps, but one method would be to start the actions with a caveat saying subject to final approval by the commission; if that happens, you do this; and if it doesn't happen, the action doesn't take place.

CHAIRMAN FLAGG: Thank you, Vince. In terms of the FMP review, if there is no objection from the board, I would suggest that we accept the report of the Plan Review Team. Are there objections to that? Okay, good. Other items? Yes, Ritchie.

MR. WHITE: I have a concern, and I talked to Bruce about this. In New Jersey's reporting of their recreational fish that come out of their commercial quota and that those fish should be logged in the commercial harvest and not in the recreational harvest, and evidently that's not being done and I guess why not?

CHAIRMAN FLAGG: Bruce, Do you have a comment to that?

MR. FREEMAN: Yes, we've requested that our report, which each year has that information, be appropriately assigned to either the commercial or recreational. For some reason it has not, but we support the fact that it should be.

And we have the information going back to the very beginning when we started doing this, so we would suggest those tables, charts and otherwise be updated.

CHAIRMAN FLAGG: Bob.

MR. BEAL: One of the difficult things, to deal with those fish, is that the MRFSS program captures those fish as recreationally caught fish-- you know, how many bass did you catch today; three bass.

And it goes into the recreational landings from the state of New Jersey. We would have to tease those out a little bit or we can potentially take the MRFSS landings and subtract off what you tell us are landed via your third fish provision.

MR. FREEMAN: We require reporting of those people that take those fish and, therefore, that could be subtracted from the MRFSS estimate, and in our opinion should be. They should not be double counted and they should be put in the appropriate category.

CHAIRMAN FLAGG: Bruce, I guess my question is in your annual compliance report on striped bass, don't you include a summary of those fish that are landed under the 225,000 pound commercial quota?

MR. FREEMAN: Yes.

CHAIRMAN FLAGG: Those numbers are there, are they?

MR. FREEMAN: Yes.

CHAIRMAN FLAGG: They are included?

MR. FREEMAN: Yes, the information is available, and it's available in our annual reports to the commission. Then we can work with the commission, if they don't have all those, but that information we have, and we'd certainly like to see that put in the proper category.

CHAIRMAN FLAGG: Okay, I'll have staff work with the state of New Jersey to take care of that. Thank you, Ritchie. Vince.

EXECUTIVE DIRECTOR O'SHEA: Yes, thank you, Mr. Chairman. I know it has been a long day for everybody and I know the audience has gotten much thinner than what it was this morning,

but I want to direct my comments to Pat Keliher and the work that you all did yesterday on the Advisory Panel.

I want to observe that some comments were made yesterday that weren't exactly enacted today, but that should not discourage advisory panel members from still providing advice.

I think through that process they offered insights to different members of this board, and I was very much appreciative of the work that they did yesterday.

I would congratulate you, as chairman of that process, to have gone through yesterday. I know there was some discussion and you were being pretty tough on yourself last night, but I would like to thank you very much for doing that.

It's an important part of our process, and I'm glad those guys showed up and I'm glad you were there to lead them, Pat. Thank you. (Applause)

MR. KELIHER: Thank you.

CHAIRMAN FLAGG: Thank you, Vince. Yes, Bob.

MR. BEAL: Just one quick housekeeping thing. There's travel reimbursement forms over there and try to get those in as quickly as possible. We're trying to close out our books before the end of the calendar year.

CHAIRMAN FLAGG: David, quickly.

MR. BORDEN: Yes, thank you, Mr. Chairman, this will be very quick. I just want to follow up on Vince's point. The one thing I'm a little bit concerned about is the advice that we got from the recreational advisors, pretty much coastwide, that they want to see an increase in the number of older fish.

I think we all realize that we will accomplish that with time, but I would urge us to continue to examine our current regulations and look at ways to accelerate that in any future addendum. There is pretty much unanimous agreement that people want to do that.

OTHER BUSINESS/ADJOURN

CHAIRMAN FLAGG: Thank you, David. I know it has been a very tough day for everybody. I did want to just mention one thing. Fortunately, there has been one high point in my day, and my sources

have just recently informed me that my boss has just been appointed by the new governor-elect to continue on his job, so I'm very thankful for that. (Applause)

(Whereupon, the meeting adjourned at 6:00 o'clock p.m., December 19, 2002.)

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