

**PROCEEDINGS**  
**of the**  
**ATLANTIC STATES MARINE FISHERIES COMMISSION**  
**SOUTH ATLANTIC STATE-FEDERAL**  
**FISHERIES MANAGEMENT BOARD**

December 3, 2001  
Blockade Runner Hotel  
Wrightsville Beach, North Carolina

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ATLANTIC STATES MARINE FISHERIES COMMISSION

Blockade Runner Hotel      Wrightsville Beach, North Carolina

SOUTH ATLANTIC STATE-FEDERAL FISHERIES MANAGEMENT BOARD

December 3, 2001

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**ATTENDANCE**

Board Members

Susan Shipman, GA DNR

Bill Cole, USFWS

Dr. Louis Daniel, NC DMF, Chair

Damon Tatem, NC Gov. Appte.

Melvin Shepard, proxy for Rep. Redwine, NC Leg. Appte.

Bob Mahood, SAFMC

Dr. Roy Crabtree, FL FWC

Dr. Joseph Powers, NMFS

David Cupka, SC Gov. Appte.

Ad hoc State Representatives

Jack Travelstead, VA MRC

Ex-Officio Members

Capt. Homer Bryson, GA

Other Commissioners

None present

Advisory Panel Members

None present

Staff

Dr. Joseph Desfosse, ASMFC

Guests

Dr. John Merriner, NMFS

Wayne Lee, NC

Dick Brame, CCA

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

South Atlantic State-Federal Fisheries Management Board

December 3, 2001

**SUMMARY OF MOTIONS**

**1. *Move to approve the agenda.***

Motion by Mr. Cole, second by Mr. Cupka Motion carries with no objections.

**2. *Move to approve the minutes of the previous Board meeting.***

Motion by Ms. Shipman, second by Mr. Cupka Motion carries with no objection.

**3. *Move to approve the Draft Red Drum Amendment 2 as modified (today) for public hearing.***

Motion by Mr. Cupka, second by Mr. Cole. The motion passes with no objection

**ATLANTIC STATES MARINE FISHERIES  
COMMISSION**

**South Atlantic State-Federal Fisheries  
Management Board**

**Blockade Runner Hotel  
Wrightsville Beach, North Carolina**

**December 3, 2001**

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The South Atlantic State-Federal Fisheries Management Board of the Atlantic States Marine Fisheries Commission convened in the Blockade Runner Hotel, Wrightsville Beach, North Carolina, on December 3, 2001, and was called to order by Chairman Louis Daniel.

**WELCOME/INTRODUCTIONS**

CHAIRMAN LOUIS DANIEL: All right, if everybody is ready, we'll get started. We've got a pretty aggressive agenda here. We probably need to get rolling if everybody has a copy of the agenda. The first thing I would like to do is go around and make sure everybody knows everybody. We'll start with Roy and go around the table and introduce yourself.

DR. ROY CRABTREE: Yes, I'm Roy Crabtree. I am director of Marine Fisheries with the Florida Fish and Wildlife Conservation Commission.

DR. JOHN MERRINER: John Merriner, the National Marine Fisheries Service, Southeast Fishery Science Center.

MS. SUSAN SHIPMAN: Susan Shipman, Georgia DNR Commissioner.

MR. JACK TRAVELSTEAD: Jack Travelstead, Virginia Marine Resources Commission.

MR. ROBERT MAHOOD: Bob Mahood, South Atlantic Fishery Management Council.

DR. LOUIS DANIEL: I am Louis Daniel, North Carolina Division of Marine Fisheries.

DR. JOSEPH DESFOSSE: Joe Desfosse, Atlantic States Commission staff.

MR. DAVID CUPKA: David Cupka, South Carolina DNR.

MR. WILLIAM COLE: Bill Cole, U.S. Fish and Wildlife Service.

MR. DAMON TATEM: Damon Tatem, Governor's appointee, North Carolina.

MR. MELVIN SHEPARD: Melvin Shepard, legislative proxy for North Carolina.

**APPROVAL OF AGENDA**

CHAIRMAN DANIEL: Welcome everybody, thank you. We are being taped, so if you'll try and remember to state your name for the record so we can kind of make sure we have a straight minutes' report. With that, we'll move into the agenda. If everybody has had a chance to look at the agenda, are there any changes?

MR. COLE: **Move adoption of the agenda.**

MR. CUPKA: **Second.**

CHAIRMAN DANIEL: Moved by Bill Cole, second by David Cupka. Any objection to the motion? **Seeing none, the agenda is approved.** Everybody should have a copy of the minutes. It begins with a summary of motions in the minutes. Is there any discussion on the minutes? We've got extra copies if anyone needs them.

**APPROVAL OF MINUTES**

MS. SHIPMAN: **Move approval of the minutes.**

MR. CUPKA: **Second.**

CHAIRMAN DANIEL: Second by David Cupka. Is there any discussion? Any objection? **Seeing none, the minutes are approved.** Thank you. David.

MR. CUPKA: If I could just ask Joe a quick question on these minutes. Joe, do you know if these and copies of the draft amendment were sent to the AP members?

DR. DESFOSSE: I don't think they were. I can't recall doing that.

MR. CUPKA: Well, it would probably be good if we could get them to them, because I had a call from one last week that was asking me about AP activities and all, and I had the impression that maybe he hadn't seen these documents. It would be good to send it to them and keep them in the loop.

DR. DESFOSSE: I was also thinking about an advisory panel meeting sometime before the February Commission meeting week so that they could provide their comments on the draft amendment, as well.

MR. CUPKA: Yes, I had indicated to this individual -- that was another one of his questions, when they might be meeting again. I told him we were getting ready to approve the draft amendment and at that point we would involve them. They're looking to do something about that time.

**PUBLIC COMMENT**

CHAIRMAN DANIEL: All right, at this time we would like to take any public comment that might be out there. Seeing none, we'll move on to the draft Red

Drum Amendment 2, review and approve. Joe, do you want to take us through that?

#### REVIEW OF DRAFT RED DRUM AMENDMENT

DR. DESFOSSE: Okay, this is the first draft for the Management Board for their review. The intent was to review and approve this document for public hearing. There were two additional sections that I handed out prior to the meeting. They were background materials on the commercial and recreational fisheries that came in about mid-November. I did not have a chance to put them into the document. I didn't want to recreate the document and give you another one at this meeting, so I just brought the sections for your information.

Any of the significant changes that were made to this document since the last time you saw it are in bold, italicized text. There have been a number of changes made to the document.

A lot of background information has been added, a lot of economic information which we did not have available for many of our other fishery management plans. Ray Rhodes has done a great job in providing background economic information.

I don't know where you want to start in terms of which changes to review and approve. I think the ones that are important to the Management Board would be under Section 4, the Management Measures Section, if you want to concentrate on that section and then take comments on the rest.

CHAIRMAN DANIEL: That suits me. Does the board have any other ideas? If not, that's the way we'll go.

DR. DESFOSSE: Since this is a rather large document, concentrate on Section 4 first, which is the Management Measures section. The document that I have begins on Page 74. I know there might be two different versions.

MR. SHEPARD: Joe, could I ask a question, though? I am assuming what you said earlier was that these two are going to be incorporated in this document the next time before it goes to public hearing, though, right?

DR. DESFOSSE: Before it goes to public hearing, that's correct.

MR. SHEPARD: Okay, I just want to understand. Thank you.

MS. SHIPMAN: Are we going to take up Section 3 also, because 3 has to do with the monitoring and the reporting and what we may ultimately consider to be mandatory. I think that's a big issue we've got to tackle.

DR. DESFOSSE: That was the intent, to take up both of those sections and Section 2 as well since those are the goals and objectives of the FMP. There are

some changes that were made to that section, as well. If you want to start at 2 and work forward, it doesn't make any difference to me. I thought that Section 4 was the most relevant to the Management Board.

#### Goals/Objectives

CHAIRMAN DANIEL: I will tell you what, let's start back at the Goals and Objectives, Section 2, and start there because there's no reason to make it any more confusing, so that would be around Page 62 for those of you with the -- let's just make sure everybody is comfortable as we move through before we get to the management.

MS. SHIPMAN: Just before we start, I am pretty sure I am clear on this, Joe. The other Mid-Atlantic states have received these materials and they have just elected not to attend.

DR. DESFOSSE: If they haven't, they will. I thought it was put into the mailboxes, I am not sure. I will check.

MS. SHIPMAN: But I think your e-mails -- my observation is they have gone to the other states through New York that this plan applies to.

I commend Virginia for continuing to join us and be a part of this. I think when February comes around and we're getting ready to move something forward, I hope the record is going to reflect they have had every opportunity to participate in these deliberations and have elected not to.

DR. DESFOSSE: My intent was that after this meeting -- and there were more corrections that would be made to this document -- send another document out to those states with a cover memo making it perfectly clear what was happening.

MR. CUPKA: Actually, Susan, Jack told me things are getting pretty hot for him in Virginia right now and he just needs to get out of town for awhile.

CHAIRMAN DANIEL: All right, let's go through Section 2 and make sure everyone is happy with that, and then we'll move on.

DR. DESFOSSE: The only significant changes that were made to Section 2 is there is a table in here summarizing the current regulations by state, coastwide, from Maine to Florida.

There was an Objective Number 4 that was added to restore the age and size structure of the Atlantic coast red drum population. It was based on comments from your last meeting. As far as I can see, those were the only major changes that were made to this section.

CHAIRMAN DANIEL: Questions or comments on Section 2? Susan.

MS. SHIPMAN: Just a technical correction on Page 64, under Management Area 2.4.1. It is talking

about the northern region extends to New York. I think that should be "through New York", unless New York thinks they're not going to have to comply with this plan.

CHAIRMAN DANIEL: Good point. Anything else on Section 2? Seeing none, we'll move on to Section 3.

DR. DESFOSSE: Actually, there was one question under Section 2.8, the Implementation Schedule. There's a little note here that says, "This should be discussed by the Management Board at its next meeting possibly identifying a tentative date for implementation in order to gather public comment." Does the board want to throw a data out there for public comment?

CHAIRMAN DANIEL: Susan.

MS. SHIPMAN: I will throw one out. I would suggest our fall meeting, and we know when it's going to be. I think it's November the -- I have got the calendar. I would suggest the date of the fall 2002 annual meeting.

In looking at this, Georgia, Virginia through New York, we're all going to have to make regulatory changes. We all have different iterations of whether we've got to go through legislatures or administrative procedures or whatever. I will just throw that out because I think we're going to get some feedback from those other states.

CHAIRMAN DANIEL: Any objection to that date as the date to be in compliance with Amendment 2? Susan.

MS. SHIPMAN: And the alternative would be like January 1, 2003, if you want a couple of options to take out there.

CHAIRMAN DANIEL: I think our preferred would be the fall meeting, to get it in place. Anything else on that point? Are we ready to go to Section 3? Melvin.

MR. SHEPARD: I guess I've kind of got a question. When you're talking about having it before the fall meeting, is that to get to a management board meeting that will review these revisions?

CHAIRMAN DANIEL: No, I think what this means is that we're going to try to adopt the amendment in early 2002. Then there's going to have to be some kind of a leeway time to have everything implemented, because various states have various mechanism, as you well know, to get their rules into place. So we need to set some time frame for when all states must be in compliance with these new rules.

MR. SHEPARD: I understood that part. But the reason I was bringing it up -- what's Susan's intent if we're going to have it that cutoff date? Is it for them to be reviewed at a management board meeting at that fall meeting?

MS. SHIPMAN: Yes, Melvin, that would be my intent. And when you get over, I think, to -- is it 4 or 5, Joe -- states are going to have to submit their plans. Presumably, that would be prior to -- and we're going to have to come up with a date for that -- prior to the fall meeting.

Then there's also the issue of states are going to have to be in compliance by certain dates, so we've really got two dates we need to look at.

CHAIRMAN DANIEL: Dick, did you have a comment to that point? If you will, state your name for the record.

MR. RICHEN BRAME: Dick Brame with CCA. Susan, is the annual meeting in New York?

MS. SHIPMAN: No, it's in Virginia.

MR. BRAME: It's going to be in Virginia this year? I was just wondering if it was outside that -- you, know, the problem with that being outside the range.

MS. SHIPMAN: No, it's in Virginia which would actually be a real good place, I think, to take this up since it's almost central to where the range -- and I believe, it's the week of November 18th. Jack, our host --

MR. TRAVELSTEAD: I think it is the week before Thanksgiving.

MS. SHIPMAN: It's the week before Thanksgiving, and I am pretty sure that's the week of the 18th.

CHAIRMAN DANIEL: Okay, anything else on Section 2? Section 3.

#### Monitoring Programs

DR. DESFOSSE: Section 3 deals with the monitoring programs. There were significant changes made, or additions to this section beginning with Section 3.1, Assessment of Annual Recruitment. Spud Woodward did a wonderful job putting all of this together. There are no specifics in terms of requirements for states to implement certain monitoring programs. It gives a general outline of how each of these programs should be developed.

I believe the intent is to have the Technical Committee take a closer look at the actual elements and come up with some better recommendations for the Management Board. They did not have a chance to have a face-to-face meeting prior to today. It was kind of difficult for them to do all of this through e-mail and conference call, so they really need a face-to-face meeting to work out some more of the details.

CHAIRMAN DANIEL: Susan.

MS. SHIPMAN: The only thing that troubles me in this -- and I have discussed it with Spud -- is the terminology. This word, "shall" connotes an

affirmative obligation and connotes a requirement, and I don't think we're there yet; or whether these will be recommendations or requirements, particularly in light of budget situations that have occurred since we discussed this back in July.

CHAIRMAN DANIEL: Do you have a suggestion to change it, how to change that language?

MS. SHIPMAN: Well, I think we've got -- this is inseparable, if you will, from the discussion over in 4 when we discuss what are going to be the requirements. I am just bringing it up now that language may well need to be changed to say "should" versus "shall", depending on where we end up in Section 4.

CHAIRMAN DANIEL: Is that agreeable? Okay. Is there any further discussion on Section 3? Joe.

#### **Stock Enhancement**

DR. DESFOSSE: I will point out that there is one section here that's totally new material under Section 3.5, Stock Enhancement. There's a lot of background information put together by the ad hoc Stock Enhancement Subcommittee. There is one recommendation section here I just want to draw your attention to.

I don't think that there is anything in here that makes a requirement of any of the states. It's just a general recommendation, yes. I know there was a lot of concern over what was going to go into the stock enhancement section. Most of it is background material.

CHAIRMAN DANIEL: I think in the recommendations that's reflected. Anything else on Section 3? Susan.

MS. SHIPMAN: On the monitoring programs, 3.4, that first sentence, it says "The ACCSP will meet the monitoring and reporting requirements of this amendment."

I am not sure the ACCSP modules, as developed right now, will meet the fishery-independent monitoring needs of this amendment. So, perhaps, we need to modify that and say will meet the fishery-dependent monitoring and reporting requirements.

CHAIRMAN DANIEL: Without objection? Okay. Thanks, Susan. Anything else on Section 3?

#### **Tagging Programs**

DR. DESFOSSE: I have one more thing to add. Section 3.7; it's something new to the Commission FMPs. It's generalized tagging language that was developed through the Management and Science Committee. They have a subcommittee that deals with cooperative tagging studies. This is just some general

background language that was developed by the subcommittee and approved by the Policy Board, I believe, at their last meeting for inclusion in future Commission plans.

CHAIRMAN DANIEL: I noticed that. I was happy to see that included in there, because we get a lot of requests for people to go out and start a fishing club to start tagging programs for drum. It does provide for a protocol that I think will be very helpful. Susan.

MS. SHIPMAN: Joe, what is meant by public entity with regard to tagging? That wasn't clear to me, but it says "any public or private entity which is proposing new tagging studies." Where do the state programs fall? Are they considered public entities?

DR. DESFOSSE: I am not sure. I would have to go back to the people who put the language together and ask the question of them.

CHAIRMAN DANIEL: I think that one of the discussions that they had was that, yes, even a state program if you're going to -- I mean, to use that in this interstate program, that it needs to have some guidelines placed on it, which I think is probably a good thing. I think the private entities are generally your fishing clubs. I don't know how the American Litoral Society -- all that would fall into, which one they would be considered. John Merriner.

DR. MERRINER: Louis, my recollection of the Management and Science Committee discussions were that public entities do form basically the states and any programs they wish to undertake in that fashion. That's my recollection.

CHAIRMAN DANIEL: Thanks. Any more on Section 3? Susan.

MS. SHIPMAN: This is on Page 69 under Commercial Catch and Effort Data Collection. It says, "The amendment does not implement any new data collection programs for red drum fisheries", and goes on to say "commercial data shall be collected through existing state programs. The ACCSP commercial data collection program will be a mandatory trip-based system with all fishermen and dealers required to report."

Now I think for most of the South Atlantic states we do have mandatory programs, and I think, Jack, you all have one. But is that an accurate statement; ACCSP is a mandatory program? I don't think we've gone there yet. I know in some of the plans, we've tried to fold in the ACCSP protocol as a mandatory requirement, and that's where I am confused. Are we saying the commercial reporting component of ACCSP will be a requirement, a reporting requirement in this plan? It's not clear to me.

DR. DESFOSSE: The intent is not to implement the reporting requirements through individual FMPs. I



will just point out that this language was developed a couple of years ago as standard ACCSP language to go into the Commission FMPs. The language came from the ACCSP program.

MS. SHIPMAN: And every time we've done it, it has bothered me because I don't think the ACCSP yet is mandatory unless we make it mandatory in the individual FMPs. It sounds to me like that's what we're saying, that the reporting requirement that we adopt for Section 4, that will be mandatory.

CHAIRMAN DANIEL: I mean, at least going by our definitions and the way we -- it may be once it's implemented by a specific state, it's mandatory for the fishermen to comply with it, and that may be where the confusion lies in the text. It may be a mandatory trip-based system for all fishermen and dealers in a state where it's been implemented, but saying it's mandatory to implement it may be a different use of the term. Bill.

MR. COLE: Susan, I believe this language is the language that's being used. I remember this discussion, I think, in another record with you. The mandatory really applies to the trip-based. In other words, the policy statement for the program is that the program will be a trip-based reporting system, okay. That's the mandatory aspect. It's not mandatory in any -- it's not implied to be mandatory in any other manner on anyone.

The essence of the program is that it's a trip-based program. That's the mandatory consideration. That's the way the word is intended to be used here. I would have to check -- and I think Joe is right -- I think this is the same language that's in other plans.

CHAIRMAN DANIEL: David.

MR. CUPKA: Yes, that's my recollection, also, what Bill pointed out. The mandatory really refers to the fact that it's a trip-based system and that you have to use that.

CHAIRMAN DANIEL: Well, and looking at our language, too; I mean, it's trip-based, but it's also mandatory once it's implemented by the states. That's probably the way the states would implement that program. With that said, it probably wouldn't make a substantive difference to take the word mandatory out of that sentence.

MS. SHIPMAN: Yes, again, on the next line it says "required to report". I have no problems with mandatory trip-based reporting being a requirement in this plan, but I believe other states may, and I just don't know what our intent is there.

CHAIRMAN DANIEL: I think our intent is to have a trip ticket system having all the states that are landing red drum.

MS. SHIPMAN: Okay, well, I would suggest that is not the way Section 5 is written right now.

CHAIRMAN DANIEL: Okay. Bill.

MR. COLE: Susan, in looking at it I think the comma between "mandatory" and "trip-based" really is not supposed to be there because the mandatory that's going to apply to the trip-based item shouldn't have a comma in there. I will have to get with Gregg when he gets here and check that because I don't have a program design with me.

CHAIRMAN DANIEL: Susan.

MS. SHIPMAN: I think you can just -- and Jack it pointed out -- the first sentence says, "We're not implementing any new data collection programs." So we're saying at the outset of that sentence that mandatory reporting will not be a compliance requirement of this amendment.

I think if you just took that third line and said the "ACCSP commercial data collection program will be implemented" or "will eventually" or "ultimately" or whatever, "be implemented through a mandatory trip-based system for all fishermen and dealers required to report"; that takes care of it. It talks about it in the future.

MR. SHEPARD: I would concur with that. It seems to me we've done a lot of explaining what this is meaning, and it's not going to be saying that when this goes to public hearing. That explanation is not going to be there.

CHAIRMAN DANIEL: Any objection to that change? Okay. Was there anything else on Section 3? Moving on to Section 4.

#### MANAGEMENT PROGRAM

DR. DESFOSSE: Section 4 is all the actual fishery management regulations that you discussed at your last meeting. In terms of the recreational bag and size limits, you instructed staff to write the document so that it just had the general objectives of how high the SPR was supposed to be attained, 40 percent SPR, and then leave the options up to the individual states as to what bag and size limits they would set.

#### Size Limits

This also applies to the section on the for-hire fisheries. See the additional bold, italicized text in there that was drafted to address that. The maximum size limit was listed as 27 inches total length, or less. States could implement a less than 27-inch total length. Do you want to keep on going to the commercial section, or do you want to talk --

CHAIRMAN DANIEL: Jack.

MR. TRAVELSTEAD: I had already asked Joe this question, and he reminded me that, I guess at the

last meeting, there was a decision not to include in the amendment the tables that show the various options of bag limit and size limits to achieve the 40 percent SPR. I am having some trouble with that. I don't recall that discussion or why we decided to do that. It seems like everything is in this document to the point that a lot of people are going to use it as a doorstop, it's getting so big. But the very thing they're going to be looking for, that they're going to want to comment on, which are the management options for size or bag limits, aren't in here.

It seems to me they should be. I don't recall why we decided not to do that. Maybe there is a good reason, but it doesn't come to mind right now.

CHAIRMAN DANIEL: I am not sure that was a decision we made. I don't recall that. I mean, I certainly agree with you, Jack. That's going to be the one thing that people are going to want to see, and it's really the thing that's generated the most discussion and concern -- at least particularly here in North Carolina -- is how those tables were constructed and how they reflect the commercial harvest reductions. David.

MR. CUPKA: Well, I agree with that. I think the central part of this whole plan is this combination to get you to this spawning potential ratio.

I do recall some discussion, though, the fact that there were so many combinations and rather than try to spell every one of them out, that we would go with a more generic approach, but people are going to want to know what some of those alternatives are, particularly in areas where they haven't met this requirement yet. I don't know how you get around that, but I know we did discuss it. There are so many different combinations to get you to that point, it would be kind of confusing.

CHAIRMAN DANIEL: Susan.

MS. SHIPMAN: I thought we decided the states were going to take the tables relevant to their situations. For instance, I wouldn't take the table for the northern region to our public hearings.

CHAIRMAN DANIEL: I do recall that discussion, and I think it might be nice in the amendment to have the two series of tables. You can see the variability to see what you can do. They can be simplified. I mean, I don't think there needs to be three pages of tables for the southern region when there are essentially three or four options that exist for you all. And for us, there seems to be less of an option to achieve the goals that we have up north.

I would like to see that contained in the amendment. I also direct you to the Section 4.1.1, which on my copy is 71. I seem to have a different copy, and I have made three different copies of it. I am not sure which one is right. But, there is a significant change in there that I think is very important that I just

bring to everybody's attention, and that is for states in the northern region with the commercial harvest, the overall restrictions need to be sufficient to attain the 40 percent SPR.

So that does give states like Virginia and North Carolina the opportunity to come in and say, "We've achieved a certain percentage reduction with a one-fish bag limit, 18 to 27, but we've also done, this, this, this, this, this, this and this." Hopefully, all of those things combined will achieve the required 40 percent and meet the approval of the board. So that is one minor change that most of you all won't have to worry about or deal with. Bob, did you have a comment?

MR. MAHOOD: Back under Recreational Fisheries Management Measures, 4.1.2, where it says, "No red drum larger than 27-inch total length shall be harvested" period; then, if you go back on page 63 where it lists the current summary of regulations, where it shows that some of the states allow at least one or two fish greater than, but yet it still says they're in compliance with the FMP. They are? Current FMP, okay. That will have to change when this is changed? Okay.

CHAIRMAN DANIEL: That brings up an interesting point and an interesting problem. If the management unit is through New York, and we've got states north of New York, I am not so much concerned with what they're catching.

But the no-sale provision needs to be for red drum, period, or else we run the risk of losing the intent of that provision. And it may not be a problem, but I just see if you're allowed -- I don't know that they don't allow the sale, though, of those fish if they were to come up there. I don't know how that might work, but if they could be marketed through there or any other type.

MS. SHIPMAN: Because they are not states of interest in this plan, I don't think we can impose it on them as a compliance measure. I think we may have to request that they prohibit the sale for the states outside the range of the plan. Unless we want to go back and add them in for that measure, I don't think we can require it.

CHAIRMAN DANIEL: Okay. Well, I do notice that before there was some provisions for Connecticut, I know had fish over 32 inches, and it looks like now they don't. That's a fairly recent change, at least from the last plan. I don't see where anyone -- Roy, did you have a question or comment?

MR. CRABTREE: On the minimum size limit, for states that already have relatively high escapement rates and have already met the 40 percent SPR target; for example, Florida, where it's a gamefish and no commercial harvest, are we being locked into the 27-inch upper size limit on the slot here, even though

## Commercial Fishery Regulations

we may have met all the objectives and may, in fact, be well above the 40 percent target?

Because what we're looking at is with a one-fish bag limit, in many cases, if you increase the bag limit to two fish, that results in a substantial increase in harvest because we have a lot of red drum in Florida now. So one of the things we've looked at is the possibility of increasing the upper end of the slot limit a little bit, but this would seem to preclude us doing that.

CHAIRMAN DANIEL: This does preclude you from doing that through Amendment 2, yes. I mean, you would be locked in -- Florida would be locked in 18 to 27 essentially. Well, that's not necessarily true. You would be able to be less restrictive in the southern region if you wanted to be. I think you could go to -- I think you could go to two fish, 18 to 27, and still be within the confines of the tables. I don't have them right here in front of me, but you can be less restrictive in Florida than you could be, say, if you were here in North Carolina. But this does lock you in to a 27-inch max at least through Amendment 2.

I think the intent and purpose for that is -- and there's some people -- and I will make a comment, but it's not necessarily my opinion. But there are people that believe that the Florida measures are pulling along, to some degree, the southern region because you guys have seen such positive things down in Florida with your SPRs. But there is a coastwide adult population that that 27-inch size limit is protecting and allowing those fish to get into that larger size and restoring the age structure of that southern region. I think that's probably part of it.

But you could still go a little bit higher, I think, ultimately and not worry about harvesting adults for the most part, but it would, indeed, lock you into 27 max. Joe.

DR. DESFOSSE: I brought extra copies of the tables just in case this discussion came up. Does the board want those to be passed out?

CHAIRMAN DANIEL: David.

MR. CUPKA: A quick question for Joe here. Joe, have those tables been updated because I know one time we had Doug Vaughan rerun what we eventually got through the legislature this year and wanted him to double check. I about had a heart attack because he got back in touch with me and told me it had changed. Well, thank God, it had gotten higher instead of lower. But, has that information been incorporated in those tables, do you know?

DR. DESFOSSE: No, what I have are the original tables from the bag and size limit analysis, plus Doug's updated table that he did for you. The tables from the bag and size limit analysis are the same that were published.

CHAIRMAN DANIEL: Anything else on the recreational section? Seeing none, if we want to go on to the Commercial Management Measures, I will try to do my best to handle those.

This only impacts a few of the states, but, again, they would be required to implement the 27-inch maximum size limit. I think most of the states would have their commercial size limits mirror their recreational size limits, and in many instances the commercial harvest is the bag limit of the recreational harvest.

The trip or possession limit, there isn't a requirement for a trip or possession limit, but just states that we would maintain existing trip limits. As far as I know, aside from a bag limit, the only other state, the only state with a trip limit is North Carolina. I think the less restrictive language in here covers us because we essentially have proclamation authority to monitor that trip limit and change it as needed to make sure the cap is not reached, and it would be seven fish or less, so that should cover that problem.

There has been the addition of a pay-back requirement so that if you go over the quota in any particular year, it would be paid back the following year.

There is simply an informational section, 4.2.4, on the small mesh gear attendance. I don't think that remains a requirement of the plan, but there's certainly no intention to change that, and there are a lot of GPS coordinates and maps that go along with that restriction that, perhaps, aren't necessary in the plan. It looks like those are the principal changes to the commercial gear section. Bob.

MR. MAHOOD: So North Carolina is the only state with a directed commercial harvest?

CHAIRMAN DANIEL: No, it is not a directed commercial harvest. It is a bycatch-only harvest, because we allow a seven-fish bycatch allowance and red drum cannot make up more than 50 percent of the trip, so they can't go out and direct on red drum. They have to have other things. You have to understand that as early as three years ago there was a directed harvest for red drum with catches that exceeded five to eight thousand pounds per trip.

So, I mean, there has been a pretty significant change, I believe, to the restrictions, but I don't believe you could call it a directed fishery in North Carolina. We also recently prohibited the use of gigs to harvest red drum because that was considered directed.

We've done everything we can to modify the regulations, at least in North Carolina, to prevent anything from even appearing like a directed fishery for

red drum. Susan.

MS. SHIPMAN: To me, it's an incidental fishery. Bycatch, by definition, implies discards, and this gets back to, I think, a comment of the National Marine Fisheries Service. I mean, if you look at the definitions of bycatch, it means discards for regulatory or economic purposes, so I would suggest it's an incidental fishery versus bycatch.

CHAIRMAN DANIEL: I wouldn't have any problem with that. Bob.

MR. MAHOOD: I am not sure under ASMFC it's a problem, but evidently under Magnuson it is because of the definition of bycatch.

MS. SHIPMAN: I think our definition and the charter pretty much tracks what's in Magnuson.

CHAIRMAN DANIEL: Yes, just understand it might be used interchangeably and until we get used to it because our fishery -- the North Carolina plan for red drum that was recently approved heavily, discusses this bycatch fishery. We use the term "bycatch", so there may be some confusion in North Carolina changing the term, but it may be more appropriate. Bob.

MR. MAHOOD: I notice on that table it says that in some states it's a gamefish, no sale. Is the implication there that everywhere else they may be sold?

CHAIRMAN DANIEL: I believe you can sell the bag limits in states where it's not gamefish status. The commercial fishermen can sell their bag limit; or commercial fishermen can sell a bag limit of red drum. Susan.

MS. SHIPMAN: Well, that gets to the issue under 4.2.3 on landings cap payback of overages. In states that currently allow sale of the bag limit, were there to be documentation by law enforcement of sale in excess of the bag limit, is there a payback or penalty then on the bag limit for the following year?

CHAIRMAN DANIEL: I guess if you want there to be one.

MS. SHIPMAN: No, I would suggest not.

CHAIRMAN DANIEL: I think that's directed at North Carolina that has a cap that was implemented to try and prevent any real large-scale developing fishery from existing in North Carolina. We're sitting on the same cap that we've had for ten or 11 years now.

My personal opinion is that's probably a good thing to do to have the overage payback and have it be a hard quota now. The question then remains, in terms of an equity issue, as the board chair speaking, in terms of giving -- does this mean Virginia commercial fishermen now go to a one-fish allowance, they're only allowed now one fish? How will that impact bycatch in Virginia now that they're no longer allowed to land those fish taken incidentally in other fisheries where they may be

dead. So the Virginia commercial fishermen are going to be even further restricted in there.

So whether or not that needs to be a northern cap that includes those fish taken in Virginia; whether or not Virginia wants to jump on board with some kind of an incidental allowance similar to what North Carolina has done for fairness; I mean, I would certainly defer to Virginia on what they would want to do, but, certainly, there does appear to be a circumstance at least in Virginia now where I guess there are commercial guys -- I don't know what your intent is as to whether to maintain the existing five fish 18 to 27 for your commercial guys, or will they automatically revert to the one fish?

MR. TRAVELSTEAD: More the latter, I think. I think if I recommend different bag limits for commercial versus recreational on this one, when they've been the same for the last decade or so, it's going to be very difficult. So I see us adopting the one fish for everybody, 18 to 27.

CHAIRMAN DANIEL: Susan.

MS. SHIPMAN: Just so it's clear, I think to states that have a bag limit where it might be able to be sold, we may want to say something like, "The pay-back provision shall not apply to sale of bag limit fish within the allowable limits" in states where that sale is allowed; so that they are not looking at a reduction of bag limit because of the acts of a few violators.

CHAIRMAN DANIEL: I like that. Bill.

MR. COLE: I think Susan is right. Basically, what we're running into here is the proverbial discussion we had at ACCSP. The fish, however he is caught, is one thing. But the minute he is sold, it's now commercial; end of discussion. However, many of the states which do allow the sale have never established a commercial season, have never provided anything except to provide the allowance to let it be sold. They never formally recognized that there was a commercial quota, a commercial season or any other commercial parameters.

So I think the plan or this amendment, if you will, needs to recognize that in some manner. Perhaps the way that Susan has suggested is the simplest way to do it so that those states which are allowing the sale of one fish caught don't have to go into an extensive rule-making process.

But that's the dilemma that we're caught in here is that there is a silent commercial fishery in those states that do allow the sale of fish of recreationally caught bag limit fish.

CHAIRMAN DANIEL: John Merriner.

DR. MERRINER: Louis, you mentioned in this 4.2.3, Commercial Cap Payback Overages, the second paragraph suggests that it shall be immediately following the year in which the overage occurred.

Drum in Carolina are caught through December.

If it's immediately, the fishing year is January 1 through December 31? What lag do we have built into reporting and implementing that, shades of flounder?

CHAIRMAN DANIEL: John, our fishing year is different now.

MR. SHEPARD: Mr. Chairman, I would suggest

--

CHAIRMAN DANIEL: Where do we say what the fishing year is? Do we say? The North Carolina fishing year, in order to try and minimize the bycatch and the overages, starts September 1st.

So, I mean, given the latitude, since we're the only one with a cap, to manage it the way we see appropriate, if we went over by 50,000 pounds one year, the cap for the next year would be 200,000 pounds, starting September 1<sup>st</sup>. If we reach the 200, we would close it down just like we would any other time. But I would hope that we could -- certainly, we worked real hard to get our fishing year changed to try to keep these overages from occurring. Now, that we have it in place, we would like to maintain that September 1 start date to the fishing year.

DR. MERRINER: My comment wasn't determining when specifically the fishing year was; it's just that possibility of if you went over, and you went over in the last period of time prior to the beginning of the next fishing year, it's a practical impossibility to subtract it at that point in time; other than unless you adopt the constraint of saying that your incremental harvest on a monthly time frame is less than what the cap would be, then you could make that argument. I assume that would pass adjudicatory proceedings, I don't know.

CHAIRMAN DANIEL: Speaking from North Carolina's perspective on this, I think it's really a moot point at this point, with the bycatch incidental harvest allowance that we've allowed. It is an incidental harvest; they are required to have other edible finfishes on board. We've excluded thread herring and menhaden and other things from it so people can't just go out and make a trip for seven drum. If we close it down, you're just going to continue to have that same incidental catch, and there's going to be bycatch discard mortality.

Our hope is that we've accomplished our goal through that seven-fish bycatch allowance to reduce the commercial harvest to the point that we won't have to worry about the cap anymore, and we won't get to that point.

But, really, it's just going to be a matter of whether the fish are landed and sold or discarded if we meet the cap now because we've been so protective of that cap. I really don't think it's going to be a problem, especially if

now we're constrained by our maximum cap, which is right now seven fish per trip, and we couldn't go higher than that.

Certainly, we can lower it as we start to approach the quota, and we will be monitoring it closely, but we can reduce it down, and we have, to five fish and even lower to keep from exceeding that cap. Certainly, if we exceed it, it isn't going to be by much, and it would be a pretty extraordinary yearclass if we could catch the quota with a seven-fish bycatch allowance.

DR. MERRINER: My comments were just sensitized as a federal employee and situations that have occurred repeatedly with flounder.

CHAIRMAN DANIEL: Flounder has been a mess. I hope we don't have that same problem with drum. Jack.

MR. TRAVELSTEAD: I have a question on the tables that were handed out. Back in 4.1.1, we indicate that the overall harvest restrictions for commercial and recreational combined must attain the 40 percent SPR. Then down in 4.2.2, we say that states shall maintain their current trip and possession limits for the commercial fishery. The tables are strictly for the recreational measures, and they identify the bag limit and size limits needed to achieve the 40 percent SPR. But what do they assume is in place for the commercial sector? I guess what I am getting at is I don't see any guidance in here to the states on the commercial side.

You're saying you have to achieve a 40 percent overall, and you have provided information how to do that on the recreational side but not on the commercial side.

CHAIRMAN DANIEL: Jack, the way I understand the bag and size tables that were constructed by Vaughan and Carmichael -- and John will help me with this if I mis-speak, I think -- when looking at the reductions required in the southern area, there really is no commercial harvest to speak of down there. And so the SPR that is achieved through that size limit down there only includes really recreational catches; whereas, the bag and size limit tables for the northern region include the commercial harvest.

So the assumptions are that to achieve the 40 percent escapement, that your commercial harvest will be constrained to the same bag limit, but that the reduction in the harvest is actually achieved by the recreational fishery.

MR. TRAVELSTEAD: Okay, well, that's very important, what you've just said. You've got to constrain the commercial fishery for the same bag and size as the recreational to achieve the 40 percent or greater SPR. That's fine, I agree with that. I think that's what we need to do, but I think it needs to be said somewhere in 4.0 to make that very -- that solves a

huge problem for me if we can say that in the management plan.

CHAIRMAN DANIEL: John, do you have anything to add to that? I mean, was that --

DR. MERRINER: That matches my recollection. I wouldn't want to be held verbatim to it.

CHAIRMAN DANIEL: Me either.

DR. MERRINER: Not having the photographic memory.

CHAIRMAN DANIEL: I don't have it right here in front of me either.

DR. MERRINER: That's consistent with my recollection, yes.

CHAIRMAN DANIEL: The reason that they're different -- I mean, I hate to get into this right now and it will be brief. There is a concern, I know, amongst the advisory panel of the apparent problem with it appearing to be that the recreational fishery is taking the entire reduction and harvest burden, particularly in the North Carolina fishery; not so much the Virginia fishery, but in North Carolina where basically it says you maintain the cap of 250,000 pounds, but yet you reduce the bag limit in the recreational fishery from five fish to one fish.

That doesn't sit too well with the recreational fishery, and reasonably so, it doesn't sit well. The problem is that when you go in to do these analyses, and when Vaughan and Carmichael did these analyses, they had to make certain assumptions, and that was that specific fishes were being taken. And so when you go in here and look at this table, you need to be more restrictive in the northern region to meet the required 40 percent than you do in the southern region, and that's because of the commercial fishery.

So at first, it doesn't make sense when we all had the same options available to us back in Amendment I; we could pick 14 to 27, five fish, no fish over 27, or 18 to 27 with one fish over. It doesn't appear that we're getting -- the one question that I still am not clear on in my mind is why the northern states eliminate the 27-plus inch fish, and that doesn't seem to play any role.

We don't seem to be getting any credit for no longer having -- you would think that in terms of the reduction requirements, they would be a little more similar than they are. They're very disparate, so that is a concern to me.

The problem is that we're in sort of a unique situation here with this plan. I mean, North Carolina is the only state that really has any kind of a commercial harvest on these things. We have a cap in place that has been in place for a long time.

But, we've implemented a lot of other restrictions in North Carolina that have been in place for three years that we've really seen the benefits and the results of,

such as a requirement to attend small mesh gillnets to try and reduce the undersized bycatch, which is, granted, an unknown component of the assessment, but it has still always been considered by the Technical Committee to be a significant problem.

So we've taken those measures. We've eliminated the directed harvest. All right, we've reduced the trip limit down to a point where it's essentially like the bag limit used to be. So we've taken a lot of proactive steps that have been in place for three years, and we're really seeing the result. How to quantify that; I still don't know how to do that.

I mean, I am hoping that folks like John Carmichael and others can come up with a way to use that bolded language in there on how the commercial and recreational restrictions combined are sufficient to attain the 40 percent SPR. We know that's going to be a significant challenge for us when it comes to dealing with this plan, because right now the one fish gives us 37 percent. We need to come up with another three.

I think the idea of having to reduce the slot is not very attractive, particularly not to the recreational community. It's going to be tough. Susan, and then perhaps from the audience.

MS. SHIPMAN: Just as an example, in looking at this, Louis, it looks like to me to continue to allow that commercial fishery with that cap you've put in, you're going to have to lower your upper end of the slot down to 25 inches, if I am reading this right.

CHAIRMAN DANIEL: If North Carolina cannot convince the board that all of the other actions we've taken in our commercial fishery achieved at least 3 percent, you're right. That's going to be our challenge, to convince you that we are in compliance with the approved North Carolina Fishery Management Plan for red drum and don't have to do anything else, but we may not be able to convince you of that. I hope we can, but we may not be able to. Anything else from the board? If not, I would like to take a question from Dick.

MR. BRAME: What I think the advisory panel said, and I know it's what the CCA folks on my committee have said is what they would like to see in the northern region is to separate the mortality of commercial and recreational so we can see it and know what it is.

I think the problem started back in the first assessment. It was thrown together in the assessment, and it has just been that way ever since. Now, whether or not you do something about it, I don't know.

But what we want to see is -- you know, we've gone from five to one fish, and the cap stays the same. Louis says that we've had a substantial reduction, I believe him. But how much of the mortality is the

result of the commercial harvest and how much is recreational, and what have these reductions done to that to get us to the SPR? It's the fact that they're all thrown together and nobody can really make their own judgement. It looks like the recs are going to take it all, and I know that's not the fact.

So if the board could somehow tell the Technical Committee or Stock Assessment Committee, if it's possible, to separate the mortality so that then the public could examine it, it would be useful to have in this document. I think that would get to Jack's question.

CHAIRMAN DANIEL: Thank you, Dick. Susan.

MS. SHIPMAN: I think Dick's point is excellent. It seems to me you're going to have to do that in order to convince us you've gotten to that 40 percent. You're going to have to partition it, so is that something North Carolina is prepared and able to do?

CHAIRMAN DANIEL: Prepared to do; able to do, I don't know. I mean, that's something I am going to have to talk with John about and see exactly how -- like I was saying, we're going to have to be prepared to make that argument and be able to show what the reductions have been.

But we're fortunate in North Carolina that we've got three years now of data with these new regulations in place. I will tell you for the record, it has made extraordinary impacts on red drum in North Carolina, that we are seeing some extraordinarily positive things that I don't think is just reflective on recruitment variability.

So I believe that we will be able to show some pretty interesting results from that, but we certainly will have to do that. I agree with Dick's concerns, and I have talked with him about this, I have talked with several other folks in North Carolina about this problem, and coming up with a way to equitably manage this fishery.

It's a challenge, but I think we can do it, but that's North Carolina's problem, and we're going to have to deal with it between now and compliance time.

MR. SHEPARD: Mr. Chairman, I suggest that what we need to do today, though, in order to get through this document, is what are we going to do with this document in that relation, anything or something, because we need to approve this to go to public hearing?

CHAIRMAN DANIEL: Is there any discussion on that point? I certainly don't know how to address that question in any kind of a paragraph form right now. Susan.

MS. SHIPMAN: In essence, what the document says is the states have to achieve the 40 percent. I think the states have to come back and show what the F is attributable to whatever sectors that they are

constraining.

MR. SHEPARD: My point is can we do that and go on with this document?

MS. SHIPMAN: Yes, I think we need to do that.

CHAIRMAN DANIEL: I think we can. Anything else on the commercial fisheries? If not, we'll move on to the for-hire.

DR. DESFOSSE: Actually, under the Data Collection and Reporting Requirements, there was a suggestion to get rid of a lot of the language under quota monitoring since it's really not a part of the FMP. I was wondering if the Management Board wants to go a little further and get rid of all three of those subsections, vessel registration system, quota monitoring, bycatch monitoring, and just leave the general language from ACCSP in there in terms of the data collection reporting requirements, since there really aren't any provisions to do any of this other stuff in this draft amendment.

CHAIRMAN DANIEL: Susan.

MS. SHIPMAN: When we were, whenever it was, starting on this amendment, we talked about our concerns that we cannot quantify the bycatch mortality in the gillnet fishery. I believe North Carolina, you're using some of your ACCSP money or ACFCMA? You're using some money to do that, and I think we need to continue to encourage that because that's a major data piece that we need.

CHAIRMAN DANIEL: We agree.

MS. SHIPMAN: Now, I guess the question for North Carolina, is it helpful for us to have it in here as a mandatory requirement for you to go get the resources you've got to have to do it?

CHAIRMAN DANIEL: No.

MS. SHIPMAN: Okay.

CHAIRMAN DANIEL: I will follow up real quickly. I mean, we do have several large grants in progress and several that have been funded to implement a statewide fishery independent gillnet survey in North Carolina, which I think is going to be with multiple mesh sizes, et cetera, similar to work that has been done in South Carolina.

I think it's going to be very helpful for us to quantify that as opposed to monitoring the bycatch in the actual fishery, which the level of the gillnet fishery in North Carolina is just tremendous, and it would be very difficult to do that. I think we can gather that information through this independent survey just as well, and also gather a lot of other additional information out of it. I think it's going to be real helpful for us. Do you want to keep going, Joe?

#### **For-Hire Fisheries Regulations**

DR. DESFOSSE: The next section is the For-Hire Fishery Management Measures, and they're similar to the recreational fishery measures. States have to implement appropriate bag and size limits which will attain the 40 percent SPR. The maximum size limit is 27 inches or less.

There's also a brief explanation there about data collection and reporting requirements in this sector, and it's general language from ACCSP.

CHAIRMAN DANIEL: Any comments, questions? If not, we'll keep going.

#### Habitat Recommendations

DR. DESFOSSE: The next section deals with habitat conservation or just general habitat recommendations. None of this is mandatory in nature. They were developed by the Habitat Committee and Carrie Selberg, Commission staff. It's a whole new section from the document that you saw previously. Again, they're just recommendations, and there are 15 of them.

CHAIRMAN DANIEL: Any comments, questions on the Habitat Section? Susan.

MS. SHIPMAN: Under 15, Item 15 on Page 78, it talks about hydro-powered dams which pose significant threat to maintenance of appropriate fresh water flows to, and so on and so forth; I would also say "water supply reservoirs". I would like to see that added in.

CHAIRMAN DANIEL: Without objection. Melvin.

MR. SHEPARD: I want to make an observation. In looking at what Fish and Wildlife Research -- I guess I can attribute it to them -- did with striped bass, it had an absolutely fantastic map of where the fish had been tagged and then where they were returned to.

It seems to me that in dealing with the difficulty to prove habitat and the value of habitat -- I assume that's every state, not just this one -- its value to the fisheries, that it seems to me that where that information might be available, it seems to me that kind of information, particular where fish are found and tagged and where they are returned, where the fish is caught when that tag is returned, that's proof positive that these fish operate in those areas and have an abundance in areas.

I know that one on striped bass was so -- the tagging program you have, Bill, every January, I guess it is, shows a massive area where they found those fish and tagged them, and then a terrific detail of where those where those fish were caught and the tags were returned from. It was a great message to anyone that this is habitat, and these are places that need to have special attention.

CHAIRMAN DANIEL: Susan.

MS. SHIPMAN: To Melvin's suggestion, could we maybe work that into Number 1 where it says, "States should implement identification and protection of habitats", and it says, "Such effort should inventory historical habitats", and we could just add in "through mark-recapture experiments", or something like that.

MR. SHEPARD: I would love for that to be in there.

CHAIRMAN DANIEL: Without objection, we'll add that. That information is pretty much available from every state. I mean, everybody has tagged drum, and that information has been compiled by some pretty good folks. Okay, Joe.

#### Alt. State Mgmt/Adaptive Mgmt.

DR. DESFOSSE: Moving on, then, the next two sections are pretty much standard FMP language for Commission FMPs. The first is Alternative State Management Regimes. It lays out the general procedures and management program equivalency, and *de minimis* guidelines.

The second section there, 4.6, is Adaptive Management. This lays out, again, the procedures to follow for making changes to the management plan and a list of measures subject to change under Section 4.6.2. One change to the list was to delete the wording in Number 3 and just add to Number 4, "MSY" and "OY".

CHAIRMAN DANIEL: Dave.

MR. CUPKA: Just a minor point for Susan, maybe, but under this Section 4.5, Alternative State Management Regimes, where it says, "once approved by the board"; should that really be "once approved by the Commission"?

I know that the board can change the management regime once it has been approved overall, but initially for a compliance matter, does it have to be approved by the Commission and not the board?

MS. SHIPMAN: Adaptive management, when we altered the charter, we left that within the boards, so the only thing the Commission has to approve now are the plans and the amendments. Compliance issues still certainly have to go through the Policy Board and the Commission, but just as far as approving adaptive management, that can be left within the board.

MR. CUPKA: I just wanted to make sure.

MS. SHIPMAN: Do we want to add "fishing year" in there? We don't have one now, we don't anticipate we'll need one, but in light of all the discussion earlier, is that something we would want to add to the list that down the road we may need to establish a fishing year? We may never use it but at least it would be in there.

CHAIRMAN DANIEL: Without objection? Well, this adaptive management, I guess, is fairly new, at least



to me. I am wondering, it looks like a lot of this could preclude the need for a subsequent amendment. It could be done much more -- it's sort of like our framework actions in our council plans. One of the things we talked about early on in the program and one of the things that was approved through the North Carolina FMP was that concept of a trophy tag.

The board, I think, was pretty uniform in their position that we would not consider any kind of harvest on the adult fish until we had achieved the goals and objectives of Amendment 2. But it may be that once we achieved the goals and objectives of Amendment 2, that we could kind of move forward with that concept in adaptive management.

If that would be handled under Number 6, Bag and Size Limits, to where we could possibly implement some kind of a trophy system in the future to try and at least gather the information that's going to ultimately be necessary on the age structure of that adult population; do you feel that type of change is covered under the current list, or could we add a trophy tag system to the adaptive management list for the future?

I mean, without comment, I would like to see that added as a provision for a trophy tag system in adaptive management. Again, like the fishing year, we may never use it, but to be consistent, to try and be consistent with this plan, without objection, I would like to add that. Joe.

DR. DESFOSSE: Just to make a staff observation, I guess I was under the impression that once you attain your 40 percent SPR and you would start to change your management philosophy, you would probably institute Amendment 3, which would have a whole different type of management regime. I think then you might want to be considering the trophy tag. At least that was the impression that I had.

CHAIRMAN DANIEL: Is that the opinion of the board, just to completely hold off on that until Amendment 3? Susan.

MS. SHIPMAN: Given the life history of red drum, I think we're a long way from a 40 percent SPR.

CHAIRMAN DANIEL: I agree.

MS. SHIPMAN: Except for Florida; Florida is about the only one. I think it's covered in 6, myself.

CHAIRMAN DANIEL: I thought so, too, but in case we get into one of these long drawn-out issues, or we end up in a situation, we're sitting on -- right now we're using escapement as a proxy and we can achieve 40 percent escapement next year, but not have 40 percent SPR.

So that's sort of where we get a little fuzzy with the limitations of the data that we're using to assess this stock. I mean, theoretically, you're going to have to hold the 40 percent escapement for 60 years in order to

achieve a 40 -- you know, based on the reasoning for the proxies, that's what you're going to have to do to it.

You can't do it until you've achieved a 40 percent escapement for 60 years, so I doubt we'll wait that long. I hope not, although I think we're doing absolutely the right thing by them right now by not having any harvest or possession at all of those fish over 27. Anything else? Susan.

MS. SHIPMAN: In fact, I am not sure that Florida can't do what Roy suggested earlier under 4.5 of alternative regimes. I mean, I think if you look at that very first paragraph on Page 78, under 4.5, it says, "A state can request permission to implement an alternative to any mandatory compliance measure if the state can show the board satisfaction that the alternative proposal will have the same conservation value." I would suggest they could come in and do that now under that.

DR. CRABTREE: And looking at that, that was what I was thinking; if we could come in and show that we could increase our upper end of the slot limit to 30 inches, for example, and still meet the 40 percent target that we could bring that in.

CHAIRMAN DANIEL: Apparently, you can. That's good. Ready to keep going? Okay.

DR. DESFOSSE: I will just point out that fishing season was already included in that list. It was Number 1 under Adaptive Management, so it's already been taken care of.

MS. SHIPMAN: I said, "fishing year", and you may just want to say "fishing year and seasons".

#### **Management Institutions**

DR. DESFOSSE: Okay, then the next Section is 4.8. It just outlines all of the bodies that deal with red drum and the Commission. Federal agencies, there have been some changes made to consultation with the fishery management councils based on your comments. You can see the bold italicized language.

#### **Recommendations to the Secretary's**

Section 4.9 is Recommendations to the Secretary's for Complementary Action. I was looking for some further input on language under this section. I don't know if what is here is good enough to cover what needs to be recommended to the Secretaries. I know in the northeast Harry Mears likes to work with a staff person to draft that language now to make sure that it goes through the regional office. I don't know what the process would be in the south.

DR. MERRINER: I assume the process would be analogous in the Southeast Center or Southeast Regional Office and probably work with Jim Weaver's

office.

MR. SHEPARD: I want to ask a question on this point. You're familiar with a letter I just got dealing with striped bass. It questioned the legality of keeping the EEZ closed. And I am asking this question of everyone, I guess. It seems to me in 4.9, we're saying that maintenance of the prohibition of the harvest of red drum in federal waters is a part of our management plan and a part of obtaining what we're striving to obtain.

It seems like we're kind of adding it in this wording as an after thought, rather than saying, "The Atlantic States Marine Fisheries Commission believes that the measures contained in Amendment 2 are necessary to prevent the overfishing of the red drum resource"; and as a part of that, "The Commission recommends to the Secretary of Commerce"; does that make any kind of sense to anybody?

CHAIRMAN DANIEL: I think it's a good suggestion. Without objection, we'll make that change. Susan.

MS. SHIPMAN: It dovetails nicely into what we are recommending. I mean, the fish that are in the EEZ are the large fish. They are fish larger than 27 inches. We're saying nobody should harvest those. So to me the optimum protection for spawners because for that time they are in the EEZ is continuation of the moratorium.

CHAIRMAN DANIEL: Absolutely. It may be somebody from outside the area or some that we need to -- Yes, Wayne.

MR. WAYNE LEE: With regards to this proviso to keep the EEZ closed, when the red drum were overfished in the Gulf because they started catching them in the EEZ with the purse seines back some time ago, we have the EEZ closed, but we have no type of monitoring in that area.

I am just wondering is there any opportunity under the National Marine Fisheries Service Observer Program, where they have observers on other fisheries or other boats, to collect any information on the bycatch of large red drum and other fisheries that exist in the EEZ? If there is that potential, is there any way we could get that into the system to ask NMFS to monitor and provide that data?

CHAIRMAN DANIEL: Well, I think there are several answers to that. There have been a lot of -- at least off of North Carolina, and I believe off of Georgia, too, with the Shark Gillnet Fishery -- there has been a lot of observer trips on gillnet fisheries in the EEZ at least, standard gillnet fisheries in the EEZ.

I think probably one of the fisheries -- and I may get shot if I say this -- but one of the primary fisheries that I think we've a long time had a concern about is that flynet fishery south of Cape Hatteras and even

north of The Shoals; anecdotal reports of large catches of large drum at a time when they used to be able to bring them in and now the possibility that those catches are being made even today.

Recent evidence, which I consider very good, which are photographs from Coast Guard boardings, suggest that that gear is, indeed, still having incidental harvest of the large adult red drum; not necessarily in terms of entire schools, but in terms of individuals, three, four, five mixed in with the targeted catch. But I think one thing is for certain that should the exempted fishing permit request be granted by the National Marine Fisheries Service to go out and test that gear in that area, we'll certainly have good, 100 percent observer coverage of that fishery in that area to see what type of interactions with red drum we're getting in that general fishing area.

But to answer your question, those are the types of observer coverages that have been going on and continue to go on in terms of catching the large red drums bycatch in the EEZ.

MR. LEE: Louis, if I could, we had that briefing on the Shark Fishery that takes place down off of Georgia and South Carolina. During that briefing, it was noted that red drum were being harvested in that fishery. Again, my concern is not necessarily that they were catching red drum and killing them out there, but is there some way that we can get in a formal request that on any observer program, that red drum maybe could be added into the list of fish that they look at and see if they are being killed or caught in the various fisheries that they observe.

That really was what I was asking about. If we could get that kind of data flowing back into ASMFC, it might give us some scope as to the growth or the availability of the large red drum and possibly what gear, if there's any, that might be capturing them.

CHAIRMAN DANIEL: Joe.

DR. JOSEPH POWERS: Thank you. Virtually every observer program, they collect data on all the species through there, so that information is available. It probably hasn't been collated in terms of red drum in particular, but certainly the information is available from whatever observer programs that go on.

Admittedly, some of these observer programs, like for sharks, are kind of ad hoc in the sense that they're funded for a short period of time for a specific issue, but the training that the observers go through is fairly standard so that this information is collected across the board. Thank you.

CHAIRMAN DANIEL: Bill Cole.

MR. COLE: As a follow up for the record, the ACCSP Modules 5 and 6 should be -- we're in final review right now. They should be available for board

[Coordinating Council] approval at its next meeting, and it will address that and set the coastwide standards for observer programs and discard recording. Red drum would be picked up, as the Regional Administrator says, as a part of the standard reporting.

CHAIRMAN DANIEL: I think with all the different measures and all the different programs we have in place that we'll get a good handle. If we see it in any kind of numbers -- certainly, there may be incidental one or twos in any fishery. But in terms of any kind of consistent high levels of bycatch of large red drum, I think we'll become aware of that fairly quickly, I would hope. We already know of one; there may be another. Keep going, we're running out of time.

#### COMPLIANCE MEASURES

DR. DESFOSSE: The next section, Section 5, deals with compliance, and the first couple of sections in there are standard language. You don't get into anything until 5.1.1.1, Regulatory Requirements. This is where the compliance criteria are listed.

There were three suggestions for compliance criteria for Amendment 2. The first is the requirement to get the bag and size limits to achieve a 40 percent SPR. The second was a maximum size limit of 27 inches or less, and the third is that the states must maintain their current or more restrictive commercial regulations. You still need to have some input from the Technical Committee on the monitoring and research requirements. Earlier, I said they needed to have a face-to-face meeting.

CHAIRMAN DANIEL: Well, one thing is all the states are going to be required to implement restrictions to achieve the 40 percent SPR. I mean, whether it be recreational and commercial or just recreational, we're all going to have -- I don't think we necessarily need the recreational bag and size limits. I think it needs to just say restrictions. If you've got just a recreational fishery, then all you've got to deal with is hook and line. So if we could just eliminate "recreational bag and size limits", and just simply replace that with "restrictions."

MS. SHIPMAN: What if you say "harvest controls"?

CHAIRMAN DANIEL: "Harvest controls"; however we want to -- "harvest controls to achieve the 40 percent SPR".

MS. SHIPMAN: I think it would be helpful for the public, though, if you parenthetically put "for example, bag and size limit combinations". That way the public knows why you're taking those tables to them.

CHAIRMAN DANIEL: Right. Without objection? Susan.

MS. SHIPMAN: I would like for purposes of

going to public hearing -- I mean, if we want to get this thing ready to go, I think we need to remove the monitoring requirements and the research requirements. I don't think we're going to have that ready in time to go. I don't want to slow up this amendment in order to get that. [Section] 4.6.2 provides for that to be done through adaptive management.

I think that gives the Technical Committee and PDT more time to really think that out, get some price estimates or cost estimates for us on the monitoring. I am content to strip that out of this amendment for now. Others may feel very differently.

CHAIRMAN DANIEL: Discussion on that issue? Without objection, remove Section 5.1.1.2 and 5.1.1.3. Susan.

MS. SHIPMAN: Just requirements, leave it in the amendment because there is a lot of good information there.

CHAIRMAN DANIEL: Right, but take those two sections out.

MS. SHIPMAN: Yes, but take that out as far as requirements.

CHAIRMAN DANIEL: Joe.

DR. DESFOSSE: Can I just suggest different language in those sections that says, "Nothing is required through Amendment 2 at this time. It may be implemented in the future under Adaptive Management."

CHAIRMAN DANIEL: Without objection? Okay, thank you, Joe.

DR. DESFOSSE: Then the next section, the compliance schedule, I believe you're going to have a second date in there of November 1, 2002. Would that be okay? You earlier said November 18th, the meeting week, but would November 1st be okay? This way it would give some time for the states to provide a report to the staff so that they can update the management board.

MS. SHIPMAN: I think Jack and I are the only ones sitting around the table that aren't in compliance right now. I mean, that works for me. We're going to make every effort to move forward and do what we've got to do, certainly, in advance of that time, but I may be back here in May begging for more time from you all.

CHAIRMAN DANIEL: Without objection? Okay, November 1. That would be that the states would submit their compliance report for review by the board at their fall meeting.

DR. DESFOSSE: That would be the implementation date. The submission date would be earlier in the year, and that would be the first date. I don't know if the Management Board wants to throw out a date now, but it would be sometime prior to

November 1st.

CHAIRMAN DANIEL: Any thoughts on the first date? Do we want to give something now, or do we want to just keep it the way it is? I mean, it might be better to wait until we're a little closer to the time before we start putting those kinds of deadlines on us. Leave it the way it is? Without objection, let's leave it like it is. Have we got anymore?

DR. DESFOSSE: The rest of Section 5 is pretty much standard language. It's just the procedures for determining compliance. Section 6, actually under Section 5.3, recommended non-mandatory management measures. There's nothing listed here right now. I did hear the board talking about recommendations to states outside the management unit. Perhaps you could put the requests for no sale in here. And this document will also need some LEC input on Section 5.4.

There is a document that was developed by the Law Enforcement Committee and it now says "enforceability of measures", and that will be referenced in this document. We'll also look for input from the committee as to the proposed management measures.

#### RESEARCH NEEDS/PROTECTED SPECIES

If there are no questions on Section 5, I will just briefly touch on Section 6 and 7. Six is the list of Management and Research Needs identified by different topics. You have stock assessment, biological, social and economic and habitat research needs. The habitat research needs need a little work. As you can see, there were a number that were added to the document. They have to be incorporated in Section 6.2.4. Section 7 deals with Protected Species.

CHAIRMAN DANIEL: Melvin.

MR. SHEPARD: My question to Joe would be, Joe, are we going to reach them with the thing that Susan added at my request earlier about the mapping and -- are we going to stick it in here, also?

DR. DESFOSSE: It can be if there is a specific research need that it would address. I don't know right now, but I will look.

MR. SHEPARD: See, my question really is, I believe that data is out there. I believe it probably hasn't been placed into some kind of map form. But if that's all that needs to be done, that would be pretty simple to do that.

DR. DESFOSSE: Okay, we'll look into that. Section 7 is the Protected Species Section, and this still needs a little bit of work. The Marine Turtle Section is done. I believe Tina and I are looking for some input on the marine mammal section. Some of this was taken from previous FMPs and needs to be updated.

There was a request at your last meeting to incorporate a glossary, as well, into the draft amendment. What I did was take the one from the source document from the 1990 FMP and just copied that into here. Some of it may still be applicable; some of it may not. I will have to go back in and make sure that all the terms are addressed in here.

CHAIRMAN DANIEL: Susan.

MS. SHIPMAN: Yes, on the Protected Species Issue, obviously, anywhere where you've got net fisheries allowed in the red drum fishery, that's where you're going to have the potential for the interactions, the greatest potential, I should say.

You certainly can catch a turtle on hook and line. It would seem to me maybe we need to insert the issue about you're requiring your nets to be tended -- I don't know what Virginia has as far as requirements -- but any kind of measures that the states are taking to minimize those interactions probably needs to be folded in here. I mean, this, if you will, is just a discussion of the species. It really doesn't get at the issue of minimizing the fishery interactions. I think there's some things the states are already doing. I think that needs to be mentioned here.

CHAIRMAN DANIEL: Certainly. I mean, the fact that there is not a directed red drum fishery, that really the principal bycatch is in the flounder fishery; the large mesh flounder fishery, which right now is just getting absolutely crucified by endangered species action and the restrictions that are being placed on that fishery. I mean, we can certainly make some indication in there about all of the myriad of restrictions that have been placed on the inside gillnet fishery in North Carolina.

I think, also, that the flynet fishery right now is undergoing --through that EFP is undergoing an extensive environmental assessment and Section 7 Review dealing with turtles and the fact that gear doesn't pull TEDs right there in that vicinity where the turtle problem in Pamlico Sound is such a problem.

So that's a good point with all the stuff at least I know we've done and that Virginia has done in terms of minimizing endangered species, and the fact that this is a bycatch fishery. It's not a directed multi-scaled directed fishery. It should help that case. Joe.

DR. DESFOSSE: I think there's a section here for incorporating that information, and that would be under Section 7.4. Right now there's nothing listed under -- in there, there's just a brief description about sea turtles, but that definitely would be a place to put that information.

CHAIRMAN DANIEL: David.

MR. CUPKA: Thank you, Mr. Chairman. I would like to go ahead and make a **motion that we approve**

**the Draft Red Drum Amendment 2 as modified today for public hearing.**

MR. COLE: **Second.**

CHAIRMAN DANIEL: A motion by David Cupka, second by Bill Cole to approve the Draft Amendment 2 as modified here today. Melvin.

MR. SHEPARD: I don't have a clear understanding in my mind on what was our decision on these tables, to put them in the document or leave them out of it?

CHAIRMAN DANIEL: To put them in the document. And then, as I understand the intent of the board is the southern folks will present the southern documents, and the northern folks will present the northern documents at the public hearings, but they'll all be there for everyone to see. Joe.

DR. DESFOSSE: I just want to make sure that I am clear. What I am incorporating are Tables 11 A and B, and 12 A and B; not the other analysis that was done for South Carolina? You're just going to use the tables for the bag and size limit analysis.

CHAIRMAN DANIEL: Correct. Any other discussion? Susan.

MS. SHIPMAN: Yes, to that point, Doug has also run a table for us and I am just -- I am not sure. I have got to go back and look. I am not sure the tables match identically once you run it on a state-by-state basis. So I want the latitude to take the data that are specific for Georgia to the public hearing. I am fine with having this, but I think there may be some slight variation in the table for us as opposed to this one for the entire subregion. I don't want to be bound by this table because it's in this amendment that's going to public hearing, if he has run the tables specific for us. That's what I want to take to public hearing.

I mean, I think these need to go in the amendment, but I think we need to couch that with a caveat that state-specific tables have also been run and may be presented at these public hearings.

So I think there's a one-inch difference in just looking at this quickly and what he has run for the region and what he has run for us, and that's a big inch.

CHAIRMAN DANIEL: I guess the only thing that comes to mind is that if the southern region assessment is based on Georgia, South Carolina and Florida data combined, then we start splitting it up and it appears that Georgia may be able to be less restrictive.

You know Florida is probably going to be able to be less restrictive. Then what that means is that South Carolina is going to have to be more restrictive, possibly. I mean, there may be some technical problems with splitting it up like that. I am not sure, though, but it's just a thought that comes to mind. David.

MR. CUPKA: Well, the assessment was done regionwide, but the approaches that the states want to take are different. But the information that Susan has is not based on an assessment for Georgia fish. It's just that the approach she wants to use is incorporated in that table. I don't think that we're saying that we've split the assessment up. It's just the approach.

CHAIRMAN DANIEL: I know. I mean, this provides you with the bag and size limits required based on the regionwide assessment, the southern assessment.

So I don't know how shifting that around state by state and having the states being able to vary within that southern region, vary based on their own individual state data, how that may impact the overall southern region assessment and reaching the 40 percent goal. Because if it appears that you can be less restrictive, then somebody is going to have to be more restrictive if you start looking at it state by state.

And if one group wants to use individual state data and they find that they can be less restrictive and everybody else goes by the table that says you have to be such and such restrictive, you may not be reaching the overall southern region goal.

MR. CUPKA: But we haven't got to that point where we're using the state data.

CHAIRMAN DANIEL: Well, we may not be, but it -- Susan.

MS. SHIPMAN: Just as an example, he ran for us a fifteen-inch minimum size. That's not on this table, so we've got some different iterations. See we asked, "Run it for us at fifteen inches, run it for us at fourteen inches", so I am saying the states are going to have some other iterations to take out other than what is in here. If we want to hold at fourteen inches, yes, we'll use this table.

CHAIRMAN DANIEL: I thought you said that it changed the escapement rates that you achieved.

MS. SHIPMAN: No, I am sorry. No.

CHAIRMAN DANIEL: That's what I got concerned about.

MS. SHIPMAN: I may have mis-spoken and I apologize. No, that's not what I am saying.

CHAIRMAN DANIEL: Well, I may have misunderstood you. I thought that's what you said. What you're wanting to do, that's cool.

MS. SHIPMAN: But we knew our anglers want to stay at five fish for the most part, so we asked him to run whatever he could for us of different size combinations, yes.

CHAIRMAN DANIEL: John.

DR. MERRINER: My only concern with some of the, if you would, special runs, et cetera, that are being requested and being provided by the analytical staff, be they from a particular state or from the National Marine

Fisheries Service -- and in this case reference made to Doug Vaughan -- I would caution that it should be coming from the Technical Committee as input to the board for decision purposes or discussion rather than describing the origin and the veracity of that data to a particular individual so that you have, indeed, had the participation of the others that are part of that system and you do not ascribe ownership to a particular individual when it comes to a set of analyses going into public hearing or going into the document.

If I may diverge for one other point in that there was a motion on the floor, if I recall, and that pertains to discussion a few moments ago that I think that Wayne Lee brought up. It gets back to the difference between Page 82 and Page 74 when we're talking about the Section here, Section 4. The question is under management measures and whether there should be a subset under 4.1, EEZ, and a Section under 4.2, EEZ, rather than simply the reference to recommendations to the Secretaries for complementary actions under federal jurisdiction, Section 4.9.

As Mel said, you've got people digging through a lot of material to get to the point -- oh, yes, by the way, we want to continue the moratorium on the EEZ. The Secretaries' management measures in the EEZ I think are pertinent to the recreational fisheries management measures and also pertinent to any commercial fishery management measures, so it may be worth mentioning it earlier on rather than back in the back under that particular recommendations to that.

I pose that simply as a question so that you're not burying something that will become a discussion point, as I've heard earlier. I am not intending to muddy the water or whatever else, but just raise that as a question for clarity.

CHAIRMAN DANIEL: Well, I guess for consistency sake, that's the way we handled it with weakfish. We had all the provisions in Amendment 3, and then at the very end there we had these very specific recommendations to the Secretary that were, in my opinion, probably the meat of the plan was what the Secretary implemented for us.

But I think, also, in the absence of any federal restrictions, we have authority out into the EEZ, and so I don't think anybody is going to get the feeling by reading -- well, I hope they don't get the feeling by reading this that this would only be state waters.

I don't know how the board feels about that. You guys have a lot more experience with a lot of different plans than I do in terms of whether we wanted to go in and modify all the different "4 point" Sections to include EEZ language, or simply leave it the way it is right now.

DR. MERRINER: I simply raised the issue as a

point to have just that made as to whether the --

CHAIRMAN DANIEL: It's a good point.

DR. MERRINER: Overtly made, or just, I say buried, but back down here in an area of 4.9. To say it's consistent with other plans, fine.

The explicit comment is that any recommendations made to the Secretary, they are made by the board explicitly in writing and the details provided as to what is required there. It's just a reminder that those have to be made explicitly when it occurs.

CHAIRMAN DANIEL: It is a good point, and I am not quite sure how the board wants to handle it. Susan.

MS. SHIPMAN: It is a good point, and if we would ultimately withdraw the federal plan simultaneous with this one going in, we're no longer going to have that federal plan to reference unless it's referenced as a source document, and we might want to do that. Maybe we need to be more overt in our discussion of it because this will become the red drum plan.

CHAIRMAN DANIEL: Completely. Melvin.

MR. SHEPARD: To that point, it was my interest that this be a solid statement to whomever might be looking for a challenge to the plan; that we are doing this full well, knowing what we're doing, and we're choosing to exclude the EEZ as a part of managing this fishery. In that respect, I don't think the legality or picking on the people who might use the EEZ preferentially; I think John's point is a good point.

I think we need to make it a solid part of our decision to leave the EEZ closed or open the EEZ, whatever that might be. But I would like to see it extensive enough in the document that it's very clear that we considered this as part our management measures.

CHAIRMAN DANIEL: I think the record, both with the board and with the Council, is pretty clear of the feelings of the board that the need to maintain the closure in the EEZ is paramount to the recovery and continued success of this fishery. I think we can, and I think your modification in that one part says it probably as well as it can be said. I am not sure what you want to do, though.

We can either leave it the way it is with the recommendation to the Secretary and its own specific point, maybe with a little strengthening there. Certainly, when we go out to public hearing, we want to emphasize that section to the public, but now whether or not we want to go back in and make John's suggestions in the "4 point" sections. John.

DR. MERRINER: My comment was that 4.0, the Management Program Implementation begins immediately with a subsection pertaining to recreational fisheries. I think that -- and, if you would, in the

prefacing statement -- something could be said to the effect that, indeed, their territorial sea fisheries would be under state coordinated management side; and the Atlantic Coast Act, a specific request for the EEZ could be made to the Secretary that provides those there. That gives you the prefacing material that you go with that. Then back in 4.9 you've got the coverage of the EEZ by Secretarial request.

CHAIRMAN DANIEL: David.

MR. CUPKA: I like that approach, and I was going to suggest something along those lines of making reference to the EEZ, but I am a little hesitant to start mixing federal requirements in with state requirements. I think it would be a little cleaner to keep them separate, but I think we could certainly reference them, and that's a good place to do it right at the very beginning and let people know that it is a component of it, even though it's not something the states can require.

CHAIRMAN DANIEL: So we would have that language similar to what John just said, or what John just said, in Section 4.1.1 --

DR. MERRINER: No, no. Section 4.0, just a little restatement about --

CHAIRMAN DANIEL: Okay, as opposed to in each section, so you're just referencing section --

DR. MERRINER: Correct.

CHAIRMAN DANIEL: Okay.

DR. MERRINER: Make reference to EEZ provisos to be at the request of the Secretary.

DR. DESFOSSE: I would just say that I will go back and ask Jack for some legal input as to what he thinks is the best approach as well and try to strengthen that.

CHAIRMAN DANIEL: Pending any legal snafu, is there any objection to that perfection from Dr. Merriner? Seeing none, Joe, we'll make that. Is there any other discussion on the motion? Susan.

MS. SHIPMAN: I am going back to what John Merriner just said. Now my comfort level isn't terribly raised. This has to do with the bag limits and the runs that Doug has done. This table, the 15 inch, my understanding was not in the bag limit technical document. This is a special run, and this is the one David is using, this is the one we're using.

But I understood you to say this has not been vetted through the Technical Committee, so I have got a concern. Is it legitimate for me to take this to public hearing probably in early January?

DR. MERRINER: That's the basis of my question; number 1, whether to put a scription of ownership or onus upon a particular individual who generated the table; or to say that there were requests made of the Technical Committee; and the Technical Committee in whatever mechanism it has, provided special tables to

state-specific questions of being a particular size minimum or other unique features that may be part of that.

CHAIRMAN DANIEL: Joe.

DR. DESFOSSE: It could just be a simple matter of getting the runs out to the Technical Committee and having them approve it through e-mail and telephone conference call. Then it would be an approved document by the Technical Committee, if that would be okay.

MS. SHIPMAN: I just don't want to go to public hearing, go to our legislature, get something in, come back to this board and the Technical Committee tells me, "Well, we didn't approve that", and we've got a problem with it.

DR. MERRINER: That's my concern as well. Sometimes things come out of the woodwork.

MS. SHIPMAN: I need that endorsement sooner than later. The question is, is this table going into this document?

CHAIRMAN DANIEL: No.

MS. SHIPMAN: The other tables were, and I have heard two different things. I heard the question asked were the tables passed out going into the document? That includes 11A, B, 12, whatever, and then this one was handed out. So what happens to this document?

CHAIRMAN DANIEL: All right, I mean, this would be my question. You've got Table 11A and Table 11B, which is for the southern region. And in that, if I am reading this correctly, if you look at 11A, a 15- to 27-inch slot with a one-fish bag limit gives you a 66.8 percent reduction, right, escapement, right? Now, in the analysis on this thing that you've got, it's 40.1 percent. That's about a 27 percent difference in the same number, right? So a 15 to 27, one-fish bag on this table is 40.1 percent escapement. On this table, it's 66.8 percent. Aren't those exactly the same?

I mean, shouldn't they be exactly the same? They should be. No, I think what she was saying was this was done just for Georgia, but it's for the coastwide assessment. Here you're looking at, assuming that you're increasing the minimum size limit with a minimum size limit every time of 27. So 14 to 27, one fish is 40.3; 15 to 27, one fish is 66.8; 16 to 27, one fish is 67.8.

Well, over here, if you look at escapement in the table for Georgia, or that Georgia requested for the southern region -- and South Carolina -- a one-fish bag limit 15 to 27 suggests that escapement is 40.1 percent. It suggests it's 66.8 percent in the other table, so there's a 25 percent difference between the two tables. So clearly we don't -- one is wrong and one -- well, they can't both be right. So there's something that appears to be a little different there.

So I am not sure which one at this point now, looking at it, which one is correct. It looks like the static SPR does change a little but we don't -- I mean, they change sort of on the same relative change, but there's a big difference between the two. Bill Cole.

MR. COLE: Well, it's clear we're not going to figure it out. We've got a motion on the floor. We need to move that motion on or reject the motion and take this up another day after we have Technical Committee input. I am inclined to send the issue to the Technical Committee, have them give us revised official, quote, unquote, tables and include them in the draft amendment for public hearing, and let's go on out and see what happens.

We're not going to resolve it. I think what needs to be done is have staff send it back to the Technical Committee for clarification of the tables for inclusion in the document.

CHAIRMAN DANIEL: Okay, does that suit everybody? So we'll vote on the motion? The motion is --

MR. CUPKA: Do you mean as far as having it reviewed? Well, I don't have a problem with that. I mean, we said Doug. Doug is the one that actually ran them, but they need to be vetted by the full Technical Committee. I don't think there's going to be a problem because the option that we asked Doug to look at clearly fell within the parameters of the stock assessment tables.

We just wanted to find out what that number was that we would achieve is what we were trying to get through our legislature, because you couldn't get it from those tables because they were just keyed to 14 and 27, and we were going with something different. We knew it would give us over 40, but we didn't know whether we were talking 42 or 48, or what, so that's why we asked Doug to run those additional runs. But it should be run by the Technical Committee, yes.

CHAIRMAN DANIEL: What's your pleasure? Okay, everybody clear on the motion? All right, all those in favor, signify by saying aye; all those opposed? **Hearing no opposition, the motion passes.**

Just for the record, it does appear to be that 11A and 11B -- it does appear that 11B closely approximates the Georgia-requested table. I guess I am now confused on what the difference is between the two, that they're so different. That 14 to 27 in Table 11B is a 40.3 percent escapement, right, and 14 to 27 -- okay, then they're the same there. But yet, I don't --

MS. SHIPMAN: And the bag limits for two through five are identical. The numbers are identical in all the tables for 27.

CHAIRMAN DANIEL: But not for one.

MS. SHIPMAN: But not for that first one, so we

need to get with Doug.

CHAIRMAN DANIEL: But at any rate, we're moving on. We're ten minutes over already -- actually almost 15 minutes over. We've got to start Council in 45 minutes, a closed session. We've got a closed session that starts at 1:00 o'clock, so we can continue to push on, we cannot push on. We can do it later, whatever. Susan.

#### ATLANTIC CROAKER UPDATE

MS. SHIPMAN: I would just like an update on croaker, and let's defer the 2001 FMP Reviews. Can we defer that to February, Joe?

CHAIRMAN DANIEL: It would certainly suit me. If we could get an update on croaker, then we'll be cool to go.

DR. DESFOSSE: The Atlantic Croaker Technical Committee met last week. There's a draft report. I, obviously, didn't have time to get it mailed out to everyone. I will briefly run through what happened.

The primary purpose of the meeting was to review the stock assessment that was done by Laura Lee as part of her masters thesis at North Carolina State University. In regards to the stock status, the stock assessment suggested that biomass has increased from '91 through 1996, partly due to several large, strong year classes.

The assessment estimates a downward trend in '97 and '98 in terms of stock biomass, but this may be attributed to the most recent years of the stock assessment and the uncertainty in those years. The Technical Committee felt that the downward trend in biomass would probably reverse itself and increase, given the additional 1999 and 2000 data. There has been no indication of any decline in the stock status, and, in fact, some of the juvenile indices indicate more strong year classes have come into the fishery. There's also been an expansion in the age structure of the population and the size structure of the fish that were caught. The current age at entry into the fisheries has been estimated to be age one.

The yield-per-recruit analysis that was done in the assessment estimated that maximum yield per recruit would occur with age at entry into the fishery at age three. The 1998 fishing mortality over all ages was estimated to be 0.77. The F on age one fish was quite high at 1.22. Maximum yield per recruit was estimated to occur at F equal to 0.85 if natural mortality is set at 0.2. If M is 0.35, F at maximum yield per recruit would occur at 0.55.

The committee noted that future stock assessment work should concentrate on developing other biological reference points for comparison and evaluation in Amendment 1. The committee was concerned that the



assessment only went up through 1998.

There are two more additional years of data that could be added to the assessment. They basically have a question for the management board. Do you want to update the assessment as is, using the current model, just cranking in the '99 and 2000 data; or there are a number of tasks and uncertainties that were identified by the committee in terms of the current stock assessment. If the Stock Assessment Committee was to work on some of this other information, it would probably have to change the model that was used, and the update could take upwards of two years.

The other thing that the committee did was replied on a point-by-point basis to the major concerns that were identified by Charlie Wenner. That is included as part of the report here, along with Charlie's comments.

Since we're running short on time, I don't want to get into the individual responses. They're there for your information. The committee reviewed the draft 2001 FMP Review, and staff made the corrections as per the committee's input.

Again, the committee would like the board to decide what type of update should be undertaken given the status of the resource. The committee feels that the resource is in good shape right now. F may be a little bit too high on the younger age classes, but there has been no indication based on the landings that there has been any downward trend in the population.

The committee also identified the need to designate a lead assessment person for whatever update is to be done to the assessment. There are a number of volunteers willing to help out, but not to be the lead assessment person. Paul Piavis from Maryland; Janaka DeSilva from Florida, and Eric Williams from the National Marine Fisheries Service have volunteered to assist. Jeff Brust from the Commission staff had also previously identified his willingness to help out. A lot of the uncertainties and the tasks that are listed here, there are two different lists. They're meant for the Stock Assessment Subcommittee to address in the future updates of the assessment.

CHAIRMAN DANIEL: Go ahead, Jack.

MR. TRAVELSTEAD: I guess it's part of this memorandum from Charlie Wenner. Over on the third page, it says that Virginia and Maryland have otolith ages taken from the commercial sector, and then the committee response is the Virginia data are only available from '98 through 2001. Those are data that are available from the Marine Resources Commission, but the Virginia Institute of Marine Science has collected scales and otoliths from croaker for a period of about 10 or 12 years. I think it goes back into the '80s.

It seems to me those were not used at all. Now,

that's a massive dataset that was available through Mark Chittendon at VIMS. I would just hate to see an assessment be done without using what I think would be a very valuable dataset.

CHAIRMAN DANIEL: I mean, to go on further, on the last page of this, it says the committee's response was that based on an examination of scale and otolith ages by these folks, that was Luis Barbieri's dissertation work that was published in the Fishery Bulletin 10 years ago that I think was contrary to those findings.

There's a tremendous amount of information from Virginia, because I collected it and processed it and aged it and did it myself in 1988, '89, and '90. I don't have any idea who the Virginia person is on the Technical Committee, but I don't believe they have a good grasp on the data that's available, particularly not from Virginia. I mean, I don't know what the feeling is of the board in terms of the status of Atlantic croaker and where we are. It may be nice to get some general YPR/SPR type model runs just to kind of get some kind of a handle on what's going on.

But I certainly would not want to run in and just add a bunch of data to what appears to be a very problematic set of information and just simply turn the crank again with new numbers added just to update it.

It would certainly feel like the most reasonable thing to do would be to try to address these concerns and the uncertainties and limitations, and then also try to determine why there seems to be a disjoint between, certainly, what's available in Virginia and what's being indicated as available in Virginia. Joe.

DR. DESFOSSE: I know that Laura Lee and Joe Hightower were aware of Luis' work, and I am pretty sure that -- I am speaking off the cuff here now -- I am pretty sure that they looked at that in terms of using the age data in the assessment.

The other question was who the Virginia person on the committee is. Rob O'Reilly is the member, but he was not available for the meeting.

The committee has recommended that a workshop be conducted to develop ageing criteria for this species, to look at where the first annulus is laid down, interpretation of the first marks, and the whole gamut of information.

The Technical Committee was quite comfortable with the assessment, as it was presented to them. The investigators feel that a lot of the uncertainty by other people has to do with unfamiliarity with the model, the stock-synthesis model. A lot of the questions that came up were wasn't this a length-based assessment when, in fact, it was not a traditional length-based assessment, it did incorporate age data into the assessment. A lot of Charlie's comments may have been addressed through a better understanding of the model. Laura Lee and Joe

realized that they should have done a better job of communicating the assumptions of the model and how it worked to the committee.

MR. TRAVELSTEAD: I think it would be appropriate at some point to have this assessment presented to the board by the people who did it, so that we can better understand it and so they can tell us what went into it, what datasets went into it. Before they do that, I think it would be appropriate if Joe got back in touch with them just to see if they are aware of some of these other datasets that might exist and why they were or were not used.

CHAIRMAN DANIEL: I think that's a good suggestion. I look at the memo here, the uncertainties and limitations, the assessment and some of the concerns. I guess my main problem is, we're sitting here now with a list of concerns and uncertainties. Do we want to have them just simply update the existing file and run it where these certainties exist and develop a plan, or do we want to address this list? I would say we probably want to address the list and then rerun the assessment.

But I would certainly like to hear the assessment myself and see if we can't address some of these concerns, because I think it's important that we move on croaker and not continue to put it off. John.

DR. MERRINER: One of the comments there in Charlie Wenner's note, the committee response at the top of the second page of that makes reference to the website which is the toolbox, I think; if I am not mistaken, the analytical toolbox that's being compiled or prepared for various stock assessments being done.

So it may behoove us or it may behoove some individual on each of the state's staffs to plug into that site and try to get some kind of a synoptic summary so we can begin to gather a collective "est" of what is such a thing as a stock synthesis modeling approach and how it might differ from those that we're more familiar with. Then if you wish to go forward with some kind of a presentation to the board, so be it. I think the onus is upon as participants to have gone back in and tried to sort a little bit of it out ourselves, and then have a report on it, but do a little prereading, if we would, so we can understand the concept.

CHAIRMAN DANIEL: That's always good. I am not at all familiar with this technique. Anything else from the board on the croaker update? I think that's good advice, John, and would we like to try to do that for February? Susan.

MS. SHIPMAN: If we have time. I mean, red drum is still paramount, and I think we need to devote whatever time it's going to take to get red drum wrapped up.

CHAIRMAN DANIEL: Agreed. All right, is there

anything else, Joe?

DR. DESFOSSE: I have the updated Atlantic Croaker FMP Review if you would like me to pass it out. This way you would have it. Otherwise, I will just e-mail it to you. I don't know what the board's preference is. Do you have enough paper as is?

CHAIRMAN DANIEL: I prefer e-mail. I don't think I would find it by the time I got home. All right, is there anything else to come before the board? If not, thanks, we're adjourned.

(Whereupon, the meeting adjourned on December 3, 2001.)