

Pages: 1-251

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL  
Room 2115 Federal Building  
300 South New Street  
Dover, Delaware 19901-6790

COUNCIL MEETING

7-9 AUGUST 2007

at

Danfords on the Sound  
25 East Broadway  
Port Jefferson, NY 11777

TUESDAY, AUGUST 7, 2007

## I N D E X

TOPIC	PAGE
INTRODUCTIONS AND ANNOUNCEMENTS PETER JENSEN	4
PRESENTATION BY HMS MANAGEMENT DIVISION STAFF ON AMENDMENT 2 TO THE CONSOLIDATED HMS FMP, ITS ASSOCIATED DEIS AND PROPOSED RULE KARYL BREWSTER-GEISZ	5
REPORT ON THE 45th STOCK ASSESSMENT REVIEW COMMITTEE JAMES WEINBERG	48
FINALIZE SCUP MANAGEMENT MEASURES FOR 2008 (2009, 2010) IN CONJUNCTION WITH THE ASMFC SUMMER FLOUNDER, SCUP AND BLACK SEA BASS BOARD JACK TRAVELSTEAD	77
Motion - Status Quo	
James Ruhle	100
Pat Augustine	101
Motion To Substitute	
Richard Cole	108
Vote - (passed)	125
Vote - (passed)	126
Vote - (passed)	126
Vote - (passed)	127
Motion - RSA up to 3%	
James Ruhle	128
Vote - (passed)	129
Pat Augustine	131
Vote - (passed)	131
REVIEW STATUS OF AMENDMENT 15 TO THE SUMMER FLOUNDER, SCUP AND BLACK SEA BASS FMP JESSICA COAKLEY	131
Motion - Table 1	
Pat Augustine	152
Vote - (passed)	157
NMFSS REGIONAL ADMINISTRATOR REPORT PATRICIA KURKUL	159
NORTHEAST FISHERIES SCIENCE CENTER REPORT JAMES WEINBERG	173

EXECUTIVE DIRECTOR'S REPORT DANIEL FURLONG	196
STATUS OF MAFMC FISHERY MANAGEMENT PLANS RICHARD SEAGRAVES	204
ATLANTIC STATES MARINE FISHERIES COMMISSION REPORT VINCE O'SHEA	209
EXECUTIVE DIRECTOR'S REPORT (Continued) DANIEL FURLONG	213
ECOSYSTEM COMMITTEE REPORT EUGENE KRAY	217
NEW ENGLAND COUNCIL LIAISON REPORT DENNIS SPITSBERGEN	231

1 [9:03 a.m.]

2 \_\_\_\_\_  
3 INTRODUCTIONS AND ANNOUNCEMENTS

4 COUNCIL CHAIR PETER JENSEN: Would  
5 everyone please take your seats, I think we have a  
6 quorum so we can get started. A couple of things I  
7 want to cover first for benefit of the Council  
8 members. As you know, new members were announced in  
9 June, and Mr. Anderson from Delaware will not be  
10 with us today. Mr. Berg, I think, is here with us.

11 DANIEL FURLONG: Erling.

12 COUNCIL CHAIR PETER JENSEN: Erling  
13 is here visiting with us today. Mr. Robins from  
14 Virginia, I don't -- okay, yes. I'm sorry, yes.  
15 Mr. Robins is here. Mr. Simms, of course, was  
16 reappointed and Karen Chytalo is here from New York  
17 now that Gordon has departed. Mr. Munden won't be  
18 with us today. He had some illness, and Mr.  
19 Batsavage is here to replace him today. And Mr.  
20 Holder won't be here today.

21 And the other thing I want to note is  
22 that we do have the Chairman of our SSC, Doctor  
23 Gilford, with us today. This is the first time that  
24 we've had the Chairman meeting with us, and we're

1 going to try to do more of that in the future. So,  
2 Jim will be here. I see Jim in the audience. And  
3 we also have Commander Brown from the Coast Guard is  
4 with us today.

5 So, welcome to all of you new folks,  
6 and we'll get you integrated into the Council system  
7 real quick. And this is a good meeting to do it.

8 We have a presentation now on Draft  
9 Amendment to the Highly Migratory, and so you're on.

---

10  
11 PRESENTATION BY HMS MANAGEMENT DIVISION STAFF  
12 ON AMENDMENT 2 TO THE CONSOLIDATED HMS FMP,  
13 ITS ASSOCIATED DEIS AND PROPOSED RULE

14 KARYL BREWSTER-GEISZ: Thank you very  
15 much. Good morning, everyone. I hope you can hear  
16 me. My name is Karyl Brewster-Geisz. I work in the  
17 Highly Migratory Species Management Division in  
18 Silver Spring, and I am here with two colleagues,  
19 Leann Hogan and Heather Halter, who are going to be  
20 taking notes for me today.

21 I'm here to present the Draft  
22 Amendment 2 to the Consolidated Highly Migratory  
23 Species or HMS Fishery Management Plan. This also  
24 comes with a proposed rule. I hope today to give

1 you an overview of what's in the proposed rule and  
2 in the draft amendment. That includes giving you an  
3 overview of the current status of the stocks, what  
4 alternatives we analyzed, and the expected impacts.

5 At the end of the presentation, there is the  
6 information on where to submit comments, if you'd  
7 like to. You can also request hard copies or CD  
8 versions of the amendment and the FMP. There is a  
9 lot of material in this presentation, so I would  
10 like to ask that if you have a specific question  
11 about one of the slides or something, I'd say please  
12 feel free to interrupt me. That's fine. But if you  
13 have a comment, you like something, you don't like  
14 something, please wait till the end.

15 So, with that, I will get started.

16 Moving on to the stock assessments, in 2005 and 2006  
17 we used for the first time for sharks the SouthEast  
18 Data Assessment and Review Assessment Workshops.  
19 These have three workshops, one for where data is  
20 collected by all the scientists. Another workshop  
21 where they use that data and assess the stocks. And  
22 then a third workshop where they actually review  
23 everything that happened at the data and the  
24 assessment workshops.

1                   So, this was for both large coastal  
2 complex, sandbar sharks and blacktip sharks. For  
3 the large coastal complex, they did conduct an  
4 assessment on the complex as a whole. The peer  
5 reviewers looked at the assessment and decided that  
6 because of the different life history traits of all  
7 these different sharks in the complex, they weren't  
8 sure what the assessment was showing them. So,  
9 based on those results, we changed the status of the  
10 complex as a whole from overfished/overfishing to  
11 unknown.

12                   For sandbar sharks, which many of you  
13 probably know is one of the major species in the  
14 commercial fishery, we did another assessment. They  
15 were able to project forward on this. Sandbar  
16 sharks are overfished and overfishing is occurring.

17                   They suggested that for a 70 percent chance of  
18 successful rebuilding, we reduced the quota to 220  
19 metric tons whole weight, that's 158 metric tons  
20 dressed weight, until the year 2070. So, that's a  
21 big -- a big drop in quota. They usually catch  
22 around 700 metric tons every year.

23                   For blacktip sharks, which is the  
24 other primary commercial species, in the data

1 workshop they decided to split blacktip sharks into  
2 two species groups, and that was based on biology  
3 and life history of the two stocks in the Gulf of  
4 Mexico and in the Atlantic.

5 For both assessments, they were not  
6 able to come up with a specific point for fishing  
7 mortality or the biomass. What they did come up  
8 with, however, for blacktip, is all of the models  
9 showed that blacktip sharks are healthy. They are  
10 not overfished in the Gulf of Mexico, and  
11 overfishing is not occurring in the Gulf of Mexico.

12 But because we do not have those specific points,  
13 the peer reviewers suggested that we not increase  
14 blacktip shark catches in the Gulf of Mexico.

15 For Atlantic blacktips, there simply  
16 wasn't enough data and the models were all over the  
17 place, from severely overfished to really, really,  
18 really healthy. So, we have labeled that as a  
19 status of unknown, and the peer reviewers suggested,  
20 and we are taking their recommendation, that the  
21 catches for blacktip sharks in the Atlantic not  
22 change.

23 For dusky sharks, this was not done  
24 in the SEDAR process. It was started in 2003 before

1 the decision was made to move sharks into the SEDAR  
2 process. It was done by the Southeast Fisheries  
3 scientists and we did our own internal peer review.

4 A number of models showed that they're severely  
5 overfished with overfishing occurring, and it will  
6 take around 400 years for them to rebuild.

7 This is important to note, just for  
8 the fact that dusky sharks currently are on the  
9 prohibited species list, and that means currently  
10 there's no catch allowed of dusky sharks. And they  
11 are still overfished, with overfishing.

12 Porbeagle sharks, Canada has been  
13 concerned over porbeagle sharks for a number of  
14 years. They have a directed porbeagle shark  
15 fishery. They conducted a stock assessment. The  
16 National Marine Fisheries Service reviewed their  
17 stock assessment, found that it was appropriate for  
18 us to use for management purposes. And that stock  
19 assessment found that porbeagles are overfished and  
20 will take about a hundred years to rebuild. But  
21 there is no overfishing occurring at this time.

22 So, based on these stock assessments,  
23 we are doing this amendment to rebuild sandbar,  
24 dusky and porbeagle sharks. And for those of you

1 who have taken a look at what we're proposing, this  
2 is quite a large change from what we currently have  
3 in place for management. We are hoping to have  
4 these measures effective in early 2008. So, that  
5 means you can expect a final Environmental Impact  
6 Statement probably pretty late this year, followed  
7 by final rule shortly after that.

8 Now we're getting into the heart of  
9 the whole amendment and what we're proposing. For  
10 those of you who are familiar with how HMS usually  
11 does its proposed rules and Environmental  
12 Assessments, Environmental Impact Statements. We  
13 usually have a number of topics. In this case, we  
14 have eight of them, although we did combine the  
15 species complex and quotas in the following slides.

16 But this time, instead of having an  
17 alternative for quotas and a range of alternatives  
18 for quotas and then we're preferring a quota and  
19 then a range of alternatives for species complex  
20 with one of those preferred, we are putting them  
21 together in what we're calling alternative suites.  
22 And each alternative suite covers all of these  
23 topics. So, we actually have five alternatives that  
24 we analyze, and all five of those cover these

1 topics.

2                   These are the alternative suites.  
3 Just very briefly, because I'll go in more detail  
4 about what each one means: Alternative Suite 1, of  
5 course, is the status quo. Those are the current  
6 measures we have in place.

7                   Alternative Suite 2 would restrict  
8 the fishery to directed shark permit holders. For  
9 those of you who don't know, we do have a limited  
10 access system in place for sharks. There are  
11 directed permit holders who are allowed to target,  
12 and then incidental permit holders who can land a  
13 limited number of sharks along with our other  
14 fishing. So, Alternative Suite 2 would limit it to  
15 the directed shark permit holders. Incidental  
16 permit holders would not be allowed to land sharks.

17                   And then recreational anglers would also be allowed  
18 to land sharks.

19                   Alternative 3 has different limits,  
20 but it would allow for both directed and incidental  
21 permit holders to fish, along with the recreational  
22 permit holders.

23                   Alternative Suite 4 is our preferred  
24 alternative. In this alternative, directed and

1 incidental permit holders would be allowed to land a  
2 limited number of non-sandbar sharks, and then we  
3 would establish a shark research fishery, which  
4 would have about ten vessels in it, and those  
5 vessels would fish similarly to how they're fishing  
6 now and would be able to land sandbar sharks. And  
7 of course for Alternative Suite 4, there's still the  
8 recreational fishing.

9 Alternative Suite 5 is closing the  
10 fishery, commercial and recreational.

11 And this is to give you a visual  
12 representation of what I mean by the alternative  
13 suites. This column on the left outlines the  
14 different alternative suites I just went through.  
15 SKD stands for shark directed permits. SKI stands  
16 for shark incidental permit holders. And then, as I  
17 said, the key topics are along the top. On the  
18 slides that are following, it will basically be the  
19 alternative suite and then one of these columns --  
20 the key topics. But the alternative is all the  
21 topics together. We just couldn't fit it all on one  
22 slide for you.

23 So, Alternative Suite 1 on quotas and  
24 species complexes, this is our current management

1 measures. There's a quota of 1,017 metric tons  
2 dressed weight for large coastal sharks, 454 for  
3 small coastal, and a number of different quotas for  
4 the pelagic shark species group, pelagic sharks,  
5 blue and porbeagle. We have 19 species that are  
6 prohibited. We have 60 metric ton whole weight  
7 quota for exempted fishing permits, display permits  
8 and research that's done under the exempted fishing  
9 permits.

10 And for quota monitoring purposes, if  
11 they exceed the quota, we take it off the following  
12 year. If they have underharvest, we add it on the  
13 following year. So, it's adjusted, sort of a tit  
14 for tat.

15 Under Alternative 2, which is the  
16 same in this case for Alternative 3 and 4, we are  
17 proposing to reduce the sandbar shark quota -- well,  
18 to split the large coastal group into a sandbar  
19 group and a non-sandbar group. So, the sandbar  
20 quota would be 116.6 metric tons dressed weight, and  
21 this takes into account the 158 recommended by the  
22 stock assessment, recreational landings; and then  
23 discards, as well, are taken off of that. So, for  
24 the commercial quota, it would be 116.6.

1 Non-sandbar sharks, the quota would  
2 be 541.2 metric tons dressed weight. We would  
3 maintain the current quotas for small coastals and  
4 pelagics. The difference is porbeagle sharks would  
5 be landed to the prohibited species list.

6 The 60 metric tons whole weight for  
7 exempted fishing permits would still remain, but we  
8 would change it slightly. We would have two metric  
9 tons set aside for display and exempted fishing  
10 permit purposes for sandbar sharks, and we would no  
11 longer be issuing display or exempted fishing  
12 permits for dusky sharks.

13 In terms of accounting for over and  
14 underharvests, if the quota is exceeded so there's  
15 an overharvest, that would be accounted for the  
16 following year and it would be removed from the  
17 quota. If there is an underharvest, it depends upon  
18 the status of the stock. Stocks that are healthy,  
19 for example the Gulf of Mexico blacktip, we would  
20 add the quota back on, up to 50 percent. So, if the  
21 quota was a hundred metric tons, we could add on the  
22 underharvest up to 150 and then it would be capped.

23 And that's similar to how ICCAT now manages bluefin  
24 tuna and swordfish. For species that are

1 overfished, such as the sandbar shark, we would not  
2 add the underharvest on until they were fully  
3 rebuilt. And so that would be overfished, if  
4 there's overfishing occurring, or if the status is  
5 unknown.

6 So, that's the same for Alternatives  
7 2, 3 and 4, 4 being our preferred alternative. And  
8 Alternative 5 is closing the fishery, so all species  
9 are prohibited and there are no commercial quotas.

10 Moving on to commercial retention  
11 limits, under Alternative 1 it's our current  
12 management measures, which is 4,000 pounds dressed  
13 weight, large coastal sharks, trip limit for the  
14 directed permit holders, and an unlimited number of  
15 small coastals or pelagics up until the quota is  
16 caught. For incidental permit holders, they're  
17 limited to five large coastals and 16 pelagic and  
18 small coastals combined per trip.

19 In this case there are different  
20 alternatives, for all of -- different range  
21 retention limits for all of them. Under Alternative  
22 2, this is the alternative where only the directed  
23 permit holders can land. Directed permit holders  
24 could land eight sandbar sharks per trip and 21 non-

1 sandbar sharks per trip, and status quo for small  
2 coastals and pelagics.

3           Incidental permit holders could not  
4 retain any sharks. Only for this alternative,  
5 pelagic longliners would not be allowed to retain  
6 sandbar sharks, whether they're a directed permit  
7 holder or not.

8           And for all of the remaining  
9 alternatives, 2, 3 and 4, sharks would need to be  
10 landed with their fins on. Currently there is the  
11 five percent ratio. The weight of the fins cannot  
12 exceed five percent of the weight of the carcasses.

13          Under this alternative, the fins would remain on.  
14 They could take the head off, gut the shark, bleed  
15 the shark. They could cut the fin slightly so they  
16 can fold it over on the body to help with packing  
17 purposes, but the fin must remain attached to the  
18 shark with skin.

19           For Alternative 3, this is the  
20 alternative where now incidental permit holders can  
21 land as well as directed. So, that means the trip  
22 limit is reduced and it's reduced to four sandbar  
23 sharks per trip and ten non-sandbar large coastal  
24 sharks per trip. Once again, status quo for the

1 small coastals and pelagic groups for both permit  
2 holders and keeping the fins on.

3 For the preferred alternative, the  
4 shark research fishery, we are establishing  
5 essentially two different groups. For vessels who  
6 are interested in participating in the research  
7 fishery, they would apply once a year, similar to  
8 how they do that for exempted fishing permits.  
9 Excuse me. And based on the research needs of that  
10 year, where we need the fishery to happen, what  
11 regions, what seasons, how many fish we need for  
12 statistical purposes, we would pick ten of those  
13 vessels, approximately.

14 If you assume that those vessels are  
15 landing the 4,000 pound trip limit under the current  
16 regulations to fill the 116 metric ton sandbar  
17 quota, that's about 92 trips. So, that's about what  
18 we're working with right now is 92 trips allowed to  
19 land sandbar sharks.

20 Outside of the research fishery,  
21 permit holders would be allowed to land 22 non-  
22 sandbar large coastals. They would not be allowed  
23 to land any sandbar sharks. The trip limits for  
24 small coastals and pelagics are the same. The fins

1 must be on.

2 The other important thing to note  
3 about this is within the research fishery, they must  
4 have an observer on board. So, it's a hundred  
5 percent observer coverage in the research fishery.  
6 And this research fishery we're establishing in  
7 order to keep the databases going, collect logbook  
8 data, collect observer data and dealer data so we  
9 can still assess the stock again. Without that  
10 data, all of our current databases sort of stop, and  
11 we'd be starting a new one.

12 And of course under Alternative 5,  
13 there would be no retention of sharks.

14 Those trip limits pretty much in my  
15 opinion are the heart of the major changes we're  
16 making. For time/area closures, we're maintaining -  
17 - status quo is maintaining the current closures, so  
18 that includes the pelagic longline closures, the  
19 Madison-Swanson, Steamboat Lumps, and the Gulf of  
20 Mexico; the bottom longline closures in the  
21 Caribbean for SFA purposes; and also our bottom  
22 longline closure off the State of North Carolina.

23 For Alternatives 2, 3 and 4, we would  
24 be maintaining those closures, and then also to help

1 the enforcement of the Marine Protected Areas  
2 preferred by the South Atlantic Council, we'd be  
3 preferring those eight bottom longline closures, as  
4 well.

5 And then under Alternative 5, all of  
6 the oceans are closed, so it's one big time/area  
7 closure. And this is just a map showing those eight  
8 MPAs for the South Atlantic Council. They're pretty  
9 small compared to the ones we do for HMS.

10 For reporting, status quo, we try to  
11 maintain five to eight percent observer coverage  
12 throughout the fishery. There's logbook reporting.

13 There's dealer reporting twice a month, reporting  
14 both what you take in and if you're not taking in  
15 anything. We use the dealer reporting to monitor  
16 the quota.

17 Under Alternative 2, we would be  
18 changing the dealer reporting from twice a month to  
19 reporting 24 hours after receiving sharks. So, it's  
20 a big jump up under the reporting under that  
21 alternative. And that's just because the directed  
22 permit holders could be potentially landing a lot of  
23 sharks, and we want to make sure we're not exceeding  
24 the quota.

1                   It would be the status quo for  
2 logbooks and observers. And this is true for all  
3 the Alternatives, 2, 3 and 4, to help with quota  
4 monitoring purposes, we would consider any sharks  
5 that are reported as just shark and not a species,  
6 as sandbar shark, and that is because the sandbar  
7 shark quota is the smallest. If people aren't  
8 reporting what sharks they're landing, we're not  
9 sure what it is. So, to be precautionary, we'll  
10 assume that it's sandbar shark.

11                   And that's just for quota monitoring  
12 purposes. For the stock assessment, they will  
13 continue to try to weed out those unclassifieds and  
14 put them in as species specific landings using the  
15 observer reports.

16                   Alternative 3 would change the dealer  
17 reporting to being received by NMFS within ten days.

18                   Right now it's postmarked within ten days. And the  
19 main reason why we're changing this is for some  
20 reason we've having trouble with the post office  
21 when they -- when they see a prepaid postage paid  
22 envelope, they don't postmark it. So, between that  
23 and the fact that a lot of dealers fax in the  
24 reports, we don't often have a postmarked date. So

1 now we are just changing it to a received date. And  
2 then similar to Alternative 2, the logbooks,  
3 observers, unclassified sharks, would all be the  
4 same.

5 For Alternative 4, preferred  
6 alternative, the research fishery, we would have the  
7 observer reports a hundred percent on those shark  
8 research vessels and then the dealer reports, once  
9 again, received within ten days.

10 Alternative 5, we still want to have  
11 some data to maintain stock assessments, even if the  
12 fishery is closed. However, we fully expect that if  
13 we close the fishery, people would give up their  
14 shark permits and therefore we in HMS would no  
15 longer have the link, so we would need to work  
16 closely with the Councils and with the Science  
17 Centers if we went with Alternative 5 to ensure that  
18 we could still get shark landings reported in the  
19 logbooks and on the discard forms and still have  
20 observers in fisheries where we need them.

21 Otherwise, we wouldn't be able to assess the stock.

22 Moving on to the commercial seasons,  
23 currently we have three seasons, January through  
24 April, May through August, September through

1 December. We feel that this gives us some  
2 flexibility, and the over and underharvests of the  
3 quota are counted for on a season-specific basis.  
4 So, if it happens in the first season, it's  
5 accounted for in the first season of the following  
6 year.

7 Under Alternatives 2, 3 and 4, we  
8 would change it to one season. And part of this is  
9 because we're essentially, even for the directed  
10 permit holders, setting up an incidental fishery.  
11 If we do not have the season open all year, all  
12 those sharks they catch would be discarded and we  
13 don't want them to be discarded. If they're coming  
14 into the boat dead, we would rather they land them  
15 and report them.

16 So, the trip limits we established  
17 earlier in the presentation were established with  
18 the intent of leaving the fishery open the entire  
19 year. However, we are setting up -- in case the  
20 quota is met -- it might be, we're making so many  
21 changes, it's hard to tell -- where we would close  
22 both the sandbar and non-sandbar large coastal  
23 fisheries together when either one of those quotas  
24 reach 80 percent. And we would also, instead of the

1 current practice of announcing the closure date  
2 ahead of time, we would monitor the quota and  
3 announce it five days from date of filing the notice  
4 -- at least five days from date of filing the notice  
5 in the Federal Register. This is a change from  
6 current practice and we are specifically asking for  
7 comments on both the 80 percent and the five days.

8 Bluefin tuna fishery closes within  
9 three days. We're wondering if we need fewer days  
10 or if we should have more days' notice for the  
11 fishermen. We're thinking 80 percent is a good  
12 stopping point in terms of the data that we're  
13 getting from dealers. We only get it twice a month.

14 By the time we know it's getting close to a hundred  
15 percent, they've already had two additional weeks of  
16 fishing. We would also have the 80 percent and the  
17 five days, change that for pelagics and small  
18 coastals, as well. And of course Alternative 5, no  
19 fishery, no season.

20 We currently manage in terms of  
21 regions three regions, the North Atlantic, South  
22 Atlantic and Gulf of Mexico. We did that as well to  
23 increase flexibility for us as managers, but also  
24 because the North Atlantic states have fewer sharks

1 in the winter than the Gulf of Mexico and South  
2 Atlantic. So we were trying to adjust for that. As  
3 with the seasons, we are switching to -- proposing  
4 to switch to one region, similar -- and we're having  
5 the season open all year. We're not planning on  
6 closing the fishery.

7 The recreational measures, currently  
8 it's one shark of any species that's greater than  
9 four and a half feet fork length, with the exception  
10 of one Atlantic sharpnose and one bonnethead per  
11 person per trip. Recreational fishermen are not  
12 allowed to land any of the prohibited species. It's  
13 the same commercial and recreational. We are  
14 proposing, both for Alternatives 2, 3 and 4, to  
15 change this slightly. The bag limits would remain  
16 the same, but we are now changing it to allow  
17 recreational anglers -- and keep in mind a lot of --  
18 some people are very good at ID'ing sharks, but  
19 other people go out once, twice a year. They really  
20 don't know how to identify their sharks very well.

21 So, we are trying to pick species  
22 that we feel are doing reasonably well in terms of  
23 status and that have some sort of good marking  
24 mechanism that we feel anglers could pick up on

1 easily. So, that would be bonnethead sharks,  
2 Atlantic sharpnose, nurse, tiger, lemon, the  
3 hammerheads, shortfin mako, common thrasher, oceanic  
4 whitetip and the blue sharks.

5 As you can see, we've removed from  
6 the list sandbar sharks. We've removed blacktip and  
7 spinner sharks.

8 For those of you who might be aware,  
9 currently this week is the review workshop for small  
10 coastal sharks. At the assessment workshop,  
11 preliminarily it looks like blacknose sharks are not  
12 doing very well, so for the time being we did remove  
13 blacknose sharks from this list, as well.

14 We are asking specifically for  
15 comments on this recreational list. Should we add  
16 additional species? Should some of these species be  
17 taken off the list? And we are hoping for comments  
18 on that, as well.

19 And then of course Alternative 5 is  
20 catch and release only in the recreational fishery.

21 The impacts of our preferred  
22 alternative, we are expecting positive ecological  
23 impacts from all of this. We are reducing the  
24 landings of sandbar sharks from about 728 to 116

1 metric tons. That's the commercial fishery. We are  
2 expecting sandbar shark discards to increase,  
3 because people wouldn't be able to land them who  
4 normally do. But that increase we feel is offset by  
5 the large reductions in the landings.

6 For non-sandbar large coastals,  
7 discards are reduced substantially. And more  
8 importantly, for dusky sharks, discards are reduced  
9 substantially from 33 metric tons to nine metric  
10 tons.

11 Porbeagle sharks, as I mentioned in  
12 the beginning, we are prohibiting those or proposing  
13 to prohibit them. And we aren't expecting too many  
14 impacts on that, because we as a country do not  
15 language a lot of porbeagle sharks.

16 Economic impacts, however, due to the  
17 large reductions we're proposing in any of the  
18 alternatives, we are expecting large economic  
19 impacts. For the preferred alternative, it's about  
20 1.8 million a year fishery-wide. The fishermen who  
21 apply for and get into the ten-vessel research  
22 fishery would have some benefits over the fishermen  
23 who aren't, but that is just for one year. Every  
24 year they would need to apply. It could be a

1 different group of fishermen every year.

2 The incidental permit holders also  
3 would be getting some benefit. Right now they're  
4 limited to five large coastals. Under the preferred  
5 alternative they would be getting 22 large coastals,  
6 which is not sandbar sharks, but it's still an  
7 increase over the five.

8 In terms of you all as a Council, we  
9 are expecting a lot of the fishermen to leave the  
10 fishery or because most of the sharks they're  
11 landing are now basically incidental landings. We  
12 are expecting them to transfer into other fisheries,  
13 and that is something as a Council I would be  
14 interested in hearing where you think they might be  
15 moving.

16 This next slide gives you an  
17 indication of how many permit holders we have. 231  
18 directed, 298 incidental and 269 dealer permits.  
19 Not that many are active. We have 129 directed  
20 active vessels and 62 incidental who are active, but  
21 we would expect those active permit holders to be  
22 impacted by our proposal.

23 Most of our permit holders are in  
24 Florida, New Jersey and North Carolina, certainly

1 not all of them. And most of the dealers are in  
2 Florida, and both Carolinas.

3 Besides sharks, we are doing a couple  
4 others things. We have a couple of alternatives in  
5 terms of the timing of shark stock assessments and  
6 the timing of the release of our Stock Assessment  
7 Fishery Evaluation or SAFE Report. We are proposing  
8 to update the dehooking requirements for smalltooth  
9 sawfish, which is on the Endangered Species list.  
10 And two things we're also hoping to clarify is that  
11 dealer reports need to be species specific. They've  
12 needed to be species specific since we implemented  
13 this in '93. For some reason, we still have a lot  
14 of unclassified species, but between the shark  
15 dealer ID workshops, our proposal that all  
16 unclassified sharks are counted as sandbar sharks,  
17 and the clarification for making this rule, we're  
18 hoping to start having species specific reports.

19 We are also hoping to clarify the  
20 definition of who needs a dealer permit. The  
21 current regulations say that persons who buy sharks  
22 from a fishing vessel need a dealer permit. When we  
23 implemented the shark ID workshops for dealers, we  
24 started getting a lot of questions and realized a

1 lot of these dealers actually are more like  
2 wholesalers. They buy their sharks from another  
3 dealer, not from the vessel. So, we are trying to  
4 clarify it. I'm very interested in hearing comments  
5 on this topic, to be a first receiver, so we're  
6 proposing that persons or entities who take  
7 immediate possession for commercial purposes of  
8 sharks off of a fishing vessel would be the shark  
9 dealer. That's not meant to be a major change.  
10 It's really just meant to clarify who's supposed to  
11 be the dealer. But we might need to tweak that a  
12 little bit as we go into the final rule.

13 So, for the stock assessments and the  
14 SAFE Reports, currently stock assessments for sharks  
15 are supposed to be done every two to three years.  
16 Science and Technology has put out that it might be  
17 better to conduct them at least every five years.  
18 Also, in terms of sharks, if the stock assessments  
19 are done every two to three years, you have a stock  
20 assessment, it takes us two years to put in  
21 management. You do the stock assessment again and  
22 you don't know what impact the management measures  
23 have had on the stock. So, you go through the whole  
24 thing again. If it's at least every five years,

1 we're hoping to at least have one or two years under  
2 the new management regime into the assessment.

3 For the SAFE Reports, the current FMP  
4 requires we release it in January or February each  
5 year. We often don't make that time frame for  
6 various reasons. Part of that is because the  
7 Science Centers are working so hard to get the  
8 numbers ready for the next ICCAT and for the  
9 national report that we just don't have those  
10 updated numbers in January and February. So, we are  
11 proposing to move having the SAFE Report released in  
12 the fall of the year. This is also when we work on  
13 the national report for ICCAT. So, all of those  
14 numbers I would hope would be the same, what we  
15 report to ICCAT and what we put in the SAFE Report.

16 We are not expecting either one of  
17 these alternatives to have large ecological or  
18 economic impacts. The stock assessments could have  
19 variable economic impacts depending on the  
20 assessment. If it's an assessment like the current  
21 one we have for sandbar sharks, obviously the  
22 fishermen are going to be affected for a longer  
23 period of time, through the next stock assessment.  
24 If it's an assessment that's fairly positive, it

1 will actually help the fishermen, because they would  
2 have a more consistent management regime.

3 For the dehooking requirements for  
4 smalltooth sawfish, when we put the management  
5 measures in place for smalltooth sawfish in 2003,  
6 Office of Protected Resources didn't have enough  
7 data to find out if removing a hook from a sawfish  
8 would cause more damage, so they just wanted us to  
9 remove as much gear as possible, keep the fish in  
10 the water and release it.

11 In March of this year, they told us  
12 they have data. They now want the hooks removed  
13 from the sawfish, so we are proposing to do that.  
14 We would also be covering how to remove hooks from  
15 sawfish in our Protected Species ID Handling and  
16 Release Workshops that all directed and incidental  
17 permit holders are required to attend.

18 This is the list of where we're  
19 having public hearings. We're having ten public  
20 hearings. We are also trying to meet with all of  
21 the Councils. So, again, thank you for this  
22 opportunity to meet with all of you. And we will  
23 also be having our Advisory Panel meeting. Right  
24 now we are expecting the first week of October. The

1 comment period for this rule ends October 10th, so  
2 we would appreciate any comments by then. And if  
3 you need to or would like to, you can submit  
4 comments to Michael Clark, in either paper or via  
5 email at shark82@noaa.gov. You can also submit them  
6 via fax.

7 And that's all I have for you, so if  
8 you have comments, I would love to hear them.

9 COUNCIL CHAIR PETER JENSEN: Thank  
10 you. Mr. Augustine.

11 PAT AUGUSTINE: Thank you, Mr.  
12 Chairman. Great presentation, Karyl. Appreciate  
13 it. Some glaring points come out that I really  
14 think we need some answers to. Why are we going to  
15 still allow 60 metric tons for display purposes,  
16 where in past years it's been 60 metric tons? Would  
17 that not also be another place to reduce a few  
18 metric ton and save a few more fish? Then I have  
19 some other questions.

20 KARYL BREWSTER-GEISZ: We do have the  
21 60 metric tons. We've never had that taken by  
22 sharks, but we are putting in those measures, as I  
23 said before. The dusky sharks, we would no longer  
24 be issuing anything for dusky sharks. And for

1 sandbar sharks, we'd only be issuing up to two  
2 metric tons dressed weight. So, the other species  
3 for display, a lot of aquariums, for example, like  
4 sand tiger sharks, so it's prohibited for commercial  
5 and rec, but we do allow a limited number of those  
6 species.

7 PAT AUGUSTINE: Okay, thanks. And a  
8 follow-on question would be has anyone assessed the  
9 regional effect if you only have one region? If I  
10 understand it correctly, if we go from three regions  
11 and you look at the dates that the seasons are open,  
12 the Gulf of Mexico doesn't open until September and  
13 it closes in September. And if we were to have one  
14 region, meaning I guess from top to the bottom on  
15 the east coast and around the Gulf of Mexico, it  
16 would seem to me that as we approached 80 percent,  
17 if no fish have been allowed to be caught in the  
18 Gulf of Mexico, wouldn't we be disadvantaging that  
19 group of fishermen, in addition to reducing to a far  
20 fewer number of potential fishermen if we went to a  
21 shark research program?

22 KARYL BREWSTER-GEISZ: So, you are  
23 asking about our reasons for switching to one region  
24 versus the three?

1 PAT AUGUSTINE: Yeah.

2 KARYL BREWSTER-GEISZ: If you look at  
3 the quotas -- for example, the quota of 116 metric  
4 tons for sandbar, splitting that up between three  
5 regions, pretty small amount to begin with. The  
6 regions would be even smaller.

7 Secondly, we are trying to establish  
8 this so the fishery will be open all year round.  
9 So, there would be hopefully, fingers crossed, no  
10 opening, no closing of the seasons in the Gulf of  
11 Mexico or the North Atlantic or the South Atlantic.

12 PAT AUGUSTINE: Follow-on to that,  
13 Karyl. Thank you for that explanation. But then  
14 again, wouldn't we get into a situation where we  
15 have a race for the fish? Because some of these  
16 shark fishermen, whatever they land is a relatively  
17 large amount of their income, as we understood it,  
18 having attended the HMS program that you had down in  
19 Washington. It would just seem to me that you're  
20 going to continue -- they're going to be fishing for  
21 other fish, that we're going to have -- although you  
22 indicated an increase up to about 13 metric tons,  
23 that doesn't seem logical that if we take 129 people  
24 or whatever that number is out of the fishery, that

1 you're only going to have an additional five or six  
2 metric ton of discards. So there seems to be a  
3 disconnect there. So, could you follow up on that?

4 KARYL BREWSTER-GEISZ: I will try.  
5 We are trying to establish the trip limits, as I  
6 said, to keep them open all year. The fishermen  
7 right now can land 4,000 pounds of large coastal  
8 sharks. In the Atlantic, most of that pounds per  
9 trip are sandbar sharks. In the Gulf of Mexico,  
10 it's a little more evenly split between sandbars and  
11 blacktips.

12 Because they are not allowed to land  
13 sandbar, they can go out fishing, but we're finding  
14 through observer coverage that many fishermen -- for  
15 example, in the snapper/grouper fishery in the Gulf  
16 of Mexico, where many of our permit holders fish,  
17 they do not have the sandbar discards that they have  
18 in the Atlantic. They're mostly blacktip or small  
19 coastal shark discards. So, we're not expecting a  
20 large increase in discards for sandbars based on  
21 those observer coverage reports.

22 PAT AUGUSTINE: That helps. Thank  
23 you. And then one final one. Are you all going to  
24 look at the five percent on weight -- body weight

1 versus fins? As we recall, there was a situation  
2 developed with a couple of fishermen in the State of  
3 North Carolina that in fact had shark fins that  
4 weighed more than five percent, even though they had  
5 the bodies there. And then just a follow-on to that  
6 would be if you have to take the whole shark in --  
7 carcass in and you can discard the head, would we  
8 assume then that the five percent would have to be  
9 from the carcass that you bring in, that the fins  
10 could weigh, or would it be advantageous or more  
11 clear if we stated that all sharks should be brought  
12 in full body so that the five percent would weigh  
13 against the full body?

14 It just seems to me there needs to be  
15 some clarification here so we don't get into a  
16 similar situation that the North Carolina fishermen  
17 apparently had, whether it was legal or illegal, but  
18 there was some concern there.

19 KARYL BREWSTER-GEISZ: The five  
20 percent, we implemented the five percent in '93, and  
21 that is effective for the carcass log, so that's the  
22 log without any fins and without any head right now.

23 In 2002, we implemented the Shark  
24 Finning Prohibition Act, which is Congressional law,

1 put in the five percent mandatory for everybody. We  
2 have had concerns from a number of dealers,  
3 including those in North Carolina, that the way they  
4 dress the sharks when they land the log,  
5 particularly if they're removing the belly flaps,  
6 for example, it's not going to meet the five  
7 percent. They're going to have much higher ratios.

8 We can't change the five percent. That's done  
9 through Congress. What we can do, however, to help  
10 those fishermen is require them to keep the fins on.

11 By keeping the fins on, enforcement comes to the  
12 dock, sees a whole bunch of sharks with fins on, not  
13 a problem. They're going to try to weigh the shark.

14 However, if they do go on the boat and they see a  
15 pile of shark fins separated from the shark, that  
16 would be a violation. And then if it exceeds the  
17 five percent, that would be an additional violation  
18 on top of that.

19 PAT AUGUSTINE: Thank you. One final  
20 comment. The committee will be making a  
21 presentation to the Council that we will respond to  
22 Amendment 2. Our Chairman and I and Tom Hoff have  
23 talked about it, and so our committee will have an  
24 opportunity to address the concerns that I think I

1 noted and some that they may have in addition. So,  
2 look forward to comments from the Mid-Atlantic  
3 Council. Thank you.

4 KARYL BREWSTER-GEISZ: Thank you.

5 COUNCIL CHAIR PETER JENSEN: Mr.  
6 Smith.

7 RON SMITH: What are you doing on --  
8 for educational outreach for the recreational  
9 fishermen, for getting ID and management measures to  
10 them?

11 KARYL BREWSTER-GEISZ: Well, we have  
12 our shark ID guide, which we try to hand out and  
13 make sure it's known. People can buy it from Rhode  
14 Island Sea Grant. We also have the shark  
15 identification workshops, which are mandatory for  
16 the dealers, but are -- anybody can go to those  
17 workshops and get a lesson on how to identify the  
18 sharks. They're open to everybody.

19 Additionally, for this rule in  
20 particular, we're thinking if we can limit the  
21 number of species, we'd be able to create a brochure  
22 or card with those species that you can land on it,  
23 and mail them off to all permit holders. We do have  
24 -- I believe it's around -- I don't know the exact

1 number, around 30,000 angler -- they are required to  
2 have an angling permit, so we have around 30,000 of  
3 them. And we would be able to get brochure with the  
4 specific species they can land on that.

5 And then of course we would request  
6 help from our Councils, Commissions, the different  
7 states, to help get the word out, as well.

8 RON SMITH: I'm from Delaware and I  
9 know that Delaware Bay is an important pupping and  
10 juvenile nursery area for sandbar sharks. And my  
11 perception is that recreational anglers don't have a  
12 clue as to the importance of the poor condition of  
13 the sandbar shark population, and I would recommend  
14 that you prepare some kind of flier, bulletin, card,  
15 whatever, that could be given. Delaware's going to  
16 start a recreational salt water license beginning in  
17 2008 -- that it be handed out with everybody that  
18 gets a license, that you have to -- if you can't  
19 supply ID cards and tell them about workshops and  
20 all because most recreational anglers that I'm  
21 familiar with, they don't know they have to have a  
22 permit. They don't differentiate between sandbar  
23 sharks and sand -- just the sand sharks, in other  
24 words, the small dogfish, or the sand tiger shark,

1 which is another common shark in the Delaware area.

2 KARYL BREWSTER-GEISZ: We would be  
3 happy to provide you plenty of brochures and  
4 information to hand out to those anglers.

5 COUNCIL CHAIR PETER JENSEN: Mr.  
6 Ruhle.

7 JAMES RUHLE: Thank you, Mr.  
8 Chairman. A couple questions. First one is on this  
9 shark fin still being attached. At what point can  
10 it be detached? How far down the sale process does  
11 that go? That's the first question.

12 KARYL BREWSTER-GEISZ: It can be  
13 taken off at landing. Once they land the shark,  
14 they can start removing the fins and they can work  
15 it out -- it would be an arrangement between them  
16 and the dealer whether the dealer is going to be  
17 removing the fins or whether they should be removing  
18 the fins before selling it to the dealer.

19 JAMES RUHLE: So, there'd be no  
20 stipulation that any kind of enforcement agent would  
21 have to be on hand to do that? Let me visualize  
22 this. There's a hundred sharks laying on the dock  
23 from a boat, fins attached. Dealer says: now  
24 they're my sharks. So the finning takes place, and

1 they're all thrown into a pot. And maybe another  
2 boat comes in, does the same thing. How do you  
3 determine which fins came off of which shark?

4 KARYL BREWSTER-GEISZ: Once they're  
5 removed, it's very hard to match them. But that's  
6 the situation we're in currently on the boats, where  
7 enforcement gets on a boat and there's a pile of  
8 shark fins, and they're trying to match the shark  
9 fin to the shark. And sometimes they match and  
10 sometimes they don't. So, we are hoping -- and this  
11 is per the request of enforcement -- to keep the  
12 fins on.

13 JAMES RUHLE: That explains it then.

14 Of course, the five, ten percent, as Mr. Augustine  
15 referred to, is an issue and there's quite a  
16 discrepancy in that. This may in fact reduce that.

17 But I can't help but comment on this. It's been  
18 less than 20 years ago that the agency was actively  
19 promoting development of the shark fishery.

20 Actively. They came and had classes, had  
21 demonstrations on developing gear and basically  
22 enticed the industry to get into it.

23 So, the question is where was the  
24 failure? Did the agency underestimate the fishing

1 power and the ability of commercial fishermen, or  
2 did they underestimate the biomass and have  
3 extremely poor science to make the determination and  
4 recommendations they've done? It's got to be one of  
5 the two, and I'm wondering which one it is.

6 KARYL BREWSTER-GEISZ: I was not in  
7 the agency back when they were promoting. I'm not  
8 sure exactly what was going on at that time. From  
9 things that I have heard, the agency was promoting a  
10 small meat market and was not expecting the fin  
11 market that happened, and the fact that fishermen  
12 were finning. They also -- I don't believe anyone  
13 in the '70s really understood the extent to which  
14 the life history characteristics of sharks makes  
15 them susceptible to overfishing and becoming  
16 overfished. And I do know that since I've come on,  
17 sharks have been overfished and we have been  
18 reducing the quota pretty much with every stock  
19 assessment.

20 JAMES RUHLE: With that said, you  
21 have to -- nobody can disagree that the shark  
22 management plan has been a complete failure since  
23 day one. Since day one. This is something that --  
24 I don't know where the blame lies, whether the

1 ability of the fishermen to stay three steps ahead  
2 of the science or the science was incorrect to start  
3 with, but neither here nor there.

4 My recommendation, not necessarily  
5 here, but my recommendation at the public hearings  
6 is a complete shutdown of this fishery right across  
7 the board. No catch by anybody at any time. No  
8 retention -- well, the catch is going to take place.  
9 No retention by anybody at any time. If you're  
10 talking about time frames of 100 to 400 years, I  
11 could care less. Honest to God. I'm not worried  
12 about 400 years down the road which shark population  
13 is going to be at what level.

14 But the industry has taken severe  
15 cuts all the way along the line. Come out and say  
16 to them it's over, don't expecting anything else in  
17 the near term. Don't drag them along thinking that  
18 it's going to get better. Come right out and say  
19 you're all done, fellas, go home. That's my  
20 recommendation. That's what I will say at the  
21 public hearing. But I appreciate your presentation.

22 COUNCIL CHAIR PETER JENSEN: Further  
23 comments from the Council? Questions?

24 (No response audible.)

1 COUNCIL CHAIR PETER JENSEN:

2 Audience? Jim Fletcher.

3 JAMES FLETCHER: First off, I missed  
4 part of your presentation, but I'm sure that it was  
5 the same horse and pony show that will go on a  
6 number of times. And you need to change your  
7 presentation so it has interest. But the five  
8 percent rule that NOAA has on finning, there are  
9 other countries in the world that are experts on  
10 sharks, and they say between seven and ten percent  
11 fins.

12 So, the question comes up, where did  
13 NOAA come up with the five percent? You're going to  
14 say Congress did it, but Congress didn't do it  
15 without advice. But we'll leave that one laying on  
16 the table.

17 The next question is we're going to  
18 talk about reproduction of sharks. If every person  
19 that's out here in this Long Island Sound swimming  
20 has on suntan lotion and UV blocking, does NOAA have  
21 any idea what that chemical does to the ability of  
22 sharks to reproduce? I would suggest that you study  
23 that, because the meeting before this was on  
24 chemicals and estrogen and their effects on

1 reproduction. NOAA's coming in here saying we have  
2 the solution, but you don't have the answer. And  
3 the answer is the amount of reproduction that's  
4 going on. Apparently you haven't addressed that.

5 The other thing of it is, is on this  
6 shark ID program. I've been told that we as an  
7 industry cannot have a person in that presentation  
8 to video copy the presentation so that we can  
9 reproduce it for our people on the docks. So, I  
10 would suggest that you make video copies of your  
11 presentation so the industry can have more than one  
12 person certified to identify the sharks.

13 To give you an example, if the man  
14 that's on the dock that's landing the fish is sick  
15 and the dealer only sent one person there to that  
16 thing, can he unload a boat? The video would allow  
17 everybody to do it. If a dealer -- for instance, in  
18 Wanchese, North Carolina, has to send five people to  
19 Greenville, North Carolina, to attend a meeting on  
20 September the 16th, does NOAA realize what it costs  
21 them -- that dealer in lost production of those five  
22 men on that day, travel of those five men and  
23 feeding those five men for that day? If they don't,  
24 a video would be cheap.

1                   The other thing of it is you talk  
2                   about the shark populations, and I go back to  
3                   reproduction. Do you understand reproduction in  
4                   sharks? Because apparently NOAA does not understand  
5                   reproduction in dogfish. They have put forth the  
6                   idea that the dog shark spawns pups and then it is a  
7                   two-year period and they spawn pups again. From a  
8                   dumb fishhouse standpoint of dressing a dogfish, if  
9                   I cut that dogfish open and see everything in it  
10                  from an almost mature pup to an egg, I think that  
11                  it's a continual production all the way through the  
12                  system. And apparently NOAA hasn't done any better  
13                  on regular sharks than it's done on dog sharks.

14                 But looking to the future, to say it  
15                 would take 400 years to bring this population back  
16                 up does not make common sense. And if we want to  
17                 talk about reproduction, we increase reproduction in  
18                 humans by doing certain things, is that we can  
19                 chemically induce reproduction to speed it up.  
20                 Basically, hatcheries.

21                 You know, best science is being used  
22                 in other places in the world to bring tuna and other  
23                 species back up. If NOAA's so interested in these  
24                 sharks, why aren't they doing it.

1 And the last thing, you say discards.

2 I will use the word bycatch. And if it's bycatch,  
3 NOAA is supposed to address it. So, anywhere you  
4 have that word discard, change it to bycatch, and  
5 then you tell me under the Magnuson Act how NOAA's  
6 going to address it. Thank you.

7 COUNCIL CHAIR PETER JENSEN: Further  
8 comments, questions? Yes. Come to the microphone,  
9 please.

10 NANCY SOLOMON: My name is Nancy  
11 Solomon. I'm the Director of Long Island Traditions  
12 in Port Washington, New York, here on Long Island.  
13 I wanted to know if you have some fairly  
14 comprehensive data on the numbers of commercial  
15 fishermen that are currently involved in shark  
16 fisheries broken down by state and what the  
17 preliminary -- I'm assuming a preliminary  
18 socioeconomic impact has been done, what that has  
19 shown.

20 KARYL BREWSTER-GEISZ: We do have  
21 that information by state. We didn't present the  
22 whole table here in the presentation, but we do have  
23 it by state in the EIS and we also have it in our  
24 FMP. As I said, the most permit holders are in

1 Florida, New Jersey and North Carolina.

2 COUNCIL CHAIR PETER JENSEN: Further  
3 questions, comments?

4 (No response audible.)

5 COUNCIL CHAIR PETER JENSEN: Thank  
6 you very much for your presentation and we do expect  
7 that our committee will be meeting and providing  
8 more comprehensive comments following your public  
9 hearings.

10 KARYL BREWSTER-GEISZ: Thank you very  
11 much.

12 COUNCIL CHAIR PETER JENSEN: Thank  
13 you. Dr. Weinberg, are you ready? We won't take a  
14 break, but we do need a couple of minutes setup  
15 time.

16 (Brief pause, off the record.)

17 COUNCIL CHAIR PETER JENSEN: Please  
18 take your seats and we will get started. Okay, Jim,  
19 go ahead.

20 \_\_\_\_\_  
21 REPORT ON THE 45th STOCK ASSESSMENT REVIEW COMMITTEE

22 JAMES WEINBERG: Thank you, Mr.  
23 Chairman. My name is Jim Weinberg and I'm the  
24 Chairman of the Stock Assessment Workshop at the

1 Northeast Fisheries Science Center. And I'll be  
2 giving a short summary this morning of the last  
3 SAW/SARC that we had in Woods Hole.

4 In general, the SAW/SARC process is  
5 our stock assessment process whereby we have  
6 external peer reviewers, generally from the Center  
7 of Independent Experts, come in and review our stock  
8 assessments. And at these meetings, the emphasis is  
9 on reviewing the science that's in the assessment.  
10 Then the CIE provides a consensus summary and  
11 individual reports about how they felt about whether  
12 the terms of reference in the stock assessment were  
13 accomplished.

14 Management advice is generally not  
15 included in the SAW/SARC reports, and that advice is  
16 developed generally after the meeting by technical  
17 committees, PDTs, et cetera.

18 The 45th SAW/SARC meeting was held in  
19 Woods Hole from June 4th to the 9th. And on the  
20 left, the list of panelists who are from -- who  
21 reviewed the work are shown. The Chairman, Dr. Mike  
22 Prager, and then we also had three independent  
23 panelists from the Center of Independent Experts.  
24 And as you can see, these experts come from all over

1 the earth, Australia, two from Canada, and this is  
2 typical of the distance that these people travel to  
3 come to review our assessments. So, they truly are  
4 coming in from outside.

5 The two assessments that were  
6 reviewed at this SARC were A, the northern shrimp  
7 stock, and B, sea scallops. The bottom line here is  
8 for each of the two assessments the review panel  
9 accepted both of those assessments. So, the science  
10 that was provided was accepted and is being put  
11 forward as the current best science.

12 The reports are available at a  
13 website shown here, and I understand that my  
14 presentation has also been copied and distributed to  
15 the Council. So, the scientific reports can be  
16 found at this website and you can also find a link  
17 there to the reviewers' reports.

18 What I'll be doing now is to just  
19 briefly summarize what each of the stock assessments  
20 was about and then some of the comments from the  
21 reviewers. And there are many, many details, and  
22 these meetings go on for an entire week. So, in a  
23 30-minute presentation, I won't be giving you all  
24 the -- certainly all the details that went on during

1 the week, but I'll try to give you my view of some  
2 of the most important things that happened. So, at  
3 our stock assessments, we generally have a fairly  
4 complete list of terms of reference and here are the  
5 terms of reference for the northern shrimp  
6 assessment. And they cover everything from  
7 characterizing the commercial catch effort and CPUE;  
8 Number 2, calculate the fishing mortality rate and  
9 the stock biomass; then 3 and 4 get into commenting  
10 on the biological reference points and then  
11 determining stock status. 5 is to do sensitivity  
12 analysis to -- that's basically to understand how  
13 confident one is in the model results.

14 Number 5 is an ecosystem type of term  
15 of reference. We've been adding more of these  
16 ecosystem terms of reference to our single species  
17 stock assessments in order to take advantage of the  
18 extensive food habits database that we have at the  
19 Northeast Fisheries Science Center.

20 And this one, Number 6, has to do  
21 with looking at how many shrimp are consumed by  
22 predators, and then looking at that as a -- it's  
23 sort of a reality check to see if the estimates of  
24 natural mortality that are being used in the single

1 species model make sense. And it's also very good  
2 to do this because it gives us a better  
3 understanding of who the predators are and how the  
4 food web works in the Gulf of Maine.

5 Then Number 7 is we usually put that  
6 in just to provide a linkage between previous  
7 assessments and moving into the future on reviewing  
8 past research recommendations and what progress has  
9 been made.

10 Now moving into a real quick summary  
11 of the scientific assessment, here is a nice map  
12 showing the Gulf of Maine and the commercial catch  
13 and effort of northern shrimp in 2006. So, you can  
14 see that this is very much a Gulf of Maine fishery.

15 And the red dots represent catches, and the blue  
16 squares that are shaded in, the darker the blue the  
17 more effort there was in that square. So, the  
18 effort and catch have taken place largely along the  
19 coast of Maine and some in New Hampshire.

20 Here's a plot going back to 1960 that  
21 shows the commercial landings of northern shrimp,  
22 and there were -- the total is shown in black, and  
23 then it's broken down by state in the various  
24 colors. You can see that the total is usually

1       comprised primarily of landings from the State of  
2       Maine.

3                       And there were very large takes of  
4       northern shrimp back around 1970. Then there was a  
5       fairly stable period in the late '80s and early  
6       '90s. Another large catch around 1996. And since  
7       then, the landings have been quite low among the  
8       close to historical lows, except for the period in  
9       the late '70s.

10                      Now, the surveys that are done are a  
11       combined state/federal survey that's done in the  
12       summer, and the data go back to 1984. And here are  
13       the straight numbers per tow in thousands on the  
14       left, and weight per tow in kilograms in the right  
15       panel. And this is a very interesting pattern. We  
16       had a long period of stability in the survey, and  
17       then, as you can see, in 2005 and 2006 there was a  
18       really big increase in the catch per tow.

19                      Now, this is obviously good news, but  
20       when things happen like this, where you have an  
21       event that seems to be different than your entire  
22       time series, then you have to have some uncertainty  
23       about what it means. And this was certainly  
24       captured in the comments that the reviewers had.

1 They did a lot of checks to see whether or not they  
2 believed that there really was an increase, and for  
3 instance they looked at the catch rates by the  
4 commercial fishermen, and those catch rates had also  
5 increased. So, that was consistent with the survey.

6 They also looked at the spacial pattern of the  
7 survey to see if it was sampling in an unusual way,  
8 and it wasn't. So, it seemed like a valid survey.

9 When you take these data and look at  
10 the estimate of recruitment, that is the shrimp that  
11 are expected to come in in the next year, you can  
12 see that in 2006 and 2007 recruitment is quite high.

13 So, the short-term outlook for fishing on northern  
14 shrimp, it looks like the stock is in good shape  
15 based on these two survey points, '06 and '07. The  
16 stock status is shown in this figure. The fishing  
17 mortality rate is in the upper panel, and the stock  
18 biomass is shown in the lower panel.

19 And the two different models are used  
20 in this stock assessment. The ASPIC model is shown  
21 in blue, and that's not the primary assessment  
22 model. That one is used sort of as a check on the  
23 other model, which the stock assessment people use  
24 as their primary model. So, this model term CSA,

1 that's the one that's their primary assessment  
2 model. They continue to use the one in blue because  
3 it also goes back further in time and they're able  
4 to get some sense of where the stock has been  
5 historically.

6 So, concentrating on these brown  
7 dots, which are from the CSA model, the blue -- I'm  
8 sorry, the red line here is the overfishing -- the F  
9 threshold value, and there have been periods of time  
10 in the mid 1990s where overfishing was occurring;  
11 but in recent times, since about 2002, overfishing  
12 has not been occurring. And I put this green dot on  
13 the most recent point just to focus your attention  
14 on what's going on right now. The rate of fishing  
15 is .03 per year, which is well below the F threshold  
16 of .22. And this is consistent in both models,  
17 which is -- that also adds some confidence to the  
18 conclusion that overfishing is not occurring.

19 And you can see that period in the  
20 '70s when a lot of landings were being taken. The  
21 fishing mortality rates were very high. And again  
22 around 1996, those years, high fishing mortality  
23 rates.

24 Moving on to the biomass of shrimp in

1 the population, there's been a trend for it to be  
2 quite steady and then a slight decline in the period  
3 in the late 1990s, around in the early 2000s,  
4 following the period of high fishing mortality in  
5 the late '90s. And then with those recent large  
6 surveys that we have been seeing, the model is  
7 calculating that the stock has very high biomass,  
8 greater than 70,000 metric tons. And again, this is  
9 indicated in both models that there's been an  
10 increase in the stock recently, but the CSA model is  
11 much more generous. It's indicating that there's a  
12 much higher biomass than the other model, which is a  
13 little -- as models go, it's a little tighter model  
14 and it can't respond as easily to new data points  
15 that come in that are very high. So, in a sense  
16 it's a bit more of a conservative view of what the  
17 stock is doing. But in terms of status, the green  
18 dot is well above the biomass threshold, which is  
19 shown here, and the biomass threshold is 9,000  
20 metric tons. So, as I said, for this stock, the  
21 overfishing is not occurring and the stock is not  
22 overfished.

23 Getting to that term of reference  
24 about the ecosystem and predation, the report has a

1 lot more on this, but it identified a number of  
2 species which are shown here on the left that all  
3 consume pandalid shrimp. And the northern shrimp is  
4 just one species among the various pandalid shrimps.

5 But as you can see, the predators  
6 include skates, hake, cod, and sculpin, sea ravens.

7 It's quite a diverse set of predators. And the  
8 estimate that was made of the consumption per year  
9 of shrimp by these predators is on the order of  
10 40,000 metric tons per year.

11 The report wanted to emphasize in a  
12 number of ways that these estimates are quite  
13 uncertain, but nevertheless, it's clear that shrimp  
14 are a real important prey item to many fish in the  
15 Gulf of Maine, and that the -- although these  
16 numbers are uncertain, they indicate that the  
17 consumption of shrimp by natural predators is well  
18 above the amount that's being taken in the fishery.

19 Now, this has -- also I indicated in  
20 the beginning that one reason for doing this is to  
21 use it as an indicator of whether the natural  
22 mortality rate that's being used is reasonable. And  
23 this was very informative, because it indicated that  
24 in fact natural mortality is probably higher than

1 that that's being used in the assessment model.

2 So, the reviewers suggested that they  
3 took this into account when they were thinking about  
4 the stock status determination and they also  
5 recommend that the next time shrimp is assessed that  
6 work be done to re-estimate the natural mortality  
7 rate, taking into account this new information, and  
8 to use that in the stock assessment.

9 So, some of the comments that were  
10 made by the independent reviewers, in general they  
11 were very pleased with the work. They indicated  
12 that it was completed successfully, that current  
13 abundance is high, but may be overestimated, and  
14 there is a lot of uncertainty about the actual stock  
15 size at this time. All they can really say is that  
16 it's quite high.

17 The assumed natural mortality rate is  
18 very likely too low. It will need to be updated  
19 along with the biological reference points next  
20 time. But what's in this assessment is consistent.

21 The estimate of natural mortality that was used in  
22 the assessment model is consistent with that that  
23 was used in calculating the biological reference  
24 points, so because they match up appropriately, they

1 were able to determine the stock status.

2 The reviewers felt that -- they were  
3 suggesting that some new biological reference points  
4 might be considered, but that they felt that  
5 sticking with those that are being used at this time  
6 were adequate because there's really not much market  
7 demand right now for shrimp, and the stock size is  
8 high. So, they felt that using the current approach  
9 presents a minimal short-term risk to the  
10 population.

11 And then finally here, the fish are a  
12 major source of predation on shrimp, and these  
13 consumption estimates need to be better refined.  
14 And they recommended here just five things that I  
15 picked out that I feel have pretty high priority for  
16 the next assessment: Re-estimate the natural  
17 mortality rate and recompute the reference points;  
18 continue to use the consumption estimates to bound M  
19 -- M is the natural mortality rate -- and refine the  
20 consumption estimates.

21 In northern shrimp, the target and  
22 the threshold overfishing reference points are equal  
23 to each other, and they recommended that it would be  
24 better to have a buffer between them. They also

1 suggested that a more detailed model might be  
2 appropriate, and that's something to -- for the  
3 assessment scientists to explore next time.

4 And then there are always calls for  
5 getting better data. So, that's what this bottom  
6 one is about, looking at the size class selectivity  
7 during the survey, getting better estimates on  
8 discards and on survey catch -- sorry, the  
9 commercial size composition. So, that takes care of  
10 the northern shrimp and now I'll basically run  
11 through a similar set of slides for sea scallops.

12 The terms of reference were similar.

13 Here there are seven of them. A difference here is  
14 that Number 6, they were asked to provide numerical  
15 examples of projection -- short-term projections of  
16 what the scallop population would be doing in the  
17 next two to three years. And they were also asked  
18 in Number 3 to either update or redefine the  
19 biological reference points as appropriate. And  
20 then they have all the usual ones about describing  
21 the commercial landings, using a model to estimate  
22 fishing mortality rate and biomass, et cetera.

23 Here's a figure that shows the  
24 catches from the 2006 scallop survey, and the red

1 dots are the really big tows. You can see that in  
2 the Elephant Trunk area there are very large  
3 catches. The other large catches are in the Great  
4 South Channel and on the northern edge of Georges  
5 Bank. And it appears that there are also some very  
6 -- there were large tows taken in Canada, also on  
7 the northern edge of Georges Bank.

8 The commercial landings of sea  
9 scallop, you can see that they've increased -- there  
10 have been cycles, but they've increased a lot since  
11 the 1960s. Most of the landings are taken either on  
12 Georges Bank or from the Mid-Atlantic region. And  
13 throughout the 1970s and '80s and '90s, often more  
14 were taken from Georges Bank than from the Mid-  
15 Atlantic. But since about 19 -- around 2000, the  
16 landings from the Mid-Atlantic have been the  
17 majority of the landings for sea scallop. And in  
18 2006, a lot of landings were taken again from  
19 Georges Bank, and this had to do with some closure -  
20 - this fishery is managed by closing and opening  
21 areas. So, a lot of the landings have to do with  
22 now when -- during these rotations when areas open  
23 or close.

24 The biomass reference points for sea

1 scallops were revised in this assessment, and so  
2 this slide talks about what's new in the  
3 calculation. The current value for the biomass  
4 target was derived from older life history and  
5 selectivity information, and an estimate of  
6 recruitment based only on the survey from the  
7 Science Center. So, the units for the biomass  
8 target -- for the current value are in kilograms per  
9 survey tow.

10 The revised value that's -- or the  
11 proposed or the new value from the latest SARC, it  
12 used all of the most recent life history information  
13 and survey selectivity information. And it also  
14 used a stock assessment model called CASA, which  
15 provides an estimate of recruitment for the entire  
16 stock.

17 So, we're no longer talking about  
18 just using the survey estimate of kilograms per tow,  
19 but now the estimate of recruitment is coming from  
20 an analytical model that is talking about the entire  
21 stock of sea scallops. And the units are therefore  
22 in terms of metric tons of meats for the entire  
23 stock, for sea scallops greater than or equal to 40  
24 millimeters shell height.

1                   In the next three slides, I'll be  
2                   showing you some results about stock biomass. And  
3                   in this first one we're only -- we're using the  
4                   current definition of scallop biomass, and that's  
5                   the one that's based on kilograms per tow from our  
6                   survey. And the current biomass target is shown in  
7                   green and threshold in red. The index, as you can  
8                   see, has increased quite a lot over time and the  
9                   total or the overall value is shown in black, and  
10                  then the blue and the red lines show you  
11                  individually for the Mid-Atlantic and Georges Bank.

12                  And based on the current kilograms  
13                  per tow shown with the green dot, the stock is not  
14                  overfished because it's 7.3 kilograms per tow, which  
15                  is well above the biomass threshold of 2.8 kilograms  
16                  per tow. And in fact at its current value it's even  
17                  a bit above the biomass target.

18                  Now, this shows you status based on  
19                  the current definition. Now, a nice thing is that  
20                  in the next slide I'll show you what the status is  
21                  based on the new biomass definition, and the status  
22                  is the same. So, it's consistent between the old  
23                  and the new definition.

24                  So, the results are shown here for

1 the entire stock now using the new biomass reference  
2 point developed from that CASA model. And the blue  
3 area shows the biomass that's in the Mid-Atlantic  
4 bight, and the white area down below is biomass on  
5 Georges Bank. And currently it looks just  
6 qualitatively about 50 percent is in each of those  
7 areas.

8 You can see that there's been a huge  
9 increase in the overall biomass of sea scallops  
10 since 1997. And a lot of people can take credit for  
11 the success of this fishery, but a lot of it is due  
12 simply to paying attention to the life history of  
13 sea scallops. These sea scallops grow very large if  
14 we let them grow. And that's essentially the very  
15 simple principle that was used to improve this  
16 fishery. And then we've been very fortunate to have  
17 good recruitment to keep the population going.

18 So, looking at the biomass in a  
19 slightly different way, these black dots show in a  
20 probabilistic way how likely we are to be at a  
21 certain level of biomass. So, the top of this curve  
22 here is at 166,000 metric tons of meats, and then  
23 the curve describes how likely we are to be either  
24 larger or smaller than that number. And as you can

1 see, even considering the uncertainty in the biomass  
2 estimates, even the tails don't go down as far as  
3 the biomass target and threshold. So, it's pretty  
4 safe to say that the scallop stock is not  
5 overfished.

6 Now moving on to fishing mortality,  
7 in this graph we have estimates from the CASA model  
8 again of the fishing mortality rate through time,  
9 and the black line indicates overall for the  
10 population; the blue line is for the Mid-Atlantic  
11 alone; and the red line, the dots and dashes, are  
12 for the Georges Bank region.

13 And you can see that the two regions  
14 have slightly different exploitation histories.  
15 Since the 1994 or so, the blue line is well above  
16 the red line. So, the fishing mortality rate on --  
17 in the Mid-Atlantic region has been much higher than  
18 that on Georges Bank. But this stock is assessed as  
19 basically managed as a unit stock and the status  
20 determination is for the entire stock. And when the  
21 modelers combine the assessments from the Mid-  
22 Atlantic and Georges Bank and figure out what the  
23 total fishing mortality rate has been, that's the  
24 black line. And the green dot is currently beneath

1 -- it's below both the current overfishing  
2 threshold and the proposed overfishing threshold.  
3 So, this entire stock -- overfishing is not  
4 occurring in this stock.

5 This graph shows that result again  
6 using the stochastic approach. The green dot shows  
7 the most likely value for what the fishing mortality  
8 rate is. And then the current threshold is shown  
9 here, and the updated threshold from the new  
10 assessment is shown here. And the green dot is to  
11 the left of both of those lines. So, whether you  
12 use the current threshold or the updated one, you  
13 would conclude that overfishing is not occurring in  
14 sea scallop.

15 Now I'd like to just talk a little  
16 bit about the history of recruitment in the sea  
17 scallop population. We still have the same color  
18 code going here. So, the black line is the total  
19 and this dashed green line going across the screen  
20 is the median of the total recruitment through time.

21 In general, for all of these lines, there's been an  
22 increase in recruitment. If you were to squint and  
23 just look at all the lines, even though they get  
24 more variable, there's been an increase in

1 recruitment since the 1980s. But if you look more  
2 closely, there are some patterns here. For  
3 instance, the Mid-Atlantic region, these blue lines,  
4 there have been some huge recruitment events in the  
5 late 1990s and in the 2000s. And Georges Bank had  
6 one big recruitment event around 2000, but it hasn't  
7 had that kind of recruitment that's been seen in the  
8 Mid-Atlantic for a number of years. So, overall the  
9 recruitment has been quite variable. It's increased  
10 on the broad scale over time, and it's kind of low  
11 right now on Georges Bank and most of the good  
12 recruitment has been in the Mid-Atlantic region.  
13 So, that's just something to keep in mind about  
14 thinking about the future.

15 Here are some example projections  
16 that were done. The model that is used to make  
17 these projections takes into account a lot of  
18 detail. It doesn't just consider the stock to be a  
19 huge unit. The projection model actually takes into  
20 account that there are open and closed areas and  
21 that there's this rotational management approach.  
22 So, this is a different model that is used for the  
23 stock assessment. And the general conclusion from  
24 this is that over the next two to three years the

1 biomass should continue to have a gradual increase.

2 Nothing spectacular, but it won't be declining.

3 And also, given the biomass, landings should be  
4 fairly stable moving in through 2009 and 2010.

5 The reviewers also were satisfied  
6 with this assessment. They felt that a lot had been  
7 accomplished since the last stock assessment. They  
8 gave a lot of credit to the people who were involved  
9 with this work for doing so much.

10 They approved the length-based  
11 assessment model that was used, and this model had a  
12 lot of detail in it. It took into account all kinds  
13 of data sources, including the SMAST video survey,  
14 the winter survey, the scallop survey, and all kinds  
15 of life history data. So, it had good precision and  
16 not much bias. They supported modeling the two  
17 areas separately and then combining them. However,  
18 there is an area specific retrospective pattern that  
19 needs further work. It's not a real strong pattern,  
20 but it was seen in the model. And fortunately, when  
21 the two areas are combined, their retrospective  
22 patterns cancel out, so the total stock assessment  
23 doesn't have any retrospective pattern. But that --  
24 nevertheless, that issue is something that's going

1 to require some additional work.

2 The biological reference points were  
3 appropriately recomputed and they felt that the  
4 magnitude of the F benchmark is reasonable compared  
5 to other mortality components. They recommend that  
6 some thought be given to stock recruit based  
7 biological reference points, and they said that F  
8 max may not be the best proxy for FMSY.

9 They made the call to strengthen data  
10 collection in Number 2. Number 3 is dear to all of  
11 our hearts, to maintain a comprehensive dredge  
12 survey of the stock to support future stock  
13 assessments. And Number 4, to support research on  
14 stock recruitment relationships, including  
15 environmental and oceanographic influences.

16 That concludes my summary. Thank  
17 you.

18 COUNCIL CHAIR PETER JENSEN: Thank  
19 you, Jim. I think there may be some questions, but  
20 from up here it's important that we get started at 1  
21 o'clock this afternoon, because we've got some  
22 business that's going to be contentious and take  
23 some time. So, just a few minutes, if anybody does  
24 have questions of Jim.

1 EDWARD GOLDMAN: Thank you. When you  
2 were -- back to the shrimp, when you were looking at  
3 the -- some of the major spikes and increases and  
4 then you showed the predator relationships, has  
5 anybody looked at the fact that like maybe if the  
6 cod stocks or some of those stocks are way down, if  
7 that corresponded with the increase in the shrimp?  
8 Thinking ecosystem.

9 JAMES WEINBERG: Yeah, I think that  
10 those are the sorts of things that Mike Fogarty and  
11 Jason Link are looking at. That was not a term of  
12 reference for this assessment. So, that's why I'm  
13 not talking about it. But people are examining  
14 those kinds of relationships.

15 COUNCIL CHAIR PETER JENSEN: Pat.

16 PAT AUGUSTINE: Thank you, Mr.  
17 Chairman. Great presentation. Question. Spiny  
18 dogfish isn't up there. Do they have an impact or  
19 is that another one of the species under  
20 consideration?

21 JAMES WEINBERG: I don't think they  
22 eat shrimp. It wasn't on the list here.

23 PAT AUGUSTINE: Mr. Calomo would  
24 probably disagree with you, but --

1 COUNCIL CHAIR PETER JENSEN: Any  
2 further questions? We certainly ought to get this  
3 group back again. They came up with a lot of good  
4 news. Vito.

5 VITO CALOMO: Thank you, Mr.  
6 Chairman. I think that was an excellent  
7 presentation, Jim, and once in a while we come down  
8 this road where people from the fishing industry  
9 like myself kind of like your report. And I was  
10 going to say that the fishermen report, as you said,  
11 the same, an abundance of shrimp. Of course, the  
12 market's kind of gone because we've held -- the  
13 Atlantic States Marine Fisheries Commission sea  
14 section on shrimp has held it down, and this  
15 rebuilding has taken place.

16 But going back a little to the  
17 scallops, on Georges Banks, is there any -- in your  
18 report there and your findings, have you seen the  
19 amount of predators such as stars that we've seen  
20 from SMAST, who I work for as Executive Director of  
21 the Massachusetts Fishery Recovery Commission  
22 stationed in New Bedford SMAST, we've seen more  
23 starfish on Georges Bank than we've ever seen in our  
24 history of time. You know, to the public. I mean,

1 we send the cameras down there, we run that sled  
2 down there, a tremendous amount of clappers, too.  
3 You know, fish that are dying, scallop fish that are  
4 dying without being harvested. I think that should  
5 be part of the report that you see that stuff, and  
6 working in conjunction with SMAST, I think it would  
7 help the report. But the report was fantastic. You  
8 had me on the edge of the seat, and that's hard to  
9 do. I enjoyed it, because it was all really  
10 positive -- you know? And they are harvesting the  
11 scallops. They are making a good living doing that,  
12 and that's important.

13 Just to pass this on real quickly,  
14 because I know he wants to get going, but -- and I'm  
15 usually pretty quick -- that's what my wife says,  
16 anyhow. You have an abundance -- an abundance of  
17 dogfish, especially in the Gulf of Maine. You know,  
18 I've been born and raised in Gloucester,  
19 Massachusetts, third generation fisherman -- an  
20 abundance of dogfish that I haven't seen in years.  
21 An abundance of striped bass. I'm just trying --  
22 you left out dogfish that don't eat shrimp, which I  
23 question very strongly, but -- and striped bass, and  
24 we're seeing more pelagic fish up in our area now

1 than I've ever seen, such as mackerel that eat  
2 shrimp. And I'm just wondering about the predation  
3 of the other species that you didn't pick up on.  
4 I'm wondering what part they take. Thanks a lot. I  
5 appreciate it. Thank you, Mr. Chairman.

6 COUNCIL CHAIR PETER JENSEN: I have a  
7 question, Jim. Is there a theory as to why you have  
8 this huge increase in the northern shrimp population  
9 that's unprecedented really?

10 JAMES WEINBERG: I think that they  
11 don't really know. They know that temperature can  
12 have a big effect. Shrimp change sex and it can --  
13 temperature is presumably related to when that  
14 happens. So, that could be one factor. But they --  
15 I really don't -- I'm not an expert on it, so I'd  
16 really be speculating. But I didn't hear an answer  
17 at the meeting.

18 COUNCIL CHAIR PETER JENSEN: Mr.  
19 Fletcher, you can have the last word, and then we're  
20 going to adjourn.

21 JAMES FLETCHER: It's great to hear  
22 good news, but it's also insulting to know why it  
23 came. To tell this Council the truth, I was hoping  
24 that the science would come out and say it. It

1 didn't. There was a gear modification change in the  
2 way they do their survey. That wasn't the whole  
3 reason, but that's part of the reason the good news  
4 came.

5           The other thing is we did not see  
6 what the reviewing scientists actually said. It's  
7 been dressed twice before the comments came back.  
8 So, I don't know. I was told by one of the  
9 scientists that a question on predation by starfish  
10 would be raised. I did not stay at the meeting. I  
11 went to the meeting, but I did not stay there. But  
12 when you look at those figures on Georges Banks and  
13 the amount of predation that is going on, consider  
14 seriously that the closed areas historically  
15 produced 75 percent of the landings of the total  
16 U.S. scallop fishery.

17           So, we're leaving scallops on the  
18 ground, and nowhere in this report does it state  
19 what we are losing in natural mortality of old  
20 scallops that are not being harvested. We are  
21 leaving as many scallops on the ground to die of old  
22 age -- if the figures are correct.

23           The last thing I will say is on the  
24 modeling. This Council should insist that the same

1 model be used throughout the time frame as is being  
2 used to generate these original figures. Because  
3 every time the models change, the industry loses.  
4 These models do not get better. The Council should  
5 insist that the same model that was used at the  
6 start of the plan be used as a reference point every  
7 time forward. This Council model has many, many  
8 problems. I'm not a scientist, but when a dumb  
9 fisherman can see that there's a problem with the  
10 model, an educated scientist should be able to see  
11 that there is a major problem with this new model.  
12 And I asked the Council to ask somebody with enough  
13 sense to point it out to them. Thank you.

14 COUNCIL CHAIR PETER JENSEN: I know  
15 there are other people that want to get in on this,  
16 but it's extremely important that we get back here  
17 at 1 o'clock. And so I'm going to cut it off, and  
18 please be back so we can start at 1 o'clock. We  
19 have one housekeeping announcement.

20 DANIEL FURLONG: Thank you, Mr.  
21 Chairman. This is the first time we've been  
22 together for this meeting. Tomorrow evening we are  
23 having a two-hour reception from 7:00 until 9:00.  
24 This will be across the street at the building where

1 you checked in at the lobby of the restaurant. I  
2 believe we'll be upstairs. If you're here on our  
3 travel orders and you're being reimbursed, we'll  
4 just dun you. Otherwise, we're going to dun you  
5 \$30. This includes an array of cheeses -- I can go  
6 through all this, but I won't -- a bunch of cheese.

7 The hot hors d'oeuvres include chicken wings,  
8 Swedish meatballs, bacon-wrapped scallops -- we just  
9 talked about that. Have a couple pasta stations.  
10 So, it will be very heavy hors d'oeuvres. It will  
11 be your meal. And we're there from 7:00 until 9:00  
12 tomorrow night.

13 COUNCIL CHAIR PETER JENSEN: Okay.  
14 We're adjourned until 1 o'clock.

15 [LUNCH: 12:01 P.M. to 1:02 P.M.]

16 COUNCIL CHAIR PETER JENSEN: Would  
17 everyone please take their seats and we will try to  
18 get started. As is customary with these joint  
19 meetings, Jack Travelstead being the Chair of the  
20 appropriate committee on the Commission side and the  
21 Council side, Jack will be presiding over these  
22 sessions to establish the annual quotas. Jack.

23  
24 

---

FINALIZE SCUP MANAGEMENT MEASURES

1                   FOR 2008 (2009, 2010) IN CONJUNCTION WITH THE  
2                   ASMFC SUMMER FLOUNDER, SCUP AND BLACK SEA BASS BOARD

3                   CHAIR JACK TRAVELSTEAD: Thank you,  
4                   Mr. Chairman. Members of the Council can refer to  
5                   their briefing book behind Tab 5 for the information  
6                   that Jessica will go through shortly. This is the  
7                   agenda item dealing with scup management measures  
8                   for 2008. We're going to continue to operate as we  
9                   have in the past with motions from both groups to  
10                  move ahead. We'll see how well that works and  
11                  hopefully everything will work out in the end.

12                  What we'll do is hear from Jessica  
13                  first with a staff report and the report of the  
14                  results of the monitoring committee. Then we'll  
15                  open it up for questions from the Council and  
16                  committee and then proceed from there.

17                  Any questions at this point?

18                  (No response audible.)

19                  CHAIR JACK TRAVELSTEAD: Seeing none,  
20                  Jessica.

21                  JESSICA COAKLEY: Okay. Good  
22                  afternoon, everybody. As Jack pointed out, behind  
23                  Tab 5 is the information we'll be discussing.  
24                  There's actually a couple of things behind that tab.

1       The first item is a meeting summary and consensus  
2 recommendations from the Scup Monitoring Committee.

3       The second is a memorandum dated July 10th from  
4 myself to the Scup Monitoring Committee, and there's  
5 also a supplemental memorandum. It's just two  
6 pages. It's also dated July 10th to both the  
7 monitoring committee and Council members; and it  
8 talks about the two amendments, Amendment 14 to the  
9 FMP, under the Commission process and the Council  
10 process.

11               So, I'm going to start out with an  
12 overview of the scup management measures, what  
13 they've been in the last few years. Going back to  
14 2001, looking at that first row across at the TAC,  
15 the overall TAC, the TAC increased from 2001 at 8.37  
16 million pounds to 18.65 million pounds in 2003, 2004  
17 and 2005. It increased in 2006 to 19.79 million  
18 pounds, and in 2007 the TAC for federal management  
19 measures is 13.97 million pounds.

20               Now, looking down to the fourth and  
21 fifth row in this table, the commercial quota  
22 adjusted and the commercial landings, in 2001 the  
23 commercial landings were slightly over the  
24 commercial quota for that year, as well as 2002.

1 But since then, in 2003, 2004, 2005 and 2006,  
2 commercial landings have come in under the  
3 commercial quota and for 2007 we don't have the  
4 landings in yet at this point -- the full year's  
5 worth of landings in at this point.

6 Looking further down in the rows to  
7 the recreational harvest limit adjusted and  
8 recreational landings, in 2002 the recreational  
9 landings came in about a million pounds over the  
10 recreational harvest limit. 2003 they were  
11 significantly over the recreational harvest limit,  
12 almost twice what that limit was for that year.  
13 They were a little bit over in 2004 at 4.24 million  
14 pounds, but then in 2005 and 2006 the recreational  
15 landings have come in under the recreational harvest  
16 limit.

17 The commercial fish size since 2001,  
18 and actually a few years before that, has been nine  
19 inches. And in the most recent year, the minimum  
20 mesh size requirements are five-inch mesh  
21 throughout.

22 Now, the current system we're  
23 operating under the FMP, we need to specify a TAC  
24 for the upcoming fishing year and a TAL, and to get

1 from the TAC to the TAL we've got an estimate of  
2 discards that's subtracted away.

3 Now, our assessment of the status of  
4 the stock is based on survey indices. This table  
5 gives us the last ten years worth of survey results.

6 The biological reference points that we use, the  
7 minimum biomass threshold is based on the spring --  
8 the Northeast Fisheries Science Center spring three-  
9 year average, the spawning stock biomass estimate,  
10 which is actually the fourth row across, our minimum  
11 biomass threshold is 2.77 kilograms per tow.

12 Looking down that fourth column, the index values  
13 increased from '97 up to over three in 2001, 2002  
14 and 2003. Now this was a result of a very high  
15 index value in the spring SSB that showed up in  
16 2002. That was actually 9.24 kilograms per tow.  
17 So, when you factor that into the three-year  
18 average, that caused those numbers to rise above  
19 three.

20 In 2004, when that large value  
21 dropped out of the average, the index dropped to  
22 0.69 kilograms per tow. At that point the Council  
23 received a letter in August 2005 that scup was  
24 overfished and that a rebuilding plan would need to

1 be developed for scup. 2005, that estimate  
2 increased to 1.32 kilograms per tow. And in 2006,  
3 that three-year average dropped to 0.76 kilograms  
4 per tow. So, that's our most recent estimate for  
5 the three-year average.

6 Now, looking at this on a graph, you  
7 see the biomass threshold, the three-year average  
8 from 1977 to '79 of 2.77 kilograms per tow. That's  
9 the green line. I've also got the Northeast  
10 Fisheries Science Center, the spring SSB index, the  
11 single year index value is the white line on the  
12 graph. And the yellow line on the graph is the  
13 spring SSB three-year average index value. That's  
14 what we compare to the biomass threshold to evaluate  
15 whether the stock is overfished or not.

16 So, as you can see, in 2002, there's  
17 that spike in the index value that rose up to close  
18 to -- a little over nine kilograms per tow. But  
19 once that value dropped out of the three-year  
20 average, that yellow line dropped down. And in the  
21 most recent year, we've seen a drop in our index  
22 value.

23 Now, in terms of relative  
24 exploitation, this is what we use because we don't

1 have an estimate -- an actual estimate of F in the  
2 current year, we use relative exploitation indices  
3 to evaluate how much fishing effort is taking place  
4 on the stock. So, to calculate this, we take the  
5 landings estimate and the spring SSB three-year  
6 average value as an index of abundance, divide those  
7 through to get the relative exploitation index. So,  
8 for 2006 the landings was about 11.5 million pounds.

9 We divide that by the 0.76 kilograms per tow to  
10 come up with a relative exploitation index of 15.2.

11 You see that increase in the  
12 exploitation index from '05 to '06 because between  
13 2005 and 2006, the landings levels stayed about the  
14 same, but that index value dropped by about half,  
15 which is -- oh, okay.

16 (Pause for technical/equipment adjustment.)

17 JESSICA COAKLEY: No problem, okay.

18 Well, now we see the numbers that I was talking  
19 about. There's the 11.5 million pounds in 2006,  
20 0.76 kilograms per tow, which is the most recent  
21 three-year average index value, and the relative  
22 exploitation index that's associate with that. And  
23 as I just pointed out, the difference in the  
24 relative exploitation index between '05 and '06 is

1 that while landings have remained relatively  
2 constant, the index values as an index of abundance  
3 decrease, so when you go ahead and calculate that  
4 REI, the relative exploitation index, that value  
5 goes up, indicating that there's more -- that the  
6 abundance has actually dropped at a similar level of  
7 fishing effort.

8 So, the relative exploitation index  
9 approach we use to calculate the TAL works through a  
10 series of relationships. Our target  $F$  is 0.10,  
11 which is a nine percent -- about nine percent under  
12 the rebuilding plan under Amendment 14. Amendment  
13 14, the Council voted to submit that -- I believe it  
14 was back at our April Council -- February or April?

15 Maybe it was February. It was either the February  
16 or April Council meeting, if I remember correctly.  
17 The amendment for the rebuilding plan was approved  
18 on July 3rd and the final rule for that rebuilding  
19 plan came out on July 23rd of this month. So, the  
20 final rule is already out at this point.

21 Now, this REI approach also assumes  
22 that 1999, which is the last SAW/SARC assessment we  
23 have that was approved, that the  $F$  at that time was  
24 at least one. So, using that information as

1 documented in the monitoring committee document,  
2 that results in a TAL of 7.34 million pounds  
3 associated with that relative exploitation index.

4 Now the 2008 recommended TAL, there's  
5 a couple things to take into consideration. One, at  
6 this point, the stock is overfished. The three-year  
7 average for 2006 was 0.76 kilograms per tow, which  
8 is less than the minimum biomass threshold of 2.77  
9 kilograms per tow. We've got the rebuilding plan  
10 final rule, which came out July 23rd of last month,  
11 which indicates that the Council implemented a plan  
12 to fish an F of .1 for seven years to rebuild the  
13 stock to the biomass target. Therefore, the staff  
14 recommended a TAL of 7.34 million pounds and the  
15 monitoring committee concurred with that  
16 recommendation.

17 So, as I pointed out earlier, under  
18 the FMP, we need to identify a TAC, as well. So,  
19 that incorporates the calculations for discard  
20 estimates. So, the TAC associated with that TAL  
21 would be 19.9 million pounds -- 9.9 million pounds.

22 Then that's split between the recreational and  
23 commercial into a recreational and commercial TAC of  
24 7.72 million pounds and 2.18 million pounds. The

1 discard estimates are then subtracted away to come  
2 up with a commercial quota of 5.46 million pounds  
3 and a recreational harvest limit of 1.88 million  
4 pounds.

5 Now, the commercial TAC in quota, how  
6 that would be allocated is given in this table. So,  
7 the annual TAC would be -- excuse me, the annual TAL  
8 would be 7.72 million pounds. The commercial  
9 discard estimate is 2.26 million pounds, which would  
10 result in a quota of 5.46 million pounds. And  
11 that's how it would be allocated amongst the  
12 trimesters, the Winter 1/Summer/Winter 2 periods.

13 Taking a quick look at the trips,  
14 vessels, landings and thresholds for the 2006  
15 preliminary dealer data for Winter 1; for Winter 1  
16 there's currently a 30,000-pound trip limit, which  
17 when 80 percent of the quota is reached, that drops  
18 down to -- I believe it's a thousand pound trip  
19 limit at that point. And as you can see looking  
20 down the -- I believe it's the fourth column for  
21 numbers of trips, in 2006 Winter 1 there was only  
22 one trip that landed 30,000 pounds. So, a few years  
23 ago when the trip limits were adjusted, it's clear  
24 that they were adjusted to allow for the occasional

1 encounter of large schools of scup, so those fish  
2 wouldn't need to be discarded. And it appears that  
3 this trip limit is appropriate for Winter 1.

4 This is the 2006 preliminary dealer  
5 data for Winter 2. The trip limits are 2,000 pounds  
6 for the Winter 2 period, which could increase,  
7 depending on the amount of rollover from Winter 1 to  
8 the Winter 2 period. And as you can see, the bulk  
9 of the trips came in under the 5,000 pounds, which  
10 is less than the allowable trip limits during that  
11 period.

12 So, the monitoring committee  
13 recommendations are a single year specification of  
14 TAC/TAL. They recommended a TAC of 9.9 million  
15 pounds, so that corresponds to a commercial TAC of  
16 7.72 million pounds, a TAL of 5.46 million pounds,  
17 and a recreational TAC of 2.18 million pounds, a TAL  
18 of 1.88 million pounds.

19 In addition, the monitoring committee  
20 recommended that there be no change in possession  
21 limits under the moratorium permits; the minimum  
22 fish size, which is a commercial fish size, nine  
23 inches total length; the current pot vent  
24 requirements that are in place for scup; and no

1 change in the current mesh size requirements.

2 So, in conclusion, the  
3 recommendations are a one-year 2008 TAC of 9.90  
4 million pounds, a TAL of 7.34 million pounds, the  
5 RSA up to three percent and to maintain the current  
6 mesh size requirements, minimum fish size,  
7 possession limits, pot vent requirements and the  
8 current measures in place with the gear restricted  
9 areas.

10 Now, in addition, in terms of the  
11 research set-aside, the TAL associated with the  
12 monitoring committee recommendation is the 7.34  
13 million pounds. The max RSA amount, the three  
14 percent maximum would work out to 220,200 pounds.  
15 This is slightly higher than the 2007 approved  
16 amount for scup RSA, which is 234,000 pounds --  
17 about 234,000 pounds at this point. So, there's  
18 about a 13,000 pound difference there that we've  
19 already brought to the attention of the region. So,  
20 it's possible that those numbers would need to be  
21 shuffled. Perhaps the RSA projects could look to  
22 other species to get fish for RSA for their projects  
23 through those.

24 All right. And that's the end of my

1 presentation.

2 CHAIR JACK TRAVELSTEAD: Okay.

3 Questions of Jessica on her report or the  
4 recommendations of the monitoring committee? Rick.

5 RICHARD COLE: Thank you, Mr.  
6 Chairman. Jessica, I want to just make sure I  
7 understand this overfishing threshold reference  
8 point. We're using 2.77 kilograms per tow. That's  
9 correct?

10 JESSICA COAKLEY: Yes, that's  
11 correct.

12 RICHARD COLE: So then having said  
13 that, 2004, 2005 and 2006 the stock's been  
14 considered overfished?

15 JESSICA COAKLEY: Correct.

16 RICHARD COLE: Okay. The only thing  
17 that threw me here, I didn't quite understand, on  
18 page 4 of your memo, you reference a minimum biomass  
19 threshold of .98 kilograms per tow. I wasn't sure  
20 exactly what that meant. On the first paragraph on  
21 page 4.

22 JESSICA COAKLEY: Wow, I can't  
23 believe that typo slipped by. That is the black sea  
24 bass minimum biomass threshold, 0.98. The scup

1 minimum biomass threshold is 2.77 kilograms per tow,  
2 and that was just a typo on my part.

3 RICHARD COLE: Good. Thank you.

4 CHAIR JACK TRAVELSTEAD: Anyone else?  
5 Jimmy.

6 JAMES RUHLE: Thank you, Mr.  
7 Chairman. Jessica, if you don't mind, could you go  
8 back to -- I think it's the slide before this with  
9 the survey indices or the -- yeah, that's it  
10 exactly, right there. We talk about this almost  
11 every year, but it certainly appears, understanding  
12 what this fishery has done over time, that there may  
13 be a question as to the validity of that 2.77. Look  
14 where it is in relation to what the fishery has  
15 been, the biomass of stocks. It appears to me to be  
16 too high. We go through this every year, every  
17 year. I mean there's just -- it basically suggests  
18 that the fishery has only been in good shape for  
19 those periods above the line. Is that correct? The  
20 stock has been in good shape for those periods above  
21 the line? Acceptable levels, I guess, is what I  
22 would word it. Evidently it's not making the point  
23 clear.

24 I've got a problem with this 2.77.

1 I've always had a problem with it. This is one  
2 species that we might as well say the best available  
3 science is not too good. It is in fact a crap shoot  
4 if there's ever been one. Everything is being  
5 driven by one indices point, and it's the indices  
6 from the spring survey. That's the driving force  
7 there.

8 The concern that I've got is if we go  
9 to a number as suggested by the monitoring committee  
10 for a quota, we're going to have significant discard  
11 issues, because if you look at the Table 1 in the --  
12 behind the Tab 5, you combine the commercial  
13 landings with the recreational landings, they all  
14 exceed 11 and a half million. And that is less than  
15 the quota that we recommended last year. So, I have  
16 a problem with what's being recommended, because my  
17 concern is that we're going to end up with a  
18 significant amount of discarding throughout all  
19 ranges of the fishery. That's the concern that I  
20 have. So, when the time comes to make a motion,  
21 then I would in fact elaborate on that.

22 And the other issue is I am totally  
23 convinced that the schooling patterns of scup in the  
24 last seven or eight years have significantly been

1 altered by the abundance of dogfish. And what these  
2 fish are doing, we certainly had to adopt our  
3 fishing practices. You just don't go to an area and  
4 start fishing. You have to hunt and hunt and hunt  
5 till you find a place where the dogfish are not,  
6 because the scup and the sea bass will not be in the  
7 same general -- they'll be in the same general area,  
8 but they won't be combined.

9 And I've brought this up to Doctor  
10 Rago and several others in the Science Center. I  
11 really am totally convinced that the data is being  
12 biased by the abundance of dogfish. You make ten  
13 tows in a specific area and you're lucky enough to  
14 encounter those scup, you're going to find one of  
15 those spikes just like you saw in 2002, because the  
16 schools are more tightly compact, but they're in  
17 less of a geographical area.

18 And it's just -- we've had to alter  
19 our fisheries and there is not that flexibility  
20 unless we take the random strata survey and modify  
21 that somehow or other to include some adaptive  
22 stations. That's in the works for right now. But  
23 I'm not comfortable with what we've got to work with  
24 here, and I am concerned about discards.

1                   So, I can't support the monitoring  
2                   committee's recommendation, Jessica, and it's for  
3                   those reasons. And I'll make a motion when the time  
4                   is appropriate. And I appreciate the work that  
5                   you've done putting it together.

6                   CHAIR JACK TRAVELSTEAD: Any other  
7                   questions? Yes, Chris.

8                   CHRIS BATSAVAGE: Jessica, a question  
9                   on -- be going into black sea bass, but with black  
10                  sea bass using the three-year moving average, you  
11                  guys I guess log transformed the index values to  
12                  deal with very high and very low catches. And I  
13                  think with scup we can see that either you don't  
14                  catch any or you can catch a bunch. And has the  
15                  Technical Committee or any of the stock assessment  
16                  workgroups ever discussed doing something like that  
17                  to deal with the variability in the index values?

18                  JESSICA COAKLEY: I don't  
19                  specifically recall those index and any analyses  
20                  being done while I've been involved dealing with the  
21                  log transformation. Now, that doesn't mean that  
22                  either someone at the Science Center -- you know,  
23                  has not already taken a look at that, or maybe this  
24                  discussion took place before I came on board three

1 years ago, because we've been dealing on survey-  
2 based assessments for quite a while for both of  
3 these species. So, not that I recall recently, but  
4 maybe someone else that was privy to these Technical  
5 Committee meetings before I came on board recalls.

6 CHAIR JACK TRAVELSTEAD: Dr.  
7 Weinberg.

8 JAMES WEINBERG: Thank you. I might  
9 be able to shed a little bit of light on this. I  
10 think with the recent black sea bass assessment, it  
11 was being computed both ways, with the survey, where  
12 it was log transformed and also not, and there was a  
13 discrepancy between the way it was presented in the  
14 assessment with the log transforms and the way it  
15 was defined in the management plan as a straight  
16 index without the transformation. And that sort of  
17 question could also apply here.

18 But where I wanted to get to is to  
19 tell you when the next science will be coming for  
20 this. We've been planning to have a data poor  
21 workshop or working group, which has a number of  
22 these species on it, including black sea bass, scup,  
23 butterfish, and the meeting is scheduled for  
24 December of 2008. And at that meeting, the question

1 of appropriate biological reference points will be  
2 tackled. And people will be questioning at that  
3 time whether they should be changed or not.

4 So, that's -- due to the heavy  
5 commitment that the Center has to do stock  
6 assessments, that's the earliest that it could be  
7 scheduled.

8 CHAIR JACK TRAVELSTEAD: Thank you.  
9 I appreciate that. Other questions of Jessica?  
10 Jimmy.

11 JAMES RUHLE: One more quick one.  
12 Thank you, Mr. Chairman. Jessica, do you know what  
13 the landings for 2007 Winter 1 were, by chance? I  
14 know they were short of the mark, but I don't -- do  
15 you have them by chance or do you not?

16 JESSICA COAKLEY (No microphone):  
17 (Inaudible.)

18 JAMES RUHLE: It's in the book. I  
19 missed it. It's in the book. And seeing as our  
20 expert from Rhode Island has just arrived, I'm  
21 wondering if he has any idea of what the trap take  
22 for the current season was, David, if you don't  
23 mind? Was it average, below average, above average,  
24 or are you not sure?

1                   DAVID BORDEN: I don't even get a  
2 welcome? As far as trap landings in Rhode Island,  
3 they had reached I think 75 or 85 percent, because  
4 they cut the possession limit from 25,000 a company  
5 down to 5,000.

6                   CHAIR JACK TRAVELSTEAD: Any other  
7 comments?

8                   (No response audible.)

9                   CHAIR JACK TRAVELSTEAD: We have a  
10 little bit of time. Are there any questions from  
11 the audience? Yes, ma'am. I'll take you, and then  
12 you'll be next, Willie.

13                  NANCY SOLOMON: My name again is  
14 Nancy Solomon. I'm from Long Island Traditions. I  
15 noticed in the landings data that the preponderance  
16 of boats are catching a very low number in terms of  
17 the poundage. And I'm wondering if there's been any  
18 social or economic analysis of how this is affecting  
19 -- you know, what kinds of boats. I'm guessing  
20 that they're probably small family fishing boats.  
21 And given this new ruling, that this could have a  
22 very major impact on that industry, and how are you  
23 planning to track that and to communicate with those  
24 fishermen?

1 JESSICA COAKLEY: Well, part of the  
2 process once the Council makes a recommendation in  
3 terms of what TAL -- TAC or TAL they'd be interested  
4 in doing, the Council staff starts developing an  
5 Environmental Impact -- an Environmental Assessment  
6 or an Environmental Impact Assessment, which goes  
7 through looking at social and economic impacts, what  
8 kinds of permit holders are affected, ports are  
9 affected by the different changes in quota.

10 In terms of sizes of vessels that are  
11 affected, tonnage of vessels, that kind of  
12 information is usually included in a Social and  
13 Economic Impact Evaluation. So, that's something  
14 that gets evaluated in our specifications packages.

15 CHAIR JACK TRAVELSTEAD: Willie.

16 WILLIE EGERTER: Willie Egarter,  
17 United Boatmen from New Jersey. Just what Jimmy  
18 Ruhle had -- you know, made a suggestion about the  
19 dogfish. In the recreational side it's in the same  
20 way as in the commercial. New Jersey hasn't had a  
21 chance yet to have a scup fishery. It opened July  
22 1st, but we didn't have any. They were getting  
23 here, but the dogfish moved further to the north up  
24 on the Long Island coast, and either the porgies

1 went way west or they've gone way east, but they've  
2 disappeared already. And as -- you know, just for a  
3 fishery that's going to hopefully start in New  
4 Jersey, if the dogfish don't move, the scup will  
5 take an eastern route and they won't even come along  
6 the coast.

7 So, I wanted to agree with Jimmy  
8 Ruhle on that, on how they go with the -- you know,  
9 with the dogfish -- too many dogfish are going to  
10 start coming into an effect on scup, fluke and sea  
11 bass along the New York Bight area. Thank you.

12 CHAIR JACK TRAVELSTEAD: Others? In  
13 the back.

14 MARK HOFFMAN: Mark Hoffman. I'm a  
15 recreational fisherman. I'm also on the Atlantic  
16 States Advisory Panel for black sea bass, and a  
17 former member of the Marine Resource Advisory  
18 Council here in New York State. I want to again  
19 comment on the effect of the dogfish over here.  
20 MRFSS method of counting to a point A and B at  
21 several locations alone and do their tows. What  
22 happened, the last two years we've had an influx of  
23 dogfish over the last few years. The last two years  
24 it's been overwhelming. The fluke aren't in the

1 same spot. The sea bass aren't in the same spot.  
2 The scup aren't in the same spot. How was the stock  
3 assessed if the fish are now in different locations,  
4 have moved deeper?

5 Fluke are now here in New York  
6 earlier in the season, July. They're usually in 25,  
7 30 feet of water, 40 feet of water. They're adding  
8 60, 70, 80 feet of water. Where have the tows  
9 occurred? How have they adjusted? Because the  
10 greatest plan in the world based on garbage  
11 information, if you put garbage in, garbage out.  
12 We're not going to accomplish anything but make a  
13 set of rules that are meaningless and hurting a lot  
14 of people.

15 Right now the fluke regulations here,  
16 the number of party boats -- and these gentlemen can  
17 attest to it -- that are being sold or people who  
18 are leaving the business because they can't catch a  
19 19 and a half inch fish or can't get enough of them  
20 for people to pay a fare to go on a boat. You go to  
21 any marina right now and half the boats in the  
22 marina are for sale or stay tied up to docks most  
23 days because between the fuel and the lack of  
24 fishing that they're allowed to do, it's -- I mean,

1 it just doesn't make sense to go out fishing for the  
2 day. I just want to know how are these factors  
3 affected in these results?

4 CHAIR JACK TRAVELSTEAD: Dr.  
5 Weinberg, you might be the best one to address that  
6 question, in a general sense.

7 JAMES WEINBERG: In a sense, this  
8 survey takes care of that. The design for the  
9 survey is called a stratified random sampling  
10 design. So, the entire area -- the entire northeast  
11 coast from North Carolina to Maine is divided up  
12 into squares -- not exactly squares, but you can  
13 think of them as a bunch of squares. And then  
14 random samples are taken within every square, and  
15 that's done every survey. So, if the fish move to a  
16 different square, samples are still being collected  
17 from that square because they're taken over the  
18 entire survey area every time a survey is done.

19 CHAIR JACK TRAVELSTEAD: Thank you.  
20 Any other questions?

21 (No response audible.)

22 CHAIR JACK TRAVELSTEAD: Seeing none,  
23 I think it's -- one last comment.

24 KEN HOLMES: Just one quick one on

1 the survey.

2 CHAIR JACK TRAVELSTEAD: Could you  
3 stand up to the mike, please, so we can hear you?

4 KEN HOLMES: Ken Holmes, I run a  
5 charter boat out of Orient Point.

6 CHAIR JACK TRAVELSTEAD: Thank you.

7 KEN HOLMES: The survey that you  
8 mentioned, are we talking about the for-hire survey?  
9 Is that the one that you mean when you say survey,  
10 or are you talking tow surveys?

11 CHAIR JACK TRAVELSTEAD: He's talking  
12 tow surveys.

13 KEN HOLMES: Oh, okay. All right.  
14 Thank you.

15 CHAIR JACK TRAVELSTEAD: All right.  
16 At this point, I guess it's -- the Chair is open for  
17 motions, which should cover the TAC and TAL for  
18 scup. Jimmy.

19 JAMES RUHLE: Thank you, Mr.  
20 Chairman. I'll offer a motion then for the 2008  
21 fishing year TAC be 13.97, a TAL of 10.90,  
22 commercial quota of 9.18, and a recreational harvest  
23 limit of 2.82. Those numbers are status quo, Mr.  
24 Chairman. That's the motion.

1 CHAIR JACK TRAVELSTEAD: And that is  
2 a motion for the Council? Okay. Let's see if we  
3 can get a second for the motion. Pat Augustine  
4 seconds the motion.

5 PAT AUGUSTINE: Thank you, Mr.  
6 Chairman. I would like to second that motion as a  
7 starting point. I'd like to make a similar motion  
8 on behalf of the Commission.

9 CHAIR JACK TRAVELSTEAD: Is there a  
10 second to the Commission motion?

11 ERLING BERG: Second.

12 CHAIR JACK TRAVELSTEAD: Erling  
13 seconds for the Commission, so we have identical  
14 motions for both the Council and the committee.  
15 Staff, speaking in my left ear, raises one concern,  
16 and that is that the discard amounts are different  
17 this year than last year. So, if you take those  
18 into account, you may end up with different  
19 commercial and recreational TACs. So, Jimmy, if you  
20 want staff to do those calculations for you and let  
21 you know, we can --

22 JAMES RUHLE: That would be fine, Mr.  
23 Chairman.

24 CHAIR JACK TRAVELSTEAD: We can do

1 that. In the meantime, Jan's going to be getting  
2 the motion up on the board. While she's doing that,  
3 we'll take comments on the motion. Jimmy.

4 JAMES RUHLE: Thank you, Mr.  
5 Chairman. I'd like to provide a little bit of more  
6 rationale for that decision. I recognize that it's  
7 higher than the recommendation. That's certainly  
8 apparent. I just feel like we are in fact going to  
9 have a discard problem and a mortality problem in  
10 the recreational fishery, of these discards, and  
11 you're going to have unintended consequences for the  
12 commercial fleet that's going to be encountering  
13 these tows of fish at different levels, and you're  
14 not -- with no retention or a reduced quota, you're  
15 going to have a shutdown much earlier.

16 There's a lot going on out there that  
17 none of us can explain, and we don't feel like in  
18 the industry -- the range of these fish is  
19 significantly changed, the geographical range. They  
20 didn't move anywheres near as far south as they did.

21 So, basically you're compressing these fish into  
22 smaller and smaller geographical area, which is  
23 surprising because it doesn't -- that's not  
24 reflected in what Dr. Weinberg just said about the

1 randomness of the survey. But again, that dogfish  
2 issue plays a part in that, and I don't need to get  
3 into that.

4 The biggest concern I've got is we  
5 don't have good information to make these  
6 determinations. We've never had -- the one driving  
7 tow -- one survey indices from -- not a tow, the  
8 indices for the spring survey is the determining  
9 factor in this, and it's -- I'm just very concerned  
10 with the potential discards and the mortality in  
11 this stock that are going to take place with a quota  
12 lower than the landings have been since 2001. If we  
13 go below that point there, I just think we're  
14 setting us up for some major discard issues and I do  
15 have a concern with that. That's the rationale for  
16 the motion. Thank you.

17 COUNCIL CHAIR PETER JENSEN: Thank  
18 you, Jimmy. Pat.

19 PAT AUGUSTINE: Thank you, Mr.  
20 Chairman. In addition to that, for the Council  
21 members and Commission members who have gone forward  
22 and read through the briefing book, you'll notice  
23 that the recommendation for summer flounder is again  
24 going to be reduced further. And it just seems to

1 me that where we have this uncertain data relative  
2 to scup -- I agree with Captain Ruhle that we're  
3 squeezing there, we're squeezing the recreational  
4 other places, commercial other places, and again  
5 summer flounder, we're continuing to reduce those  
6 folks who are actively fishing. And I see it as a  
7 very negative economic impact, not only in the State  
8 of New York, but in nearby states, by this continued  
9 reduction. I don't see any relief in the summer  
10 flounder quota, unless Captain Ruhle has an idea.  
11 And if you do, I'll support it, that will take us  
12 beyond the recommended level of fishing for 2008.

13 So, it just seems to me that we're  
14 moving very quickly on reducing porgies, scup, on  
15 numbers, even though we just put together the seven-  
16 year rebuilding time frame, that are going to have  
17 another -- further negative impact on the stock.  
18 Again, the discards will go up.

19 We are going to see more pressure put  
20 on those fish as a result of the reduced effort that  
21 has to go in on summer flounder. So, I definitely  
22 would support this, although the monitoring  
23 committee did not recommend it. Thank you, Mr.  
24 Chairman.

1 CHAIR JACK TRAVELSTEAD: Ronal.

2 RON SMITH: I would agree that the  
3 numbers probably aren't perfect, but the Council  
4 designed an amendment and it was approved by the  
5 Region, that the scup rebuilding we'd have an F of  
6 .01 -- or .1. And to me, we have to stick to that.  
7 We just can't submit it, have it approved and then  
8 just go ahead and change it arbitrarily.

9 CHAIR JACK TRAVELSTEAD: Other  
10 comments on the motion? Pat.

11 PATRICIA KURKUL: Thank you, Mr.  
12 Chairman. I'm opposed to the motion. You're  
13 probably not surprised by that. I think if you look  
14 -- well, let me take a step back a little bit.  
15 Clearly, the information on scup, as Jim points out,  
16 it's a data poor stock. We wish the information was  
17 better, but this is what we've got to work with.  
18 But frankly, when we've got -- when there are  
19 questions about the information, what we need to do  
20 is take a more cautious approach and not a more  
21 liberal approach, because one is going to get us  
22 where we want to go and the other one isn't  
23 necessarily.

24 And as Ron points out, we just

1 approved an amendment to this management program on  
2 the federal side, anyway, the first year of the  
3 program, and this recommendation is inconsistent  
4 with that amendment.

5 We've got an overfished stock. It's  
6 been overfished for a long time. The biomass is  
7 well below historic levels. Whether or not that  
8 target is right or not, the biomass is still well  
9 below historic levels. And if you look at Table 1,  
10 we have in recent years significantly increased the  
11 TAC in the scup fishery, but the monitoring  
12 committee recommendation is actually more consistent  
13 with the TAC that we had in the '97 through around  
14 2001 period.

15 When we started increasing the TAC,  
16 what we had is a situation where -- what is it,  
17 since 19 -- since 2003, the commercial landings have  
18 been less than the quota. And since 2005, the  
19 recreational landings have been less than the  
20 harvest limit. So, this fishery has been somewhat  
21 unconstrained for the last several years, in fact.  
22 All this would do is bring us back to the '97  
23 through around 2001 time period, and that's not an  
24 unreasonable approach to take with the level of

1           uncertainty we have in this fishery.

2                         So, I'm opposed to the motion. It's  
3 clearly inconsistent with Amendment 14, and I urge  
4 the Council and the Board not to support it.

5                         CHAIR JACK TRAVELSTEAD: Anyone else?

6           Rick.

7                         RICHARD COLE: Thank you, Mr.

8 Chairman. Unfortunately, I don't see anything that  
9 would suggest to me that this stock is improving.  
10 Granted, you can have some significant variations  
11 from year to year in your survey indices. However,  
12 when you look at these survey indices, there's just  
13 no doubt that the last three years are down on  
14 average from what we saw back in 2002 and 2003.

15                         I'll certainly say Jimmy was -- is  
16 correct when he says there's no scup to the  
17 southern. We certainly aren't seeing any scup off  
18 Delmarva. Really haven't seen any since we started  
19 this whole rebuilding process a number of years ago.

20                         So, again, granted we don't have a  
21 whole lot of data on this stock, but there's nothing  
22 at all that would suggest to me that we could  
23 support this -- or should support this level of  
24 harvest that's suggested in this motion. So,

1 therefore, what I'd like to offer is a substitute  
2 motion, Mr. Chairman, if I may.

3 CHAIR JACK TRAVELSTEAD: Go ahead.

4 RICHARD COLE: I would move that the  
5 monitoring committee and staff recommendation for  
6 the TAC and TAL for scup in 2008 be adopted, and  
7 that would be a TAC of 9.9 million pounds, a TAL of  
8 7.34 million pounds, a commercial quota of 5.46  
9 million pounds and a recreational harvest limit of  
10 1.88 million pounds.

11 CHAIR JACK TRAVELSTEAD: And that is  
12 on behalf of the Council?

13 RICHARD COLE: And the Board, both.

14 CHAIR JACK TRAVELSTEAD: And the  
15 Board, both. Ronal, are you seconding?

16 RON SMITH: For the Council.

17 CHAIR JACK TRAVELSTEAD: For the  
18 Council. Is there a second on behalf of the Board?

19 Howard King. So, we have a substitute motion,  
20 essentially to adopt the recommendations of the  
21 monitoring committee for the TAC and the TAL, and  
22 they've been seconded by both groups.

23 Comments on that motion? Comments on  
24 the substitute motion? Dennis.

1  
2 DENNIS SPITSBERGEN: Just one quick  
3 question. I assume that this will make the .1  
4 fishing mortality; is that correct? This is based  
5 on a .1 fishing mortality? Okay.

6 JESSICA COAKLEY: Yes, the monitoring  
7 committee recommendation was based on F .1.

8 CHAIR JACK TRAVELSTEAD: Ed, did you  
9 have your hand up?

10 EDWARD GOLDMAN: Yes, thank you. The  
11 original motion, do we know what the F would be for  
12 that motion?

13 JESSICA COAKLEY: I don't know off  
14 the top of my head. I'd have to calculate that.

15 CHAIR JACK TRAVELSTEAD: Ed,  
16 Jessica's going to try to get you that answer to  
17 that question. It's probably going to take five  
18 minutes. Comments on the substitute motion? Rick.

19 RICHARD COLE: Thank you, Mr.  
20 Chairman. Just to expand on why I feel this is the  
21 way that the -- certainly the Council has to go, and  
22 I think the Board should go. But from the  
23 standpoint of the Council, like Ron has pointed out,  
24 we have endorsed a rebuilding strategy for this

1 stock. The Service has adopted it. It took us a  
2 long time just to get to that point, as you all  
3 recall. We went for years and years without having  
4 an approved rebuilding plan.

5 And certainly now that we have one,  
6 we don't want to have to send something to the  
7 Service that essentially they're going to have to  
8 turn down. I mean, as I see it. And that's not the  
9 right thing to do.

10 We've adopted this plan. We have to  
11 have the level of removal from this stock that will  
12 in fact achieve that fishing mortality rate that's  
13 associated with our seven-year rebuilding strategy.

14 And that's what the monitoring committee and staff  
15 have recommended to us, and that's what that motion  
16 offers.

17 CHAIR JACK TRAVELSTEAD: Other  
18 comments?

19 (No response audible.)

20 CHAIR JACK TRAVELSTEAD: Seeing none,  
21 I just want to add a little bit to the discussion.  
22 It seems quite strange to me that the Council would  
23 have taken the time that it did to prepare Amendment  
24 14 and get it approved. And everyone was happy with

1 that. It set forth the procedures for rebuilding  
2 the stock with an F of .1. And now the very first  
3 opportunity we have to use that document as our  
4 guideline -- we're refusing to do it --

5 COUNCIL CHAIR PETER JENSEN: That  
6 mike (inaudible) --

7 (Pause for microphone adjustment.)

8 CHAIR JACK TRAVELSTEAD: Okay. We're  
9 back on. Everybody heard what I said earlier,  
10 right? No, it just seems odd that we would have  
11 taken that much time to prepare an amendment to the  
12 plan that sets forth the rules we thought we could  
13 live with, and now we have the very first  
14 opportunity to live up to those rules, and we end up  
15 with a motion that is well beyond those. So, I  
16 guess I would have to support the substitute motion  
17 based simply on that fact. Any other comments on  
18 the substitute motion? Vito.

19 VITO CALOMO: Thank you, Mr.  
20 Chairman. For the first time in my life, I say a  
21 pole was blocking the view of me. Somebody told me  
22 they couldn't see me. Well, they're certainly hear  
23 me, as they heard Captain Ruhle. I support Captain  
24 Ruhle's motion, as well as Pat Augustine's.

1                   Mr. Chairman, we have thousands and  
2 thousands of recreational fishermen, maybe thousands  
3 of commercial fishermen left, in the ocean that  
4 maybe they're not doing proper research, but they  
5 actually are some of the best research people I've  
6 known in my entire life. They seem to know where  
7 the fish are, when they are, how they are, what size  
8 they are and when they're going to go.

9                   I think a lot of work's been done,  
10 but out of the three species that we're going to  
11 talk about here, scup, sea bass, and fluke or summer  
12 flounder, the reports from -- not thousands, but  
13 hundreds of fishermen that I know -- I know  
14 thousand, but hundreds report to me from time to  
15 time that the only one that seems to be in a state  
16 of depression, I would say, is the black sea bass.  
17 And that's from fishermen from boat sectors, whether  
18 it be a sports sector or a commercial sector.

19                   We have fishermen with limits on how  
20 many scup to bring in, are tossing scup overboard.  
21 And it's similar to what we've said right along --  
22 and I'll wrap this up real quick -- that I hear all  
23 day long, even though we're not discussing dogfish,  
24 that there was no dogfish in the ocean. Yet we've



1       respect to my friends and colleagues on the Council,  
2       I would not have voted for the plan that called for  
3       the very low fishing mortality rate for just seven  
4       years, but the Council did. And that's why I agree  
5       with the Chairman, that that's what you voted for a  
6       few months ago. It's just been adopted. This  
7       motion is consistent with what your plan says.

8                 The other part of my decision-making  
9       process is this is not consistent with what the  
10      Commission voted for in May. And that's something  
11      that we still have to reconcile. It's not  
12      reconciled yet. So, my view is I don't vote on the  
13      Council, so I'm just going to be an interested  
14      spectator, but I'll have a somewhat different point  
15      of view, and fortunately our process gives us some  
16      more time to establish some of the things we need to  
17      vote on in the course of the last half of this year  
18      for next year. So, I might see it a little bit  
19      differently as a Commission member. Thank you.

20                CHAIR JACK TRAVELSTEAD: Jimmy.

21                JAMES RUHLE: Thank you, Mr.

22      Chairman. Let me make it clear I'm not just doing  
23      this to try to have some more fish available to any  
24      sector. I am concerned and I recognize what we went

1 through, and I think when we worked this out with  
2 the Regional Administrator back in February,  
3 whenever it was, that we said it would be a two-way  
4 street.

5 The fact is if the indices for that  
6 spring survey would have been different, would have  
7 been anywhere what I expected, we would be not  
8 having this discussion. We'd be just about where  
9 the first motion would put us.

10 The concern that I've got again is  
11 the discards. You are not going to get an accurate  
12 number. You don't have an accurate number now of  
13 discards and it's going to be worse, way worse, if  
14 we lower that quota to a point that the fishery is  
15 restricted.

16 We're only taking 75 percent. I  
17 think the Chairman pointed that out. If you look at  
18 what last year's numbers were and what the landings  
19 were, we only achieved about 70 percent. That's  
20 fine on the 13th -- on the -- on the 11 -- no, it's  
21 11.1. That may not be the same situation by coming  
22 down to the lower number.

23 So, again, I understand everybody's  
24 concerns. I'm not trying to be contentious, not

1       trying to get more fish, but the discards that could  
2       -- the discarding that could take place on both  
3       sides, I don't think there'll be an account of the  
4       mortality on it, and it could be more detrimental to  
5       the resource than the other.

6                       That's my concern. That's the  
7       driving force. It's not to be argumentative about  
8       what we've done or to say that -- you know, we  
9       shouldn't consider that. But a 12 percent  
10      difference -- and that's about -- is that about what  
11      that calculates out to, difference between .10 and  
12      the .1245 or whatever? Is that roughly a 12 percent  
13      difference?

14                      JESSICA COAKLEY: In terms of a  
15      percentage removal, it goes from nine percent to  
16      12.3 percent.

17                      JAMES RUHLE: So, it's a three and a  
18      half percent, something like that?

19                      JESSICA COAKLEY: A few percent.

20                      JAMES RUHLE: It's a seven-year plan.  
21      It's not to suggest that we're supposed to stay at  
22      that, but -- you know, that's my issues. Again,  
23      that's the rationale. I'm very concerned with  
24      discard mortality. That will not be captured --

1 completely captured. And that, I do have a concern  
2 with that. Thank you.

3 CHAIR JACK TRAVELSTEAD: Other  
4 comments on the motion?

5 (No response audible.)

6 CHAIR JACK TRAVELSTEAD: Any comments  
7 from the audience on the substitute motion? Willie.

8 WILLIE EGERTER: I approve what Jimmy  
9 Ruhle was saying. We're going to come down to sea  
10 bass and fluke tomorrow that are going to be  
11 restricted by 30, 40, whatever percent it is. We're  
12 going to have three fish that predominantly are up  
13 and down the whole coast that people are going to  
14 have an opportunity to fish for. What are they  
15 going to be able to fish for when all three of them  
16 are being chopped all at the same time?

17 I agree with Jimmy. Our dogfish  
18 problem in New Jersey, which I've been told was  
19 always an anecdotal -- I mean, not anecdotal, but an  
20 anomaly or whatever the heck that word is.

21 UNIDENTIFIED: (Inaudible.)

22 WILLIE EGERTER: Well, my information  
23 is anecdotal, but the dogfish being in our area was  
24 an anomaly. But with the young of the year fish

1 coming to New Jersey and south, Rick Cole is never  
2 going to see any porgies at the rate the dogfish  
3 are. They're going to be eating them, so they'll  
4 never make it own to the Delmarva area.

5 So, to just -- I would agree with  
6 Jimmy Ruhle's thing. Leave it like that. We still  
7 have five or six more years to cut ourselves. Thank  
8 you.

9 CHAIR JACK TRAVELSTEAD: Any other  
10 comments? Jim.

11 JAMES FLETCHER: I'm extremely dumb  
12 for sitting in this room and sitting at the  
13 monitoring committee and not realizing it, but it  
14 just dawned on me. And the question needs to be  
15 asked to the Science Center: Was this survey done  
16 with the Albatross too? Are these -- this survey  
17 was done.

18 Well, I'm going to make a statement.

19 I bet if you go back and check the landings during  
20 those tows, that there will be a noticeable  
21 difference in the catch per tow between when the  
22 captain and mate were on watch. Because I think  
23 what's happened is that propeller is prop washing  
24 the fish out of the net. Nothing makes any more

1 sense in why everything dropped and goes up as much  
2 as it does.

3 Now, I know this is a fact on  
4 scallops, but it would be simple for the Science  
5 Center right now to call and ask if that propeller  
6 were changed and which -- if there was a noticeable  
7 difference between the captain and the mate or  
8 whichever way you want to use the terms and what  
9 they caught. Because it jumps out at you from logic  
10 that something else other than population of fish is  
11 going on, and I would ask the Council to request  
12 that it be done.

13 This thing, if you look at it  
14 logically, on scup, flounder and black sea bass, all  
15 of those species should not increase and decrease in  
16 the same year unless there is something going on  
17 with the equipment that you're using to survey. I  
18 could see it if flounder went up and sea bass went  
19 down, but logically for everybody sitting in this  
20 room, all the species should not go up and down  
21 equally.

22 So, it's something going on with the  
23 survey and not with the population of the fish. And  
24 it just dawned on me. I apologize. I should have

1 brought it up at the monitoring committee, but it  
2 did not come to me then. But there is something,  
3 and I will bet money that it has to do with the prop  
4 on that boat. Thank you.

5 CHAIR JACK TRAVELSTEAD: Thank you,  
6 Jim. Seeing no other hands -- okay, go ahead.

7 NICK MANZARI: Good afternoon. My  
8 name is Nick Manzari. I own a party boat, Captree  
9 State Park, and I just want to mention the accuracy  
10 of the data, the observers. My boat, we sail four-  
11 hour trips, three four-hour trips daily out of  
12 Captree. First one starts at 7:00 a.m. And it  
13 seems like the randomness -- I mean they just come  
14 to my boat every day because it's simple, it's a  
15 four-hour trip, they get their work done early, and  
16 there's no accuracy, there's no randomness, it's  
17 just a simple thing. Nothing against the observers,  
18 but it's something they come to work, they leave  
19 early, they're done by lunch, and whereas there's  
20 full-day boats, there's ocean boats, bay boats.  
21 It's just a simple thing, come to my boat, get your  
22 paperwork done and be gone. And basically that's  
23 all I have to say, but thank you.

24 CHAIR JACK TRAVELSTEAD: Thank you.

1 Are we ready to vote? Was there one more hand?

2 Yes, sir. Could I see a show of hands from the  
3 public who wants to speak?

4 (Response.)

5 CHAIR JACK TRAVELSTEAD: Okay. We've  
6 got two more after you.

7 PAUL FORSBERG: Paul Forsberg, United  
8 Boatmen, owner of the Viking Fishing Fleet, Montauk,  
9 New York, New Bedford, Massachusetts. I agree with  
10 Jimmy Ruhle 100 percent. This discard rate, just us  
11 alone in the recreational fishery. There's no way  
12 we can go fishing and keep the sea bass off the  
13 hooks if we're not allowed to catch them. There's  
14 no way we can fish and keep the porgies off the  
15 hooks if we can't catch them. And there's no way we  
16 can go fishing and keep the fluke off the hooks if  
17 we can't catch them.

18 There's times of year in different  
19 places that we fish we catch all three species at  
20 one time. So, we're going to be throwing back fish  
21 if we can't keep the sea bass. Then the next thing,  
22 we're going to be throwing back the porgies. Then  
23 we'll be throwing back the fluke.

24 So, the discard rate is just going to

1 go up tremendously on the recreational side. And  
2 what I know about dragging commercially, I've done  
3 that a number of years ago. It's going to go right  
4 through the roof up there, too. I know the guys are  
5 going to go up there. They can't keep the scup,  
6 what are they going to do? They're fishing for  
7 fluke, but the scup are with the fluke. They  
8 haven't got the nets designed yet where they can  
9 keep the scup out of their nets when they want the  
10 fluke. So, they catch both and they discard the  
11 scup. You can't help that.

12 So, the more you lower this down, the  
13 higher the discard rate is going to go for everybody  
14 right across the board.

15 CHAIR JACK TRAVELSTEAD: Thank you.  
16 Nancy.

17 NANCY SOLOMON: I guess what I'm  
18 hearing from a lot of different people is that  
19 there's a lot of questions about the methodology in  
20 the surveys, especially the numbers of fishermen,  
21 both recreational and commercial, that depend on  
22 this resource, their knowledge of what the resource  
23 has been over a long time period. And typically --  
24 and I'm not directing this to you specifically, I've

1       seen it throughout government, that good surveys are  
2       hard to come by.

3                       And it doesn't help that you do  
4       sociocultural/economic after you've passed these  
5       kinds of restrictions. And at the very least you  
6       should be -- you know, opting for the original  
7       resolution proposed by Jimmy Ruhle to allow for more  
8       data-gathering to look at -- you know, both these  
9       economic and social/cultural impacts, but also to  
10      take the time to talk with people who are depending  
11      on this resource, both from a recreational and  
12      commercial occupational point of view.

13                      There are dozens of cases, not just  
14      for this particular species, we're going to see it  
15      again with flounder, we're seeing it with shrimp  
16      down in the southeast, all the different kinds of  
17      species that are being harvested and restricted.  
18      And if you don't get a good handle, both on the  
19      science end -- you know, how random is it, where is  
20      it being done, with what frequency, and also doing  
21      interviews with people who do know a lot. I'm sure  
22      there's a lot of information that could benefit and  
23      maybe -- you know, reach a better understanding  
24      within this room. It's going to feel it's an unfair

1 process. And I'd hate to see again a rule adopted  
2 without -- you know, as thorough an understanding as  
3 can be reasonably reached before it does put a lot  
4 more people out of work a lot perhaps unnecessary  
5 pressure within the ecosystem. Thank you.

6 CHAIR JACK TRAVELSTEAD: One last  
7 comment.

8 KEN HOLMES: Very briefly, because  
9 Nancy pretty much covered what I wanted to say. Ken  
10 Holmes, Orient Point, Charter Boat Brooklyn Girl.  
11 Again, with the tow surveys, everybody in the room  
12 seems to be attacking the tow surveys, and all this  
13 is based on data which is greatly in question.

14 And what I would suggest is why  
15 aren't these tow surveys done on a commercial  
16 dragger, someone who's out there every day, again,  
17 who knows where the fish are, knows how to catch  
18 them, has their equipment fine-tuned to the T. Put  
19 your observers on a commercial dragger and find out  
20 what's really out there. Go find out where the  
21 dogfish are and how thick they are. Go find out  
22 where the scup are and how many are really out  
23 there. And I think you'd find there's a lot more of  
24 them out there. Everyone's comments in this room

1 have pretty much proven that to me.

2 I know fluke and scup are as abundant  
3 as they've ever been. And people are going out of  
4 business, livelihoods are being ended, and it's all  
5 due to bad data and bad surveys, and we can do  
6 better.

7 CHAIR JACK TRAVELSTEAD: Okay. I  
8 think we're ready to vote. The Council will vote  
9 first, Mr. Chairman.

10 COUNCIL CHAIR PETER JENSEN: This is  
11 a vote by the Council on the substitute motion.

12 (Motion as voted.)

13 {Move that TAC be set at 9.9 mil lbs, in 2008  
14 resulting in a TAL of 7.34 mil lbs. (commercial  
15 quota of 5.46 mil lbs, recreational harvest quota  
16 limit of 1.88 mil lbs.)

17 COUNCIL CHAIR PETER JENSEN: All  
18 those in favor, raise your hand -- of the substitute  
19 motion.

20 (Response.)

21 COUNCIL CHAIR PETER JENSEN: Eleven  
22 in favor. Those opposed, raise your hand.

23 (Response)

24 COUNCIL CHAIR PETER JENSEN: Five.

1 The motion carries.

2 CHAIR JACK TRAVELSTEAD: Board  
3 members, in favor of the substitute motion, please -  
4 - is there a need to caucus? I don't think there  
5 is. There aren't so many members here. Okay. All  
6 those in favor of the substitute motion, please  
7 raise your right hand.

8 (Response.)

9 CHAIR JACK TRAVELSTEAD: Five.  
10 Opposed, please raise your right hand.

11 (Response.)

12 CHAIR JACK TRAVELSTEAD: Five to  
13 four, motion carries. Any abstentions?

14 (No response.)

15 CHAIR JACK TRAVELSTEAD: Or null  
16 votes?

17 (No response.)

18 CHAIR JACK TRAVELSTEAD: The vote was  
19 five to four. The motion carries. It now becomes  
20 the main motion and we need to vote again.

21 COUNCIL CHAIR PETER JENSEN: That  
22 becomes the main motion now and we need to vote on  
23 it. So, all those from the Council in favor, raise  
24 your hand.

1 (Response.)

2 COUNCIL CHAIR PETER JENSEN: Eleven  
3 in favor. Those opposed, same sign.

4 (Response.)

5 COUNCIL CHAIR PETER JENSEN: Five  
6 opposed. The motion carries.

7 CHAIR JACK TRAVELSTEAD: Back to the  
8 Board. All those in favor of the motion, please  
9 raise your right hand.

10 (Response.)

11 CHAIR JACK TRAVELSTEAD: Six.  
12 Opposed, like sign.

13 (Response.)

14 CHAIR JACK TRAVELSTEAD: The vote is  
15 six to two. Are there any abstentions?

16 (No response.)

17 CHAIR JACK TRAVELSTEAD: Or null  
18 votes?

19 (No response.)

20 CHAIR JACK TRAVELSTEAD: The motion  
21 carries. We're not done with scup yet. We still  
22 need -- if you want to make changes in the  
23 possession limit, fish size, mesh size, GRAs, we'll  
24 need a motion on any of those items. If there's no

1       desire to change, then I don't think we need a  
2       motion to maintain status quo. Is there any motion  
3       from either group?

4                       (No response audible.)

5               CHAIR JACK TRAVELSTEAD: Seeing none,  
6       the possession limits, fish size, mesh size, GRAs,  
7       will remain unchanged.

8               RSA. We need a motion on RSA,  
9       research set-aside, up to three percent.

10              JAMES RUHLE (No microphone):

11       (Inaudible.)

12              CHAIR JACK TRAVELSTEAD: That's a  
13       Council motion, Jimmy?

14              JAMES RUHLE: Thank you, Mr.  
15       Chairman. I'd move that the set-aside for scup for  
16       2008 be at three percent.

17              CHAIR JACK TRAVELSTEAD: Three  
18       percent. Is there a second?

19              JAMES RUHLE: I don't have the -- up  
20       to three percent. Up to three percent. Excuse me.

21              COUNCIL CHAIR PETER JENSEN: Dennis,  
22       you're seconding the motion for the Council. And  
23       there's no need for an ASMFC motion; am I correct?  
24       Discussion on the motion? Jimmy.

1 JAMES FLETCHER: If you're going to  
2 cut it that much to both sectors, do away with the  
3 research set-aside completely. Take the money away  
4 and maybe that will bring the science's attention.  
5 Science hasn't worked; so, do away with the research  
6 set-aside and put it back in to both sectors.

7 CHAIR JACK TRAVELSTEAD: Any other  
8 comments on the RSA motion? Jessica.

9 JESSICA COAKLEY: Hey, Jan? Since I  
10 had pointed out that there was a discrepancy in the  
11 actual approved amount, can we pull that out of the  
12 motion that's up there and just have it say up to  
13 three percent of the TAL, and delete what's in  
14 parentheses. Thank you.

15 CHAIR JACK TRAVELSTEAD: Seeing no  
16 further comments, I think we're ready to vote.

17 COUNCIL CHAIR PETER JENSEN: Okay.  
18 This is a vote on the motion that's on the board to  
19 allocate up to three percent of the TAL.

20 (Motion as voted.)

21 {Move that up to 3% of the TAL be allocated for RSA  
22 in 2008.}

23 COUNCIL CHAIR PETER JENSEN: All  
24 those in favor from the Council, raise your hand.

1 (Response.)

2 DANIEL FURLONG: Sixteen in favor.

3 COUNCIL CHAIR PETER JENSEN: Sixteen  
4 in favor.

5 DANIEL FURLONG (No microphone):  
6 There's some guy in a yellow shirt, I don't know  
7 (inaudible).

8 PETER HIMCHEK: Hi, good afternoon.  
9 A number of you know me from the ASMFC Management  
10 Boards, but I am a proxy for Director Chanda,  
11 substituting for Paul Scarlett, who's on vacation  
12 this week, so --

13 COUNCIL CHAIR PETER JENSEN: Okay.

14 DANIEL FURLONG: But Director  
15 Chanda's voting, as well.

16 COUNCIL CHAIR PETER JENSEN: Okay.  
17 The guy in the yellow shirt counts. That's the  
18 message, right? Those opposed, same sign.

19 (No response.)

20 COUNCIL CHAIR PETER JENSEN: No one  
21 opposed. Motion carries.

22 CHAIR JACK TRAVELSTEAD: Pete, I'm  
23 sorry. Staff informs me that we do need a motion on  
24 RSA from the Board. Otherwise, it would affect the

1 quota. Pat Augustine.

2 PAT AUGUSTINE: Mr. Chairman, same  
3 motion for the Board.

4 CHAIR JACK TRAVELSTEAD: Same motion.  
5 Erling seconds the same motion. Any comments on  
6 the motion?

7 (No response audible.)

8 CHAIR JACK TRAVELSTEAD: Seeing none,  
9 is there any objection to the motion?

10 (No response audible.)

11 CHAIR JACK TRAVELSTEAD: The motion  
12 carries. Thank you.

13 COUNCIL CHAIR PETER JENSEN: Okay.  
14 That finishes the specification setting for today,  
15 and we'll resume tomorrow on the other species. So,  
16 the next agenda item is a review of the status of  
17 Amendment 15 to the Summer Flounder, Black Sea Bass,  
18 Scup FMP. And we had a scoping process and  
19 Jessica's going to make the report on that.

20  
21 REVIEW STATUS OF AMENDMENT 15 TO THE  
22 SUMMER FLOUNDER, SCUP AND BLACK SEA BASS FMP

23 JESSICA COAKLEY: Okay. In terms of  
24 Amendment 15, I'm just going to do a quick overview

1 of what has been done up to this point, and what has  
2 been recommended. The information we'll be looking  
3 at is behind Tab 6, and there's a couple things  
4 behind there. One is a summary table, highlighting  
5 the differences between the issues identified for  
6 Amendment 15 by the Council, the Commission's Board  
7 and the industry advisory panel recommendations.  
8 There's also a memo dated April 18th from the  
9 industry advisory panels to the Commission's Summer  
10 Flounder, Scup and Black Sea Bass Board. And  
11 there's also the scoping document for Amendment 15  
12 for reference, which briefly describes each of the  
13 issues that are there.

14 So, at the October 2006 Council  
15 meeting, the Council trimmed the list of 28 scoping  
16 issues down to six issues to be considered in the  
17 amendment, plus one considered but rejected issue.

18 At the joint meeting last December  
19 2006, the Board chose to wait until their industry  
20 advisory panel had the opportunity to meet before  
21 they narrowed the list of issues that they wanted to  
22 see considered in Amendment 15.

23 So, on April 10th, the newly  
24 reconstituted industry advisory panels met. Their

1 recommendations were forwarded on to the Board at  
2 the May 2007 meeting, and they identified 18 issues  
3 that they wanted to see considered in Amendment 15.

4 Now, at the June Council meeting, I  
5 ran through a presentation then which summarized  
6 what would be -- summarized the differences between  
7 each of the group's recommendations. So, I'm going  
8 to go through that again quickly just to refresh  
9 everyone's memory. And then hopefully we'll have  
10 some discussion as to what the Council and the Board  
11 want to do in terms of coming up with a single list  
12 of issues to enable staff to begin developing  
13 Amendment 15.

14 So, in terms of summer flounder, the  
15 Mid-Atlantic Council felt that the issue of summer  
16 flounder commercial allocation and the management of  
17 the recreational fishery should be included in  
18 Amendment 15. The Commission agreed with the  
19 Council that those two issues should be included,  
20 and recommended four more issues: the issue of the  
21 commercial/recreational allocation, commercial and  
22 recreational overcapacity, and the management of the  
23 party/charter fishery all be considered, as well.

24 Now, the industry advisors

1 recommended that three of those issues were high  
2 priority and should be included. They could not  
3 come to consensus as to whether the issue of  
4 commercial allocation or the commercial recreational  
5 split in terms of allocation should or should not be  
6 included in the document. It was a very difficult  
7 discussion because there were differing  
8 perspectives. Some felt very strongly it should be  
9 included, felt that it should not. Some people felt  
10 that it should not.

11 The advisors also recommended that  
12 the commercial overcapacity issue for summer  
13 flounder be left out of the document. And I've got  
14 a footnote in terms of the commercial/recreational  
15 allocation, because that is the one issue that the  
16 Council did not feel they wanted to address in the  
17 document, but they wanted it made clear that they  
18 had considered it, but considered it -- considered  
19 it and then rejected it from further analysis.

20 So, in terms of scup issues, the  
21 Council recommended that the commercial allocation  
22 and the management of the recreational scup fishery  
23 be included in Amendment 15. The Commission agreed  
24 with them on those two issues, but again recommended

1 four more issues that should be included in the  
2 document. It was commercial and recreational  
3 overcapacity in the scup fisheries, the management  
4 of the party/charter scup fishery, and the scup  
5 commercial/recreational allocation.

6 Now, the advisors agreed with the  
7 Commission that four of those issues should be  
8 included, but they felt that the commercial and  
9 recreational overcapacity issues for scup should be  
10 left out of the document.

11 In terms of black sea bass, the  
12 Council didn't recommend any of the black sea bass  
13 specific issues be included in the document. The  
14 Commission felt the commercial allocation, the  
15 commercial and recreational overcapacity issues for  
16 scup, and the management of the scup party/charter  
17 fishery be included in the document.

18 The industry advisors felt that the  
19 commercial allocation and the management of the scup  
20 party/charter fishery was a high priority and should  
21 be included in the document, but they did not think  
22 the commercial and recreational overcapacity issues  
23 for scup should be included.

24 Now, issues that related to all three

1 species, the Council recommended that the rollover  
2 of unused quota and limitations on vessel upgrade --  
3 replacement upgrades be included in the document.  
4 The Commission agreed with the Council that those  
5 were two issues that should be included. And the  
6 industry advisors felt that -- also agreed that  
7 those two issues should be included, and they  
8 thought that there should be a high priority on data  
9 collection protocols such as dealing with MRFSS,  
10 dealer weighout, VTR, other kinds of data collection  
11 protocols.

12 Now, in terms of what else will  
13 likely be in Amendment 15, with the Magnuson-Stevens  
14 reauthorization having taken place, there are annual  
15 catch limit and accountability measures that were  
16 brought up through that reauthorization. And they  
17 will likely need to be addressed in the next  
18 amendment that's going to go through for summer  
19 flounder, scup and black sea bass.

20 There are not proposed guidelines  
21 that have come out at this point. They're supposed  
22 to come out at some point this fall, but I suspect  
23 that these issues are -- once the proposed  
24 guidelines and the final rules for guidance come out

1 that they will likely need to be addressed in this  
2 amendment.

3 In addition, about every five years  
4 we review EFH and HAPC, Essential Fish Habitat and  
5 Habitat Areas of Particular Concern, information.  
6 So, this hasn't been done for several years and will  
7 likely need to be done for this amendment. It  
8 doesn't mean there will be any changes, but we need  
9 to go back and take a look at the information that's  
10 available and identify if there's any new  
11 information or updates that warrants updating of  
12 that information for summer flounder, scup and black  
13 sea bass.

14 One thing that I do want to point  
15 out, because I've heard several Commissioners  
16 mention this thing called bundling. They said there  
17 are certain issues that they wanted to bundle  
18 together, like capacity issues, to reduce the amount  
19 of work. And bundling will not necessarily reduce  
20 the workload in terms of doing an Environmental  
21 Assessment or an Environmental Impact Statement,  
22 because we're still going to need to go back through  
23 and identify the impacts to summer flounder, scup  
24 and black sea bass permit holders individually, or

1 those holding multiple permits, or those in the  
2 recreational fishery that are fishing and targeting  
3 on each of those individual fish species. We can't  
4 necessarily lump them all together in terms of the  
5 analysis.

6 So, while it may help up front in  
7 terms of developing options, in terms of overall  
8 workload, we're not going to get a significant gain  
9 in terms of amendment development. And I just  
10 wanted to let people know that up front, because  
11 I've heard that mentioned in terms of analysis.  
12 We're going to need to split some of that out  
13 anyway.

14 So, that pretty much is a really  
15 quick overview of what's been decided up to this  
16 point, and I'm going to hand it back to Jack at this  
17 point, or Pete.

18 COUNCIL CHAIR PETER JENSEN: A little  
19 bit of recall here. Remember that we had a very  
20 long list and it was developed over a lot of years.

21 And so we said look, we've been kicking this around  
22 for a long time, it's time to get serious about what  
23 we want to do with this Amendment 15. And so we  
24 went through a selection process and we did it

1 without much analysis other than our own perceptions  
2 and our own experience.

3 And I think we're at a point now  
4 where we should not agree to disagree with the  
5 Commission and we need to move on and get this job  
6 done. And so I'm going to ask the Council, does  
7 anyone take exception to the additional things that  
8 the Commission wants to put in this document?  
9 Because that's what it amounts to. They've ended up  
10 with a little longer list than ours, and those were  
11 things that were in our original longer list, but we  
12 just decided that we had other things that we wanted  
13 as priorities.

14 So, it seems to me it is time to move  
15 on, and I'm going to suggest that the Council think  
16 seriously about whether we want to take any strong  
17 exception to what's in the Commission list, and I  
18 hope you don't, and let's get on with it. So, I ask  
19 that question: Does anyone take strong exception to  
20 what's in the Commission list as opposed to what's  
21 in the Council list? Jimmy.

22 JAMES RUHLE: Thank you, Mr.  
23 Chairman. I do take strong exception to it, for the  
24 simple reason I don't know how in the hell we're

1 going to do this commercial/recreational issue and  
2 the state-by-state quota issue with absolutely no  
3 new data to make that decision by. They're big  
4 issues. It's the have and the have-nots all over  
5 again. But the fact is it's been through our SSC  
6 and it's been through the Commission's SSC group,  
7 and been -- it's not SSC. What is it for the  
8 Commission? But they've reviewed it. It came back  
9 with exactly the same response, that there is  
10 nothing new.

11 So, what are we going to make this  
12 determination by? You know, if there was a logical  
13 fix to this problem, or if there was a fix to this  
14 problem that was very apparent, I wouldn't have a  
15 problem with it. There's a lot of other issues  
16 associated with it. When you look at including  
17 those and possibly including these AM's and ACL's in  
18 this same amendment -- and I would ask is that an  
19 intention -- do you expect that to be rolled into  
20 this amendment, Mr. Chairman or Jessica, or do you  
21 expect that to be in another amendment? That's a  
22 question I need answered first.

23 COUNCIL CHAIR PETER JENSEN: Well, I  
24 think we are going to have to consider an amendment

1 to all of our plans to deal with ACL's at some  
2 point. And so to the extent that we can get ready  
3 for it, yes, but I don't know that we anticipate  
4 they'll be implemented through this amendment.

5 JAMES RUHLE: Okay. Well, either  
6 way, the ACL issue -- let's use summer flounder as  
7 an example. It's almost incomprehensible that any  
8 of us in the commercial industry to expect the ACL  
9 for summer flounder to be applied across the board.

10 That is certainly going to have to be applied in  
11 the two sectors that utilize this resource. Because  
12 basically we are in fact -- we are accountable for  
13 everything that we've done under this plan since Day  
14 1. That's never really been talked about a lot.

15 So, there's one issue that I have.  
16 How is that going to be resolved? If that is held  
17 to by both parties, however it takes place, we're  
18 going to have altogether different results across  
19 the board. And it's not something that this Council  
20 mandated. This was Congress telling us this is what  
21 they want to happen. So, when you've got an issue  
22 that big prevailing, does it make sense to try to  
23 revisit the historical -- the layout of this plan to  
24 date?

1                   And it really became an apparent --  
2                   to me when I looked through the fluke briefing book,  
3                   the briefing book, when we look at the fluke issue,  
4                   Mr. Chairman -- let me see if I can find that page.

5                   It's very apparent, there's one table in there --  
6                   and don't take this the wrong way. I'm not  
7                   suggesting that the recreational overages over the  
8                   years are a focal point right now. But the  
9                   allocation based on that table is not 60/40, if you  
10                  look at the landings. Do you know what page that  
11                  is?

12                  So, if we've got an issue like that  
13                  that demonstrates what -- there it is. It's page 3,  
14                  commercial/recreational landings of summer flounder.

15                  Just using this as an example for the rationale to  
16                  not accept the Board's recommendation. Look down  
17                  that list from 1996 on and show me a year where you  
18                  had a 60/40 split.

19                  COUNCIL CHAIR PETER JENSEN: Jimmy,  
20                  excuse me a minute. Let me interrupt you. I'm  
21                  looking at a list of what's in and what's out. And  
22                  it's overcapacity -- overcapacity, management of the  
23                  summer flounder party/charter fishery, overcapacity  
24                  on scup, overcapacity on scup

1 recreational/commercial, management of the  
2 party/charter fishery, black sea bass commercial  
3 allocation, overcapacity, and management of the  
4 black sea bass charter fishery. Those are the  
5 differences that we're talking about. We're not  
6 talking about changing the commercial fish  
7 allocation -- the summer flounder allocation.

8 JAMES RUHLE: We scratched that, but  
9 I was under the understanding the Commission put it  
10 back in.

11 COUNCIL CHAIR PETER JENSEN: All  
12 right, yeah. That was one that we had indicated we  
13 had considered, but we took it out, yeah.

14 JAMES RUHLE: So, what are you  
15 asking, Mr. Chairman?

16 COUNCIL CHAIR PETER JENSEN: Well,  
17 I'm asking if you have looked at that list of what's  
18 in and what's out, and those things that are in the  
19 Commission plan that are not in ours, that's what we  
20 need to decide on. Because what we're faced with --  
21 and I'll ask you this question, is if you would  
22 object to having a comprehensive plan where we all  
23 agree on it, are you suggesting that we go forward  
24 with a different Amendment 15 or we stall and don't

1 go forward at all? That's the question before us,  
2 whether we can move on this Amendment 15 and deal  
3 with the issues that I think we all agree we need to  
4 deal with, rather than waiting for us to all agree  
5 on everything. That's my question. How are we  
6 going to do that? Or are we going to continue  
7 debating what to do?

8 JAMES RUHLE: Well, if I could get  
9 some response from somebody that indicates that they  
10 admit that we don't have anything new to add to  
11 this, then I don't mind if you want to go forward  
12 with it to get this done. And it has to happen. It  
13 definitely has to happen, because everything's going  
14 to start spiraling down here at too rapid a rate for  
15 us to keep up with. So, if there's some  
16 acknowledgement that the existing plan -- if there  
17 is absolutely nothing to make a determination beyond  
18 what both Commission and Council's SSC's have looked  
19 at, then I don't mind including it in there. You're  
20 going to get to a point where there's nothing -- no  
21 support to change it.

22 COUNCIL CHAIR PETER JENSEN: Well, I  
23 guess my attitude toward that is that will all come  
24 out as the staff prepares all of the documents and

1 the analysis and you will see what's there and  
2 what's not there. Jack, you had a question?

3 JACK TRAVELSTEAD: I share some of  
4 Jimmy's concerns and I would agree with you, Jimmy,  
5 that if we got into some of these issues there  
6 wouldn't be a lot, if any, new information, and we  
7 would end up not making a decision. But my concern  
8 is this, and I'd like staff to comment on it, and  
9 that is it's my impression that if we have two  
10 different lists of issues between ASMFC and the  
11 Council, that will -- by itself will result in more  
12 workload with less people sharing that workload and  
13 result in a delay in getting this done. So, while I  
14 on one hand might want to raise the exception you  
15 raise, I think we'd probably in the end be better  
16 off by including these measures from both groups and  
17 proceeding with both staffs working as quickly as  
18 they can to arrive at the conclusions that you and I  
19 think they'll arrive at.

20 COUNCIL CHAIR PETER JENSEN: Gene.

21 COUNCIL VICE CHAIR EUGENE KRAY:

22 Thank you, Mr. Chairman. I agree with Jack on this  
23 issue. I think we will have another shot at this  
24 obviously when the amendment is brought forward.

1 We'll have several shots at it. So, I think we  
2 ought to agree and get together -- we're not going  
3 to get very far if we're going to have a divergence  
4 between the two groups, and I strongly suggest that  
5 we take all of the issues into account. We will  
6 have another shot at this when it comes before us in  
7 the amendment. The staff isn't going to get  
8 anywhere if we can't agree on anything. That's what  
9 I'm saying.

10 COUNCIL CHAIR PETER JENSEN: Pat.

11 PAT AUGUSTINE: Thank you, Mr.  
12 Chairman. I agree partially with what Mr. Ruhle --  
13 Captain Ruhle is saying. However, Jack is right on  
14 target. We had an advisory panel group come  
15 together. They assessed what we did. This is our  
16 third go-around, our third full-blown go-around. It  
17 just seems to me if we take the list that Jessica  
18 put together in Table 1 and for the next view of  
19 this take out of that list all of those that we've  
20 indicated -- ASMFC, Mid-Atlantic and Advisory Panel  
21 -- out, that significantly reduces it.

22 Secondly, all of those that are  
23 listed and identified as in bundle, put those  
24 together in concise groupings, and that should do

1 it.

2 As far as Issue Number 1, the summer  
3 flounder commercial/recreational allocation, I do  
4 agree with Captain Ruhle. The 60/40 information has  
5 been presented, it's been beat to death. However, I  
6 quite frankly can't understand why we wouldn't look  
7 at that as a possible solution to the continuing  
8 growth of the -- to address the continuing growth of  
9 the recreational sector. The recreational sector is  
10 not constrained by any bounds, other than who wants  
11 to go fishing goes fishing. Commercial is  
12 controlled by bounds, so I'm in defense of leaving  
13 that issue in.

14 As for Issue Number 2, the summer  
15 flounder commercial allocation, non-consensus tells  
16 me that the group that was there consisted of both  
17 commercial and recreational, and could not reach a  
18 consensus because half the group, recreational,  
19 wanted it in, commercial wanted it out. So, the  
20 non-consensus positions I think have to be added, as  
21 Gene said. Dr. Kray said let's look at what the  
22 staff comes up with as the items we should be  
23 looking at.

24 And I just think we have to move

1 forward. We could beat each one of these to death.

2 We've done it several times. I think it's not  
3 appropriate. And when a motion is in order, Mr.  
4 Chairman, please call for it and I'll move.

5 COUNCIL CHAIR PETER JENSEN: I will.

6 Ron.

7 RON SMITH: Yes, thank you, Mr.

8 Chairman. I agree with a lot of what's been said,  
9 but I think Issue 1, even looking at it for the --  
10 whatever time, nothing is going to change, so I  
11 think we're wasting our time there. My personal  
12 perception is there's no political will to change  
13 right now overcapacity in any of these three species  
14 for the commercial fleet. So, I would think that  
15 that could be eliminated and reduce the workload  
16 some.

17 I do think overcapacity in the -- the  
18 recreational overcapacity for all three species  
19 should be included because with the reauthorization  
20 of Magnuson, we're going to have to have hard TACs  
21 and closures and the accountability measures and so  
22 forth in the recreational fishery. So, I think now  
23 would be a good time to start looking at that.

24 COUNCIL CHAIR PETER JENSEN: Jessica.

1 JESSICA COAKLEY: Sure. In terms of  
2 numbers of issues, I think you all recognize 18  
3 issues is a lot of issues to include in this  
4 document along with ACL, AM, habitat -- you know,  
5 issues that may come up, all of those things.  
6 However, from a staff development perspective, I  
7 think it's more -- it's important that we keep the  
8 Commission and the Council in terms of the list  
9 similar. Just because in terms of workload, we can  
10 achieve more working together on this than we can  
11 working on independent amendments -- you know,  
12 dealing on different issues. And also if we do go  
13 out with a single list, we can work together with a  
14 Fisheries Management Action Team, put that group  
15 together and flesh out some of these issues, flesh  
16 out options for them and we can identify issues for  
17 which there is no new information, issues that there  
18 is no solution at hand. You know, or reasonable  
19 solution. So, that group may be able to tease out  
20 what is or isn't achievable in terms of addressing  
21 some of these issues. But I think from a staff  
22 perspective, it's important to walk away with a  
23 single list rather than splitting us up down two  
24 separate paths.

1 COUNCIL CHAIR PETER JENSEN: Mr.  
2 Augustine. Go ahead, Fran.

3 FRANCES PUSKAS: Okay. There are a  
4 number of issues that were marked in bundle or out.  
5 There are nine, in fact. If we remove those, would  
6 that be helpful? It seems like we've got 28 issues  
7 here and it's so unwieldy for us and I can imagine  
8 people reading it and trying to puzzle out left,  
9 right and sideways. They'll be at hearings for  
10 three days before they get through all of these  
11 issues. I guess Ms. Coakley can maybe --

12 COUNCIL CHAIR PETER JENSEN: Well, I  
13 guess your question would be for the Commission as  
14 to whether they are willing to pare their list down  
15 or whether they have a hardcore position that they  
16 must be in there. Vince, would you like to speak to  
17 that?

18 VINCE O'SHEA: Well, thanks, Mr.  
19 Chairman. By way of encouragement, I think you have  
20 a good strategy in mind, and that's simply to look  
21 at what the Commission has already decided to just  
22 basically analyze. You're not making any decision  
23 to do anything, and you're going to have additional  
24 information put in front of you to make a decision.

1                   And to me, the whole point of this is  
2                   to try to get the Commission and the Council staffs  
3                   working together to move this thing forward so that  
4                   both bodies can be at a point down the road where  
5                   you can make a decision.

6                   So, I think Jessica's done a good job  
7                   here of outlining what the Commission put in and I  
8                   think your question is the relevant one, and that is  
9                   can the Council live with what the Commission has  
10                  done as a process to go forward.

11                  COUNCIL CHAIR PETER JENSEN: Some of  
12                  us have been at this so long, it's almost become a  
13                  career work, so -- Pat, do you have a motion?

14                  PAT AUGUSTINE: Yes, I do, Mr.  
15                  Chairman. I move that we consider in Draft  
16                  Amendment 15 the following issues: Number 27 -- I  
17                  don't know how you want to highlight them -- which  
18                  is roll over unused quota. Number 26, data  
19                  collection requirements and protocols. Management  
20                  of the scup party/charter fisheries, Number 15.  
21                  Management of the scup recreational fishery, Item  
22                  Number 17. Medium priority was scup  
23                  commercial/recreational allocation, Issue Number 10.  
24                  Scup commercial allocation, Issue Number 11.

1 Limitations on vessel upgrades, Issue Number 28.

2 Under sea bass --

3 JACK TRAVELSTEAD: Pat, could I  
4 interrupt you for just one second for perhaps a  
5 little bit of clarity? Is the intent of the motion  
6 you're making to accept all of those issues that  
7 ASMFC wanted in the document that previously were  
8 rejected by the Council?

9 PAT AUGUSTINE: Simply stated, yes.  
10 I thought you wanted the numbers --

11 JACK TRAVELSTEAD: I think staff's  
12 given us the numbers and if -- I mean, if that's the  
13 intent of your motion, I think that's all it needs  
14 to say.

15 PAT AUGUSTINE: Let's clear it up and  
16 make it that way, Mr. Chairman.

17 COUNCIL CHAIR PETER JENSEN: Yeah, I  
18 think you might simplify it by simply referring to  
19 Table 1 as a reference point for everyone.

20 PAT AUGUSTINE: All right. Let's do  
21 that. Recommend that we accept Table 1, dated July  
22 24th, 2007, relative to Amendment 15, Summer  
23 Flounder, Scup and Black Sea Bass FMP.

24 COUNCIL CHAIR PETER JENSEN: To

1 include the issues that the Commission wants  
2 included?

3 PAT AUGUSTINE: To include all issues  
4 identified by ASMFC.

5 COUNCIL CHAIR PETER JENSEN: By both  
6 the Council and the Commission?

7 PAT AUGUSTINE: By both Council and  
8 the Commission.

9 COUNCIL CHAIR PETER JENSEN: Okay.  
10 Is that clear to everybody? Is there a second to  
11 the motion?

12 JACK TRAVELSTEAD: Second.

13 COUNCIL CHAIR PETER JENSEN: Second  
14 to the motion. Second or discussion? Discussion on  
15 the motion?

16 JAMES RUHLE: I got a question.  
17 Thank you, Mr. Chairman. It's a question for you or  
18 for Dan. What is the Council SOPPs on this issue?  
19 We've got -- we're revisiting a motion from a  
20 previous meeting. Do we have a two-thirds majority?  
21 Is that required? Is it a two-thirds majority of  
22 the entire Council or two-thirds majority of the  
23 members present? Do you have an idea?

24 JOEL MACDONALD: Are you talking

1 about the Roberts Rules of Civil Procedure?

2 JAMES RUHLE: No, I'm talking about  
3 the Council SOPPs.

4 JOEL MACDONALD: The SOPPs don't  
5 address this, Jim.

6 COUNCIL CHAIR PETER JENSEN: We're  
7 not reconsidering an issue formally. This is a new  
8 motion.

9 JAMES RUHLE (No microphone): You're  
10 considering this a new (inaudible).

11 COUNCIL CHAIR PETER JENSEN: Right,  
12 so I consider it a new motion, majority vote. Ron.

13 RON SMITH: Yes, I have an issue with  
14 Issue Number 26. To me, the National Marine  
15 Fisheries Service is addressing this right now  
16 through their -- they had the NRCC study and then  
17 they're addressing the recreational data. So, I  
18 don't see why we should include that, also.

19 COUNCIL CHAIR PETER JENSEN: It's not  
20 included. It's out, in both Commission and the  
21 Council.

22 RON SMITH: Okay. Well, Pat said it  
23 was in.

24 COUNCIL CHAIR PETER JENSEN: But

1 that's why we ended up referring to Table 1, to  
2 adopt those measures that have been identified as  
3 being in by both the Council and the Commission.  
4 Eric, I'm sorry.

5 ERIC SMITH: Mr. Chairman, that last  
6 part, you said that once and then you just said it  
7 again, and that's the part that confuses me. I  
8 thought where you were leaning initially was to ask  
9 the Council whether they would concur to include  
10 everything that the Commission had said to be in,  
11 not that both the Commission and the Council said to  
12 be in.

13 COUNCIL CHAIR PETER JENSEN: Well, we  
14 don't have to reconsider what we have in.

15 ERIC SMITH: That's right.

16 COUNCIL CHAIR PETER JENSEN: All  
17 we're --

18 ERIC SMITH: That's right. So, it's  
19 really we want -- what you're asking your Council is  
20 are the things that ASMFC wanted to have in also in  
21 for purposes of the joint development?

22 COUNCIL CHAIR PETER JENSEN: Yes,  
23 that's another way of saying it, by simply referring  
24 to Table 1, everyone can see that, that we are now

1 going to include in if we pass this motion, what we  
2 had --

3 ERIC SMITH: What the Commission had  
4 recommended to be in?

5 COUNCIL CHAIR PETER JENSEN: Right,  
6 yeah.

7 ERIC SMITH: Thank you. In that  
8 case, is this part of a joint -- is this part of the  
9 joint meeting? The Commission's not going to be  
10 voting on this; right? I mean, we took our action,  
11 so this is really just Council business?

12 COUNCIL CHAIR PETER JENSEN: What I  
13 was trying to do was to see if the Council was going  
14 to take strong exception to what you all had  
15 included.

16 ERIC SMITH: I understand. Thank  
17 you.

18 COUNCIL VICE CHAIR EUGENE KRAY: So,  
19 essentially -- and I just went through with my Magic  
20 Marker here -- those in the two columns -- if the  
21 Council and the Commission agree that they should be  
22 out, they should be out, and that's ten items, 5, 7,  
23 9, 14, 16, 18, 22, 24, 25, 26? So, we'll reduce it  
24 to 18 items? I just want -- for clarification.

1 Okay.

2 COUNCIL CHAIR PETER JENSEN: For the  
3 Council, further discussion on the motion to -- it's  
4 on the board. Move to accept all issues included in  
5 Amendment 15 by ASMFC as indicated in Table 1 of the  
6 briefing materials. I think that's clear enough.  
7 Are we ready to vote?

8 (Motion as voted.)

9 {Move to accept all issues included in Amendment 15  
10 by ASMFC as indicated in Table 1 of the briefing  
11 materials.}

12 COUNCIL CHAIR PETER JENSEN: All  
13 those in favor, raise your hand.

14 (Response.)

15 COUNCIL CHAIR PETER JENSEN: Thirteen  
16 in favor. Those opposed, same sign.

17 (Response.)

18 COUNCIL CHAIR PETER JENSEN: Three.  
19 Three opposed. The motion carries.

20 UNIDENTIFIED (No microphone): Where  
21 was the third one?

22 COUNCIL CHAIR PETER JENSEN: Mr.  
23 Goldman, he was -- were there any abstentions? I'm  
24 sorry, I forgot to ask.

1 (Response.)

2 COUNCIL CHAIR PETER JENSEN: One  
3 abstention. Two abstentions. Let's see. I think  
4 that finishes our agenda item on Amendment 15, so  
5 staff can now go ahead and start working on it, and  
6 of course it will come back before us at some future  
7 date, whenever they get it ready for us.

8 So, unless there's something else to  
9 come before the Council today, we will adjourn until  
10 8 o'clock tomorrow morning, I believe. 8 o'clock?

11 (BREAK: 2:44 P.M. to 3:00 P.M.)

12 COUNCIL CHAIR PETER JENSEN: Let's  
13 see if we can reconvene. Please take your seats so  
14 we can continue. Are we ready to go? So we can  
15 continue, what we're going to do is jump ahead on a  
16 few of our reports so that we might have a shorter  
17 day on Thursday. And so I think we'll try to do the  
18 Regional Administrator, the Science Center, Office  
19 of General Counsel. The enforcement folks are not  
20 ready for their report. And then we'll do the  
21 Executive Director's Report. And then if we have  
22 more time, we can do the Ecosystems Report, and that  
23 should get us to the end of the day.

24 So, Pat, are you ready?

1 PATRICIA KURKUL: Yes.

2 COUNCIL CHAIR PETER JENSEN: Okay.

3 We're ready to go. The Regional Administrator.

---

4  
5 NMFSS REGIONAL ADMINISTRATOR REPORT

6 PATRICIA KURKUL: Thank you, Mr.  
7 Chairman. Let's see. First, Amendment 14, we  
8 talked about that, so I won't spend any more time on  
9 that. The summer flounder TAL emergency rule was  
10 extended. It's the rule that implemented the  
11 increased 2007 summer flounder total allowable  
12 landings. It's been extended now to December 31st,  
13 2007.

14 For the 2007 Winter 2 scup quota  
15 adjustment, we published an in-season adjustment on  
16 January 24th that transferred over 600,000 pounds of  
17 unused Winter 1 quota to Winter 2, resulting in a  
18 revised 2006 Winter 2 quota of over two million  
19 pounds. In addition to the quota transfer, the 2007  
20 Winter 2 possession limit was increased consistent  
21 with the rollover specification established in the  
22 2007 final rule. The trip limit was increased from  
23 2,000 pounds to 3500 pounds per trip.

24 We published a proposed rule in the

1 Federal Register on August 6th seeking public  
2 comment on Framework Adjustment 7 to Summer  
3 Flounder, Scup and Black Sea Bass. If adopted,  
4 Framework 7 will allow the Council to utilize the  
5 best available peer reviewed science on biological  
6 reference points for any of the three FMPs during  
7 the annual specification setting process.

8 Surf -- no, I'm going to skip that  
9 one.

10 On scallops, the general category  
11 access area, the Nantucket Lightship general  
12 category access area was closed to general category  
13 scallop vessels on July 8, when we projected that  
14 all of the 394 allocated trips would be taken. The  
15 Closed Area I access area closed to general category  
16 scallop vessels in July 15th when the 216 allocated  
17 trips were projected to be taken.

18 Let's see. We published a final rule  
19 in the Federal Register on August 3rd implementing  
20 the management measures that will modify the current  
21 commercial fishing possession regulations for  
22 vessels that were issued federal limited access  
23 permits for -- this is the one I tried to read one  
24 other time and it doesn't make any sense when I read

1 it. The ones that basically -- the final rule that  
2 closes some of the loopholes in the regulations with  
3 respect to permits. If you've got a limited access  
4 permit and you fail to renew it, you are still  
5 prohibited from fishing for those species until you  
6 do renew it. And it also limits you to one upgrade  
7 provision in a year, with the exception of  
8 situations where the vessel has sunk or somehow been  
9 rendered inoperable.

10 The Notice of Availability on the  
11 Omnibus Standardized Bycatch Reporting Methodology  
12 Amendment published on July 26th. Comments on the  
13 amendment will be accepted through September 24th.  
14 And that's all I have, Mr. Chairman.

15 COUNCIL CHAIR PETER JENSEN: Thank  
16 you, Pat. Questions, comments of the Regional  
17 Administrator? Jimmy.

18 JAMES RUHLE: Thank you, Mr.  
19 Chairman. Pat, I'm sorry I missed part of the  
20 presentation. Did you talk about the data issue  
21 that's come up that was -- came up in the Hampton  
22 meeting that George attended, and there was actually  
23 a letter and a response to the letter that the  
24 Executive Director sent you? There's a response in

1 the briefing book. Have you in fact -- do you have  
2 any new information pertaining to that?

3 PATRICIA KURKUL: I didn't talk about  
4 it. I probably should have. We have made  
5 arrangements now with Dan to do the presentation I  
6 think at the December Council meeting. In the  
7 interim, we are working with the industry to find  
8 out what the issues are. They do seem to be some  
9 coding issues that were fairly substantive that I  
10 think the difference between the old code for loligo  
11 is something like --

12 JAMES RUHLE (No microphone): SQI and  
13 SQL.

14 PATRICIA KURKUL: Right, SQI and SQL,  
15 and resulted in some pretty significant coding  
16 errors. So, we're going back to review that all by  
17 hand. We're encouraging people if they know of  
18 information that they think is inaccurate to come  
19 forward so we can investigate it. We're developing  
20 a process now where we are going to try to send out  
21 quarterly reports to permit holders, so that we can  
22 catch these kinds of problems on a more timely  
23 basis. And as I said, we've made arrangements to  
24 come and talk with the Council about it at the

1 December Council meeting.

2 JAMES RUHLE: Okay. In reviewing --  
3 and I recognize you weren't at the meeting, and it  
4 did in fact come as a complete surprise to George.  
5 Unfortunately, some of the members that I expected  
6 to be here when this report was here are not in the  
7 room right now, but listening to the tape from the  
8 New England meeting, you indicated that you had been  
9 in touch with the party that brought this forward  
10 and that it had been resolved. Is that -- you're  
11 not still suggesting that is the case, are you?

12 PATRICIA KURKUL: We had been in  
13 touch with the party and had understood it to be  
14 smaller than it was; and no, in our continuing  
15 conversations with him, we found that in fact there  
16 is a significant discrepancy that we need to  
17 resolve.

18 JAMES RUHLE: Okay. Well, that's --  
19 in all fairness, I recognize the sensitivity of  
20 this. I'm just -- I was overwhelmed by the fact  
21 that when he brought it to my attention at that  
22 meeting, which was like at lunch on Wednesday, and  
23 he asked how we should handle it. And I said well,  
24 we'll just put it on the table and get everybody

1 aware that the either eight -- seven fishermen in  
2 the room had similar discrepancies. So, it looked  
3 like out of eight -- seven out of eight men in the  
4 room had problems.

5 So, I recognize that it is a big  
6 deal. And just as a courtesy to John Witzig, I  
7 called him on Monday, because I was reasonably sure  
8 that it would have got back to him by then, and it  
9 had not. That's the first he heard of it, the  
10 Monday that I called him, because I wanted to know  
11 where we needed to look for this. Okay?

12 The big driving factor in this one is  
13 that the party that we're talking about only has two  
14 vessels, but they are common names. Certainly  
15 they're different documentation numbers and  
16 different permit numbers, but he is a dealer. And  
17 so if there was ever a case that there shouldn't  
18 have been a problem there, that's where you would  
19 expect it. If there was a third party involved in  
20 it, it seems like it would be worse.

21 So, explaining that all to John, you  
22 know, he seemed very concerned with it. And as of  
23 yesterday, this thing is not resolved and the  
24 numbers are extremely large. And it's apparent if

1 you look at the information, and I physically looked  
2 at all of this, that this couldn't be just a coding  
3 error, because there's fish on here that he has no  
4 permit at all to land, and fairly significant  
5 numbers.

6 There's trips missing. There's trips  
7 of volumes twice what his vessels can carry. It's  
8 not just a typo. And I'm very concerned with it,  
9 because of where we're trying to go with LAPPs.

10 But I don't know if you expect to be  
11 here throughout this meeting or not, but I certainly  
12 suggest that -- they've sent a port agent down to  
13 talk to this gentleman and that's all they've done.

14 And when you -- you can interpret the letter that -  
15 - well, that was written that's got your signature  
16 on it. I don't think you signed it. Chris signed  
17 it, as a matter of fact. As it's the responsibility  
18 of the fisherman or the dealer to verify that  
19 information. That's what I take out of that.

20 And the only way I can compare that  
21 to anything, that's like saying if I take my tax  
22 return to H & R Block and send it to the IRS and  
23 they -- IRS enters it wrong, then I'm at fault. And  
24 I don't think that's the way that process works.

1                   So, I don't know where the  
2                   responsibility lies, at what level. And because of  
3                   the -- partially the agency's push for LAPPs, this  
4                   history thing is becoming a very, very big deal.  
5                   So, you know, we need to -- I don't know so much  
6                   that a presentation -- a presentation will certainly  
7                   help, but I think there needs to be an outreach on  
8                   the statistics branch part to try to resolve some of  
9                   these issues where they know they are, and find out  
10                  where this problem is, because I'm afraid it's quite  
11                  large. Thank you.

12                 PATRICIA KURKUL: That was a lot, and  
13                 I lost track through most -- toward the end, so I  
14                 guess I'll probably only respond to the end --

15                 JAMES RUHLE: You're programmed to do  
16                 that with me.

17                 PATRICIA KURKUL: Yeah. But I think  
18                 there's a couple of things going on here. One, in  
19                 some cases people are trying to go back quite a lot  
20                 of years. And as we've repeatedly said, the further  
21                 back you go, the less reliable the information is.  
22                 And we fully admit that. We did have some periods  
23                 where there are coding errors. I think what the  
24                 letter was trying to say was it's all of our

1       responsibilities to make sure that the information  
2       is reported correctly and then for us also to do our  
3       part with handling the information. So, it's just -  
4       - you know, in some cases now it's actually that the  
5       new system is the dealer electric -- the dealer  
6       system is now the electric reporting system, and so  
7       it's the dealers that are entering the information.

8       And so there's part of -- the responsibility has  
9       actually shifted over the years.

10               The other thing I think that's  
11       important to point out is this database wasn't  
12       designed to do the kinds of things that we're asking  
13       it to do right now. I mean, for the most part, the  
14       databases are designed to provide information into  
15       the stock assessment process and to monitor quotas  
16       and management programs. And so some of these  
17       issues with the data doesn't really matter in the  
18       end as long as you have sort of the bottom line  
19       number. And so we've got to make sure that the  
20       system evolves as the management program need  
21       evolves. And so that's why John and his folks have  
22       been looking more carefully at the Q & A side of  
23       things. And as I said, they're looking into anyway  
24       some kind of a system that would allow a quarterly

1 report to go out to make sure that everybody had an  
2 opportunity to see what was going into the system  
3 and there'd be regular reports back to us and we  
4 could be more proactive in correcting some of these  
5 things.

6 JAMES RUHLE: Thank you, Mr.  
7 Chairman. Pat, I understand your concern with it,  
8 and I see where you're going, and I certainly  
9 recognize the longer the time frame, the worse the  
10 potential problem -- potential for error is. But  
11 you brought up the second part of our concern is  
12 that if in fact this data is used for monitor quotas  
13 and makes stock projections and if there's a mis-  
14 entry -- and you have to recall 2004 -- 5? -- 2005,  
15 the mackerel fishery found the error of 500,000 --  
16 55,000 tons? Tons, was it?

17 UNIDENTIFIED (No microphone):  
18 Couldn't have been that much.

19 JAMES RUHLE: No, no tons. It was a  
20 very big number. And the only way it was caught in  
21 time -- we wouldn't have reached the quota anyways,  
22 but had it not been caught, we could have been in a  
23 situation where we were getting close to a number.  
24 The dealers got together, said where the hell did

1 this entry come from? It was an extra zero is what  
2 it was, which that's explainable, but the concern  
3 was that it took the industry to bring that to the  
4 attention of the agency. And that's where we have  
5 concerns.

6 So, there's a definite need for a  
7 higher level of screening and review of this data so  
8 everybody's satisfied with what goes forward.  
9 That's all. Thank you.

10 COUNCIL CHAIR PETER JENSEN: Pat, one  
11 thing that occurs to me is as we move toward making  
12 selections of the years on which we're going to base  
13 allocations, it certainly I think would be useful to  
14 us to know at what point you consider those records  
15 credible. And so as you move through this review, I  
16 think that would be a piece of information we would  
17 be interested in knowing. Laurie.

18 LAURIE NOLAN: Thank you, Mr.  
19 Chairman. Pat, to this point, also, with the dealer  
20 reporting, it's my understanding that the dealers  
21 are not required -- well, as an industry member,  
22 when you ship fish, you're nowhere required to  
23 designate what state's quota you're fishing on. And  
24 I know New York recently had the problem with fluke.

1       So, it seems we have to fine-tune the requirements  
2 of either industry to make the dealers aware of what  
3 quota, and then the dealers can enter that. But  
4 otherwise, no one was really at fault there. It was  
5 just -- it was counted against the wrong state.

6               Is there a plan to somehow get the  
7 dealers more in tune rather than what the -- where  
8 the boat's home port is to designate what permit or  
9 what state they're fishing against?

10              PATRICIA KURKUL: New York has a lot  
11 of unique problems, actually. But I mean -- you  
12 know, to put it another way, the reality of it is  
13 that the situation is somewhat different here than  
14 it is in many other places, because of Fulton and  
15 the way Fulton works and the things are frequently  
16 trucked and -- so, we've been working with the  
17 dealers in Fulton. We've been working with the  
18 fishing vessels to try to make everyone aware that  
19 it's important that the dealer have that information  
20 so that it can accurately be reported.

21              And beyond that, I don't know what  
22 else we can do, but we're trying to make everyone  
23 aware of the importance of the information that  
24 they're inputting into the system.

1 COUNCIL CHAIR PETER JENSEN: Ron.

2 RON SMITH: Yes, Jimmy's question and  
3 all prompted my -- piqued my memory. Last meeting  
4 when this was being discussed, George was sitting up  
5 there and he said he'd look into it. It was  
6 reported that the records were kept by boat name,  
7 and I couldn't believe that. I figured it was by  
8 permit. Is that correct or did George check it?

9 PATRICIA KURKUL: It's by permit  
10 number.

11 COUNCIL CHAIR PETER JENSEN: Jimmy.

12 JAMES RUHLE: Just quickly, when you  
13 referred to what was going on in Fulton, you said  
14 something was frequently what at Fulton? Trucked,  
15 okay, thank you.

16 COUNCIL CHAIR PETER JENSEN: Greg,  
17 you had a comment?

18 GREG DIDOMENICO: Greg DiDomenico,  
19 Garden State Seafood Association. Mr. Chairman, if  
20 it's appropriate, can I just ask one quick question  
21 of Ms. Kurkul regarding the data issue, if I could?

22 COUNCIL CHAIR PETER JENSEN: Go right  
23 ahead. It's up to her to answer it, though.

24 GREG DIDOMENICO: Thank you.

1 Basically really I have to answer to a whole bunch  
2 of fishermen who at this point are very worried  
3 about this possible data discrepancy, and I don't  
4 know the -- how bad it is. And I don't know when  
5 it's going to be resolved. But Jimmy brings up the  
6 two issues the fishermen are really asking me about,  
7 and that is what is it's implications to stock  
8 assessment issues, and what -- has there been  
9 implications in the quota management of certain  
10 species. What can I tell them at this point?

11 PATRICIA KURKUL: Well, we're still -  
12 - we're still researching it. And of course it  
13 depends on the type of error. One of the things  
14 that Jimmy was talking about was it appears as if,  
15 anyway, it's being assigned to the wrong boats.  
16 It's not that the landings aren't there. They just  
17 happen to be going to this Spray boat instead of  
18 that boat named Spray or whatever. And so that  
19 somebody has been -- although we do track it by  
20 permit number, I think somebody has made an  
21 assumption, they see the name spray, they decide  
22 this is the permit number, and they use the wrong  
23 permit number.

24 So, that kind of an error, it doesn't

1 really matter that much to the bottom line. It only  
2 matters to the individuals involved. And that's  
3 still important, but -- you know, it's not the  
4 primary use of the system.

5 But then there are some others that  
6 could impact on both the quota monitoring and the  
7 information that feeds into the assessment, and  
8 that's -- those are the ones we particularly want to  
9 focus on.

10 So, you know, my suggestion would be  
11 if you want to put together a group of folks to sit  
12 down and talk about it, we'll send down some  
13 individuals that can explain where we are and  
14 hopefully have an exchange of information on things  
15 that might help.

16 GREG DIDOMENICO: Thank you.

17 COUNCIL CHAIR PETER JENSEN: Further  
18 comment for the Regional Administrator?

19 (No response audible.)

20 COUNCIL CHAIR PETER JENSEN: Are we  
21 ready for the Center Report, or is the Center ready  
22 to give the report?

1 JAMES WEINBERG: Thank you, Mr.  
2 Chairman. The first thing I'd like to mention is  
3 Dr. Nancy Thompson is here and doesn't -- still  
4 doesn't have an identification plate. And I was --  
5 so, some people may not know who she is, still, but  
6 I was John Boreman for my first eight months here,  
7 so --

8 COUNCIL CHAIR PETER JENSEN: Have you  
9 gotten over that, Jim?

10 JAMES WEINBERG: Moving on then to  
11 survey issues and vessels, the Albatross IV has been  
12 doing the sea scallop survey from July the 9th, and  
13 it will complete the survey around August the 16th.  
14 Things are going -- they're making very good  
15 progress on the survey.

16 The shrimp survey is also ongoing  
17 with the Gloria Michelle, and that's also taking  
18 place from mid-July to mid-August.

19 Then thinking about what the Bigelow  
20 is up to, that's our brand new vessel. There was a  
21 data -- there was a protocol development cruise or  
22 two short cruises that took place in June and July.

23 Jimmy Ruhle was involved with those and knows far  
24 more about what went on than I do, but in a nutshell

1 they were trying to examine how well the doors  
2 performed in different depths of water. They  
3 encountered some problems and came up with some  
4 quick solutions, and I think there's still some more  
5 work to do, but a lot of progress was made. And  
6 when I'm done, I think it would be very appropriate  
7 for Jimmy to report on that.

8 The Bigelow is now involved with the  
9 marine mammal survey, so it's already out there  
10 being used to collect survey information.

11 A word about the NEAMAP survey. The  
12 Center -- the Northeast Fisheries Science Center and  
13 ASMFC have both committed funds to support the  
14 NEAMAP survey, and the intent is for the data that  
15 are collected from this survey to eventually be used  
16 in stock assessment as a survey index.

17 Moving on to stock assessment  
18 meetings, we've been extremely busy with those. I  
19 reported earlier today on the SARC 45 results on  
20 northern shrimp and sea scallop. We also -- from  
21 June the 19th to the 20th, the Southern Demersal  
22 Working Group met to update the fluke assessment.  
23 From July 9th to the 12th and also from June the  
24 12th to the 15th we had monkfish assessment

1 meetings, and those results are just being finalized  
2 and I'll be reporting on monkfish at the next  
3 Council meeting. I'll have to request some time on  
4 the agenda for that.

5 Then we have some pre-GARM meetings.

6 The GARM is the Groundfish Assessment Review  
7 Meeting for the 19 groundfish stocks that are  
8 managed by the New England Fishery Management  
9 Council. There'll be a meeting on August the 16th  
10 on changing average weights at age and another one-  
11 day meeting on the use of tagging data. And these  
12 are very preliminary sorts of one-day working group  
13 meetings, which are kind of preliminary meetings for  
14 -- more the next meetings that take place, which are  
15 slightly more structured. But we have these  
16 announced on our SAW/SARC website as they are public  
17 meetings. But they are quite informal and not very  
18 structured at this point.

19 Then there will be more -- three  
20 meetings for the GARM, one in -- from October the  
21 22nd to the 26th, which will be more formal. And  
22 then another one on assessment models in February.  
23 And another on biological reference points coming up  
24 in April of '08. And again, all of these meetings

1 are listed on the SAW/SARC website.

2 The other thing to mention of  
3 interest is that in June of 2008 we have summer  
4 flounder on the agenda for SARC 47, and that will be  
5 a benchmark assessment.

6 And that completes my report. Thank  
7 you.

8 COUNCIL CHAIR PETER JENSEN: Thanks,  
9 Jim. I do want to invite Jimmy to give an account  
10 of his trip on the Bigelow. Jimmy. But in doing  
11 that, I want to take the opportunity to point out  
12 Jimmy's been -- he's demonstrated why we gave him  
13 the Ricks E. Savage Award. He volunteered on his  
14 own to spend I think a total of eight days --

15 JAMES RUHLE (No microphone):  
16 (Inaudible.)

17 COUNCIL CHAIR PETER JENSEN: How  
18 many?

19 JAMES RUHLE: Eleven.

20 COUNCIL CHAIR PETER JENSEN: Eleven  
21 days on his own, going aboard the Bigelow and being  
22 available to consult with them and trying to make  
23 that trawl work, and Jimmy was in touch with me all  
24 the time he was out there. When they were coming to

1 shore, he made arrangements to get a different set  
2 of doors and they went back out. And everything  
3 worked well. And so my compliments to you, Jimmy,  
4 for doing what you did and volunteering all your  
5 time, because I think they considered it quite  
6 useful. We'd like to hear your account of that 11  
7 days.

8 JAMES RUHLE: Thank you, Mr.  
9 Chairman. I appreciate the kind words. I provided  
10 Rich with two DVDs. One of them is still pictures  
11 and one of them is actually a movie of the hauling  
12 and setting procedure, but I don't know if they're  
13 going to be able to project it. They're looking  
14 into that.

15 So, if that comes up, that would be a  
16 great way to waste some time -- I mean utilize some  
17 time -- utilize some time this afternoon and not  
18 have to push people into doing reports that they're  
19 not ready to do. But anyway, we'll see what comes  
20 up.

21 What it boiled down to here, it  
22 started out a little shaky. I'll be perfectly  
23 honest with you. There's been some problems with  
24 communications back and forth on the results of some

1 of the Trawl Committee's recommendations. This has  
2 been quite a challenge. You know, we were asked to  
3 put a real small net on a real big boat that's got  
4 wicked bow spread, twice what the industry has got  
5 anywhere, distance apart on the stern and where the  
6 net's towed from. And no ground gear. Very small,  
7 short bridles to eliminate the herding effect.

8 I've talked to you many times about  
9 what the Trawl Committee's challenge was here. It  
10 became evident when I took that package we  
11 underestimated -- we, the Trawl Committee, myself  
12 and the gear vendors, underestimated the spreading  
13 force of these new style doors. They just don't  
14 look up. I don't care what you give them, they just  
15 laugh at you and keep right on going.

16 Congratulations to the Danes who developed these  
17 things.

18 We underestimated it; so, therefore,  
19 some of our earlier recommendations were  
20 overspreading the net. And we finally got to the  
21 right size -- what we thought was the right size.  
22 Unfortunately, that package went on my boat on the  
23 NEAMAP cruise, and we had excellent results. The  
24 consistency, which was a real big issue, was right

1       there, which is exactly what you look for when  
2       you're talking about a scientific cruise.

3               So, having utilized this package on  
4       my boat in the inshore waters, I figured well, this  
5       is a piece of cake. The big boat's just to take  
6       this and run with it.

7               Well, the big boat was able to take  
8       that package and duplicate what we did in shoal  
9       water, but as every 10 fathoms they went deeper, it  
10      got worse. And it come to a point where it would  
11      not stay on the bottom.

12              Now, granted, it was a different  
13      sweep, so that's another issue altogether. But  
14      still, the configuration of the net -- the biggest  
15      problem with the new high aspect doors on that boat  
16      was that these doors go to work as soon as they get  
17      below the surface. They don't know they're not on  
18      the bottom. They just know there's supposed to open  
19      this net. And they do.

20              In some cases, we were 18 minutes  
21      from the time that the otter trawl stopped setting.

22              Otter trawl is a system that's on the Bigelow and  
23      it's expensive. It monitors the pressure, it  
24      actually -- if the boat turns a little bit, lets one

1 wire out, pulls one wire in, to keep the geometry of  
2 the net perfect. It's been used in the industry for  
3 years.

4 But what it does have is what we call

5 --

6 COUNCIL CHAIR PETER JENSEN: They're  
7 all out.

8 (PAUSE FOR MICROPHONE/TECHNICAL ADJUSTMENTS)

9 JAMES RUHLE: There we go. There are  
10 strange things happened in New York; aren't there,  
11 Pat? But anyway, the constant tension issue on this  
12 trawl winch, what is happening is the net is going  
13 down and it's in full configuration. And we went --  
14 like I say, one tow, and I believe it was 75 meters  
15 of water we were in, so we shot 150 -- 225 meters of  
16 wire. And once the gear was stopped setting --

17 UNIDENTIFIED (No microphone):

18 (Inaudible.)

19 JAMES RUHLE: Just go ahead and let  
20 it run. It was 18 minutes anyway. 18 minutes  
21 before that net hit the bottom. So, basically just  
22 made a 38 minute tow with the 20 minutes added to  
23 it, and you had in fact 20 minutes of demersal  
24 fishing and 38 minutes of pelagic fishing. That's a

1 big problem.

2 So, how do you want to do this, Mr.  
3 Chairman? Do you want to just sit back and look at  
4 it, or do you want to try -- or explanation of  
5 what's going on, or what do you want to do?

6 COUNCIL CHAIR PETER JENSEN: I think  
7 an explanation of what's going on will help out.

8 JAMES RUHLE: All right. This is the  
9 flat sweep. No, this is the roller sweep, excuse  
10 me. That's the rock hopper sweep; right? Wrong  
11 terminology. That's being shot off the stern, it's  
12 being winched aft.

13 And before I get away from it, I want  
14 you to pay attention to the people in this video.  
15 All of the deck hands and anybody that you see in  
16 here, I am totally amazed with the professionalism  
17 and diligence that I saw on that boat. And I can  
18 guarantee you that word will be spread,

19 Everybody knew what to do, when to do  
20 it, and they did a damn good job of doing it.  
21 They're not gentle. They're not going to get any  
22 awards for being nice to this net. They haven't  
23 mastered that yet, but they can get it in, they can  
24 get it out, and they know what to look for if

1 there's a foul-up.

2 This is the very first leg of this  
3 cruise, so the doors that we're using now were the  
4 doors that we used in the NEAMAP cruise. They're on  
5 the stern, those blue doors right behind the  
6 gallows. A little hard to point out, but you'll see  
7 them -- go to them in a minute.

8 Again, this is the rock hopper sweep,  
9 and it appears that that may be the sweep of choice  
10 for the calibrations.

11 PAT AUGUSTINE (No microphone): How  
12 fast as they going, Jim?

13 JAMES RUHLE: Sorry?

14 PAT AUGUSTINE (No microphone): What  
15 speed are they traveling?

16 JAMES RUHLE: Speed?

17 PAT AUGUSTINE (No microphone):  
18 (Inaudible) three knots?

19 JAMES RUHLE: They tow at three  
20 knots, but no, they're down to a knot, knot and a  
21 half. Less than a knot right here.

22 UNIDENTIFIED (No microphone):  
23 (Inaudible) operating the controls?

24 JAMES RUHLE: You have two -- you

1 have a watch officer -- let's see, a bosun and a  
2 lead fisherman. And that would be the bosun that's  
3 controlling it from an outside station. And the  
4 net's being shot there, and now we'll see the ground  
5 wire. We have a total of 120 feet between the net  
6 and the doors. And if I was pulling that net --  
7 that size net in a commercial application with the  
8 doors that I'd have, I'd have about 700 feet.

9 So, you know -- but I want the wire  
10 to start the herding effect to the fish. In a  
11 commercial application, you rig the gear  
12 differently. There's a lot more distance between  
13 the net and the doors. But just like any movie,  
14 everything looks like it's going around a thousand  
15 miles an hour here, and it's really not.

16 I think there's some decent video of  
17 the doors actually being shot. I can tell you when  
18 it transfers to the auto trawl system. What  
19 they're doing right there is disconnecting the net  
20 from the net drum, hooking it to the stern. That's  
21 called G-hooks. And they'll take the slack out of  
22 there, walk around the stern, hook it to the door  
23 and then it's disconnected from the net drum,  
24 becomes hooked to the door. They move a little

1 faster than that.

2 UNIDENTIFIED: Appears we have  
3 technical difficulties.

4 JAMES RUHLE: All right. No big  
5 deal.

6 UNIDENTIFIED (No microphone):  
7 (Inaudible.)

8 JAMES RUHLE: Excuse me?

9 UNIDENTIFIED (No microphone):  
10 (Inaudible)

11 JAMES RUHLE: Yeah, exactly right.  
12 No ground wire, just scissors. Yes, sir.

13 UNIDENTIFIED (No microphone):  
14 (Inaudible.)

15 JAMES RUHLE: 20.

16 UNIDENTIFIED (No microphone):  
17 (Inaudible.)

18 JAMES RUHLE: Yes, exactly. But  
19 Charlie, this is -- to not have the herding effect  
20 catching, you're just trying to open the net, not  
21 trying to catch with the ground wire or the bottom  
22 bridles.

23 UNIDENTIFIED (No microphone):  
24 (Inaudible) 11 days on that beach.

1                   JAMES RUHLE:  Anyway, what the net  
2 result was, as we went through this -- the doors  
3 were overspreading and they were taking far too long  
4 to reach the bottom, far too long.  And it was again  
5 partially the -- why we were able to make them work  
6 on our boat is simply because we can turn them  
7 loose.  We don't have this constant pressure setting  
8 them out.  Reasonably slowly, with this constant  
9 tension.  And I didn't try it in deep water.

10                   When I was first made aware of this  
11 problem, it was actually prior to our last Council  
12 meeting, I offered the Science Center the  
13 opportunity if they so wanted -- desired, that  
14 before the vessel came in for the Commission, and if  
15 they would have went east of Norfolk and made five  
16 tows, one in 25, one in 50, one in 75, one in 100,  
17 150 fathom, recorded everything, I would have been  
18 glad to come alongside.  They could have physically  
19 picked that package up, put it on my deck and I'd  
20 have went out and duplicated it.  But we didn't get  
21 around to that.  And it's probably just as well,  
22 because I'm reasonably sure that we would have  
23 encountered some of the same problem.

24                   We expect during the NEAMAP cruise to

1 dedicate a day either coming or going and get out to  
2 deep water and see what the effects of this package  
3 is in deeper water. But come down to the -- the  
4 bottom line was the doors that the committee  
5 recommended worked well for me, did not work for the  
6 Bigelow. Just would not work. I don't know how  
7 they would have done on the Albatross. That  
8 actually was never tried. We went out -- let's see.

9 We spent the first seven -- we'd sail on Tuesday  
10 and come in on Monday. Monday morning we entered  
11 Newport Harbor at 10 o'clock and left at 3 o'clock  
12 with another set of doors. And they were a lower  
13 aspect door, much smaller, Charlie, much smaller  
14 door, scary small. You know? But it was the only  
15 door I could put my hands on, as simple as that. It  
16 was the only thing available other than what we had  
17 on a boat. Everything was overspreading. Worked  
18 out we went back out, went out to the deep water and  
19 lo and behold these doors did the job. And they  
20 sink fast. They don't open the net till it gets to  
21 the bottom. We made a few adjustments and actually  
22 reduced their efficiency, cut them back a little bit  
23 because they were almost overspreading. And I think  
24 probably -- of course all of this takes time -- you

1 know, when you're making these tows like that. You  
2 don't just -- you make one change at a time and then  
3 you record what that change does. And then you have  
4 to make that tow head tide fair tide. You just  
5 can't make one tow with an adjustment and expect to  
6 have quantifiable results.

7 But the beauty part of it was that  
8 when we got done making the adjustments, we made  
9 tows from 390 meters into 30 meters and never  
10 changed the door setting. Never changed it. You  
11 would change scope to ratio -- scope of ratio to  
12 depth as different intervals as you move in with  
13 different tows, but you didn't have to physically  
14 touch that door to make it do its thing.

15 Ironically, the door is called a Patriot, and what  
16 better in New England than a Patriot -- you know?  
17 And I've got to give a lot of credit to Reidars in  
18 New Bedford. They provided the doors to me on my  
19 word. They basically said here, come get 'em and  
20 put 'em on the boat. And they are going to benefit  
21 by it, because it's going to be the door of choice.

22 Ironically -- again, this just shows  
23 once in a while the stars line up, even for the  
24 Science Center. These fellows had just come back

1 from Memorial University in Newfoundland and done  
2 extensive testing on these doors, extensive. For  
3 his own benefit. You know, it's a hybrid door of  
4 his design and NETS, North East Trawl Systems, out  
5 in Bainbridge, Washington. And it just ended up  
6 being the right door for the job. And I know the  
7 industry when they see this door, they're going to  
8 laugh. I almost cried. I couldn't laugh. When  
9 that thing got put on deck, I looked down -- well,  
10 first of all, I was up too high -- I come down ten  
11 flights of stairs and it still looked little. The  
12 closer I got, the littler it looked -- you know? I  
13 said oh God. It was a long 12-hour steam to put  
14 that thing in the water, but it did the job. And  
15 that's all the hell that counts -- you know? And  
16 that's what we're after.

17 So, we ended up with the right  
18 package. It just kind of fell in our laps. There's  
19 supportive documentation so the Science Center can  
20 utilize the testing that was done. Kurt Gores,  
21 isn't that his name, from the Northwest Science  
22 Center, was on board. Captain Rodney Avila joined  
23 me when they put the doors on. We put Rodney on  
24 with the same crane with no problem. And we took

1 Kurt George. He joined us on that cruise. He's one  
2 of the coordinators in the Northwest Pacific, and  
3 ironically I'd been talking to him over a period of  
4 two, three years, never met the man, about the Oscar  
5 Dyson, the sister ship to the Bigelow. And he made  
6 the cruise with us. And it was good to have him  
7 aboard, because he had no idea about doors. I mean,  
8 he was so confused about what you do to adjust a  
9 door that it wasn't even funny.

10 Bottom line is the Science Center, I  
11 believe, has got a package that they can start the  
12 calibrations with, and there's nobody any happier  
13 about it than I am. The Trawl Committee was  
14 responsible for making the wrong recommendations  
15 early on, and we just underestimated these doors.  
16 And had somebody told me what these doors were  
17 doing, I don't think I'd have believed them. Those  
18 Thyborons, those 66-inch high-aspect doors, we gave  
19 them 980 meters of one-inch cable out there in 300-  
20 some fathoms. Kept right on going. Never slowed  
21 down, never fell down, never looked up. They just  
22 kept right on overspreading that net, and I would  
23 not have believed that had I not seen it with my own  
24 eyes.

1                   So, anyway, I think the Bigelow is in  
2                   good shape. She is, like Jim says, out on a marine  
3                   mammal cruise, I think up to somewhere in  
4                   Newfoundland. Excellent ship. I mean she's -- I  
5                   think have some issues with the design for the gear  
6                   handling, but that's not the Science Center's  
7                   problem. That's the designer's, whoever built the  
8                   boat. I recommended to the captain several  
9                   modifications for safety reasons. Safety reasons  
10                  only. Things that I would do if I was on that boat.

11                 I would want my men protected. I want my men that  
12                 I can see them when they're reaching behind  
13                 something that weighs 11, 1200 pounds and can move  
14                 when this boat rolls. And I gave them  
15                 recommendations directly to him. What he does with  
16                 them is up to him.

17                 But again, the crew, the NOAA crew  
18                 and the deck hands and everyone involved -- the  
19                 people that I was involved with on the deck, top-  
20                 notch, and extremely pleased with their performance,  
21                 and I wasn't -- I didn't hesitate to let them know  
22                 that. And I think you'll see industry people making  
23                 trips once in a while. It wasn't a show. I had to  
24                 put on my silly suit and get out there with them,

1 you know, the hat, the life vest and all that crap -  
2 - you know? And if you were working shoulder to  
3 shoulder with them or you were peaking around a  
4 corner looking at them, the consistency was there.  
5 They know it's a big deal, struck it off really  
6 well with the captain. He was born and raised,  
7 Vince, in Oceanside. Ten miles from where I was  
8 born and raised.

9 So, anyway, it all went very well and  
10 I was glad to be able to help the Science Center and  
11 help our industries with better science in the  
12 future, Mr. Chairman. Thank you.

13 COUNCIL CHAIR PETER JENSEN: Okay,  
14 thanks. Interesting and I'm sure your work is much  
15 appreciated. Joel, do you have a report? Oh, Ron,  
16 go ahead.

17 RON SMITH: I had a question for  
18 Jimmy. Are you going to use these new Patriot doors  
19 on Darana? And how -- if you don't, how will that  
20 affect the comparability of the surveys?

21 JAMES RUHLE: If you'll recall back  
22 to some of the discussions we had at the trawl  
23 survey, all's we're trying to do is set up the  
24 parameters for the net. If the door spread is 32 to

1 34 meters and the wing spread is 12 to 14 meters and  
2 the head rope height is four and a half to five  
3 meters, we're there. At three knots, I don't give a  
4 damn if you tow it with the passenger's side door of  
5 a Volkswagen, it doesn't matter. As long as you get  
6 the consistency of that net there, I think the doors  
7 -- I could make the Patriots work. If the Science  
8 Center comes to me and says before I sail we should  
9 do that -- right now the Science Center's stuck with  
10 a set of 66-inch doors. I don't think they're going  
11 to say you need Patriots. They're going to say how  
12 about another set of 66-inch doors? So, I don't  
13 think it's going to be an issue.

14 COUNCIL CHAIR PETER JENSEN: Jim, you  
15 had a question?

16 JAMES FLETCHER (No microphone): What  
17 caused the --

18 COUNCIL CHAIR PETER JENSEN:  
19 Microphone.

20 JAMES FLETCHER: What caused the  
21 Trawl Committee to mis-guess this door? Is it the  
22 size of the boat or the type of propulsion?

23 JAMES RUHLE: It's the size of the  
24 boat is an issue, Jim. The propulsion is not as big

1 an issue. But it's such a small net for such a big  
2 boat, with no ground wire. I don't know how better  
3 to explain it than that. It's just -- for that size  
4 vessel -- I mean the guy that they sent over from  
5 Scotland to deal with the otter trawl system, he had  
6 to physically take motors off of this system because  
7 it wasn't even feeling the pressure. This thing  
8 operates on pressure. So, the net -- the auto trawl  
9 system wasn't even capable of being dialed down  
10 enough to provide a range for that unit to work  
11 because of the physical size of the net. So, it's  
12 more the net and the package than it is the vessel -  
13 - well, it's a combination, but it's more because  
14 that net was so small, Jim.

15 JAMES FLETCHER: Okay. You just  
16 brought up something popped in my mind. If that  
17 auto trawl works on pressure, the more fish you  
18 catch the more that net's going to react. What's  
19 that auto trawl system going to do?

20 JAMES RUHLE: The pressure that the  
21 auto trawl system's on wouldn't recognize fish in  
22 the net. They have catch sensors on -- the  
23 industry's use of auto trawl systems and geometry of  
24 the net doesn't change. If the auto trawl system is

1 set on a round -- it's all in bars, not -- pounds  
2 per square inch, and I just can't recall what the  
3 bar and the numbers were. But I know for a fact the  
4 pollock fishery when they're using the auto trawl  
5 system, the catch does not affect the way that the  
6 auto trawl system reacts to the gear.

7 However, if that net was to hang up  
8 substantially on the bottom, or a turn is made and  
9 the geometry changes in the net, then the auto trawl  
10 system would either pay out really quick in the case  
11 of a hangup, or would adjust during the turn so that  
12 the geometry of the net was the same. I don't know  
13 if that's answering your question or not.

14 COUNCIL CHAIR PETER JENSEN: Okay.  
15 Let's move on, I think. Joel, you have a report?

16 JOEL MACDONALD: Mr. Chairman, I  
17 don't have anything to report.

18 COUNCIL CHAIR PETER JENSEN: Okay.  
19 That's two times in a row, Joel.

20 JOEL MACDONALD: It's relatively  
21 quiet on the litigation front for some strange  
22 reason.

23 COUNCIL CHAIR PETER JENSEN: Let's go  
24 to the Executive Director's Report.

---

EXECUTIVE DIRECTOR'S REPORT

1  
2  
3 DANIEL FURLONG: Thank you, Mr.  
4 Chairman. The information I'll be discussing is  
5 included behind Tab 14, but before I get into that,  
6 I'd like to go ahead and introduce Peter Himchek  
7 from New Jersey. Recall that Bruce Freeman retired  
8 in January a year ago. They have not backfilled  
9 that slot, and Paul Scarlett has been covering for  
10 him, and it happens that on this particular cycle  
11 Paul's on vacation, so Peter's with us. So,  
12 welcome. And as I said, from my perspective back  
13 there, I didn't know who the yellow shirt was.

14 Also point out that you'll notice  
15 this is a Manhattan telephone directory of a  
16 briefing book, and I'd like to thank Jan for her  
17 personal involvement in this particular effort.  
18 Recall I sent you an e-mail that Kathy Collins was  
19 involved in an automobile accident and she has yet  
20 to return to work. She doesn't have any permanent  
21 disabling injuries, no broken bones or anything, but  
22 she's just one hurt puppy and going through a lot of  
23 physical therapy to recover with whiplashes and  
24 lower back problems.

1                   Moreover, our people do earn leave,  
2                   and it happened that Carol Sollazzo, our admin.  
3                   officer, was out the week that this book was  
4                   developed. So, it all fell onto Jan, and she did a  
5                   heck of a job and I want to thank her publicly for  
6                   her efforts on that.

7                   Speaking of other people who are  
8                   under the weather, I did send you an e-mail about  
9                   Red Munden. And that's why Chris Batsavage is here.

10                  Hope Red's getting better. I called him at the  
11                  hospital four times, and not once did I get an  
12                  answer. So, I figure he's either dead or he's out  
13                  chasing the nurses or something.

14                  JAN BRYAN: I talked to him.

15                  DANIEL FURLONG: You did? Okay. I  
16                  never connected. Every time I called, it just rang  
17                  and rang and rang.

18                  PAT AUGUSTINE: He was under close  
19                  scrutiny by his friends and he didn't go anywhere.

20                  DANIEL FURLONG: Good enough. What's  
21                  behind Tab 14, the first section of the tab relates  
22                  to motions that were passed at the Council. And I'm  
23                  just passing on the motions to staff to make sure  
24                  that they get moving on this. The first one up is

1 the surfclam specifications for '08, '09 and '10.  
2 That package will be submitted later this month.

3 The next one relates to Squid,  
4 Mackerel, Butterfish specs for '08. Rich has  
5 already done that and has that submitted into the  
6 Regional Office.

7 Tilefish, this is the Amendment 1.  
8 We'll have some time at this meeting to add a few  
9 items to Tilefish Amendment 1 that weren't addressed  
10 at the last meeting.

11 Then we -- memo here to Jim  
12 Armstrong, letting him know that the Omnibus  
13 Standardized Bycatch Reduction Methodology Amendment  
14 had been passed by the Council, and that we were  
15 waiting for New England to likewise do the same  
16 thing. And I believe that the proposed rule is  
17 already published for this. Pat, is that a fact,  
18 that --

19 PATRICIA KURKUL: Not yet.

20 DANIEL FURLONG: Not yet? Okay. So  
21 I lied.

22 the next one is a follow-up action  
23 that relates to Amendment 9. This is one where  
24 we've been working on for years related to Squid,

1 Mackerel, Butterfish that we took out all the  
2 bycatch action measures to incorporate them in  
3 Amendment 10. Those of you who were at the  
4 committee meeting yesterday, you'll recall that I  
5 mentioned this as one of the confounding things with  
6 the possibility of delaying 10 is that we promised  
7 that by removing these from 9 and putting them into  
8 10 that 10 would be following very shortly. And we  
9 do have an obligation to meet the National Standard  
10 9 and to also remedy the SFA deficiency that related  
11 to the Squid, Mackerel, Butterfish plan. So, that  
12 was just letting people -- Rich and Jim know that  
13 that happened.

14 The next one deals with Amendment 15.

15 We've already talked about that today. Reconciling  
16 the differences between the two management  
17 authorities.

18 Likewise, we already had the  
19 conversation regarding the letter that was sent to  
20 Pat related to the data collection problems and  
21 already had Jimmy and a few others comment on that.

22 Pat has responded. I did contact John Witzig. He  
23 was out at the time I contacted him. I subsequently  
24 found out that he'll try to get to our December

1 meeting.

2 The next letter is a letter to Paul  
3 Howard thanking him for his staff's contribution to  
4 the report on Council Management Coordination, which  
5 is under the Old Business tab section -- or Tab 16  
6 in the briefing book. We've updated that somewhat  
7 and hope you've had a chance to look at that. We're  
8 still looking for comments and feedback.

9 Also, mentioned the concern the  
10 Council expressed -- it's kind of buried in there --  
11 that I write to you expressing our appreciation and  
12 request that the Council continue its consultation  
13 with our Council whenever there is an action being  
14 considered or proposed by your Council that may  
15 impact our geographic jurisdiction or impact our  
16 constituents. And that was as relates to their  
17 omnibus Essential Fish Habitat amendment.

18 The next thing is just the press  
19 release that kind of captures everything that went  
20 on at the last meeting. Then some thank you letters  
21 for those people who were involved with our Council  
22 presenting information to us for our benefit.

23 And there's a blue tab divider.  
24 Behind that is the Council appointment process,

1 first from the Secretary that lets you know the  
2 appointments throughout the system. And then  
3 there's a brief press release from our office that  
4 kind of highlights the people who've been appointed  
5 to our Council.

6 The final tab -- or next to the last  
7 final tab is a separator regarding the Council's  
8 award recognition program. We did send out a survey  
9 instrument that thus far we've only had six  
10 respondents. We were hoping that you'd get that  
11 back to us by the end of June. So, I think I'll  
12 resend that.

13 I understand some people had some  
14 problem downloading it, but thus far you can see the  
15 tabulated results, that maintain current awards has  
16 two votes, the combine the awards into one entitled  
17 the Ricks Savage Award has three. And combine both  
18 awards into one with a title to be determined had  
19 one vote. So, kind of -- you, shotgun response thus  
20 far.

21 In terms of its frequency, three  
22 people support an annual one, and two support only  
23 when it's appropriate, with one person saying hey,  
24 do it when appropriate, but at least once every

1 three years or 36 months. So, I'll recirculate that  
2 so we can get some closure on that because we're  
3 coming into that awards recognition cycle.

4 Then had a solicitation out to the  
5 Council for mentors, and you'll see that we had a  
6 number of people respond. Ed Goldman, Jeff Dean,  
7 Gene Kray and Scott Holder also -- like to serve in  
8 that capacity, and Pete's going to make some  
9 decisions about that.

10 And finally, the last two items in  
11 the tab relate to legislation. Oceans 21 bill is  
12 back in the hopper. You can get an idea of what is  
13 entailed with this particular bill. The idea is to  
14 establish a national policy for oceans, to  
15 strengthen NOAA, and to establish national and  
16 regional ocean governance structures and other  
17 purposes. And there's a little summary from the  
18 Congressional Research Office.

19 And finally, there is a notice about  
20 a workshop to be convened next month, September 25  
21 and 26, in Washington, D.C. related to the Magnuson  
22 Reauthorization Act. And the highlights are there  
23 on that page. I won't bother to go into them.

24 And with that, Mr. Chairman, I

1 conclude my report.

2 COUNCIL CHAIR PETER JENSEN: Well, on  
3 that last item, we've been invited to have five  
4 people at that workshop, and so I do want to solicit  
5 interest from those of you that might be interested  
6 in going to a two-day workshop on MSA  
7 reauthorization. I plan to go.

8 DANIEL FURLONG: I'll offer up my  
9 seat, if you'd like.

10 COUNCIL CHAIR PETER JENSEN: Anyway,  
11 at this point I plan to go, and so I'd like to hear  
12 from others that might be interested.

13 PAT AUGUSTINE: Thank you, Mr.  
14 Chairman. I'm sorry I neglected to note that I  
15 wanted to be on your mentoring list. I'm working  
16 with Ms. Chytalo and Steve Heins from New York and  
17 I'd like to be on that list.

18 COUNCIL CHAIR PETER JENSEN: Okay.  
19 Pat, did you have something else?

20 PAT AUGUSTINE (No microphone):  
21 (Inaudible.)

22 COUNCIL CHAIR PETER JENSEN: Okay.  
23 Then we're going to move on to -- Rich, are you  
24 ready to do Status of FMPS?

1 RICHARD SEAGRAVES: Yes, sir.

2  
3 STATUS OF MAFMC FISHERY MANAGEMENT PLANS

4 RICHARD SEAGRAVES: Thank you, Mr.  
5 Chairman. The information I'll be covering is  
6 behind --

7 COUNCIL CHAIR PETER JENSEN: Rich,  
8 hang on one second. Vince, you had something else?

9 VINCE O'SHEA (No microphone):  
10 (Inaudible) a report.

11 COUNCIL CHAIR PETER JENSEN: Oh,  
12 okay. Go ahead, Rich.

13 RICHARD SEAGRAVES: Okay. Thank you,  
14 Mr. Chairman. Again, the information I'll be  
15 covering is behind Tab 15. The first item is the  
16 Annual Work Plan. The second item is the Council's  
17 specifications, tracking, where they are. And the  
18 third is a matrix of status of FMPs, amendments and  
19 frameworks of the Mid-Atlantic Council. Already  
20 been mentioned the July 23rd final rule on Amendment  
21 14 was published.

22 The fourth item is a Northeast permit  
23 holder update, informing permit holders that there's  
24 a new format on operator permits. Item Number 5 is

1 a scallop permit holder letter, indicating that  
2 Amendment 13 to the scallop -- Atlantic Sea Scallop  
3 Fishery Management Plan became effective immediately  
4 June 13th, 2007. And then following behind that is  
5 the actual final rule on Amendment 13.

6 The next item is the Small Entity  
7 Compliance Guide informing scallop permit holders of  
8 a closure to general category scallop vessels in the  
9 Nantucket Lightship scallop access area. And  
10 another letter following that to the Small Entity --  
11 or to the scallop permit holders indicating that  
12 Scallop Area 1 access area was also closed effective  
13 January -- I'm sorry, July 15th.

14 The next item is a June 5th letter to  
15 tilefish permit holders indicating that effective  
16 June 7th, 2007 the full-time Tier 2 category permits  
17 or permit holders are prohibited from landing  
18 tilefish, and that is effective till October 31st,  
19 2007.

20 The next item is the final rule  
21 publishing the recreational management measures for  
22 summer flounder, scup and black sea bass.

23 The next item is the emergency rule  
24 extension that Pat had already commented on, which

1 extends the increase in the summer flounder quota  
2 for the end of 2007.

3 Following that is the final rule for  
4 Amendment 14, which we've already talked about.

5 The next item is a letter to Dan  
6 Furlong indicating that unused research set-aside  
7 quota for sea bass and loligo have been reinstated  
8 back into the general quota for those two species  
9 for 2007. The amounts are there. And finally --  
10 okay -- and then the temporary rule, which goes with  
11 that, is behind that.

12 And then the last item is the  
13 proposed rule for the 2007 list of fisheries under  
14 the Marine Mammal Protection Act. And this one I  
15 wanted to talk just a little bit about because I sit  
16 on the scientific review group for marine mammals  
17 and had submitted comments relative to the timing of  
18 the publication of the proposed rule for list of  
19 fisheries under MMPA. And generally, it had been  
20 published in -- generally in mid or very close to  
21 the end of the year, sometime in early to mid  
22 December, which did not allow the Councils time to  
23 comment on the proposals for whatever upcoming  
24 fishing year we were in.

1                   And to NOAA's credit, they took those  
2                   comments to heart, and therefore this year they've  
3                   instituted a publication or proposed rule in mid  
4                   June here or late June. Unfortunately, I was on  
5                   travel when we got this and we set the agenda for  
6                   the Council. We didn't have time to put this on the  
7                   agenda. So, I was going to request -- I've reviewed  
8                   the -- there are no changes to the list of fisheries  
9                   that affect Mid-Atlantic or Mid-Atlantic fishing  
10                  interests. However, I would like the literary  
11                  license to perhaps draft a letter to the Service  
12                  indicating that we appreciate the opportunity to  
13                  comment and also allow -- if anybody -- any other  
14                  Council member -- you know, has any comment, work  
15                  with Red Munden, hopefully if he's healthy here  
16                  shortly, to pull together any comments that anybody  
17                  has relative to this list of fisheries. We just  
18                  weren't able to get it on the agenda. I was out of  
19                  the office when he came in and the FR went out for  
20                  our agenda.

21                   So, the letter will say basically  
22                   that we appreciate the opportunity to comment in  
23                   general nature. And if any specific comments that  
24                   Council members have, we could work through Red

1 Munden, the Chairman of the Protected Resources  
2 Committee, to add any additional comment.

3 COUNCIL CHAIR PETER JENSEN: Thanks,  
4 Rich. Questions? Pat.

5 PAT AUGUSTINE: Thank you, Mr.  
6 Chairman. On the work plan, Rick, FMPs with  
7 outstanding SFA disapprovals requiring corrective  
8 action, I may have missed what our action is or when  
9 our action will be taken on Amendment 1 to the  
10 Bluefish EFH gear impacts, port descriptions, de  
11 minimis status. Could we have an updated report on  
12 that, or did I miss it?

13 RICHARD SEAGRAVES: I'll kick that  
14 one over to Dan. I'm not sure that we have anything  
15 on that.

16 DANIEL FURLONG: We haven't done  
17 anything on bluefish.

18 PAT AUGUSTINE: We're not under any  
19 pressure to address that at this time?

20 DANIEL FURLONG: Say again?

21 PAT AUGUSTINE: Are we under any  
22 pressure to address the SFA requirements?

23 DANIEL FURLONG: No, it was partially  
24 approved and parts were disapproved.

1 PAT AUGUSTINE: Just wanted to make  
2 sure we were clear. Thank you.

3 COUNCIL CHAIR PETER JENSEN: Further  
4 questions on Rich's presentation?

5 (No response audible.)

6 COUNCIL CHAIR PETER JENSEN: Vince,  
7 are you ready to give the Commission report?

---

8  
9 ATLANTIC STATES MARINE FISHERIES COMMISSION REPORT

10 VINCE O'SHEA: Thank you very much,  
11 Mr. Chairman. The Commission has not met since the  
12 last Council meeting where I gave you an overview of  
13 our May meeting, but we are scheduled to meet next  
14 week in Alexandria, Virginia. The name of the hotel  
15 is now the Crown Plaza, but it's still the Radisson  
16 -- it's the old Radisson where we met on North  
17 Fairfax Street. We're starting Monday afternoon and  
18 run through Thursday. Our meetings are open to the  
19 public, Mr. Chairman, and the agenda is published --  
20 has been published on our website.

21 One other item, just a comment, is  
22 earlier at the Summer Flounder, Scup and Black Sea  
23 Bass Board meeting, there were a number of comments  
24 made, both on the record as well as afterwards by

1 the audience, expressing concern about the data and  
2 the surveys that are being used to produce some of  
3 the science information that is guiding both the  
4 Commission and this Council.

5 And I was very encouraged and wanted  
6 to compliment Jim Ruhle for the excellent report  
7 that he gave on the Bigelow. And I hope that this  
8 image of the industry working side-by-side with the  
9 scientists to tune up this net and to work the bugs  
10 out to help give confidence in the data that's being  
11 collected, I hope the folks that had expressed  
12 concern about those surveys, that that type of  
13 information will help assure them that this is --  
14 the Northeast Science Center is taking this task  
15 seriously and they're using the best minds, not only  
16 within science but within the fishing industry.

17 So, from a Commission standpoint, we  
18 live and die by those surveys, and I was delighted  
19 to get the report from Jim Ruhle. So, that's all I  
20 have, Mr. Chairman, and happy to answer any  
21 questions. And again, thank you for your  
22 hospitality.

23 COUNCIL CHAIR PETER JENSEN: Nancy.

24 NANCY THOMPSON: Yeah, thanks, Pete,

1 for giving me the opportunity to speak up here. I  
2 appreciate that, Vince. Obviously our view is that  
3 what we're doing now relative to the Bigelow is  
4 ensuring that we can appropriately calibrate the  
5 time series that we have already and we'll be able  
6 to continue with that, as well.

7 We're also obviously very interested  
8 in terms of evaluating and doing additional  
9 analytical work to evaluate the uncertainty and the  
10 variability associated with the indices as well.

11 So, I mean what Jimmy said is  
12 incredibly encouraging and we're very excited,  
13 because I think we're pretty confident at this point  
14 that we're going to be able to sustain those time  
15 series. And of course, that's been something that's  
16 been debated and of concern. And of course, the  
17 time series up here in the northeast in some cases  
18 go back 60 years.

19 So, obviously, we're all about  
20 improving the science and improving the information.

21 And I think we're really confident that the  
22 Bigelow, which has incredibly new capabilities and  
23 it's not just the calibration, but -- you know, it's  
24 the quietest or second quietest vessel in the world,

1 I think -- I guess that's arguable. So, I mean  
2 we're going to be able to utilize it with new tools,  
3 new technologies, and so we're confident that we're  
4 going to be able to move forward obviously to  
5 improve the science.

6 So, you know, I mean all we can do is  
7 produce information that is evaluated and is the  
8 best available information. And I think -- you  
9 know, one of the frustrations that everybody has is  
10 that best available does not mean best possible.  
11 But you know, what we're always trying to do is move  
12 towards that. I mean that's the goal is to have the  
13 best possible information and I think we're going to  
14 be probably making some progress towards that.

15 COUNCIL CHAIR PETER JENSEN: Thanks,  
16 Nancy and Vince, for bringing that up. Any other  
17 comments, questions, so forth?

18 (No response audible.)

19 COUNCIL CHAIR PETER JENSEN: I've  
20 asked Dan to add a little bit to his report on the  
21 fact that we didn't have time to get this into the  
22 briefing book, but four Congressmen sent me a letter  
23 about summer flounder and how we should use our SSC.  
24 And we did respond to them. So, I'd like you to

1 get a flavor of what the request was and what the  
2 response was. So, I'm going to ask Dan to go  
3 through that.

---

4  
5 EXECUTIVE DIRECTOR'S REPORT (Continued)

6 DANIEL FURLONG: This thing was dated  
7 July 23rd, but actually didn't receive it on July  
8 23rd. Let me see, okay. I know what it was, the  
9 next letter I was thinking about. I did receive  
10 this on July 23rd. What this is is a letter from  
11 four coastal members in New Jersey, Congressman  
12 Saxton, Congressman Pallone, Congressman LoBiondo  
13 and Congressman Smith. And they sent this letter to  
14 us. I received it via e-mail from a staffer with  
15 Congressman Saxton, one Andy Oliver, and she asked  
16 that we address this.

17 So, what the request was was that  
18 these four Congressmen were writing to encourage  
19 you, the Mid-Atlantic Fishery Management Council, to  
20 activate the Council's Scientific and Statistical  
21 Committee to: 1, provide an independent review of  
22 the NMFS assessment; and 2, consider whether current  
23 environmental conditions are preventing the stock  
24 from rebuilding. That's the two issues that they

1 really kind of articulated. Then they added a lot  
2 of text to their concerns.

3 I forwarded this to Pete, and Pete  
4 drafted his own response to this and we did some  
5 comments on it, and then we forwarded it back to  
6 Andy Oliver the following Monday, which would have  
7 been what, July 30th. So, we did have a response  
8 back to them.

9 In the intervening time, though, I  
10 also received a copy of a letter that was directed  
11 directly to Bill Hogarth from Congressman Pallone  
12 requesting that the agency contract with the  
13 National Academy of Sciences National Research  
14 Council to do an independent peer review of the most  
15 recent stock assessment for summer flounder. And  
16 that letter -- that's the one I'm trying to get to  
17 right now -- was dated July 20th, but we actually --  
18 I guess Pete got a copy of it on July 27th. And he  
19 sent it over to our office.

20 Once I saw that, then I e-mailed what  
21 had been going on with our Council to Bill Hogarth,  
22 and I indicated to Bill that hey, we as a Council  
23 got this Congressional inquiry from four New Jersey  
24 Congressmen and you were copied on it and here's our

1 response. We also see where you've been tasked by  
2 Congressman Pallone to take a look at the update on  
3 summer flounder.

4 And basically our response was that  
5 well, we didn't have the time available to us from  
6 when they communicated with us to convene our SSC,  
7 but that our SSC was indeed going to be a very  
8 active participant with this Council as we went down  
9 the road not only with summer flounder, but all of  
10 our plans, and that we did think it was appropriate  
11 to take a look at the -- ask the SSC to take a look  
12 at those environmental factors that could be  
13 identified that may be impacting the recovery and  
14 the rebuilding of summer flounder. And we left open  
15 the idea that we were quite willing to work with the  
16 committee on the Hill to address this issue of  
17 rebuilding summer flounder.

18 Also communicated all that  
19 information to Bill Hogarth. We never got anything  
20 back in the way of feedback from Bill, but I heard  
21 last week that he was -- he had been requested by  
22 the same four Congressmen to meet with him. And I  
23 believe that meeting happened last Thursday, but I  
24 don't really know if that's a fact. That's my

1 understanding that it happened, but I don't know for  
2 sure. Nor have I heard any information. So, I'll  
3 just end it there, Pete, and you can add whatever  
4 you'd like.

5 COUNCIL CHAIR PETER JENSEN: And that  
6 letter, of course, was the reason you see Jim  
7 Gilford here today, because I told the Congressmen  
8 we would have our Chairman here today in order to  
9 evaluate the situation and try to formulate a charge  
10 that we might give our SSC to look at, not to review  
11 what's being recommended for this year's specs, but  
12 to look at the rebuilding target and what might help  
13 us or mitigate against us achieving that within the  
14 mandated time period.

15 So, Jim and I will be conferring  
16 following this meeting as to whether we can have a  
17 charge from the SSC that would help us work our way  
18 through this thicket, because I also pointed out to  
19 them that as long as they insist on having arbitrary  
20 time lines in the law, then you don't give us much  
21 flexibility or much choice to address all the other  
22 elements of the Act. So they'll probably wonder who  
23 the hell this crazy guy is that had the effrontery  
24 to write to them in that way, but I thought it was

1 important to say it.

2 We only have one more thing that I  
3 think we're ready to do today, and that is the  
4 Ecosystem Report.

---

5  
6 ECOSYSTEM COMMITTEE REPORT

7 EUGENE KRAY: Thank you, Mr.  
8 Chairman. The Ecosystems committee met this  
9 morning. We had a presentation from Steve Giordano  
10 representing the Chesapeake Bay Office of NOAA on  
11 progress they have made since we had an update about  
12 two years ago.

13 We didn't have enough time to cover a  
14 lot of the issues, but the next meeting -- at our  
15 October meeting, Mike Fogarty is going to give a  
16 presentation on NOAA's plans on ecosystems-based  
17 management and I believe that's going to be -- Tom  
18 told me that's going to be done to the whole  
19 Council, not just the Ecosystems Committee.

20 And following that in December we're  
21 going to have a presentation by a representative of  
22 the EPA. There was some discussions while Steve was  
23 giving his presentation today about pollutants, and  
24 we are going to have a representative, as I said,

1 from -- try to get a representative for the December  
2 meeting to talk about their impact -- not just in  
3 the Chesapeake Bay, but everywhere that we have  
4 management responsibility for. And you wanted to  
5 talk something more about national -- the  
6 aquaculture, because we didn't have much time to do  
7 that today.

8 COUNCIL CHAIR PETER JENSEN: They had  
9 on the agenda, but they ran out of time, and I  
10 attended a two-day workshop or summit, they called  
11 it, on aquaculture. And I'm telling you that was a  
12 really big show. They rolled out all the  
13 heavyweights. We had Mr. McConaughey from the CEQ  
14 White House there. We had the Secretary of  
15 Commerce. We had the Admiral. We had the chairlady  
16 of the House Fisheries Committee -- the Resources  
17 Committee. And so obviously they were promoting the  
18 new aquaculture bill. They want it to pass. It's a  
19 priority with the administration.

20 But I came away from that summit with  
21 two pretty strong impressions. First of all, what  
22 was driving everyone was the fact that we were now  
23 importing 80 some percent of the seafood we consume  
24 in this country. And a lot of it comes from

1       aquaculture, I think something like 60 percent of  
2       that 80 percent comes from aquaculture. And I  
3       forget the numbers, but that was on everyone's mind.

4               But they had on panels some of the  
5       really big people in the fisheries and seafood and  
6       seafood buying business in the country. And clearly  
7       if we are going to assure that we have seafood in  
8       this country, we're either going to have to continue  
9       importing it or develop our own aquaculture  
10      industry, because the wild stocks of the world  
11      simply won't supply the demand at this point. But  
12      at the same time, the buyers and the people that are  
13      in the business said, well, if you don't produce it  
14      in the United States and the demand is here, we're  
15      going to go wherever we can get it, because that's  
16      what our business is built on and we need the  
17      supply.

18              The other thing was that there were a  
19      number of people there that are already in the  
20      aquaculture business in this country and want to  
21      expand, but they said very flatly if you don't  
22      dramatically change the regulatory regime that we  
23      have to operate with, and we don't think you are is  
24      what they said in plain words, we're already making

1 efforts and buying the rights in other countries to  
2 make sure that we can continue producing seafood in  
3 aquaculture. And of course that means that it will  
4 simply be imported again by U.S. companies.

5 So, it was quite interesting. I  
6 think the bill is probably going to pass. I think  
7 the testimony from the Admiral was in the briefing  
8 book, or mention of it. And the question that  
9 everyone was raising was whether in fact, even if we  
10 could develop offshore aquaculture, whether we can  
11 economically compete, because that 80 percent we're  
12 importing is coming from low-cost countries, and  
13 when you start operating in that environment  
14 offshore, that's not a low-cost environment at all.

15 And so even if the bill passes, I  
16 think everybody went away with the impression that  
17 the amount of seafood that's going to be produced in  
18 the offshore area may be either very limited or very  
19 expensive, one or the other.

20 So, but I think aquaculture is  
21 certainly going to be a part of our future, and I  
22 think we're going to have to deal with it one way or  
23 the other.

24 The other thing I discovered was the

1 Gulf Council is already -- has been working for a  
2 number of years on amending their plans to  
3 incorporate aquaculture. So, they're already two or  
4 three years into the process of thinking how they're  
5 going to amend their plans to accommodate  
6 aquaculture. And of course what you get into is you  
7 need a different set of rules for aquaculture that  
8 don't have anything to do with the kind of rules we  
9 promulgate for harvesting and selling and handling  
10 wild stock.

11 So, there's a lot going on,  
12 something's going to happen, and we'll just have to  
13 wait and see what it is.

14 EUGENE KRAY: Pete, I have a  
15 question. Somewhere someone told me that in that  
16 bill -- and I haven't read it, but -- I have a copy  
17 of it at home and I haven't had a chance to read it  
18 yet, but that it allows for all aquaculture in all  
19 coastal states with the exception of Alaska. Did  
20 that come up at all?

21 COUNCIL CHAIR PETER JENSEN: I don't  
22 think so.

23 EUGENE KRAY: No? I don't know. I  
24 heard that from someone. Jimmy.

1 COUNCIL CHAIR PETER JENSEN: I don't  
2 know. I didn't read that part in the bill, but  
3 perhaps you guys did.

4 JAMES RUHLE: Alaska's out. Alaska's  
5 out.

6 COUNCIL CHAIR PETER JENSEN:  
7 Questions, comments? Jimmy.

8 JAMES RUHLE: Thank you, Mr.  
9 Chairman. I don't think I'm even going to bother  
10 talking about this aquaculture thing. I had a dose  
11 of that with the Secretary of Commerce in that Fish  
12 Week. He visited the booth that we were hosting  
13 there that NOAA Fish Fry, had a fairly decent  
14 conversation with him till he brought that up. And  
15 thank God that was the last question, because he  
16 says to me, "What do you think about offshore  
17 aquaculture?" I said, "I think it sucks." There's  
18 no way in the world we can compete with the rest of  
19 the world. We're tenth on the list. We're just too  
20 far behind the times. And at 7.50 an hour minimum  
21 wage compared to 50 cents, I think we might have an  
22 economic problem here. You're going to take areas  
23 that are providing wild fish to any specific area  
24 that you want to do and contain them in pens and

1 then potentially pollute the rest of the ocean.  
2 Then all the concerns that Jim Fletcher's talked  
3 about over the years of changing the generics of  
4 these fish. They all come into play here. So, he  
5 says, "I got to go." I said, "I'm glad you asked  
6 that question last instead of first."

7 But there is a place for aquaculture,  
8 and I think in the South Atlantic they're talking  
9 about shellfish. A lot of it is shellfish internal  
10 waters. There's places for aquaculture. This  
11 offshore thing is something that we have absolutely  
12 no experience -- this is something I'm not talking  
13 about, so never mind.

14 The other issue was what Dan was  
15 referring to, and I think this needs to be  
16 clarified. I know I've seen it twice from this  
17 group of Senators and Congressmen that either the  
18 Council or the Science Center promised 19.1 million  
19 pounds of fluke for next year if they acted like it  
20 was requested of them, the flexibility that they  
21 needed.

22 Tell you this right now. There are  
23 no promises in fishing or fisheries management. If  
24 they interpreted that what I would consider to be an

1 expectation or a projection, not a promise. If they  
2 interpreted it as a promise, that was their mistake,  
3 shame on them. It wouldn't be the first mistake  
4 they've ever made. It won't be the last. But this  
5 Council or Science Center in my opinion never  
6 promised anything. You don't do that fishing. You  
7 don't do that in fisheries management either.

8 So, it's a misinterpretation on their  
9 part and I know -- I couldn't find it in the letters  
10 that you provided, Dan, but I know I've seen it  
11 somewhere, and it's just a misinterpretation of what  
12 was done. Thank you.

13 COUNCIL CHAIR PETER JENSEN: The  
14 other thing I forgot to mention on aquaculture,  
15 there were some environmental groups on the panels  
16 and they raised the issue of forage fish, that in  
17 order to have good aquaculture feed, you need to  
18 have a fish component. And so they're already  
19 raising the issue of whether there might be a  
20 depletion of forage fish. Ron.

21 RON SMITH: I'd just bring up that in  
22 my mind there's no way that we're going to compete  
23 with the other part of the world. Given all the  
24 safety and environmental regulations that our

1 industries are tasked with, it would never be an  
2 even playing field, and we're deluding ourselves if  
3 we think it would occur.

4 COUNCIL CHAIR PETER JENSEN: Council,  
5 anything else? Jim Fletcher.

6 JAMES FLETCHER: I could sit here  
7 with tears in my eyes because you do not realize  
8 even what you've done. The Council by passing rules  
9 that says it's illegal to have a fish under a  
10 certain size apparently did not realize that they  
11 were affecting aquaculture. You should have over  
12 the last 10 or 15 years said it is illegal to have a  
13 dead fish under a certain size. Thereby the  
14 fishermen could have practiced aquaculture.

15 The Science Center in its great  
16 wonders has developed through the Milford lab some  
17 major portions in aquaculture and scallop  
18 aquaculture, but NMFS saw fit to send it to the  
19 Chinese and the Japanese. Sea Grant in North  
20 Carolina saw fit to send Sea Grant personnel to  
21 China to raise clams and would not allow those same  
22 people to come to the coast of North Carolina and  
23 pass us the regulations.

24 Now, you need to look at management's

1       action on rebuilding the stock. The Science Center  
2       has told you in effect to kill the largest, the  
3       fastest growing fish of the species and leave the  
4       genetically defective to breed. Oh, go catch the  
5       largest and leave the smallest. Well, guess what?  
6       The largest in summer flounder are females and we  
7       can't understand why we're where we are on summer  
8       flounders. Guess what? If you leave all the males,  
9       you will harass the females and thereby reproduction  
10      will go down further. Duh.

11                    What happened to dogfish? The  
12      Science Center wasn't at the table at the forefront  
13      saying about male dogfish. It was industry. And I  
14      mean my frustration -- I'm tired of coming to this  
15      microphone and continually saying what logic should  
16      have already pointed out to scientists. But the  
17      scientists are locked in a mode of only taking a  
18      model that will prove their perception. They build  
19      a model to give them the results that they want.  
20      And somewhere in this time, the industry is either  
21      going to go fishing and forget the science, which  
22      means breaking the law, or the science has got to  
23      catch up.

24                    But when the Science Center, when

1 they are asked by letter, when the descriptions are  
2 put on the board showing the spots of where the  
3 areas have been fished to bring that to scale so the  
4 public doesn't get the perception that we're  
5 fishing, they won't even answer the letter. I sent  
6 it in almost two months ago. They won't answer that  
7 letter. It's gotten to the point that if industry  
8 sends in a letter, apparently they don't think it's  
9 worth reading.

10 But getting back to it, I hear that  
11 we can't compete in aquaculture. One of the reasons  
12 I'm at this meeting and have been at them is because  
13 I could not run an oyster hatchery that I wanted to  
14 build in the 1970s. Now, why couldn't I build it?  
15 NMFS and NOAA staff were writing oh, we can't do  
16 this, you'll harm the environment, you can't do  
17 that, we need this. But you can't do it. The only  
18 way we're going to get aquaculture is get it out of  
19 the government and get it into fishermen's hands.

20 Now, Captain Ruhle and I disagree.  
21 My men, if there's a dollar in it, will find a way  
22 to get it. And they will make aquaculture work.  
23 But if NMFS has anything to do with it, as far as  
24 it's been with fisheries management, they are not

1 going to do it. If they develop the technology,  
2 they are going to give it to the foreign enterprises  
3 first.

4 Have the Council request the amount  
5 of foreign information -- information that has been  
6 developed by NMFS and has been sent to the foreign  
7 countries. It was shrimp and Coca-Cola in the '60s.

8 It was bay scallops in the '80s. And I don't know  
9 -- and I guess we're involved with the tuna  
10 information that the Japanese are developing.

11 So, if this Council wants us to get  
12 in fish, at least give the commercial fishing  
13 industry a decent break, and start by all your rules  
14 from this day forward saying it's illegal to have a  
15 dead fish below a certain size. Let them keep  
16 whatever they can keep alive and grow it out. Thank  
17 you.

18 COUNCIL CHAIR PETER JENSEN: Vito.

19 VITO CALOMO: Thank you, Mr.

20 Chairman. I disagree with anybody that thinks that  
21 this country cannot develop aquaculture. We have a  
22 lot of displaced fishermen coming up. You have  
23 people that -- with the work force in the fisheries,  
24 they know how to mend nets, they're engineers, they

1 understand fish probably better than some marine  
2 biologists do. But working hand in hand with marine  
3 biologists, I've been over and watched many of the  
4 pens in the aquaculture, especially in salmon, but  
5 in other fisheries, too. I think if the government  
6 gets behind -- like you said they are, I think  
7 working with the Fisheries Service and the other  
8 people in the government, working hand in hand as a  
9 joint venture, especially like we have joint  
10 collaboration these days that was only about 12  
11 years ago that people scoffed and laughed that we  
12 could never have joint cooperation between  
13 scientists, managers and fishermen. And today you  
14 do.

15           You had Jimmy Ruhle go out on that  
16 vessel, and that was joint collaboration if I ever  
17 seen one. I've done stuff myself in other areas,  
18 and I think it can work. I think this country can  
19 do anything it wants to do. I agree with Mr.  
20 Fletcher here that he says that if there's a buck to  
21 be made somehow, some way, that fishermen will do  
22 it. I think you can offset some of the wild  
23 fisheries with aquaculture. I've taken the course  
24 down in Woods Hole many years ago, and I believe in

1 it. I believe that it's time to get off the dime  
2 and tell us that you can't do, because I've never  
3 known this country that can't do anything. Thank  
4 you very much.

5 COUNCIL CHAIR PETER JENSEN: Thank  
6 you, Vito. Any further comments or questions?

7 (No response audible.)

8 COUNCIL CHAIR PETER JENSEN: I think  
9 we're probably finished for the day. Go ahead, Dan.

10 DANIEL FURLONG: Just a  
11 clarification. I asked about a proposed rule on  
12 that omnibus amendment or that squid -- excuse me,  
13 Standardized Bycatch Reporting Methodology  
14 amendment. Pat had mentioned that it was out as a  
15 notice of availability. I have a copy of that and  
16 I'll send this around the table so you can have  
17 that. It wasn't a proposed rule, which is what I  
18 thought it was. It's the notice of availability of  
19 the amendment. Thank you.

20 COUNCIL CHAIR PETER JENSEN: Okay.  
21 Anything else today? Dennis.

22 DENNIS SPITSBERGEN: We still have  
23 time, it's only 4:30. Why don't I go ahead and give  
24 my New England Council Report? That meeting --

1 COUNCIL CHAIR PETER JENSEN: I  
2 understood that you might not be ready, so --

3 DENNIS SPITSBERGEN: Well, I got to  
4 looking at it and I said why not do it. And my  
5 thinking was that this meeting took place June 19  
6 through 21, which was quite a long time ago, and  
7 with each passing day I forget more. And if we wait  
8 until Thursday, I might not remember any of it. So,  
9 maybe I better go ahead and give it now while I  
10 still have just a slight recollection. So, if  
11 you'll bear with me, this won't take but just a few  
12 minutes, hopefully.

---

13  
14 NEW ENGLAND COUNCIL LIAISON REPORT

15 DENNIS SPITSBERGEN: They had two  
16 issues -- this was June 19 through 21 up in  
17 Portland. They had two amendments that they dealt  
18 with at this meeting. One of them was the Essential  
19 Fish Habitat amendment and the other one was the sea  
20 scallop amendment, and I will start out with the  
21 Essential Fish Habitat amendment.

22 Let me make very clear again this is  
23 Phase 1 of their Essential Fish Habitat. And if  
24 you'll recall, Phase 1 is only for designation of

1 Essential Fish Habitat and designation of HAPCs,  
2 Habitat Areas of Particular Concern.

3 Phase 2 will be when they look at  
4 taking any kind of management action that they're  
5 going to do and at that time we better be very well  
6 tuned in on what they're doing and where these areas  
7 are and what impact it's going to have.

8 In general, as far as Essential Fish  
9 Habitat, this is designation of Essential Fish  
10 Habitat for 27 different species. Incidentally,  
11 this is behind Tab 12 in your book, if anybody wants  
12 to follow along in their hymnal on this.

13 But 27 different species that they  
14 were designating habitat for, and really what this  
15 was was an update of their old habitat. Leslie-Ann  
16 McGee was at our meeting at least twice, maybe three  
17 times, and has given presentations on this, so you  
18 have all had a good look at this.

19 Habitat Areas of Particular Concern,  
20 they designated a couple of the seamounts, the Bear  
21 and Retriever Seamounts. They also designated  
22 several of the canyons. And again you have all seen  
23 that in her presentation. Those were all approved.

24 Of course there were some of the same concerns that

1 was expressed at this Council meeting, and concerns  
2 that I have had. And that is we're getting a little  
3 bit of a pig in a poke here where we're designating  
4 Habitat Areas of Particular Concern and we don't  
5 know what's going to happen when it gets to the  
6 management end of it. And again, I would encourage  
7 us to keep a very close eye on it.

8 They also designated some areas up in  
9 the Gulf of Maine. I won't go into detail on those.

10 There was one very large area, the Great South  
11 Channel, which the PDT and the committee both felt  
12 wasn't ready, and they're going to review that again  
13 at their September meeting.

14 Moving on to sea scallops, that's  
15 Amendment 11. That is the amendment that addresses  
16 the general category fishery. And what came out of  
17 that -- and again, I have reported on this on other  
18 occasions, but there's been a couple of changes.  
19 But in general what came out of that is that it is  
20 set up with a limited entry program and it will be  
21 allocated to fishermen -- individual fishing quotas  
22 to any of the fishermen who qualify. Qualifying is  
23 1,000 pounds in any one fishing year initially.  
24 That position was from 1994 until the control date

1 of November 2004. At this meeting, when they  
2 finalized it, they changed it from March 1, 2000 to  
3 November 1, 2004.

4 This reduced the number -- I wish I  
5 had it written that down, but I'm thinking it  
6 reduced the number by a couple of hundred. If they  
7 had gone with the 5,000 pound instead of the 1,000  
8 pound, it would have been a much much larger  
9 reduction in number of people that would have  
10 qualified, but that was the position they took on  
11 it. Also, allocation to the general category will  
12 be five percent of the total TAC, and they will be  
13 limited to 400 pounds per trip.

14 Let's see here. Okay. One of the  
15 other issues that they had to deal with is it will  
16 probably be a year or maybe even 18 months before  
17 they will be able to identify all those who have  
18 qualified, so there's an interim period, and during  
19 that interim period they will be permitted to fish  
20 on a TAC of ten percent of the total TAC, and that  
21 will be broken down into quarterly. I don't  
22 particularly like that, because it's going to create  
23 a derby fishery. But that was the best they could  
24 come up with for the interim period until they get

1 the qualifiers identified.

2 There was also a Northern Gulf of  
3 Maine Exemption Area, the Gulf of Maine being what  
4 got us into this problem in the first place, but  
5 that's neither here nor there. And this is north of  
6 42-20. It has a separate management program in it.

7 All vessels -- let's see. Anybody that had a  
8 permit prior to 2004 qualified for a permit, and  
9 they will be limited to a 200-pound trip limit. And  
10 Pat, I hope you're listening, because I need to get  
11 correct on this. But I think one of the problems we  
12 may have run into is that there at times is also a  
13 fishery in state waters in Maine and those who want  
14 to fish in federal waters will have to have a  
15 permit. This will be set up on a TAC in federal  
16 waters when the TAC is filled. It will be closed to  
17 all permittees. However, all of those who want to  
18 fish in state waters who don't have a permit will  
19 still be able to fish in state waters, which is  
20 something that fell out of it that I don't think was  
21 our intent, but that is finally what came out of it.

22 Do I have that correct, Pat?

23 PATRICIA KURKUL: Yes. The original  
24 proposal was for an open access fishery, which would

1 have allowed everybody to give up their permit and  
2 fish in state waters after the federal quota was  
3 filled. Then several members of the Council felt  
4 that it was important to have a limited access  
5 program, which created this problem of people not  
6 being able to give up their federal permits and fish  
7 in state waters.

8 PAT AUGUSTINE: So, anyhow, that's  
9 what came out of it. Just trying to think if  
10 there's anything else here. I mentioned regulated  
11 by the hard TAC. That's up in the Gulf of Maine  
12 area.

13 Also interestingly enough, there is a  
14 provision in there that allows for voluntary sectors  
15 and I guess since we have already set up the time  
16 frames and TACs and that kind of thing, that people  
17 can apply for sectors in this.

18 And one other interesting thing. The  
19 full-time scallop fishery asked to have sectors  
20 included in it for them, and it was rejected, and  
21 I'm not really sure I understand the reasoning for  
22 it.

23 Framework 20 -- oh, okay. Framework  
24 20, there was a reduction in the trips in the

1 Elephant Trunk and several other reductions that  
2 were done through emergency action. The emergency  
3 action would only go through December and we had the  
4 period from December until the new season starts in  
5 March that there would be no rules -- or those rules  
6 wouldn't be in for us. So, there's a framework  
7 being done to address that. In fact, I think that  
8 may already be done to address that. So, the  
9 interim rules will go in for those two months to  
10 take care of that.

11 Groundfish -- and Jimmy might want to  
12 add to this because he made a motion, I believe, in  
13 committee. But what came out of the Groundfish  
14 Committee is they agreed to narrow the range of  
15 alternatives that will be used to control fishing  
16 mortality in Amendment 16 to the Multispecies Plan,  
17 and this will be to modify the current days-at-sea  
18 system to meet the mortality objectives, and to  
19 include the Magnuson Act -- the Magnuson-Stevenson  
20 Act requirements for annual catch limits and  
21 accountability measures.

22 But they also apparently are going to  
23 consider new sectors in here, and my recollection is  
24 that the motion that came out of committee was to

1 look at purely the days-at-sea and not include any  
2 other things in it. But there are many other things  
3 that folks up there want done that they wanted  
4 included in 16, and those are going to be moved over  
5 to 17.

6           Onto the next page, page 4, and you  
7 can read this for yourself. They finally approved a  
8 policy for sectors and they have a definition for  
9 sectors in here. So, you can read and see what  
10 their policy is for -- or their definition for  
11 sectors.

12           And Standardized Bycatch Reporting  
13 Methodology, they approved that the same as we did,  
14 so that takes care of that.

15           And I think that Research Steering  
16 Committee reviewed a couple of projects and I  
17 brought this up this morning at the RSA Committee,  
18 because there's this Northeast Consortium and there  
19 is considerable money, anywhere from 3.8 to 5  
20 million dollars available to that area for research.

21           And it's something that I'm going to bring up more  
22 often to see why something like that can't be set up  
23 in the Mid-Atlantic. So, rather than the RSA with  
24 the piddling little funds that we get out of that to

1 do research, that possibly we can come up with  
2 considerably more money. So, anyhow, that pretty  
3 well covers what went on up in New England.

4 COUNCIL CHAIR PETER JENSEN: Thank  
5 you. Pat, my recollection is that there's some  
6 federal money that goes into that consortium that  
7 goes to the Region. Is that -- is my recall  
8 correct?

9 PATRICIA KURKUL: Well, Nancy's  
10 actually in charge of this. It goes through the --  
11 it does go through the agency to the Consortium, but  
12 in the past it's been a line item. This year --

13 COUNCIL CHAIR PETER JENSEN: But  
14 there is some federal money that goes into that  
15 Consortium?

16 NANCY THOMPSON: Well, this year it  
17 was packaged in the broad announcement of  
18 availability of funds. And as a result, the  
19 Consortium, which normally is an earmark, which does  
20 get considerable funds. It's about 5 million. I  
21 think it may have even been more in the past.

22 Anyway, they, like everybody else,  
23 because there were no earmarks this year, had to  
24 compete, and that was a general pot of money that

1 they competed for and they were successful in  
2 competing for funds. The Consortium itself I think  
3 is somewhere around 1.8 million, but then Consortium  
4 partners submitted individual proposals and they too  
5 were successful. So, the total package for the  
6 Consortium itself, which sits at UNH, and their  
7 partners, was about the 3 million that they  
8 anticipated.

9 COUNCIL CHAIR PETER JENSEN: And so  
10 is that competition geographically limited; or, as  
11 Dennis suggests, people from this area might --  
12 assuming it's competitive again --

13 NANCY THOMPSON: If there is another  
14 BAA, and there is consideration that there will be  
15 another BAA and rolling earmarks into that, clearly  
16 anybody can compete for those funds. And just for  
17 your information, we did receive proposals from  
18 organizations, academia, entities, NGOs, both in the  
19 commercial fishing side, recreational side, and  
20 conservation side -- we did receive proposals. But  
21 you know, they go through a process. The proposal  
22 technical review, a ranking process and that kind of  
23 thing. So, I'm not exactly sure how the process is  
24 going to be. But above and beyond that, I think

1 what Dennis is talking about, as well, is getting  
2 our heads together collectively about what  
3 institutions in the Mid-Atlantic could partner to be  
4 a strong consortium to develop funds either through  
5 a competitive process or through working with the  
6 agency in terms of our budget process -- you know,  
7 through the President's budget, or on the  
8 Congressional side.

9 COUNCIL CHAIR PETER JENSEN: Thanks,  
10 Nancy. Dennis.

11 DENNIS SPITSBERGEN: Just one  
12 comment. If you will look behind -- and just do  
13 this when you get time, look behind Tab 2 and you  
14 will see several projects that were funded by the  
15 Northeast Consortium. And some of those were three,  
16 four hundred thousand dollar projects, and you can  
17 see what kind of projects were funded by this. And  
18 from what I understand, it's several universities  
19 that are working together and it's kind of operated  
20 through New Hampshire.

21 I talked to John Hoey and Earl  
22 Meredith about it, because when I saw all these  
23 projects in here in the Northeast Consortium,  
24 funding them, and it was similar to projects what

1 we're doing through RSA, except a whole lot more  
2 money to do it, and I'm thinking -- you know, what  
3 kind of a program is this that this kind of funding  
4 is available. And they're doing similar programs,  
5 and why don't we have something like that on the  
6 Mid-Atlantic.

7 So, anyhow, I just got some  
8 information from John Hoey and Earl this morning on  
9 it. So, it's something I think we need to look into  
10 in the future, and probably the near future if we  
11 can.

12 COUNCIL CHAIR PETER JENSEN: I  
13 thought that in the earlier discussions it wasn't  
14 clear that this was mostly federal money, that there  
15 was some suggestion that there were a lot of other  
16 contributors. And I think it is mostly federal  
17 money.

18 DENNIS SPITSBERGEN: From what I  
19 understand, it's pretty much line item money that  
20 comes --

21 COUNCIL CHAIR PETER JENSEN: Okay.  
22 Jimmy.

23 JAMES RUHLE: Thank you, Mr.  
24 Chairman. Dennis brought up a couple things about -

1 - related to groundfish. Actually, there was a  
2 Groundfish Committee meeting last week. But he is  
3 correct. Talk about two different issues here. One  
4 is -- let me take the easy one first.

5           There was a recommendation by the  
6 Council to the Service to reduce the minimum size of  
7 haddock, and that's a big deal. You've got the  
8 biggest year class in history out there that the  
9 growth is completely stunted. These fish haven't  
10 grown anywheres near the ratio that they're supposed  
11 to have grown. They're supposed to be a lot bigger.

12       They're old enough to be longer fish. And they're  
13 missing the mark. The discard rate is through the  
14 roof, and we're only taking less than ten percent or  
15 15 percent of our quota. But the reason that I  
16 bring this to your attention is -- what's the lady's  
17 name from the Center? Loretta. She was down there  
18 with Fred.

19           NANCY THOMPSON: O'Brien.

20           JAMES RUHLE: O'Brien, okay. She  
21 actually made -- she's the lady that made the  
22 presentations to us about age growth a few meetings  
23 back. She presented information on transboundary  
24 resources issues with Canada on haddock. And the

1 one thing that jumped out on me, and she didn't  
2 present it that way, but I did it through  
3 calculations. The ratio of haddock kept to  
4 discarded in the New England fishery fleet is 36  
5 percent. In other words, 36 percent are discarded  
6 for what's kept. In Canada, it's .0055. That's  
7 their ratio of discarded fish. Canada does not have  
8 a size limit. So, what they do do is when a certain  
9 amount of fish start to come in and they're below a  
10 certain point, they shut the fishery off, so you  
11 don't have the discard issues.

12 The bad part about this is those fish  
13 end up right back competing with ours. They're not  
14 too small for the marketplace. They're not bringing  
15 in the teeny tiny ones. We're talking about 17-inch  
16 is what the recommendation of the Council is, or  
17 something -- 19 is the regulation now, total length.

18 Talking about reducing it. But this is amazing.  
19 This was put on the table three or four years ago by  
20 the committee and the resistance then, believe it or  
21 not, was the industry. Not the fishermen, but the  
22 processors. And now they're the ones that brought  
23 it back to the table and said we've got to do  
24 something about this fish size.

1                   So, that's a typical New England --  
2                   you know, can't do it right deal no matter how you  
3                   deal with it. But the analysis, Pat, is something  
4                   that you ought to look into before you make this  
5                   decision. Because we are really, really wasting a  
6                   tremendous amount of fish over a regulation that  
7                   should be revisited because of what is taking place  
8                   well beyond the control of anybody. Anybody. It's  
9                   really a problem. So, that needs to be brought up.

10                   The last thing regarding what the  
11                   Groundfish Committee did, Dennis is correct. That  
12                   was my motion about you've got an amendment that has  
13                   got a time line similar to Amendment 10. Not quite.  
14                   It's not overfishing. But they've got Amendment 16  
15                   to the Groundfish Plan has to address the midterm  
16                   adjustments to the plan based on the GARM report  
17                   coming up in 2008. The action has to be in place  
18                   for 2009.

19                   So, there is a significant time line.

20                   Unfortunately, I think the agency made kind of a  
21                   technical boo-boo here when they said well, we'll  
22                   just ask the industry what a best way to manage fish  
23                   are, the groundfish. And they got inundated with  
24                   ideas that are way out there. You know? I mean

1 they have a lot of potential. They're just going to  
2 take a lot of discussion.

3 My point is I felt like those days --  
4 those other alternative measures to manage fish,  
5 other than days-at-sea, which are area management  
6 point system and days-at-sea performance package,  
7 needed more analysis. They will probably work out  
8 really well, or some combination of them. But  
9 sectors got stuck in there.

10 Now understand this. Sectors in New  
11 England are not considered an LAPP, and they are  
12 exempted from the moratorium. So, there's a push  
13 for that. I felt -- I had a concern for that.  
14 There was three -- four sector proposals on the  
15 table back at the meeting prior to this Council  
16 meeting, four. And I made the motion that the  
17 allocation issues need to be taken care of before  
18 you implement any sectors -- any more sectors.  
19 There's already two in place. Okay? And then you  
20 take Amendment 16 and you designate that to meet the  
21 required reduction -- or the required action. It  
22 may not be a reduction. We don't know. Depending  
23 what the GARM says for groundfish. Take Amendment  
24 17 and do all of these other great things, but do

1 the allocation first.

2 And they elected -- the council  
3 reversed that and threw the sectors in. There are  
4 now 18 sector proposals on the table, 18. Some of  
5 them involving -- I believe the lowest number I saw  
6 was 5 to 15 boats, some of them 30 to 60 boats, not  
7 defining the size of the boat or anything like that.

8 And everything in between.

9 What it is, call it what it is. It's  
10 a quota grab. That's all it is. It's an attempt on  
11 parts of the industry to grab part of that quota.  
12 The unfortunate part about this is -- and the big  
13 difference between New England and Mid-Atlantic is  
14 any sectors or any ITQs or any LAPPs are going to  
15 have to be based on landings and some other measure.

16 In Mid-Atlantic, it can be landings,  
17 because we've got fisheries that got total caps.  
18 You can't exceed that. You can't overfish on a  
19 fishery if -- wait a minute. How do I say that? We  
20 have established TACs and we usually are held to  
21 that. If we have an overage, we pay it back the  
22 next year. In New England, because they're under  
23 the day-at-sea program, landings vary significantly  
24 from fishery to fishery, boat to boat.

1                   The motion was made last week to use  
2 landings only for the criteria for sectors. And  
3 that would be a fatal, fatal mistake. And here's  
4 why. There's fellas that in this industry that took  
5 a day-at-sea and targeted fish that weren't in  
6 trouble and economically they probably lost money,  
7 but they burned that day-at-sea, which has a very  
8 significant value. Okay? And he did not produce a  
9 lot of fish. But then there's another group that --  
10 not illegally, but are landing the 800 pound of cod,  
11 which are certainly a significant problem, 30 times  
12 a week, 24 -- 24 times a week. They're running a  
13 three-hour clock, so their day-at-sea is actually  
14 three, times seven. So, you see the problem? And  
15 there was 42 percent of the resource was landed by  
16 28 boats. You know, these guys found a loophole.

17                   What do you do now? If you say we're  
18 going to allocate permanently quota based on  
19 landings, what are you doing? You're rewarding the  
20 people that used every opportunity they had to fish  
21 the hardest when the resource needs the most  
22 consideration. And that is the wrong approach.

23                   I don't know what the outcome of this  
24 is going to be. We did amend it and changed it to

1 including days-at-sea usage or days-at-sea  
2 allocation in conjunction with the landings. Again,  
3 that is not an issue for Mid-Atlantic. History is  
4 history. Whatever you caught in a fishery should be  
5 significant to determine what you should be  
6 allocated in the future. That is not the case in  
7 New England, and people need to understand a sector  
8 in New England and a sector -- proposed sectors in  
9 Mid-Atlantic are really different animals.

10 And it's still up for grabs, Mr.  
11 Chairman. I don't know what the outcome will be.  
12 But it is something that we'll need to keep an eye  
13 on. Thank you.

14 COUNCIL CHAIR PETER JENSEN: Thanks,  
15 Jimmy. Anything else we need to talk about today?  
16 Yes, ma'am.

17 NANCY SOLOMON: I was recently  
18 informed about a colleague of mine in North Carolina  
19 that Dennis knows, Karen Amspacher at the Core Sound  
20 Museum, and she got a Preserve America Grant that's  
21 under NOAA. I don't know if any of you are familiar  
22 with this program. And it deals with cultural  
23 documentation, social/cultural analysis, doing  
24 various kinds of projects with local fishermen, both

1 recreational and commercial.

2 And when I inquired, I found the  
3 contact -- you know, for the program, she told me  
4 that only non-profits and people connected with a  
5 NOAA agency -- and that includes this Council -- can  
6 apply for those grants. So, that's just an example  
7 of some of the things that the Council could do both  
8 independently as well as in partnership with some of  
9 the non-profits or with universities.

10 I have to run because my car meter is  
11 about to expire. I don't want to get a ticket. But  
12 feel free to call me or I'm sure some of you may  
13 know of this program, but it's a good resource. It  
14 can be used for bringing baymen and fishermen to  
15 school programs, doing history projects, community  
16 studies. It could be very valuable.

17 COUNCIL CHAIR PETER JENSEN: Thank  
18 you. I think we qualify as a non-profit, but we'll  
19 check that out. Anything else that we need to talk  
20 about today?

21 (No response audible.)

22 COUNCIL CHAIR PETER JENSEN: Okay. I  
23 think we'll recess until 8 o'clock tomorrow morning.

24 WHEREUPON:

1 THE MEETING WAS SUSPENDED AT 4:53 P.M.  
2

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF NORFOLK

I, PAUL T. WALLACE, a Professional Court Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the foregoing transcript represents a complete, true and accurate transcription of the audiographic tape taken in the above entitled matter to the best of my knowledge, skill and ability.

In witness whereof, I have set my hand and Notary Seal this 25th, day of September, 2007.

\_\_\_\_\_  
PAUL T. WALLACE. Notary Public  
My Commission Expires

October 3, 2008

THIS FOREGOING CERTIFICATION OF  
THIS TRANSCRIPT DOES NOT APPLY TO ANY REPRODUCTION

OF THE SAME BY ANY MEANS UNLESS UNDER THE DIRECT  
CONTROL AND/OR DIRECTION OF THE CERTIFYING REPORTER.

Pages: 1-281

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL  
Room 2115 Federal Building  
300 South New Street  
Dover, Delaware 19901-6790

COUNCIL MEETING

7-9 AUGUST 2007

at

Danfords on the Sound  
25 East Broadway  
Port Jefferson, NY 11777

WEDNESDAY, AUGUST 8, 2007

## I N D E X

TOPIC	PAGE
INTRODUCTIONS AND ANNOUNCEMENTS	
PETER JENSEN	4
FINALIZE SUMMER FLOUNDER MANAGEMENT MEASURES FOR 2008 (2009, 2010) IN CONJUNCTION WITH THE ASMFC SUMMER FLOUNDER, SCUP AND BLACK SEA BASS BOARD	
JACK TRAVELSTEAD	4
Motion - TAL	
James Ruhle	116
Howard King	117
Motion To Substitute	
Jeffrey Deem	126
(Fails - Lack of Board Motion)	127
Vote - (passed)	166
Vote - (passed)	169
Motion - RSA	
Pat Augustine	170
Vote - (passed)	170
Vote - (passed)	171
FINALIZE BLACK SEA BASS MANAGEMENT MEASURES FOR 2008 (2009, 2010) IN CONJUNCTION WITH THE ASMFC SUMMER FLOUNDER, SCUP AND BLACK SEA BASS BOARD	
JACK TRAVELSTEAD	173
Motion - TAL	
James Ruhle	198
Pat Augustine	198
Vote - (passed)	202
Vote - (passed)	203
Motion - RSA	
James Ruhle	204
Pat Augustine	204
Vote - (passed)	204
Vote - (passed)	205

FINALIZE BLUEFISH MANAGEMENT MEASURES FOR 2008 IN CONJUNCTION WITH THE ASMFC BLUEFISH BOARD	
JAMES ARMSTRONG	207
Motion - TAL	
Eugene Kray	232
Pat Augustine	234
Motion to Amend	
James Ruhle	237
A.C. Carpenter	238
Vote - (passed)	240
Vote - (passed)	241
Vote - (passed)	242
Vote - (passed)	243
Motion - RSA	
Pat Augustine	244
Vote - (passed)	244
Vote - (passed)	245
Motion - Board on De Minimis	
Pat Augustine	248
Vote - (passed)	248
RESEARCH SET-ASIDE COMMITTEE REPORT DENNIS SPITSBERGEN	251

1 [8:00 a.m.]

2 \_\_\_\_\_  
3 INTRODUCTIONS AND ANNOUNCEMENTS

4 COUNCIL CHAIR PETER JENSEN: Let's  
5 see if we can get started, please. Take your seats.  
6 The first item on the agenda this morning is going  
7 to be summer flounder, a much anticipated event, I'm  
8 sure. And so Jack, start us off.

9 \_\_\_\_\_  
10 FINALIZE SUMMER FLOUNDER MANAGEMENT MEASURES  
11 FOR 2008 (2009, 2010) IN CONJUNCTION WITH THE ASMFC  
12 SUMMER FLOUNDER, SCUP AND BLACK SEA BASS BOARD

13 COMMITTEE CHAIR JACK TRAVELSTEAD:  
14 Good morning, everyone. We're going to proceed  
15 right along, much like we did yesterday, jump right  
16 into the summer flounder management measures. There  
17 is one situation with respect to the ASMFC Summer  
18 Flounder Board that I want to make you aware of, and  
19 that is the fact that the Board has not adopted for  
20 summer flounder -- has not yet adopted the new  
21 targets and thresholds. And so technically they're  
22 still operating under the targets and thresholds  
23 that the Council used last year. Of course, we know  
24 now those have changed and the Board will not make

1 the decision to adopt that addendum until next week.

2 But I'm hoping that we can sort of work around that  
3 situation.

4 I think the majority of the people  
5 sitting around the table are hopeful that the  
6 measures that are adopted here today are consistent  
7 between the Council and the Board. I think that's  
8 something we try to shoot for. But because we're  
9 technically shooting for different targets and  
10 thresholds right now, you might assume that that may  
11 not happen. So, I think we can work around it  
12 simply by when the Board makes its motion for a  
13 particular TAC or TAL, it does so with the  
14 assumption that next week the Board will actually  
15 adopt the addendum that will be before them at that  
16 time. I think that's relatively simple to do and  
17 straightforward, but I think it would -- some  
18 language would have to appear in the motion that  
19 makes that assumption clear. And then, of course,  
20 if the addendum -- and I think everyone assumes that  
21 the addendum will be adopted next week. I think  
22 that's a safe bet. So, I just wanted to make that  
23 clarification so we don't get into trouble down the  
24 road.

1                   Again, we're going to proceed much  
2                   like yesterday. Jessica has a very detailed  
3                   presentation she's going to take us through and then  
4                   we'll open it up for questions.

5                   JESSICA COAKLEY: Okay. Good  
6                   morning, everyone. The information that we're going  
7                   to be discussing is behind Tab 7 of the briefing  
8                   book. There are a few things behind that tab. The  
9                   first is a meeting summary and the consensus  
10                  recommendations from the Summer Flounder Monitoring  
11                  Committee meeting held July 19th. The second item  
12                  is a memorandum dated July 10th from myself to the  
13                  Summer Flounder Monitoring Committee. There's also  
14                  the Summer Flounder Stock Assessment Summary for  
15                  2007 that follows that, as well as two sets of  
16                  projection outputs that we're going to be discussing  
17                  today, and the Summer Flounder Assessment and  
18                  Biological Reference Point Update from last October  
19                  26th or last October 2006 is the last item behind  
20                  that tab for reference. So, that's what's behind  
21                  the tab, and I'm going to first start out by  
22                  discussing our management measures and what those  
23                  have looked like for the last few years.

24                  Looking at the first row across, the

1           TALs that we've seen, the 2001 TAL was 17.91 million  
2           pounds. The TAL increased the next year to 24.3,  
3           then decreased slightly to 23.3 million pounds. In  
4           2004 the TAL increased to 28.2. And 2005, 30.3.

5           And then 2006, it decreased to 23.6 million pounds.

6           And then 2007, under the emergency rule that went  
7           in last January, it decreased to 17.11 million  
8           pounds.

9                                 Now, going down to the third and  
10           fourth row in terms of commercial landings and how  
11           those have come out when compared to the commercial  
12           quota; in 2001 and 2002, the commercial landings  
13           came in slightly over the commercial quota. They  
14           were over, as well, in 2003 and 2004. However, in  
15           2005, the commercial landings came in under the  
16           quota, and in 2006 the commercial landings were just  
17           slightly over the commercial quota for that year.

18                                 Looking down a few more columns to  
19           the recreational harvest limit -- or a few more  
20           rows, excuse me, to the recreational harvest limit  
21           and recreational landings, in 2003 the recreational  
22           harvest limit was 9.28 million pounds and the  
23           recreational landings came in over that year. In  
24           2004 and 2005, the recreational landings came in

1 under the recreational harvest limit. In 2006, the  
2 recreational landings came in a little bit over -- 2  
3 million pounds over the recreational harvest limit.

4 Over this time period, the commercial  
5 fish size has been 14 inches and the minimum mesh  
6 size regulations have been pretty consistent over  
7 this time period.

8 Now in terms of the stock assessment,  
9 there are two assessment models that are used in  
10 terms of assessing the stock and identifying  
11 biological reference points. The first is a Virtual  
12 Population Analysis, a VPA, and the other is a yield  
13 per recruit analysis. They're both widely accepted  
14 and commonly used population assessment models,  
15 using common fisheries principals. The assessment  
16 itself uses recent data from 1982 to present and  
17 examines the recent stock dynamics. These models  
18 are used to calculate the stock biomass,  
19 recruitment, fishing mortality rates and biological  
20 reference points.

21 Now, the Southern Demersal Working  
22 Group met in June -- this past June and did an  
23 assessment update. They didn't actually change any  
24 of the modeling approaches. They just added an

1 additional year's worth of information to the model  
2 and looked at how the stock dynamics have changed.

3 Now, this graph has the total catch  
4 and fishing mortality through time. The red line is  
5 the  $F_{max}$ , which is our fishing mortality -- our  
6 fishing mortality threshold of 0.28, so when the  
7 fishing mortality rates exceed that threshold,  
8 overfishing is occurring on the stock.

9 The line with the dots on it is the  
10 fishing mortality rate; and as you can see, as catch  
11 has come down over time, the fishing mortality rates  
12 have also dropped and the catch did increase a  
13 little bit in recent years, although you see the  
14 last two years the catches have come down slightly.

15 One thing to note on this graph is  
16 that the fishing mortality rates from 1982 through  
17 2006 have never been less than our overfishing  
18 threshold. They've always exceeded our overfishing  
19 threshold through the time period.

20 Okay. This plot has a total biomass,  
21 spawning stock biomass and recruitment through the  
22 time period. As you can see, the thin black line is  
23 the total stock biomass. Biomass decreased to low  
24 levels in the late 1980s, early 1990s, and then

1 began to increase over the time period. In recent  
2 years, there was a drop in total stock biomass,  
3 although the January 1, 2007 total stock biomass  
4 estimate shows a slight uptick.

5 The solid black line is spawning  
6 stock biomass, and it shows a similar trend,  
7 declining to the late 1980s, and then showing an  
8 increasing trend over the time period. The spawning  
9 stock biomass threshold is 197 million pounds and  
10 the 2006 November 1 estimate of spawning stock  
11 biomass is less than the spawning stock biomass  
12 threshold, so the stock is overfished.

13 The bars running along this graph are  
14 estimates of recruitment. And as you can see, in  
15 1988 and in 2005 those were the two lowest  
16 recruitments over this time series. The recruitment  
17 for 2006 is slightly below average and slightly  
18 below the median estimate, but it is an improvement  
19 over what we saw in 2005.

20 Okay. This figure shows spawning  
21 stock biomass at age as a percent of total age  
22 proportions. This is from the yield per recruit  
23 analysis, so looking at the 1985 figure, the bars  
24 across the top, you've got the bars as you go

1 across. You've got the ages, zero, one, two, three,  
2 four; and five plus is all the ages five and larger  
3 lumped into that category.

4 As you can see, in 1985 there were a  
5 lot of younger fish and we weren't seeing a lot of  
6 older fish in the three, four and five plus  
7 categories. As I pointed out before, the stock hit  
8 a low in 1988 - '89 time period. In 1995, again  
9 we're still seeing a lot of smaller, younger fish in  
10 that one, two, three year age category, but not a  
11 lot of four and fish in that five plus category.

12 But in 2005, the age structure has  
13 started to expand and you see higher proportions of  
14 fish in those older age categories, and you see an  
15 increase in the percentages of fish in that five  
16 plus category.

17 Now, the bottom graph, the solid  
18 bars, is where we need to be in terms of long-term  
19 age structure fishing at  $F_{max}$ . So, this graph  
20 indicates that there's still a ways to go in terms  
21 of building up those older age classes over the time  
22 period.

23 This figure is the spawning stock  
24 biomass and recruit, looking at the 1983 to 2006

1 year classes. You've got spawning stock biomass  
2 along the bottom axis and millions of age zero fish  
3 as an indication of the recruits. You've got the  
4 years associated with each of those points, so you  
5 can see along the median recruitment line, the 2001  
6 estimate of recruitment hit just along that median  
7 of 33 million fish.

8 You've got the '02 value that's just  
9 a little bit above it. '03, '04, '05 is the low  
10 value along about a 45,000 metric ton mark. And you  
11 can see the 2006 estimate is just slightly below the  
12 median recruitment value for this time series.

13 There's a lot of information that  
14 goes into the Virtual Population Analysis, and it  
15 includes a lot of the National Marine Fisheries  
16 Service trawl surveys, state surveys are included in  
17 that. This is a figure of the Northeast Fisheries  
18 Science Center trawl surveys. This is a very, very  
19 noisy figure, but you can see the general trend.  
20 It's a decrease in the survey indices in the late  
21 1980s, early 1990s, and that's when we start to see  
22 an increase in survey index values. In the last two  
23 years, it looked like those indices were dropping,  
24 but we do see an uptick in the spring survey index,

1 which is the index value with a triangle off the top  
2 of it on the far right-hand side in the most recent  
3 year.

4 The Massachusetts and Rhode Island  
5 trawl surveys also go into this analysis and you can  
6 see a similar trend in these survey indices, as  
7 well. The Connecticut trawl survey also showed an  
8 increasing trend in the survey indices values from  
9 the low levels in the late 1980s, but they were  
10 showing a drop in the most recent year in terms of  
11 indices.

12 And Delaware and New Jersey trawl  
13 surveys always perplex me, because it seems like the  
14 fishery they're sitting on one side of the bay or  
15 the other. They basically show the opposite of each  
16 other in terms of the trawl survey indices.

17 So, the bottom line in terms of stock  
18 dynamics, the fishing mortality, in the 1982 to 2000  
19 period, it was very high, ranging from 2.2 to 0.9.  
20 The 2001 to 2006, those fishing mortality rates  
21 decreased and they were on the order of 0.7 to 0.35.  
22 The 2006 estimate for fishing mortality was 0.35.  
23 Over this time period, since 1982, we've never been  
24 below our fishing mortality threshold of 0.28.

1                   In terms of total stock biomass, the  
2 levels have increased from the low levels in the  
3 late 1980s. They've leveled off in recent years,  
4 although we're seeing a slight uptick in total stock  
5 biomass in 2007, the January 1 estimate.

6                   In terms of spawning stock biomass,  
7 it's increased substantially from the low levels  
8 that we saw in the 1980s; although there's a slight  
9 downward shift in 2006, which is the November 1  
10 calculation.

11                   Recruitment over the time period has  
12 been at or below median and -- at or below median  
13 recruitment since 2001. The 2006 recruitment is  
14 just slightly below median at 30 million fish. The  
15 projections that we conduct assume approximate  
16 median recruitment.

17                   Now, in terms of the assessment  
18 model, there is a retrospective pattern. And what  
19 this means is the model estimates for the most  
20 recent years change systematically when new year's  
21 data are added. Now, the annual pattern over the  
22 last three years for fishing mortality has been an  
23 increase that ranges from 20 to 40 percent.

24                   Spawning stock biomass, the annual pattern has

1 decreased and ranged from 8 to 22 percent. And the  
2 annual pattern for recruitment has shown a decrease,  
3 which has ranged from 7 to 13 percent.

4 Now, this figure is just an example  
5 to -- an example for fishing mortality to show you  
6 what the retrospective pattern actually does. And  
7 when I talk about annual retrospective, what that  
8 actually means. So, this is the F estimate for  
9 2002. So, using data from 1982 to 2002, we estimate  
10 the F in 2002 to be 0.22. So then we add an  
11 additional year's data, we add 2003. So, now we're  
12 using 1982 to 2003 information to estimate the F in  
13 2002.

14 When we do that and add that  
15 additional year, the fishing mortality rate floats  
16 up. So, the F based on that information floats up  
17 to 0.27. Now, that's a 23 percent increase in the  
18 fishing mortality rate, and that's an annual  
19 increase in that fishing mortality rate because  
20 we've added one additional year. So, now if we add  
21 another year, we add the 2004 information, so we're  
22 using 1982 to 2004, that F rate continues to float  
23 up. So, now F is 0.38. We add the 2005, it's 0.42.  
24 We add the 2006 and it's 0.47. So, with the

1 addition of more years, that fishing mortality rate  
2 changes over time.

3 Now, over in the example that I've  
4 given here, the four year retrospective pattern,  
5 going from adding four additional years goes from F  
6 equals 0.22 to F equals 0.47, and that results in a  
7 114 percent increase in the fishing mortality rate  
8 that we have estimated. And this is the actual  
9 information for -- from the assessment for 2002.

10 Now, the assessment model, the bottom  
11 line of this is in the most recent model year F is  
12 underestimated. The actual F that we end up having  
13 in future years was less than the target F that we  
14 set it at. The spawning stock biomass and total  
15 stock biomass are overestimated, and the recruitment  
16 is potentially overestimated.

17 Our projections assume approximately  
18 median recruitment. So, if recruitment is below  
19 average, the projections that we're making may be  
20 overly optimistic.

21 Now, in terms of the 2008 total  
22 allowable landings, the Southern Demersal Working  
23 Group, which met in June, had a projection and  
24 that's included in the document that's behind Tab 7.

1       They looked at a constant fishing mortality rate,  
2       an F of .199 for 2008 to 2013. This fishing  
3       mortality rate would rebuild to the median spawning  
4       stock biomass level of 197 million pounds by  
5       November 1, 2012. And as you recall, we have to be  
6       fully rebuilt by January 1, 2013. So, note that  
7       November is when the spawning stock biomass estimate  
8       is calculated. That's how the projection was done.

9               This projection does not explicitly  
10       account for the retrospective pattern that I  
11       described. However, the Southern Demersal Working  
12       Group did have a special comment: Given the  
13       persistent underestimation of fishing mortality in  
14       the assessment, managers should consider adopting a  
15       lower TAL for 2008 than indicated by the median  
16       projection results to reduce the risk that  
17       overfishing will occur.

18               Now, as staff, I felt I needed to  
19       answer the question well, what should the TAL be set  
20       at then, if it shouldn't be set at the median level?

21       And I wanted to take a look at the effect of that  
22       retrospective pattern. So, there was a projection  
23       that was conducted after, by myself, looking at F  
24       equals 0.143 for 2008.

1                   Now, this projection reduced the 2008  
2 rebuilding F by 28 percent. That 28 percent value  
3 is the average annual retrospective increase over  
4 the last three years. So, basically the 28 percent  
5 comes from taking the year 2003 fishing mortality  
6 estimate, adding 2004 to it, seeing what that  
7 increase was. Taking the 2004 estimate, adding 2005  
8 to it, seeing what that estimate in terms of percent  
9 increase was. And then taking the 2005 estimate and  
10 adding 2006 to it. So, it's a one-year correction  
11 over those three years.

12                   I did not assume the retrospective  
13 pattern continued in 2009 to 2013. So, it was just  
14 for that one year, 2008, that I examined this  
15 correction. All other inputs into the projections  
16 are the same as what the Southern Demersal Working  
17 Group did.

18                   So, just to compare the differences  
19 in terms of the fishing mortality rate in 2008, the  
20 Southern Demersal Working Group projection was at a  
21 0.199. The staff projection was at 0.143. The F in  
22 2009 to 2013 was about .2 for both of the  
23 projections. In terms of correcting for the  
24 retrospective pattern in F, the Southern Demersal

1 Working Group projection did not correct for it,  
2 whereas the staff projection did. In terms of the  
3 retrospective patterns in spawning stock biomass,  
4 neither projection addressed that issue.

5 So, this table is in the Monitoring  
6 Committee document. It's the 2008 total allowable  
7 landings that would be associated with each of these  
8 projections in 2008. Now, the first column is the  
9 probability that would be associated with achieving  
10 that F, given the TAL, given in the second or third  
11 column. So, in the second column, for example the  
12 75 percent probability at 15.77 million pounds,  
13 basically that 15.77 has a 75 percent probability of  
14 achieving F of .199 in 2008.

15 So, the second column gives the TALs  
16 associated with the Southern Demersal Working Group  
17 projection, and those -- the TALs decrease as you  
18 have a higher probability of achieving the target F.

19 And as you can see, at the 99 percent probability  
20 of achieving the F .199 is 12.53 million pounds.  
21 So, until you get to a very high probability of  
22 achieving your target F in the uncorrected  
23 projection (inaudible) --

24 DANIEL FURLONG: You lost your mike.

1 (Pause for microphone adjustment.)

2 JESSICA COAKLEY: So, continuing on,  
3 under the uncorrected projections, until you get to  
4 a very high probability of achieving your target F,  
5 you don't really start to approach the TALs  
6 associated with the corrected projections, which  
7 range from 12.9 to 9.24 million pounds for 2008.

8 This figure I included just to -- not  
9 considering the probabilities of achieving the  
10 target F. This is just a projection fishing at a  
11 constant fishing mortality rate, uncorrected, F  
12 equals .199 through time. I wanted everyone to see  
13 the distribution of the spawning stock biomass,  
14 given the variability in recruitment, variability in  
15 survey indices, and how even just if that target F  
16 is achieved, there's a broad range in spawning stock  
17 biomasses that could take place.

18 So, the line through the middle is  
19 the median, but the dotted lines are the fifth and  
20 95th percentiles that show that -- you know, just  
21 given the variability, there's the possibility that  
22 we don't achieve that target F or we may achieve or  
23 exceed that target F as we try to rebuild the stock.

24 So, there's a good deal of

1           uncertainty, so including higher probabilities of  
2           achieving those target F's increases the certainty  
3           that we may in fact achieve our rebuilding target  
4           through time.

5                         So, in terms of summer flounder  
6           commercial shares, this table is in the monitoring  
7           committee document, as well, and what those  
8           allocations could potentially look like. I've done  
9           just two columns here. One is at an F of .199 at a  
10          75 percent probability of the target F. And the  
11          other is an F -- the corrected target at .143 at a  
12          75 percent probability of achieving the target F.  
13          And what those allocations could potentially look  
14          like within that range. So, overall those quotas  
15          could range from 9.46 million pounds to 6.98 million  
16          pounds.

17                         In terms of summer flounder  
18          recreational shares, just to show you a range of  
19          what those could look like -- wow, and I just  
20          noticed those Fs are left over from last year, the  
21          .276 and .185. So, you might want to just ignore  
22          those. The 6.31 is the uncorrected projection at a  
23          75 percent probability. And the 4.66 million pounds  
24          coastwide for recreational shares is the

1 retrospective corrected projection with a 75 percent  
2 probability, to give you the range there.

3 Now, I assume two and a half pounds  
4 per fish to get at the numbers of fish that could  
5 potentially be allocated and -- to the individual  
6 states, and this gives you an idea of the ranges of  
7 allocations based on those different TALs.

8 So, the 2008 TAL staff recommendation  
9 was a TAL in the range of 11.64 to 15.77 million  
10 pounds. The 11.64 is the retrospective corrected  
11 projected TAL at a 75 percent probability of  
12 achieving the target F, and the 15.77 million pounds  
13 is the uncorrected TAL with a 75 percent probability  
14 of achieving a target F.

15 Obviously, there is less risk of  
16 overfishing at the lower end of the range, and I  
17 indicated to the monitoring committee that I thought  
18 it was important that that be taken into account,  
19 that there is lower risk at the end of that range.  
20 The commercial quotas and recreational harvest  
21 limits would correspond to the overall TALs, so  
22 those could range from 6.98 to 9.46 million pounds,  
23 or 4.66 to 6.31 million pounds.

24 Now, the monitoring committee had

1 formed their recommendations when we met on July  
2 19th and they had several comments. They felt it  
3 was very important that the retrospective issue be  
4 communicated clearly, which I've attempted to do  
5 here. The monitoring committee also recognized that  
6 there is a retrospective problem. Therefore, the  
7 monitoring committee recommended TALs associated  
8 with the retrospective corrected projections. They  
9 felt that it was important that the information for  
10 the uncorrected and corrected projections be shown.

11 However, their recommendations focused on the  
12 retrospective corrected TALs.

13 So, the monitoring committee  
14 recommended a TAL in the range of 11.64 to 12.90  
15 million pounds. The 11.64 is the 75 percent  
16 probability of achieving the target F. The 12.90 is  
17 the 50 percent probability of achieving the target  
18 F. They had strong leanings towards the 11.64  
19 million pounds to offset the retrospective  
20 overestimation of biomass. And as I pointed out,  
21 the way the projections were done, there were no  
22 adjustments made to deal with the overestimation of  
23 biomass, and they felt given the fact that that had  
24 not been taken into account, that was reason to be

1 less -- a bit more risk averse, and go with a higher  
2 probability of achieving that target F.

3 They concurred with other aspects of  
4 the staff recommendation. So, the recommendations  
5 were a TAL of 11.64 to 12.90 million pounds, with  
6 leanings towards 11.64, an RSA up to three percent,  
7 no changes in the mesh size requirements, minimum  
8 fish size requirements, exemption programs or gear  
9 restrictions.

10 Now, in terms of research set-aside,  
11 we don't have the issue that we had with scup  
12 yesterday where the 2008 approved amounts were  
13 higher than what had been recommended by the  
14 monitoring committees, the maximum RSA of three  
15 percent, either under that 11.64 or 12.9 is higher  
16 than the 2008 approved RSA amounts. So, that just  
17 shows all those values and the max -- what the  
18 maximum RSA three percent would be.

19 All right. And that sums up my  
20 presentation. I'll just hand this back over to  
21 Jack.

22 COMMITTEE CHAIR JACK TRAVELSTEAD:

23 Thank you. That's very good. Other questions of  
24 Jessica? Yes, Ed.

1                   EDWARD GOLDMAN: Thank you. I was  
2 just talking to some of our scientists on the  
3 retrospective pattern. Is there a model that was  
4 used that doesn't show the retrospective pattern? I  
5 heard there was another model out there that doesn't  
6 show it, that was used. Could you enlighten us on  
7 that a little, if I heard right?

8                   JESSICA COAKLEY: Not that I know of.  
9                   The only assessment model that I'm familiar with  
10 that's been used for -- to assess summer flounder is  
11 the VPA, and that does have the retrospective  
12 pattern associated with it.

13                   COMMITTEE CHAIR JACK TRAVELSTEAD:  
14 Nancy, you want to follow up?

15                   NANCY THOMPSON: Yeah, just be aware  
16 that the modeling exercise develops these estimates  
17 of mortality, and therefore the mortality estimates  
18 that come out have to match what we see in terms of  
19 the landings over some period of time.

20                   And so every model -- I mean, what it  
21 does is it estimates mortality. And what we've  
22 determined is that the estimates of mortality cannot  
23 be fully determined by the landings and natural  
24 mortality. So, that's where this retrospective

1 pattern comes from. So, it's not -- you know, a  
2 model does this or a model doesn't do that. A model  
3 estimates mortality.

4 COMMITTEE CHAIR JACK TRAVELSTEAD:

5 Thank you. Ed, did you have any follow-up?

6 EDWARD GOLDMAN: Yeah, actually this  
7 is another question. On this rebuilding schedule,  
8 we talked about the 2013 year. What happens --  
9 refresh my memory on the law. What happens in 2013  
10 if we don't reach our goal?

11 JESSICA COAKLEY: I don't know that  
12 that's a question for me. I think that might be a  
13 question for Pat or Joel. Perhaps one of them would  
14 like to field that.

15 COMMITTEE CHAIR JACK TRAVELSTEAD:

16 Joel's not here, so --

17 PATRICIA KURKUL: Thanks, Joel.

18 Well, of course we need to do everything we can  
19 between now and then to make sure that doesn't  
20 happen. But if it does happen, then we're still  
21 bound by the requirement to take every action  
22 possible to achieve rebuilding by that time period.

23 And so you can imagine what every action possible  
24 is.

1 COMMITTEE CHAIR JACK TRAVELSTEAD:

2 Jeff.

3 JEFFREY DEEM: Thank you. Discard  
4 mortality is a big part of this. How do you  
5 estimate the number of discards and the amount of  
6 discard mortality each year?

7 JESSICA COAKLEY: Well, the discard  
8 information is calculated using the observer  
9 information. And there are several steps that are  
10 worked through in terms of taking the observer  
11 information and expanding that to get an estimate of  
12 discards - discards in the commercial fishery.

13 There's several components to the  
14 catch that goes into this model. You've got your  
15 commercial landings and your commercial discards and  
16 then you've got recreational landings and  
17 recreational discard mortality, fish that are thrown  
18 back, and a certain percentage of them die. So,  
19 that's all taken into account in the catches that go  
20 into this model.

21 JEFFREY DEEM: If I may? I know that  
22 the recreational discard mortality -- when she's  
23 ready. The recreational discard mortality rate is  
24 10 percent; is that correct?

1 JESSICA COAKLEY: Yeah, that's  
2 correct.

3 JEFFREY DEEM: I haven't seen any  
4 observers on recreational boats, so how do they know  
5 how many discards recreational fishermen make? And  
6 has that number been the same for the past few  
7 years?

8 TONI KERNS: The numbers have not  
9 been the same over the last few years. It comes out  
10 of the MRFSS data and it's in the -- it's the B2  
11 information that you can pull from there. It comes  
12 from the interviews from the fishermen and that  
13 number -- I don't know exactly what that number was  
14 last year, but the year before it had increased from  
15 2005. So, it changes every year, based on the  
16 survey numbers.

17 JEFFREY DEEM: Okay. Our experience  
18 is that recreational fishermen, at least in  
19 Virginia, are discarding between 10 and 20 fish for  
20 every one that they keep. So, which number are you  
21 using? Can you graph that for me? Can you tell me  
22 what the numbers have been and how severely -- as  
23 the size limits have increased drastically over the  
24 past few years, the discard rate has increased

1           drastically. Has the allotment for discard  
2           mortality increased drastically?

3                       TONI KERNS: The percentage that we  
4           use to calculate the mortality still has stayed at  
5           10 percent, but the -- of the number of fish that  
6           will die that are thrown back. But the number of  
7           fish that are thrown back changes every year based  
8           on the estimate from MRFSS. And like I said, I did  
9           not look at the 2006 numbers yet, but I do -- I have  
10          looked at the 2005, 2004, 2003, and those numbers  
11          had increased over time.

12                      So, for each state it's going to be  
13          different. So, I don't know what the Virginia  
14          numbers were. And if I could get on the internet, I  
15          could look it up for you, but I can't get on the  
16          internet in here, so I can't look up that specific  
17          number, but I could get it to you some other time.

18                      COMMITTEE CHAIR JACK TRAVELSTEAD:  
19          Phil. Excuse me, Phil. Vince, did you have  
20          something to that point?

21                      VINCE O'SHEA: I did, Mr. Chairman.  
22          Just to clarify what Toni had said, there's really  
23          two numbers that are used. One is a 10 percent  
24          survival rate of fish that are discarded, and that's

1 based on certain studies that have been done on  
2 survival of recreational caught fish. The second  
3 number is the number of fish that are returned by  
4 recreational anglers, and that number comes from the  
5 numbers they report when they're interviewed in the  
6 MRFSS intercept. So, it's sort of the ten percent  
7 times the number of fish that they said they were --  
8 that they returned, and then that goes to the  
9 mortality.

10 COMMITTEE CHAIR JACK TRAVELSTEAD:

11 Phil.

12 PHILIP RUHLE: Thank you, Mr.

13 Chairman. Jessica, the first slide you had up there  
14 with the landings data and the -- yeah, that there.

15 Just so I'm clear, where does that all of that data  
16 come from; commercial, rec, and what have you?

17 JESSICA COAKLEY: Well, it comes from  
18 a couple of sources. The commercial landings  
19 information comes from dealer weighout. The  
20 recreational landings information comes from MRFSS.

21 And the TACs and the TALs and those things, those  
22 are in the Federal Register, in terms of what was  
23 actually implemented.

24 PHILIP RUHLE: So, the commercial

1 landings that you have reported over time is the  
2 dealer database, the NMFS dealer database? Thank  
3 you.

4 JESSICA COAKLEY: Yes.

5 COMMITTEE CHAIR JACK TRAVELSTEAD:  
6 Jimmy.

7 JAMES RUHLE: Thank you, Mr.  
8 Chairman. Jessica, you did a great job again with  
9 this presentation, and I appreciate the level of  
10 clarity that you provided. You learned well from  
11 your predecessor. You do a good job, you really do,  
12 and I appreciate it.

13 Question for you to start with, and  
14 actually Dr. Thompson touched on this a little bit,  
15 refers to this retrospective analysis issue. The  
16 slide you had on the board earlier -- I don't need  
17 you to pull it back up, but you applied a  
18 retrospective analysis on a yearly basis to one  
19 year. You took 2002, went out all with three, four,  
20 five years projections, or retrospective analysis,  
21 but you didn't move the 2002. So, if you're looking  
22 at it back in time, five years down the road I would  
23 expect to come up with a different interpretation of  
24 what the data showed. Do you understand what I'm

1 saying or not?

2 JESSICA COAKLEY: Well, I pulled the  
3 slide back up and -- you know, as Nancy had pointed  
4 out, really the models are trying to reconcile --  
5 you know, the differences between what we're seeing  
6 in terms of the landings, what we're seeing in terms  
7 of the survey information that's telling us -- you  
8 know, how many fish are out there, how many are  
9 being removed. So, you know, as you're adding in  
10 additional years' data, I mean you're effectively  
11 getting a stronger picture of what had been  
12 happening that year before. So, as you're adding  
13 more information, you have more information to help  
14 you hone in on what that fishing mortality rate  
15 actually was in that past year, and that's why --  
16 you know, that's one of the reasons these fishing  
17 mortality rates are floating up, because it turns  
18 out there was mortality that the model is basically  
19 finding in terms of -- as it's trying to reconcile  
20 what we're seeing in terms of fish that are there in  
21 the age classes as they move through time.

22 JAMES RUHLE: I understand all of  
23 that, and I certainly can see how you could take a  
24 retrospective analysis for this year and apply it to

1 last year. I can't see how you could take two more  
2 years and apply it to last year. That's where I'm  
3 lost. I don't see how you can at a point down the  
4 road apply the same level of retrospective analysis  
5 to a specific year, because that year has changed,  
6 in my opinion.

7 But anyway, that's -- I'm having  
8 problems with this retrospective all the way along.

9 And evidently, it's not just myself that has had  
10 this problem. First of all -- and I read every word  
11 of the minutes from last year, the discussions we  
12 had with Mark Terceiro, so that we all had a better  
13 understanding of that -- the effect, because last  
14 year it became an issue that we were dealing with at  
15 a higher level. And if you'll recall, I didn't  
16 realize that the working group consistently over  
17 time has mentioned this retrospective analysis, and  
18 actually after finding it in these books -- in the  
19 working group document that it was stated. This is  
20 what bothers me.

21 Well, first of all, let me ask you  
22 this. What contributes -- and Dr. Thompson touched  
23 on it. What contributes to this retrospective  
24 analysis? It's got -- to me -- tell me if I'm right

1 or wrong, it's an additional mortality that takes  
2 place on the stock. However it happens, whether  
3 it's natural overages on -- in the landings,  
4 unaccounted for mortality through discards or  
5 whatever. Is that the driving force or is there  
6 something else that has to be considered? That's  
7 the question.

8 NANCY THOMPSON: Yes, the answer is  
9 yes, it's unaccounted for mortality, from whatever  
10 those sources are. And you know, the concerns come  
11 up as to what are those sources of mortality -- of  
12 additional mortality. And some of it relates to the  
13 discussion on discards and the overages and things  
14 like that. So, yes, the retrospective pattern. And  
15 I have to tell you that -- you know, I came into  
16 this brand new. And when this was put on the table  
17 in terms of retrospective patterns, I obviously had  
18 to understand what that meant. And Paul Rago, quite  
19 frankly, did a very good job explaining it to me,  
20 and said that it's unaccounted for mortality. So,  
21 that is my understanding of what the retrospective  
22 pattern is.

23 JAMES RUHLE: Okay. Well, all right.  
24 Having said all of that, if you look in the

1 briefing book for the year -- our briefing book 2003  
2 for fishing year 2004, had a TAL of 23.3 million  
3 pounds. Okay? The "retrospective analysis" was  
4 referred to in the entire briefing book under summer  
5 flounder four times. Okay?

6 2004, for fishing year 2005, TAL of  
7 30.3 -- 30.1 million. Retrospective analysis was  
8 referred to twice in that tab behind summer  
9 flounder.

10 2005, for fishing year 2006, 23.6  
11 million, retrospective was referred to three times.

12 2006, for 2007, 19.1 million TAL,  
13 ended up 17.1. We all know that. We're looking at  
14 a reference of 11 times the retrospective analysis.

15 This year, 41 times. 41 times behind  
16 Tab -- whatever the hell number it is --  
17 retrospective analysis is written. It's 26 times in  
18 the document that Jessica put together, and it's 15  
19 times in the Demersal Working Group's paper.

20 So, all of a sudden, this has become  
21 the driving force. Either they're trying to explain  
22 to us better that we have to utilize this, or it's  
23 become what's driving their train. Now,  
24 understanding that, I would certainly expect, with

1 what Dr. Thompson just spoke of, if we look back at  
2 Table 1, I would expect in the years that we had  
3 significant noted overages by whoever, the next year  
4 you would expect to see the effect of that overage  
5 included in a retrospective analysis. And it's not  
6 there.

7           You see what I'm saying? In other  
8 words, we knew we -- here's the target. Let's say --  
9 -- I don't have -- well, there is the table. Look at  
10 Table 1. And in 2003, the TAL was 23.3. There's at  
11 least a two -- almost a two and a half million pound  
12 overage in 2003. Why was that not an issue in 2004?

13           I don't understand why that it's  
14 become such an issue now and it wasn't then. If in  
15 fact unaccounted mortality was the driver, it should  
16 have been something that we had been -- had been  
17 brought to the attention of this group every year  
18 that there was any kind of an overage.

19           Is that a reasonable assumption or am  
20 I missing something there? That is a question. Is  
21 it a reasonable assumption to --

22           JESSICA COAKLEY: Well, I mean, one  
23 thing I do want to point out in this table, I mean  
24 the landings that you're looking at, even if they

1 are overages, those are accounted for landings.  
2 Those are landings, even if it's over, it's being  
3 put into the model and being accounted for. The  
4 issue is really that there's basically mortality  
5 that's not being accounted for, that's contributing  
6 to the retrospective pattern. Whatever that may be.  
7 And that's part of the issue. So, these overages  
8 are in terms of inputs into the model being taken  
9 into -- being taken into account.

10 JAMES RUHLE: Now you've really lost  
11 -- all right, Nancy.

12 NANCY THOMPSON: Yeah, I mean Jessica  
13 is right, and probably my terminology was imprecise  
14 and I apologize for that. It is the unaccounted for  
15 mortality. There's no question about it. What  
16 we've seen is that the estimates of mortality seem  
17 to be higher than projected and those projections do  
18 in fact include the retrospective pattern. But  
19 still there's a difference in terms of the mortality  
20 estimates. And that's where we're going with this.

21 So, there is something else going on.

22 JAMES RUHLE: Okay. Just one more  
23 question, Mr. Chairman. With all of that said, I'm  
24 looking at where we are -- and I've got to say it

1 again. I think this is an unachievable target that  
2 we're shooting for. I mean we don't have any  
3 documentation that we've ever been there, and I'm  
4 not at all expecting to get there. But regardless  
5 of that, we know that's what we have to work off of.

6 But when you look back to where we were in 2005 --  
7 in 2005, we had a five-year time table left in our  
8 rebuilding schedule. And you look at the status of  
9 where that stock was in 2005 to where it is now, and  
10 2005 resulted in a 23 point -- for 2006 -- no, 2005  
11 was a 30.1 million pound TAL.

12 So, with the stock at the level that  
13 it was with five years left in the rebuilding  
14 schedule, it's hard for me to understand --  
15 considering where the stock is now, and we have five  
16 years left. We don't have a year or two left.  
17 We've got five years left.

18 I can't understand how it could be  
19 such a significant difference in what the  
20 recommendations are, precautionary approach applied,  
21 retrospective applied, all of that. I'm having a  
22 big problem understanding how the stock could be at  
23 the level that we expect it to be at and having to  
24 take this significant a reduction.

1                   And the reason that I'm concerned  
2 with this, I am totally convinced that the lower we  
3 lower this TAL, the higher our discards are going to  
4 be, our mortality is going to be, through whatever  
5 sector or whatever method. The lower the TAL, the  
6 higher mortality we're going to have, and we're  
7 putting ourselves in a position where we're just  
8 never going to get anywhere. And that is my major  
9 concern.

10                   So, Mr. Chairman, when the time is  
11 appropriate, I'd like the opportunity to make a  
12 motion, recognizing that it is not now. Thank you.

13                   COMMITTEE CHAIR JACK TRAVELSTEAD: I  
14 think we're -- that's a ways down the road here.  
15 Larry.

16                   LAWRENCE SIMNS (No microphone):  
17 (Inaudible.)

18                   COMMITTEE CHAIR JACK TRAVELSTEAD:  
19 Get on the mike, Larry.

20                   LAWRENCE SIMNS: I'm sorry. What Mr.  
21 Deem said, it seems like we're going down a road  
22 here that we're never going to come to an end,  
23 because the more we raise the size limits on fish,  
24 the more we're going to turn back and the higher

1 loss we're going to have. And he said that they  
2 catch ten little fish to catch one keeper. Well, if  
3 ten percent of them die, if you change -- if you  
4 lowered that size limit, you would probably not kill  
5 any more fish than you are by having the size limit  
6 high.

7 I mean, there's a limit to how far we  
8 could go by raising the size limit. I think we've  
9 already passed that limit and we're causing this  
10 return of the fish to ten percent of them dying, and  
11 we're never going to get there. And I just don't  
12 know. I don't know if you've ever calculated -- and  
13 maybe you could, because I'm not smart enough to  
14 calculate that out, what that means, but you  
15 calculate these different sizes and how many are  
16 going to be returned because of you're making it so  
17 that we've got to have more releases, you're just  
18 making it so we're killing more fish. Can you  
19 calculate it out about how many fish we're releasing  
20 if your size limit is corresponding to that? If you  
21 could make the size limit so we don't release so  
22 many, what would that do to the amount of fish that  
23 we're losing? I don't know if you understand what  
24 I'm saying there, but --

1 JESSICA COAKLEY: Well, I think what  
2 you're asking is more of regulation question and a  
3 management quota. I mean we're trying to deal here  
4 in terms of what the overall removal from the stock  
5 should be. However -- you know, when it comes down  
6 to size limits, and how you actually take that --  
7 you know, take that biomass out of the stock,  
8 whether -- whether you're taking -- you know, more  
9 smaller fish or more larger fish, the idea that you  
10 don't want to take more than a certain amount.

11 So, I think it's more of a  
12 recreational regulation question that -- you know,  
13 we're going to be dealing with further down the line  
14 in November or -- you know, or a commercial fish  
15 size question than it is achieving a total fishing  
16 mortality rate question.

17 LAWRENCE SIMNS: What I'm asking for  
18 is for you to calculate the difference on the size  
19 limits of how many fish are going to be returned,  
20 and see if we aren't causing us to return more than  
21 we should. Are you getting that? Do you understand  
22 what I'm asking for? Because --

23 COMMITTEE CHAIR JACK TRAVELSTEAD: I  
24 think she --

1                   LAWRENCE SIMNS:  -- I know  
2 regulations or the size limit.  What I'm saying is  
3 somewhere along the line we've crossed the threshold  
4 and we're causing us to kill more fish than we're  
5 keeping.

6                   COMMITTEE CHAIR JACK TRAVELSTEAD:  
7 Larry, I think we understand what you're asking, but  
8 -- I mean, you're getting into questions that will  
9 be addressed in December when we establish the  
10 recreational management measures that will be  
11 associated with the quotas that we set here today,  
12 so -- you know, that will get a lot of question  
13 later on.

14                   Now, Toni does have the discard  
15 numbers from previous years, which she can share  
16 with us, so --

17                   TONI KERNS:  This may be a little bit  
18 helpful.  I have all the discard numbers here.  And  
19 in 2005 when we had our highest TAL, we actually had  
20 22 million fish that were discarded, and that is the  
21 second highest number of discards except for 2001,  
22 where it was 22.8.  And in 2005, it was 22.2 million  
23 fish were discarded.

24                   The average from '01 to '06 was 18

1 million fish that were discarded. And in 2006, I  
2 believe these are preliminary numbers, but it's 17.8  
3 million fish coastwide. So, if that is helpful, it  
4 kind of spans from 22 million as a high and 13  
5 million as a low.

6 COMMITTEE CHAIR JACK TRAVELSTEAD:

7 So, there was actually more discards when the TAL  
8 was higher than in recent years when it was lower?

9 TONI KERNS: Yes, that's correct.

10 COMMITTEE CHAIR JACK TRAVELSTEAD:

11 Okay. Pat Augustine.

12 PAT AUGUSTINE: Thank you, Mr.

13 Chairman. I'm referring to some comments that were  
14 made under special comments. It's on page 7. And  
15 it all has to do with the Southern Demersal Working  
16 Group. And I'm wondering -- don't need an answer as  
17 I make the comments, but when I get through I'd like  
18 to have some response. They made some specific  
19 comments here that I'm wondering whether the -- when  
20 the VPA was looked at and readdressed whether their  
21 comments were taken into consideration.

22 There's one statement here under  
23 Number 4: Discount the recent downtrend in  
24 recruiting and recruits per spawner. Such a trend

1 is exactly what is expected from near constant  
2 recruitment and reduced fishing mortality, which  
3 allows more spawning biomass per recruit. Further  
4 declines are expected as the stock approaches the  
5 rebuilt level.

6 That leads into the next part, where  
7 we talk with respect to the findings here. The  
8 recent downturn in recruiting and spawning stock  
9 biomass were discounted in the calculation of  
10 reference points for 2006. And I'm trying to put  
11 that in perspective. Your arithmetic mean of long-  
12 term '82 to 2005 recruit was used as the basis for  
13 average level of recruitment, et cetera, et cetera,  
14 et cetera. But they recommended under Item 6,  
15 Revise the survey input to the VPA model so that  
16 observations of zero are replaced with a small  
17 positive value. The VPA model, as with most  
18 assessment models, fits the logarithm of the  
19 observations, so cannot explicitly deal with  
20 observations of zero. However, the current VPA  
21 practice of treating these observations as missing  
22 values is probably underestimating the degree to  
23 which the stock has rebuilt since the low level of  
24 1990. Now, as recommended survey inputs through the

1 VPA model with zero values were replaced with small  
2 positive values in this 2007 update.

3           When I flip back to the survey  
4 information -- back to page 35, 36, 37, somewhere  
5 along in there, many of the survey information data  
6 that were there were left blank or zero from 1982 to  
7 as far as 1991; and in some cases, with absolutely  
8 no value. And it seems to me that the Southern  
9 Demersal Working Group may have suggested -- at  
10 least that was my interpretation -- that there  
11 should be some value put in all of those, rather  
12 than talking about anecdotally what our fishermen  
13 are seeing and what we're aware of is happening with  
14 the population of summer flounder out there. It  
15 seems inconceivable that no credit is given for any  
16 recruitment in all of the surveys from '82 to 91 in  
17 most cases. And it just seems until those zero  
18 blocks are filled in, as suggested by the Southern  
19 Demersal Working Group, I think we have inaccurate  
20 information.

21           Maybe that should have been done  
22 before we got to this point, but it just seems to me  
23 we're going down this path, as Jimmy has described,  
24 and as Larry has described. There's a path of no

1 return. We're committed by Congressional edict and  
2 Magnuson-Stevenson, and what we've done is we've had  
3 to work with the law.

4 In the meantime, it seems to me that  
5 from a scientific point of view there's a glaring  
6 hole in our data sets. And maybe I'm wrong, but  
7 that's my opinion about it. And if you can respond  
8 to that, I appreciate it.

9 JESSICA COAKLEY: Pat, okay. On page  
10 7 where you're talking about the special comments,  
11 all of those comments that are Numbered 1 through 7,  
12 these are the Southern Demersal Working Group  
13 responses to the summary findings from that October  
14 2006 review. All of these issues have been  
15 addressed. So, in terms of dealing with those non-  
16 zeros -- excuse me, the zero values and replacing  
17 them with a small positive value, that has already  
18 been done. These have all been done and addressed  
19 in the model.

20 When the working group met, all these  
21 issues had already been addressed. We basically in  
22 June did an update of the assessment, just adding an  
23 annual year's worth of survey information, but each  
24 of those seven points have already been addressed in

1 the assessment itself.

2 PAT AUGUSTINE: Just a response to  
3 that, and I thank you for that input, Jessica, it  
4 still seems strange that our document contains all  
5 of these zeros that you say have been corrected.  
6 Maybe -- is this an earlier version of that run or  
7 not?

8 JESSICA COAKLEY: I'm not sure what  
9 page you're looking at. It may just be sort of the  
10 raw survey data that's being presented. I was  
11 looking at page 35 and I didn't know what you were  
12 looking at. So, are you --

13 PAT AUGUSTINE: Page 41. I'm sorry.  
14 41 would probably be more appropriate. But the  
15 point is this document, raw data or not, still is  
16 passed out to us and available to the public, and it  
17 indicates that there are no values given for any of  
18 those zero to one year class fish. And in my mind,  
19 if this is a document for the public to look at, it  
20 doesn't say that it's draft or preliminary. In my  
21 mind, we have it in this document, it's finalized.  
22 I know when we have our presentation by Dr. Methot,  
23 he had talked about the difficulty of going back to  
24 giving any values for recruitment, or zero to one

1 age fish back to the '80s.

2 Well, that's assuming -- if we go  
3 back to the mid '90s, why can't we go back to the  
4 early '80s. If the stock is still here, it seemed  
5 to me there had to be some level of recruitment  
6 throughout those periods of years that show nothing.

7 So, maybe I'm beating on a dead horse here, but  
8 this document does say that there are many years for  
9 those survey data that were presented, there has  
10 been no input and no credit for any recruitment  
11 whatsoever.

12 Now, that may affect the outcome. I  
13 think the part that concerns most of us is the fact  
14 that we see what we see, yet we have a plan that's  
15 driving us to reduce and restrict. And even though  
16 we're told scientifically and through surveys that  
17 we need to reach 197 million pounds of fish, we're  
18 looking at how are we going to do that based on the  
19 restrictions that we're faced with. Well, we're  
20 going to do it come hook or by crook, but at what  
21 expense?

22 And again, the statement in here says  
23 that if the stock is rebuilding we're going to see a  
24 downturn in recruitment and so on. And what the

1 scientific committee has said, or group has said, is  
2 what we're seeing is what's happening. Be it right,  
3 wrong or indifferent, will it change the outcome of  
4 this conversation and this decision? It will not.  
5 But I think it's information that has to be put on  
6 the record. Thank you.

7 JESSICA COAKLEY: Okay. One thing I  
8 do want to clarify, in the input data, the output  
9 data, for these files where you're seeing the zeros,  
10 these are rounded numbers. The number that's put in  
11 to substitute for zero is very, very small. So,  
12 it's not -- it's going to carry out further than  
13 those four digits, and so in the model itself it may  
14 go out more digits, but then when I go ahead and  
15 print out the inputs or the output information, it  
16 goes ahead and rounds that. So, that's likely why  
17 you're not seeing that there.

18 PAT AUGUSTINE: Thank you.

19 COMMITTEE CHAIR JACK TRAVELSTEAD:

20 Dave Borden.

21 DAVID BORDEN: Thank you, Mr.  
22 Chairman. A couple of questions. The first  
23 question is for Jessica, and I'm looking at Table 4,  
24 Jessica, on the retrospective issue. And as I

1 understand it, you use 28 percent for the correction  
2 factor in that table, and I guess my question is  
3 why? Was that the consensus of the monitoring  
4 committee to use the last three years? Why didn't  
5 you use the last five years or the last year or the  
6 last two years? I mean what's the basis for  
7 selecting the last three years?

8 JESSICA COAKLEY: Well, in terms of  
9 that annual retrospective pattern that we've seen,  
10 it seemed to settle down in the last three years, so  
11 it was a little bit different than the pattern we'd  
12 seen in those first two years. So, that's why I  
13 narrowed the field to the most recent three years.

14 And in terms of selecting the annual  
15 retrospective as opposed to a multi-year, the way  
16 that the Demersal Working Group has been presenting  
17 that information recently, we've been looking at  
18 sort of an annual pattern, so that was why I had  
19 identified -- identified that. But the most recent  
20 three years, it was because the pattern for the most  
21 recent three years was a little bit different than  
22 it had been in the prior two years.

23 DAVID BORDEN: Okay. Thank you. The  
24 follow-up question is in terms of your projections,

1 rebuilding projections moving ahead, none of those  
2 assume a retrospective pattern in it, as far as I  
3 understand it. And the question is how long has it  
4 been since we had a year where there was no  
5 retrospective pattern? I mean that essentially is  
6 an assumption that I think is probably going to put  
7 the rebuilding process significantly behind  
8 schedule, because it's essentially counter to the  
9 facts. So, I just -- I don't understand why you use  
10 no retrospective pattern in the rebuilding  
11 projections.

12 JESSICA COAKLEY: Well, this was  
13 something that the monitoring committee did discuss  
14 and -- when we talked about this projection, and the  
15 group did state that -- you know, given the fact  
16 that we have seen the retrospective pattern for many  
17 years at this point it's likely that that  
18 retrospective pattern is going to continue through  
19 time. Part of the reason I did not assume that it  
20 continued through time was I couldn't really look at  
21 the extent to which the retrospective pattern was  
22 going to change out in the future. I wasn't sure if  
23 -- you know, it's going to continue to diminish as  
24 we move through time. There's the potential -- you

1 know, with adjustments in quota, that the  
2 retrospective pattern may potentially get worse  
3 through time, and because that's sort of difficult  
4 to predict into the future, I went ahead and just  
5 assumed a correction to the most recent year and  
6 didn't assume that it continued through time.

7 DAVID BORDEN: Okay. But I guess the  
8 point that I'm trying to make is that I think the  
9 Council should be cognizant of the fact that if that  
10 assumption is incorrect, which it probably is, it's  
11 going to put you way behind schedule next year. And  
12 then you're going to have to correct for that in  
13 order to meet the requirements by 2013, which as I  
14 think the Regional Administrator said, you have to  
15 use all available means to meet that target.

16 So, I think that's an important point  
17 for people to keep in mind. Which leads me to my  
18 last question, and I'll make this brief. This is  
19 actually for Joel. And I'm just wondering is it --  
20 this goes back to the summer flounder law case, and  
21 I'm wondering what the legal obligation is on the  
22 agency in terms of considering the retrospective  
23 analysis. I mean, essentially this Table 4 again is  
24 saying that any quota higher than 12.9 million

1 basically has less than a 50 percent probability,  
2 the way I read it. Is that -- what are the  
3 requirements from the law case, Joel?

4 JOEL MACDONALD: The lawsuit that  
5 Dave's referring to is a lawsuit filed by NRDC back  
6 in 1999. We won at the first round. The issue was  
7 the probability of achieving the target. And the  
8 probability I think associated with the TAL at that  
9 time was as high as 18 percent and probably closer  
10 to 10 percent.

11 The NRDC challenged us on that,  
12 saying that the probability wasn't high enough, and  
13 the district court sided with the agency -- I think  
14 it was Judge June Green decided the case. The  
15 environmental group appealed and they won, and the  
16 court said you had to have at least a 50 percent  
17 probability of achieving the target. Now, remember  
18 it says at least a 50 percent probability. 50  
19 percent only has an equal chance of success or  
20 failure, and so therefore we're looking at  
21 percentages that are higher. That's why -- you  
22 know, you consider a 75 percent and greater.

23 The agency is under a statutory  
24 obligation to rebuild this fishery. That's why

1 we're looking at F rebuilds. And the retrospective  
2 pattern is one of the considerations that the agency  
3 has to take account of when it decides ultimately  
4 what TAL is defensible in this context.

5 COMMITTEE CHAIR JACK TRAVELSTEAD: I  
6 want to follow up on David's question, looking at  
7 Table 4 on page 7, that shows the two columns, one  
8 with the 28 percent correction for retrospective  
9 bias. It seems to me last year we didn't have that  
10 third column in front of us. Can you put that on  
11 the screen?

12 But when we made our decision, when  
13 we picked the TAL, we chose the 75 percent level  
14 instead of the 50 percent level, believing that that  
15 in part would correct for this problem with  
16 retrospective bias.

17 This year we're looking at a third  
18 column that accounts for all of the retrospective  
19 bias, and it's a 28 percent correction. I guess my  
20 question then is if we're fully accounting for the  
21 retrospective pattern, what are we correcting for by  
22 moving from 50 percent to 75 percent to 90 percent  
23 here? It seems like we're sort of double-counting  
24 something. You know, if we're adopting -- if we

1 choose to adopt a 28 percent correction, and that  
2 accounts for all of this unknown fishing mortality,  
3 what else are we trying to account for by moving  
4 from 50 percent to 75 percent?

5 JESSICA COAKLEY: Well, I think the  
6 way to look at this is those probabilities are the  
7 likelihood of achieving your target  $F$ , whatever that  
8 may be. So, if you think of a bulls-eye -- you  
9 know, you've got -- honing in, you're trying to  
10 achieve your target  $F$ .

11 The issue is what the retrospective  
12 pattern does is actually make our target float up  
13 over time. So, you're not trying to hit it in the  
14 same spot. So, I don't think it's essentially  
15 double-counting in terms of correcting for it. It's  
16 a matter of how much uncertainty you're willing to  
17 have in achieving your target, but then if that  
18 target actually moves over time, now it's over here.

19 You know? So, you're either narrowing it on the  $F$ ,  
20  $F$  rate, where your target -- I don't know if that  
21 makes sense. I may just be adding to the confusion  
22 here.

23 But that's sort of the way that I  
24 look at it, is those probabilities are higher --

1       it's a probability of achieving your target F, but  
2       your target F is actually moving. So, the  
3       retrospective correction tries to take into account  
4       the fact that your target is moving. Those  
5       probabilities try to take into account the  
6       likelihood that you're going to actually hit that  
7       target, given all the uncertainties that we have in  
8       terms of recruitment patterns, in terms of survey  
9       variability.

10               The way the monitoring committee  
11       viewed this, the corrections that we did for the  
12       retrospective only dealt with the issue of the  
13       increase in fishing mortality rate when you add  
14       additional years' worth of data. It didn't take  
15       into account the fact that you're overestimating  
16       your spawning stock biomass and total stock biomass.

17       So, the reason they were leaning towards a higher  
18       probability, that 11.64 with a 75 percent  
19       probability, was to try to offset that, because in  
20       actuality if you really wanted to be conservative  
21       and take that total stock biomass and spawning stock  
22       biomass into account, you really should go back in  
23       and look at your starting numbers for stock size at  
24       the beginning of the projection and all the

1 different age categories and adjust those downwards,  
2 because that's another effect. Your F is floating  
3 up, but your starting numbers are potentially  
4 floating down, in terms of what stock biomass should  
5 be. So, that was why their recommendation was  
6 leaning towards a higher probability.

7 COUNCIL CHAIR PETER JENSEN: Pete.

8 PETER HIMCHEK: Yes, thank you, Jack.

9 I have a comment or a question and a comment. The  
10 retrospective analysis and the unaccounted for  
11 mortality, can the unaccounted mortality be teased  
12 into a component such as discards, unrecorded  
13 harvest, sources of natural mortality at different  
14 ages? I mean it seems like this is a central  
15 component now to developing a TAL, and it also would  
16 impact the rebuilding target.

17 And I'll give you a very good  
18 example. I'm familiar with the retrospective  
19 analysis that we give on Atlantic menhaden, and we  
20 always had a bias in the recruitment estimates.  
21 They always turned out to be lower than expected.  
22 And it wasn't until the MSVPA came in that we  
23 determined that the natural mortality on zeros and  
24 ones were an extraordinary -- almost an order of

1 magnitude higher than what had been built into the  
2 model.

3 So, my question is, since the  
4 retrospective analysis is a central contributor here  
5 for determining TALs, and -- is it discards,  
6 unreported mortality or age-specific natural  
7 mortality that is going to be the major ingredient  
8 of this retrospective analysis? And if it's some  
9 kind of natural mortality influence, then how -- it  
10 should be considered in re-examining the target,  
11 because, as I said, I mean there are factors there  
12 that make -- prevent you from ever reaching it.

13 JESSICA COAKLEY: I don't really have  
14 the answer to you right now as to what specifically  
15 could be causing that. I mean, it's unreported  
16 mortality, but maybe Nancy may have a better  
17 response to this.

18 NANCY THOMPSON: No, I don't have an  
19 answer either. I mean, it's unreported mortality.  
20 As Jessica said, the estimates that we have for  
21 discards from MRFSS or from wherever they come from,  
22 the overages are already included. But there's  
23 something else going on, because there's a mismatch  
24 between what the model produces and what the

1 landings produce, plus the additional mortality,  
2 which includes the discards that we have.

3 So, we don't know what it is, which  
4 is why it's called unreported mortality essentially.

5 And I know this is not going to answer your  
6 question either, but remember that the assessment  
7 that -- the update that was just completed followed  
8 the lead from Methot and company. So, there was a  
9 review, as you know, since the Council requested it,  
10 and those results were followed. So, the results  
11 that we have now in front of us are a result of that  
12 panel review.

13 Now, remember again that we're on  
14 schedule to have a new assessment, a benchmark  
15 assessment, a brand new assessment next year. And  
16 who knows what those results will provide? There  
17 could be an entirely different modeling approach  
18 that is taken and approved, and resulting in  
19 different biological reference points.

20 So, I know this is not answering the  
21 question either, but these are all things that were  
22 brought out by Methot and company that we have been  
23 charged to consider in the next assessment. So,  
24 while we can't consider that in this particular

1 update, we will. I know that's not answering your  
2 question. The question related to unreported  
3 mortality is unreported mortality.

4 COMMITTEE CHAIR JACK TRAVELSTEAD:

5 Phil.

6 PHILIP RUHLE: Thank you, Jack. I  
7 thought at one point I had some idea of what  
8 retrospective actually was, but under the --  
9 following this discussion, I'm getting very unclear.

10 But first thing I'd like to point out is  
11 retrospective analysis -- you know, you're  
12 considering the unaccounted for mortality is the end  
13 of the game, and that's the part that's confusing me  
14 right now, because New England a few years ago -- I  
15 think it was '02 or '03, yellowtail -- Georges Bank  
16 yellowtail was completely rebuilt, a full success  
17 story. And three years later, it's a totally  
18 restricted fishery because of retrospective analysis  
19 and as -- the assumptions went through that. And I  
20 just want the Council to be aware that over the  
21 course of the last couple, three years I guess it is  
22 now, they did change the model on yellowtail and --  
23 Georges Bank yellowtail to account for the -- they  
24 developed a model that doesn't have a retrospective.

1           It doesn't have any fish either -- you know?

2                       But my question is if it's  
3           unaccounted mortality and you can't actually figure  
4           out where it is or what it is, whether it's natural  
5           mortality, whether it's underestimated this or a  
6           whole host of things, where is that number coming  
7           from? What is supplying the number that you're  
8           using for that, except for -- I mean if I understand  
9           it, it's going back to see what the model did, what  
10          your projections were, and this is the oops factor  
11          in between it, in a sense. Because this is saying  
12          we didn't -- this model didn't hit this right. We  
13          put all of this in. If one side or the other went  
14          over an overage, that's accounted for. Best  
15          information for discard, that's accounted for. The  
16          assumption of natural mortality that's involved,  
17          that's accounted for.

18                      So, any numbers that you actually  
19          have are in the model. And at the end of the day,  
20          the retrospective is saying well, the model said we  
21          should get 20 million. It looks like we only are  
22          going to get 15. So, basically here's the oops, and  
23          we'll call it retrospective. But there's actually  
24          no numbers that can go in -- if I'm understanding

1 this right -- that produce this unaccounted for,  
2 except for the difference between what you think it  
3 should have done and what it looks like it did. Am  
4 I understanding that right?

5 COMMITTEE CHAIR JACK TRAVELSTEAD:

6 It's not so much that there's a number out there  
7 that we haven't put a title on that's missing from  
8 the model. I think it's more that all of the  
9 numbers that go into the model are not measured  
10 without error. Every number you see on all of these  
11 sheets may not be exactly correct. We may not  
12 estimate commercial catch correctly. We may not  
13 estimate recreational harvest correctly. We may not  
14 estimate discards correctly. And the sum total of  
15 all of that results in this retrospective problem.

16 So, it's not an unknown number that's  
17 -- it's not a single cause, would be my guess. It's  
18 not a single cause. It's a multitude of factors  
19 that we're not measuring everything exactly  
20 precisely. Phil.

21 PHILIP RUHLE: I'm not sure I -- I  
22 understand what you're saying, Jack, but to me it  
23 ends up being -- the retrospective ends up being  
24 what the model was projected to do and what it did

1 do, in a sense. And that's the number that's coming  
2 in there. Whether that unaccounted portion is  
3 refiguring the numbers that went in there or it's  
4 something else entirely, but it still to me ends up  
5 being -- in my estimation, it ends up being what the  
6 model was intended to do and what it did.

7 COMMITTEE CHAIR JACK TRAVELSTEAD:

8 I'm not sure I can add any more to that. Dr.  
9 Weinberg's going to add more to it, though.

10 JAMES WEINBERG: Phil, maybe I can  
11 help a little bit. The way the VPA -- the VPA is a  
12 very old model. It's been around for about 70  
13 years. And it's been studied really thoroughly.  
14 And a property of this model is that the most  
15 uncertainty that you have, unfortunately, is with  
16 the present. And the model has a property called  
17 convergence, as you go backwards, so that you have  
18 your greatest certainty about what occurred the  
19 further back in time you go. That's unfortunate,  
20 because we always want to know what's going on right  
21 now.

22 Now, the retrospective pattern, when  
23 we study that, that's -- as you see when you go back  
24 in time in those graphs that look like the cat

1 o'nine tails, all those lines at the end, as you go  
2 back in time they merge into a single line. And  
3 that's that property of convergence.

4 So, by looking at the spread in those  
5 lines, in the most recent years, that's your key  
6 basically. It's telling you about the lack of fit  
7 of the model right now. And by seeing how they  
8 converge as you go back in time, that's the key that  
9 we have as to how far off in magnitude we are about  
10 the estimate right now.

11 And when those -- and that --  
12 basically that's what that retrospective pattern is  
13 telling us. It's saying the model doesn't fit right  
14 now, but if you look back in time, you see the  
15 convergence. And by the amount that it doesn't fit,  
16 that's telling you roughly how far off you are.  
17 That's the clue that we have.

18 But I agree that we don't -- we can't  
19 tease out whether that's due to discards or  
20 unreported landings or what factor. There could be  
21 many different factors. But anyway, that's kind of  
22 my two cents about the model.

23 COMMITTEE CHAIR JACK TRAVELSTEAD:

24 Thank you. I do have a number of people on the

1 list. So, if you raised your hand some time ago, I  
2 do have you on the list. We will eventually get to  
3 you. Eric.

4 ERIC SMITH: Thank you. I'd like to  
5 make a quick point about recruitment and then talk  
6 about what I suspect will be the motion and the  
7 issues we have to deal with on that. There was a  
8 slide, Jessica, on recruitment, and I think you said  
9 recruitment -- there was a retrospective pattern in  
10 that and it was overestimated. When I look at  
11 Terceiro's June 2000 paper -- it was a summary  
12 slide, had text on it. Not the figure.

13 Terceiro's paper actually said there  
14 was no trend. It ranged from minus seven percent to  
15 plus 13 percent. I only point that out because it's  
16 important in one of your conclusion slides when you  
17 said if recruitment is overestimated, it affects the  
18 projection for the future. And so we'd want to make  
19 sure that recruitment is in the analysis as --  
20 without trend. So that we're not presuming it's  
21 overestimated.

22 And that point then I want to draw to  
23 something Pat Augustine had said also, because I  
24 picked that same point up in the document -- the

1 peer reviewers' comments and how they were accounted  
2 for. They said something like: Don't expect the  
3 higher recruitment that you saw in the past in the  
4 future, because your biomass is going to be higher.

5 So, you shouldn't -- you'll get more biomass out of  
6 those recruits, but you won't get as high  
7 recruitment.

8 Which brings me to the slide I want  
9 you to put up, which is to back up some and look at  
10 the one where you had SSB and total biomass --  
11 there, right there, histogram of recruitment.

12 My question is if the peer reviewers'  
13 comments are well-taken, and they were -- in a  
14 sense, the monitoring committee accepted that  
15 comment, why are we using either a median or a mean  
16 of recruitment back through the time series when  
17 those first six years are no longer valid? Those  
18 were the recruitments we got out of low biomass, and  
19 what we probably really ought to be doing is taking  
20 a median or a mean from somewhere like 1989 or '90  
21 through the present, which is the recruitment you  
22 expect to get at the biomass you've had during that  
23 15 years.

24 Now, I say that knowing that in part

1 that's probably a point that should be taken up in  
2 the next assessment in next June, because it's a  
3 kind of a new thought to dealing with recruitment.  
4 The only reason I bring it forth here is to the  
5 extent -- the longer time series of median or mean  
6 recruitment is in this analysis, it tends to make us  
7 look like we're worse off than we might really be.  
8 In other words, if the point I made about a mean of  
9 a more recent time series is embraced in the next  
10 assessment, that point alone will make us seem like  
11 we're not quite so bad off.

12 So, we are putting ourselves -- you  
13 know, somebody talked about double counting before,  
14 and we tend to have a lot of factors that go into  
15 this that make us look like we're really in bad  
16 shape, which is why we want to use 75 percent  
17 probabilities and so forth. And on the recruitment  
18 point, the three points I made, once potentially  
19 corrected for that, we may not be quite so bad off;  
20 and we may also not have such a hard time achieving  
21 our goal. So, that's kind of a composite of what I  
22 wanted to say about recruitment.

23 My point on the two things that are  
24 going to influence the motion today, I just want to

1 be clear, and my comment on the retrospective  
2 pattern in all of this is I think it's highly  
3 appropriate that we correct for that. Somebody --  
4 Jim counted up the number of times it was referred  
5 to in past documents. Well, you folks told us that  
6 a few times and we didn't get it. So now it's been  
7 mentioned 41 times and we should be getting it.  
8 Because if there is a pattern and it's fairly  
9 consistent, it's a responsible thing to do to  
10 correct for that. So, I buy that argument.

11 I'm not so sure I also buy the 75  
12 percent versus 55 -- 50 percent, for the reason the  
13 Chairman made, that to some extent, in at least last  
14 year's decision-making process versus this year's,  
15 we used 75 percent last year because we weren't  
16 certain about the retrospective amount that we  
17 needed to account for. Now you've accounted for it.

18 I don't also know why we should use 50 percent or  
19 75 percent.

20 I also note from your projections in  
21 Figure 2 of your memo -- leaving the error bars  
22 aside which you presented in the slide, but not in  
23 this figure, there's not a heck of a lot of  
24 difference between those projections. And you can

1 see that in the TACs where -- you know, 50 percent  
2 versus 75 percent varies by about a million pounds,  
3 although either way we're dropping by four to five  
4 million from where we were this year.

5 So, while that percentage doesn't  
6 make much difference, the implications to society  
7 are huge, which is why I'm tending to lean towards  
8 correct for the retrospective problem and use a 50  
9 percent probability and move forward from that  
10 point. Thank you.

11 JESSICA COAKLEY: Okay. In response  
12 to -- I don't know if you were expecting a response  
13 in terms of the recruitment issue. Basically, the  
14 Methot panel, looking at that time series, they  
15 didn't find any reason that -- there wasn't a  
16 specific reason why that '82 to '87 time period had  
17 much higher recruitment values, but they said -- you  
18 know, in 1988 you had a very low recruitment at a  
19 lower stock size. In 2005, we saw very low  
20 recruitment at a higher stock size.

21 So, they felt in terms of calculating  
22 the reference points and doing the projections, that  
23 it was appropriate to give these recruitment values  
24 equal weighing, which is why they were all given

1 equal weighing in those calculations by using an  
2 average recruitment value when calculating the  
3 biological reference points. Because they didn't  
4 feel there was anything to indicate that you  
5 couldn't see those high recruitments -- you know,  
6 just based on a probability at the recent stock  
7 sizes, although -- so that was given equal weighing.

8 So, it was that group that actually  
9 recommended using the whole time series and not a  
10 more recent snapshot of what those recruitment  
11 values were.

12 ERIC SMITH: Mr. Chairman, could I  
13 follow up on that point?

14 COMMITTEE CHAIR JACK TRAVELSTEAD: Go  
15 ahead.

16 ERIC SMITH: The point in the special  
17 comments of Terceiro's paper -- is Point 4. I had  
18 to read it again for a minute to realize where I  
19 was. Sorry. Discount the recent down trend in  
20 recruits per spawner and also it follows on to say  
21 further declines are expected. To me, that suggests  
22 that at low biomass, which we don't have now, we  
23 don't have as good reason to suspect that we'll get  
24 those high recruit levels from the past. So,

1       there's a disconnect in how I'm interpreting this,  
2       which probably means I'm wrong. I accept that.

3               But I thought the point in Point 4  
4       was while you certainly can expect to get good  
5       recruitment at any time, just because environmental  
6       factors pop up and create good survival, as an  
7       average, you shouldn't expect the high recruitments  
8       that you saw back when biomass was low, because  
9       they're as much as saying it's exactly what you  
10      expect to see, is lower recruitment at higher  
11      biomass. So, am I missing that point?

12              JESSICA COAKLEY: Well, I'm looking  
13      at the point that they make after that, Point Number  
14      5, which is where they're dealing with using the  
15      arithmetic mean, not median, of long-term  
16      recruitment, where they specifically state that  
17      although the five highest recruitments in this time  
18      period occur in the first five years, there's no  
19      reason to discount the occasional occurrence of such  
20      recruitment levels from a rebuilt stock. Median  
21      recruitment underestimates the level of biomass  
22      expected from a rebuilt stock, because most biomass  
23      comes from the largest recruitments.

24              So, my read on that and what they're

1 saying there is that there is the potential for  
2 those higher recruitment values.

3 Now, the recent downtrend in recruits  
4 per spawner, I think they're saying that it's going  
5 to -- you know, that that trend might not be  
6 unexpected. However, you can still have these  
7 occasional high recruitments. I mean, that's my  
8 read on what they're saying, but -- you know, I'm  
9 not Methot at all. This is sort of my  
10 interpretation of what they're saying here. Perhaps  
11 Jim or Nancy can contribute to that.

12 ERIC SMITH: Well, I think we're in  
13 agreement that what this is saying is you can expect  
14 once in a while to get a good bumper year class.  
15 And that's fine. But the mean or the median is  
16 going to depend on the time series. And what  
17 they're also saying is don't expect that early year  
18 trend at high biomasses. And I think we have to  
19 account for that. And I understand maybe we can't  
20 account for it in the motion we make today. I said  
21 that before. But we also can have it in the back of  
22 our mind that this whole point -- Mark Gibson has  
23 made the point very well in the past --  
24 unfortunately, he's not here -- is there's a

1 disconnect in the front end of that time series and  
2 the later time period, and we have to figure out a  
3 way to account for that.

4 The peer reviewers helped us in some  
5 respects, but I don't know if it's translated into  
6 the TAC setting process that we're going to go  
7 through in a few minutes, and I don't know if it can  
8 today. But we should be wary of that. It's a point  
9 from the other end of things that -- I hesitate to  
10 say may make us not so bad off, because people  
11 pounce on that kind of statement, and I'm wary of it  
12 myself. But it troubles me that we haven't  
13 accounted for Points 4 and 5 together in Terceiro's  
14 memo in the way I would have hoped we could have.  
15 And that's not being critical. It's just -- it may  
16 take a new assessment to really address that.  
17 Thanks. And thank you, again, Jessica, for the  
18 follow-up explanation.

19 COMMITTEE CHAIR JACK TRAVELSTEAD: I  
20 think you've made a good point, Eric, but I suspect  
21 you're right. It may not entirely be dealt with  
22 until next year when the new assessment is done.  
23 Vince.

24 VINCE O'SHEA: Thanks, Mr. Chairman.

1 I had my hand up back when there was a question on  
2 unaccounted for mortality and Dr. Thompson made --  
3 answered my question in response to what Peter  
4 Himchek was saying, so I'll pass. Thank you.

5 COMMITTEE CHAIR JACK TRAVELSTEAD:

6 Thank you. Ron.

7 RON SMITH: Just some observations.

8 One, this retrospective pattern, bias, whatever,  
9 unknown mortality. In my mind, three examples of  
10 that could be higher or underestimated recreational  
11 catch, higher recreational release mortality. I  
12 think it could easily be higher than ten percent.  
13 Misidentification of commercial landings; in other  
14 words, 5,000 pounds of summer flounder get landed  
15 and nobody's around. They're recorded as mackerel,  
16 squid or croakers. And as Peter pointed out, there  
17 could be higher natural mortality, especially on the  
18 young age groups.

19 As far as discards, as Captain Ruhle  
20 has pointed out, it is very wasteful, but if we  
21 don't select appropriate catch or quota limits now,  
22 we're going to be faced in the future with possible  
23 fishery closure. And the discards are going to be a  
24 lot higher when there is no landings allowed than if

1 -- when low landings are allowed.

2 COMMITTEE CHAIR JACK TRAVELSTEAD:

3 Karen.

4 KAREN CHYTALO: This goes back to the  
5 unexplained mortality again. I guess that was the  
6 interest of everybody here. As part of the  
7 modeling, are any of the ecological concerns  
8 incorporated; like predator/prey relationships? Has  
9 any of the data borne that out, that maybe there's  
10 insufficient prey for the existing biomass or  
11 projected classes of the biomass of summer flounder,  
12 or have they become the prey for other species, too?  
13 Has that been looked at in any way?

14 JESSICA COAKLEY: Those types of  
15 things aren't explicitly accounted for in this  
16 model, so those things are kind of -- some of those  
17 things might be embedded in the information we have  
18 -- you know, whereas maybe you're not getting as  
19 much recruitment as you expected or -- you know,  
20 there are growth rates and weights at age and those  
21 kinds of things that are put into the model that may  
22 have some of that -- those factors embedded in it,  
23 because we do update that information with time, but  
24 it's not explicitly accounted for in the model

1           itself.

2                           KAREN CHYTALO:   But is it something  
3           that will be looked at further in future  
4           assessments, so that we can better manage the  
5           species or the stocks that are out there?

6                           COMMITTEE CHAIR JACK TRAVELSTEAD:  
7           Nancy.

8                           NANCY THOMPSON:   Jessica is  
9           absolutely correct as far as the now is concerned.  
10          In terms of being embedded, basically what we see or  
11          may be measuring are the results of some of those  
12          things that are going in in terms of changes in  
13          growth rate, changes in recruitment and things like  
14          that.

15                           As far as future assessments are  
16          concerned, yes, yesterday in Jim's presentation when  
17          he reviewed the previous SARC for shrimp and  
18          scallops, there is a term of reference that includes  
19          ecosystem considerations.  Those are dealt with  
20          obviously very differently, depending on whether  
21          it's -- you know, New England groundfish, say, or  
22          summer flounder.  But yes, those questions are  
23          important to us.  We may not have answers for them.

24          And again, we may look at indicators again as the

1 results of perhaps some of those actions or  
2 activities. Again, looking at changes in growth  
3 rate. The natural question is why? And that may  
4 lead us into those kinds of hypotheses, quite  
5 frankly. So, yes, we are considering those.

6 COMMITTEE CHAIR JACK TRAVELSTEAD:

7 Thank you, Nancy. Dan.

8 DANIEL FURLONG: Yeah, my question  
9 was following Nancy and Jim's comments about the  
10 retrospective adjustment. And my question is is  
11 that our staff developed a corrective factor that  
12 Jessica explained. I think you can understand how  
13 we derived it. But I'm wondering why the Methot  
14 group or previous CIE stock assessment review  
15 groups, peer reviewed, never quantified what would  
16 be an appropriate adjustment in that retrospective  
17 pattern.

18 They've identified the problem, but  
19 they didn't offer a fix, and I'm wondering in terms  
20 of terms of reference, have we been remiss in not  
21 identifying that as a term of reference, or given  
22 the significance of this fishery, why hasn't it just  
23 been put on the table and addressed in a quantified  
24 approach to identifying what that pattern really is?

1 COMMITTEE CHAIR JACK TRAVELSTEAD: I  
2 think Jim's going to --

3 JAMES WEINBERG: Dan, the Methot  
4 group, the way they felt they were doing their job  
5 was to look at the model results and identify that  
6 there was a retrospective pattern. And they talked  
7 about that as scientists and described what it was.  
8 But they felt that it was a management decision,  
9 how to adjust -- whether or not to adjust for it and  
10 by how much. And given their experience with other  
11 assessments, they knew that at times retrospective  
12 patterns are inconsistent. Sometimes they can be in  
13 the positive direction for several years, and then  
14 in the next year it might not be there. Or it could  
15 flip from being positive to negative. So, they felt  
16 that you have to be a little careful about adjusting  
17 for retrospective patterns. And for that reason,  
18 they pretty much left it up to the managers to  
19 decide by looking at the graphs themselves whether  
20 to adjust for it and by how much.

21 COMMITTEE CHAIR JACK TRAVELSTEAD:  
22 Dan.

23 DANIEL FURLONG: Just to follow up,  
24 just to clarify. So, it's not necessarily locked in

1 concrete then that the Council would have to adopt  
2 the retrospective adjustment, based on the Methot  
3 group, in the sense that that's a management call in  
4 terms of assuming the risk to achieve the  
5 rebuilding?

6 JAMES WEINBERG: Yes, I think that's  
7 correct.

8 COMMITTEE CHAIR JACK TRAVELSTEAD:  
9 Okay. I still have a number of people on the list.  
10 Let me just give you some idea of what I hope -- I  
11 hope that we can finish questioning by around 10  
12 o'clock and then at that point I'd like to take  
13 about a 10-minute break and hopefully the members  
14 around the table will use that 10 minutes to talk to  
15 their colleagues and begin to formulate a motion  
16 that we can get back on the table immediately after  
17 we reconvene. And then we'll proceed to debate that  
18 motion. A.C.

19 A.C. CARPENTER: Thank you. I have  
20 the question about the retrospective, as well, and  
21 the term that there is a point of convergence, do we  
22 know what that point is and how many years that is  
23 for this particular species? And I think that if we  
24 know what that is, that would be helpful to me.

1                   The other thing that I've -- going  
2 back to my striped bass days, there was a point of  
3 convergence, and as I recall the variation was less  
4 each year than it had been in the most recent years.

5       So, would not it have been more accurate to -- for  
6 Jessica's example where she had the 2002 and then  
7 increased it every year by 28 percent. Would it be  
8 more accurate to think of it as the first year it  
9 was 28 percent, the next year it was 20 percent and  
10 the third year it was 18 percent or 15 percent or  
11 something, so that at some point in time in the  
12 back, you do get a stable F number. That's one of  
13 the things that confused me.

14                   And while I have the mike, it almost  
15 looks to me like we're going to be debating a real  
16 bit of semantics here that -- in a little while,  
17 looking at Table 4. You can either increase your  
18 probability of taking -- of meeting the F of .19, or  
19 you can account for it ahead of time with a  
20 retrospective and pick a lower number. So, I do  
21 want to make those points. Thank you very much.

22                   JESSICA COAKLEY: In terms of the  
23 convergence properties, looking at the Southern  
24 Demersal Working Group, the summary document that's

1 behind the tab, it's dated June 20th. If you turn  
2 to page 13, that's where the -- what we're calling  
3 sort of the spaghetti plots for the retrospective  
4 pattern where you can see where the fishing  
5 mortality rates, spawning stock biomass and recruit  
6 estimates converge.

7 It does take a number of years before  
8 that information does converge, quite a few years  
9 worth of data, and it seems -- you know, the first  
10 big jump is maybe in the first or second year in  
11 terms of that adjustment, and then it continues to  
12 change, at least in terms of the fishing mortality  
13 rates, but sort of at a lesser rate over time before  
14 it actually sort of stabilizes and you're very  
15 confident in your estimate at that point.

16 But that's an artifact of -- as Dr.  
17 Weinberg explained, this model type where you've got  
18 more confidence early in the time series. You're  
19 pretty confident of where you've been. You're less  
20 uncertain about where you are now.

21 COMMITTEE CHAIR JACK TRAVELSTEAD:

22 Thank you. Pete.

23 PETER HIMCHEK: Yes, thank you, Mr.  
24 Chairman. I just had one comment. I mean -- you

1 know, spending over two decades on technical  
2 committees, I have -- really appreciate the  
3 importance of this retrospective analysis pattern  
4 and everything, and you'll have to excuse my  
5 ignorance in coming as a proxy to a proxy to this  
6 boat, but -- to this Council and asking this  
7 question. But in light of the benchmark stock  
8 assessment due in 2008, why is the retrospective  
9 analysis the critical issue in setting the TAL in  
10 2008, when you may have a different modeling and  
11 reference points and a different SSB target in 2013  
12 with the new benchmark stock assessment?

13 So, why is -- you know, it just seems  
14 like the timing to me and -- as far as setting next  
15 year's TAL, it just seems like the timing is  
16 somewhat inappropriate. That's just my comment.

17 COMMITTEE CHAIR JACK TRAVELSTEAD: I  
18 think the simple answer is -- you know, the fishery  
19 starts January 1 and we have to have a TAL in place  
20 that meets the provisions of meeting the fishing  
21 mortality targets and that's why we're now taking  
22 retrospective into account. We probably should have  
23 been doing it all along, unfortunately. Jeff.

24 JEFFREY DEEM: I gave Jan a couple of

1 graphs or charts to put up, if that's possible. Is  
2 that all right with you, Mr. Chairman?

3 COMMITTEE CHAIR JACK TRAVELSTEAD:

4 Sure.

5 JEFFREY DEEM: Okay. While she's  
6 working on that -- if you can both up, Jan, I'd  
7 appreciate it. Oh, easier than I thought. Let's  
8 start with the spawning stock, if we could, the  
9 other one. While she's doing that, let me ask you a  
10 question -- and I apologize to the front row. It's  
11 like you're in a movie theater, I'm sure, on the  
12 front row.

13 Before I get into that, in the  
14 retrospective analysis, the Virtual Population  
15 Assessment uses mortality to predict stock size; is  
16 that correct? The VPA?

17 JESSICA COAKLEY: It uses a lot of  
18 things to predict stock sizes. It's using survey  
19 indices. It's basically trying to reconcile what  
20 we're seeing in terms of survey information, what  
21 we're seeing in terms of landing information, what  
22 we have in terms of information for weights of the  
23 fish, of growth rates and all of that, and trying to  
24 reconcile all of that and track what we're seeing in

1 terms of age classes moving through time.

2 JEFFREY DEEM: Okay, but mortality is  
3 one of the factors?

4 JESSICA COAKLEY: Yeah, it's one of  
5 the things that comes into that model.

6 JEFFREY DEEM: When we go back and  
7 look at it retrospectively, we found out the  
8 mortality was higher. Do you also adjust the stock  
9 size for that time period? If there are more dead  
10 fish, there must have been more fish to start with.

11 So, you're saying the  $F$  is higher for that period,  
12 so the stock must have been higher for that period,  
13 as well; correct?

14 JESSICA COAKLEY: Well, in terms of  
15 the retrospective problem, as you see, the fishing  
16 mortality rates float up, which indicates that there  
17 are more fish that have died from fishing mortality,  
18 and that's why the total stock biomass and spawning  
19 stock biomass tends to float downwards, where we're  
20 overestimating it. Because if more fish are dying,  
21 then the stock size must have been lower than what  
22 we thought it was.

23 So, that's why those two things in  
24 the retrospective pattern go in opposite directions.

1       The F floats -- you know, we're underestimating our  
2 fishing mortality rates in the most recent year, and  
3 we're overestimating our stock size.

4               JEFFREY DEEM: But as I understood it  
5 before, if you go back in a retrospective analysis,  
6 you say this many fish died, so that means -- of  
7 that year class, so that means that year class had  
8 to be this big, and now you're saying more fish than  
9 that died, so did the year class have to be bigger?

10       But I don't think I'm smart enough for you to  
11 convince me how that works right now, so I won't tie  
12 up the thing. But I thought that was what a  
13 retrospective analysis or Virtual Population  
14 Assessment did, and I'll skip that for now so I  
15 don't tie everybody up.

16               On this chart, I went back and I  
17 plotted spawning stock biomass for the whole period  
18 we have history, and this is what it looks like,  
19 unless I've gotten something wrong. This is where  
20 we start -- it's 2006. 2007 is where we start with  
21 the projection here.

22               A couple of questions: What  
23 biological occurrence is allowing us to now go from  
24 here -- when we've been at this rate all this time

1 along, all of a sudden we're going to be able to  
2 grow like that? And it's not just we started at  
3 that point and we calculated, because back in this  
4 year, when I was on the Commission and back probably  
5 in this year, we also said the same thing. It was  
6 going to start going from that point like this, and  
7 now we're seeing it's going to start going from that  
8 point like this. And now we're at this point.

9 My -- the thing that this brings to  
10 mind is that we're not going to get to the target,  
11 and I think that next year we're going to be down  
12 here and we're going to say oh, well, we're going to  
13 go at a steeper rate to get there. Is there any  
14 biological occurrence -- is there anything different  
15 this year than there was last year to make us think  
16 in reality that we can get to that number?

17 JESSICA COAKLEY: Well, basically, in  
18 terms of what the stock assessment tells us, I mean  
19 we're using information since 1982, and -- you know,  
20 in the last 25 years, looking at how the stock has  
21 responded to the fishing mortality rates we've seen,  
22 the natural mortality rates -- you know, the growth  
23 rates, weights at age, all that information,  
24 indicates to us that if we do achieve these

1 rebuilding F targets, those fishing mortality rates  
2 that we're looking for, that the stock does have the  
3 potential to grow to those rates and to reach that  
4 target, because we're looking through the time  
5 series at how the stock has responded to the  
6 pressures that it's had on it thus far. And that  
7 indicates that if those F rates do come down below  
8 that overfishing threshold, it does have the  
9 potential to grow to those higher levels.

10 JEFFREY DEEM: Okay. Let me explain  
11 some of my own experience with this, but it's my  
12 understanding that as you reach your peak carrying  
13 capacity, things start to level out. The spawning  
14 stock biomass now in the last four years has leveled  
15 out. And to me, as a novice, it looks like this and  
16 some other indicators, such as weight at length,  
17 drops in recruitment, are all signs of a stock that  
18 is topped out.

19 You show it in yours the last three  
20 or four years of the projection, the rates of growth  
21 drop -- now let me see if I've got it here -- 2009  
22 in your projection is 14 percent higher than 2008.  
23 2010 is only 11 percent higher than 2009. 2011 is  
24 seven percent higher than projection for 2010. And

1 it goes down to six and a half percent. Then it  
2 goes down to five and a half percent growth in the  
3 last year.

4 So, it looks to me like you're  
5 following the normal routine. And when you get up  
6 here, it's going to start to level out. It looks  
7 like we're already at the leveling out point right  
8 here. So, Nancy's going to teach me something that  
9 I don't already know. And there's a lot to be  
10 taught.

11 NANCY THOMPSON: No, no, no.

12 JEFFREY DEEM: Oh, come on, Nancy.

13 NANCY THOMPSON: No. No. You're  
14 absolutely right in the sense that the projections  
15 are based on a series of assumptions. Those  
16 assumptions are based on that particular fishing  
17 year. So, in the projections that we do for 2007,  
18 which we did previously, they were based on the  
19 assumptions and that was the landings would be --  
20 because that's what the quota was set. The  
21 mortality rate would be. The spawning stock biomass  
22 would be. And that was based on that particular  
23 snapshot.

24 And then what happens is when we get

1       into that year, those assumptions are violated. And  
2       those violations then obviously impact the next set  
3       of projections. And so if you're asking about -- I  
4       mean, we couch those kinds of has something changed  
5       in the context of the assumptions that we make for  
6       the projections.

7                   Is there a reason to assume that  
8       those assumptions will continue to be violated? I  
9       think -- you know, that's something that obviously  
10      we need to discuss. But based on the past history,  
11      that has been much of the history. And it's not  
12      pointing fingers. It's -- part of it is this  
13      difficulty of trying to be able to partition  
14      mortality to all the sources. And because the  
15      modeling exercise takes us somewhere where that does  
16      not occur, then we scratch our heads.

17                   But it's still all based on a series  
18      of assumptions, and those assumptions have been  
19      violated for this year, which is why -- you know, it  
20      takes us from the initial projection that we did,  
21      which was the 19 point whatever million pounds, with  
22      the violation of those assumptions, down to lower  
23      numbers.

24                   So, you know, much of this is based

1 on -- like I said, on a series of assumptions, and  
2 those are what we really need to pay attention to.  
3 And those are the assumptions that we need to parse  
4 out in the next assessment, as well.

5 JEFFREY DEEM: May I? Okay. So, the  
6 reality of it is then we can assume and we can not  
7 assume that we're going to reach the target based on  
8 this projection, as well. And you talk about -- I  
9 forget the word that you used, it was quite kind,  
10 not finger-pointing at different sectors, and it may  
11 be that it's not something that we can control. It  
12 may not be fishing. But that takes me back to this  
13 flattened out effect here. And if we're already  
14 peaked for this resource -- I mean, we haven't done  
15 anything to increase the amount of forage. We  
16 haven't done anything environmentally to allow us to  
17 double the stock over what it is today.

18 So, there are a whole lot of reasons  
19 to think that we can't get past this, which leads me  
20 to ask -- or beg -- the floor's not that clean, but  
21 I'd get on my knees if it was -- that we do the one  
22 thing that we do have the ability to do, as I  
23 understand the law, which is lower the target for  
24 2013. Lower the number. I mean, we may not be able

1 to change the date, but I think we can lower the  
2 number. And I think that there are so many things  
3 that point to the fact that biologically we just may  
4 not get there, we should be seriously considering  
5 that, and we should do it before we actually make  
6 this -- or commit to it before we set the TAL today,  
7 which is probably impossible.

8 But if we set the TAL where you're  
9 recommending today, it's going to kill a whole lot  
10 of people in this fishery. And if we stay on  
11 course, and we find that come 2008 we're in the same  
12 position, trying to make the same projection, I  
13 think we've got maybe one or two more years -- well,  
14 we've got two more years where you can cut it by a  
15 third and that's it.

16 So, I'm saying probably next year if  
17 it doesn't do what you think it will do and we're  
18 still looking at this target, you're going to say  
19 cut it by another third or close it. And if you  
20 don't close it next year, I think you're going to be  
21 forced by your pattern to close it the following  
22 year. And closing a fishery that is healthy because  
23 of some date somewhere that is not scientifically  
24 based, as far as I know -- and it really doesn't

1 matter whether it is or not.

2 We know we can rebuild this stock and  
3 people can keep their jobs. We've already rebuilt  
4 it. The problem now is how do we keep -- let people  
5 keep their jobs while we see -- and there we go, and  
6 I forget the word that you used -- while we  
7 experiment to see how much further we can get,  
8 because that's all it is. It's an assumption. It's  
9 an experimentation. And so I'll stop preaching.

10 If I could get the other graph, Jan,  
11 if you don't mind. This is the projection of  
12 recruitment, and so that you can teach all of us a  
13 little bit about science, starting in 2007 with the  
14 stock going like this, you're predicting  
15 recruitment's going to stay at exactly the same  
16 thing.

17 I know that it's supposed to drop as  
18 the stock reached maturity or reaches carrying  
19 capacity. So, I would expect that to drop some, but  
20 why in the world is it perfectly flat when the stock  
21 is going to double in that time span?

22 COMMITTEE CHAIR JACK TRAVELSTEAD:

23 Jessica.

24 JESSICA COAKLEY: In terms of when

1 the projections are done, and we say that we use  
2 approximate median recruitment, we're not just  
3 plugging in just a specific value. What's actually  
4 done is we take the recruitment values that we've  
5 seen since 1982 or 1983 through 2006, all of those  
6 recruitment year classes, look at the shape of that  
7 distribution, because you've got a range in there.  
8 And then when the projections are done, it actually  
9 resamples from that range. It says well, this is  
10 the range of recruitments we've seen, so it goes  
11 into that range and takes 2,000 random draws and  
12 factors that into the projection.

13 So, it comes in around median, but I  
14 don't want you to have the impression that we're  
15 just taking exactly 33 million and projecting that -  
16 - or you know, 30 million, whatever that value is,  
17 and it's exact and it's static and that it doesn't  
18 have any variance associated with it, because that  
19 isn't the way that that's done.

20 JEFFREY DEEM: So, you're telling me  
21 that the same model that says we can get to 197  
22 million pounds says recruitment's going to flatline?

23 To me, as a technician, that's what I do for a  
24 living, the gauges aren't reading right here. You

1 can't have double the stock and no increase in  
2 recruitment. And if you have a model that tells you  
3 you do, you need a different gauge. So, help me  
4 out, please.

5 COMMITTEE CHAIR JACK TRAVELSTEAD:

6 Nancy.

7 NANCY THOMPSON: I'm not sure I can -  
8 - I'm not sure I'm going to be able to answer this  
9 either, because I wasn't integrated into this  
10 modeling process. I think next year when the new  
11 assessment is done, I'll probably insert myself.

12 All Jessica is saying is that when we  
13 do the projections, the projections are based on  
14 parameter estimates that include a point estimate  
15 with a distribution associated with it. And all  
16 we're seeing here are the point estimates. We're  
17 not seeing the distributions. Those distributions  
18 then are incorporated into the projections, at least  
19 I think that's what happened, in a Monte Carlo kind  
20 of -- I think they're Monte Carlo, right -- so, it's  
21 a boot strap, right.

22 So, you have a distribution for  
23 recruitment, and that distribution obviously is  
24 based on past history. And when you run the

1 projections within those distributions for each of  
2 these parameter estimates, a number is randomly  
3 picked and thrown into that particular single  
4 projection. And there are a series of thousands of  
5 these projections then that are collapsed into the  
6 single projection. And that, too, has uncertainty  
7 associated with it.

8 So, basically, what you're asking is  
9 you'd rather look at the distributions for these  
10 parameter estimates and the uncertainty associated  
11 with them, rather than the point estimates. Make  
12 sense?

13 JEFFREY DEEM: Is that what I was  
14 asking?

15 NANCY THOMPSON: I think so.

16 JEFFREY DEEM: I appreciate that.  
17 One more thing here before I go and I'll stop, but  
18 this is a fishery that we're not -- that we don't  
19 have a lot of history with, as I understand it. And  
20 that's one of the reasons, for instance, that we  
21 can't reliably estimate BMSY and we use proxies,  
22 because we don't have a lot of history with the  
23 stock.

24 Two scientists in 1992, Hillburn and

1 Walters, if I understand what they said right -- and  
2 that is always a possibility that I didn't --  
3 recommended a tenfold variation in spawning stock  
4 biomass in order to minimize the variables, the  
5 errors in variables problems known in a stock.

6 If I understand that correctly, that  
7 means they would like -- before they were  
8 comfortable with a stock and with any assessments,  
9 they would like to see ten fluctuations of high and  
10 low spawning stock.

11 In the flounder fishery since 1982,  
12 we have about three quarters of a fluctuation, not  
13 ten. So, unless I'm wrong, I want to put in  
14 perspective for everybody in the room that we're  
15 learning. And if you're learning, you tread softly  
16 and you allow some tolerance on both the amounts you  
17 take out, but also on the effect you have on  
18 society. And the idea that we know enough about  
19 this to project that we're going to double the stock  
20 and put people out of business, and believe me, if  
21 we don't do it -- well, we've already done it to a  
22 level -- a certain level. If we cut it by a third  
23 now, we're going to kill a lot of people -- a lot of  
24 businesses -- let me put it differently -- kill a

1 lot of businesses in this fishery, both hotels,  
2 fishermen, restaurants, the whole works.

3 So, at this point I can only beg of  
4 you to reduce the 197. If you want me to go to  
5 Congress with you, I'll do it, and we can go up and  
6 we can get all the people together and we can say  
7 not only can we save this fishery because we already  
8 have, we may or may not be able to get higher, but  
9 we can save the jobs that rely on it, and we can  
10 save the contribution that that makes to their  
11 states' economy.

12 There are different ways to go about  
13 this, but to sit here today and come up with a TAL  
14 of 12 or even 15, on a recovered -- possibly  
15 recovered, but certainly healthy fishery, and the  
16 economic implications that it brings with it.

17 I would say we come up with a TAL of  
18 20 and -- or 23, and whatever the government wants  
19 to do about it, no offense, but -- I mean, they're  
20 entitled to do, but we should not fight for anything  
21 less than 17, and especially with the stock coming  
22 out next year that will say, like many of the  
23 assessments have said, well, you're completely  
24 wrong, or there are big errors in what you're doing.

1 I don't think we can do this to  
2 people in good conscience. Thank you.

3 COMMITTEE CHAIR JACK TRAVELSTEAD: I  
4 think we're starting to move into comments and  
5 getting away from questions. I have three more  
6 people on the list. I'd like to take them and then  
7 we'll take the break that I mentioned. Jimmy.

8 JAMES RUHLE: Thank you, Mr.  
9 Chairman. There's been a lot of great comments made  
10 since I had the opportunity to speak before. I want  
11 to thank Jeff and Pete and -- Pete over there and  
12 Eric for theirs. They've added a different level of  
13 expertise and consideration. Jeff, you deserve a  
14 lot of credit for what you put up there.

15 The question before the comment is  
16 I've just referred to the Chairman of the Research  
17 Set-Aside, is there any projects, do we have any new  
18 information to determine the fecundity of these fish  
19 and the success rate of spawning in nearshore  
20 waters? Are there any projects that have been  
21 looked at?

22 There's nothing been passed through  
23 RSA. There's been a few proposals submitted. But  
24 are you aware of any new information to make a

1 determination of the success on the internal waters?

2 That's the first question.

3 JESSICA COAKLEY: Not that I'm aware  
4 of at that point. I'm not sure if Dr. Weinberg has  
5 seen anything that's come across his desk. But not  
6 that I'm aware of and not that -- you know, when the  
7 Southern Demersal Working Group has met, that I  
8 think we've become aware of.

9 JAMES RUHLE: Thank you for that,  
10 Jessica. Well, it's time to take the gloves off  
11 here. Everything that we've had presented to us  
12 today is projections and assumptions and all the  
13 nice little things that go with it. But we need to  
14 talk about reality.

15 The reality is that just thanks to  
16 Dan that a Sea Grant program detected what Jim  
17 Fletcher -- God bless him -- 12, 15 years ago,  
18 before his hair turned gray, presented to us about  
19 this estrogen thing. There is a major problem in  
20 internal waters with pollution. How in the hell  
21 anybody can expect that to get better in the next  
22 five years that we've got of this rebuilding plan is  
23 beyond me.

24 500 yards from this room there is

1 Long Island Sound. Explain if the water's in good  
2 condition, what happened to the lobsters? That was  
3 a disease. You can't in real life expect conditions  
4 along internal waters, where these fish are  
5 spawning, to be better. It's worse. It's worse  
6 than it's ever been throughout the time series. It  
7 certainly is. And that is a problem.

8 And with that in place, what's  
9 missing in all of these discussions today is a  
10 anecdotal information, empirical, however you want  
11 to call it, that I'm going to present right now.  
12 There are more friggin' fluke in the ocean than I  
13 have ever seen, and I've been fishing 44 years. And  
14 I don't think there's anybody in this room that  
15 disagrees with that. Mark Terceiro does not  
16 disagree that the level of stock is at an extremely  
17 high abundance.

18 I know what we're dealing with, I  
19 know what our requirements are, I know what the laws  
20 say. The fact -- my concern is that if you look in  
21 time, you don't see anything less than what we had  
22 this year for a TAL. Since the plan's been in  
23 effect, 17.1 is the lowest TAL we've had. That's on  
24 Table 1. We don't know what the effects -- what the

1 overages are going to be for 2007. I predict  
2 they're going to be extremely high. The overages --  
3 just say overages. And the mortality is going to be  
4 high.

5 The lower you lower that TAL, the  
6 higher the mortality is going to be. You're going  
7 to end up on this constant spiral down. And if the  
8 obligations of this committee are certainly to take  
9 in the stocks, and the resource is Number 1  
10 priority, but we also have to weigh that with --  
11 like Jeff was saying, among the participants of the  
12 fishery, both commercial and recreational.

13 So, having said that, the good news  
14 is the benchmark assessment for 2008 is in front of  
15 us, and I think Pete is exactly right. You're going  
16 to see something different come out. Hopefully,  
17 we're going to see something different come out of  
18 that.

19 The science -- in my opinion, I'm not  
20 saying the science is wrong, but with this pattern  
21 that they're calling it of retrospective -- and  
22 pattern, to me, I would have hoped that it had been  
23 retrospective up and down. And it's not. It's just  
24 this constant slide.

1                   There's the problem. I would have --  
2 I'm seeing something progressively get worse, then  
3 they just present it to us, and we probably made it  
4 worse. I would have done something on that other  
5 end so that retrospective wouldn't have been the  
6 driving factor next year. That didn't happen. That  
7 may in fact happen in 2008. The obligation of this  
8 committee today is what the hell do we do to reduce  
9 the total mortality of the stock and still keep  
10 industries in place, and that will come up after --  
11 when the first motion is presented. Thank you very  
12 much, Mr. Chairman.

13                   COMMITTEE CHAIR JACK TRAVELSTEAD:

14 Thank you, Jimmy. Pat. Pat's gone. Vince.

15                   VINCE O'SHEA: Thanks, Mr. Chairman.

16 I actually had a question. I was wondering if we  
17 could go back to the slide that Mr. Deem had up, the  
18 first one? And my question is for Dr. Thompson.

19                   Part of the point on this slide was  
20 what do -- what is this -- what is going to happen  
21 after 2007 that's going to account for this upward  
22 progression, as I understand the question. And my  
23 question to you, Dr. Thompson, isn't this slide  
24 telling us that the scientists are saying that we

1 haven't ever achieved our fishing mortality rate;  
2 and that if the fishing mortality rate -- the actual  
3 fishing mortality rate were to be reduced, as  
4 they've recommended, that the stock should respond  
5 as it's indicated in the graph from 2007 to 2013?

6 COMMITTEE CHAIR JACK TRAVELSTEAD:

7 Nancy.

8 NANCY THOMPSON: Yes. I mean, that's  
9 exactly what I'm talking about when I'm talking  
10 about the assumptions that are made. Those  
11 assumptions for the projections start, say, in 2005.

12 The assumption is that the conditions that exist in  
13 2005 will exist again in 2006. And in '7 and in '8.

14 And those are the assumptions that we look at  
15 relative to -- okay, so then 2006 happens. What  
16 really happened relative to the assumptions that we  
17 made? Projections for 2007 were made in 2006 and  
18 assumed that landings in '06, for example, would be  
19 23.6 million pounds. That didn't happen. And so  
20 yes, and that's what I'm talking about. So, that's  
21 where those projections come in to.

22 VINCE O'SHEA: Thank you, Mr.

23 Chairman.

24 COMMITTEE CHAIR JACK TRAVELSTEAD:

1 Pat, you had your hand up earlier?

2 PAT AUGUSTINE: Yes, that was  
3 interesting. Thank you, Mr. Chairman. I'm  
4 wondering -- we're going to try two different  
5 approaches to address the major concern of the  
6 actual quota that will be separate, 2009. Yeah,  
7 2008, I'm sorry.

8 And I'm wondering when a motion would  
9 be in order to discuss the retrospective analysis  
10 and a possible percentage change. Mr. Borden  
11 suggested or asked the question of Mr. MacDonald  
12 whether or not retrospective analysis was a part of  
13 what we had to do? And Mr. MacDonald answered yes  
14 it was, and it could be one of the tools that NMFS  
15 could use.

16 So, it just seems to me, though, the  
17 follow-on question noted that there was a question  
18 asked of who could make the decision as to what the  
19 retrospective analysis level was. It was a  
20 management decision. I think Dan asked the  
21 question. And so it was a management decision, and  
22 I don't believe the Council ever took a vote or had  
23 a choice of what the retrospective analysis would  
24 be. And our staff went forward and developed a 28

1 percent as an average, one year being 40, one year  
2 being 15, the other year being 16.

3 So, I'm not sure what the course of  
4 action would be. One course in my mind would be to  
5 make a motion to review the retrospective analysis  
6 and reduce that to an average of 15 or 16 or 15 and  
7 a half. So, I don't know if that's in order.

8 JESSICA COAKLEY: No, Pat, the  
9 retrospective correction that I did, that 28  
10 percent, was based on what the actual annual  
11 retrospective pattern we saw over the most recent  
12 three years were. I took that average.

13 Now, in terms of the retrospective  
14 analysis -- you know, and the numbers that came out  
15 of that, they are what they are in terms of what  
16 those percentages are. It's just a matter of for my  
17 projection I selected the annual three-year average  
18 retrospective pattern. You could select -- you  
19 know, the five-year annual retrospective pattern.  
20 You could select -- you know, an average of the last  
21 three years, but not an annual pattern. You know, a  
22 multi-year pattern.

23 That's a matter of the assumptions  
24 that were made in that projection. But as I pointed

1 out to Dave Borden -- you know, we've previously  
2 used the annual value in terms of presenting the  
3 information, because that tends to be the biggest  
4 jump in terms of the addition of one additional  
5 year. The biggest change tends to happen in that  
6 first year. And that the pattern in F seemed to  
7 lessen in the last three years. It was a little bit  
8 different than what it had been in years before.  
9 So, rather than using the last five years, we were  
10 looking at the last three years in terms of  
11 presenting that information. That's the way the  
12 Southern Demersal Working Group presented the  
13 information, because that seemed to be -- the  
14 pattern diminished a little bit from what we had  
15 seen those prior two years.

16 So, that was the basis for that. But  
17 those were the numbers that I used to calculate that  
18 28 percent. That wasn't just drawn out of a hat.

19 PAT AUGUSTINE: Thank you for that.  
20 Just a follow-on. The reason for my question was to  
21 somehow figure out how we could reduce the impact of  
22 any major reduction in quota between 2007 and 2008,  
23 in view of the fact we have no idea what the outcome  
24 of the 2008 assessment is going to be. And somehow

1 to bridge this one year, with some way to relieve  
2 that pressure that Mr. Deem alerted to -- averted to  
3 -- it just seems to me we have to come up with some  
4 option to try to fix that problem. That was the  
5 reason for my question. Thank you.

6 COMMITTEE CHAIR JACK TRAVELSTEAD:

7 Okay. We had a couple of hands in the audience.  
8 And provided they're questions, we'll go ahead and  
9 take them, and then we're going to take our break.

10 Tom, you had a question? And Jim,  
11 did you have one, too? We'll hear from the two of  
12 you and then we'll break.

13 TOM FOTE: Tom Fote, Jersey Coast  
14 Anglers Association. Looking at this chart, I'm  
15 trying to get a grasp on what we're basically  
16 projecting, and the next table -- the other table  
17 that Deem put up, when I look at this -- I'm  
18 realizing what the table shows me here is that we're  
19 probably going to be adding 15 million pounds of  
20 biomass right along spawning stock biomass for the  
21 next five years to reach this goal of 197 million  
22 pounds, because we're at less than half right now,  
23 so -- if I'm looking at that, that's what we're  
24 saying.

1                   So, we're adding about 15 to 20  
2 million pounds a year to the spawning stock biomass.

3           I think that's what the projection is saying? I'm  
4 just trying to get the figures straight before I ask  
5 --

6                   JESSICA COAKLEY: Yeah, the  
7 projections are indicating we're going towards that  
8 197.

9                   TOM FOTE: Okay. Now can we go back  
10 to the other slide that Deem created, the one with  
11 the recruitment? If we look at -- he asked a simple  
12 question before that why are we showing flat when  
13 we're going to have double the spawning stock  
14 biomass that we had before? Well, we've actually  
15 quadrupled the spawning stock biomass from 19 -- you  
16 know, '93.

17                   Well, in 1994 we were at 20 million  
18 pounds of spawning stock biomass. We've already  
19 gone up to 87 or 93, depending where you put that 80  
20 to 109. And yet we've seen recruitment go steadily  
21 down, not up.

22                   So, and we're looking at we only  
23 bring in 34 million new recruits into the system  
24 every year from that. So, that means we're looking

1 at a survival rate of half of those one's and two's  
2 every year to basically add to that biomass?  
3 Because that's the only way you're going to get  
4 projections. Am I right or wrong? I mean, that's  
5 what I'm trying to figure out.

6 So, now you're looking at less than  
7 50 percent mortality on one's and two's, which are  
8 small fish, going into the system; and I'm trying to  
9 get a grasp on how we expect to do that and match  
10 this figure of 15 when we haven't seen that dramatic  
11 increase. We've seen an increase in spawning stock  
12 biomass, but we haven't seen the increase in the  
13 total biomass.

14 So, I'm getting a little confused and  
15 I just -- if that could be clarified for me a little  
16 bit?

17 JESSICA COAKLEY: Well, I think one  
18 of the things -- one of the factors that we're  
19 leaving out of this, we're looking at stock size,  
20 we're looking at recruitment. But we're not looking  
21 at removal rates. You've got a fishing mortality  
22 rate that's factored into that, and -- you know,  
23 with average or below average recruitment, the stock  
24 over the time period in the mid to late '90s -- you

1 know, continued to increase, but that's because the  
2 fishing mortality rates were decreasing.

3 So, you've got more recruits, even  
4 though you've got kind of a stable amount of  
5 recruits being produced, you've got more of them  
6 contributing to the stock biomass because you're not  
7 removing as many of them, either towards -- you  
8 know, natural mortality or fishing mortality.

9 So, what these projections are  
10 assuming is that we're going to get below our  
11 fishing mortality threshold, which we have not done  
12 since 1982 to 2006. But if we get those fishing  
13 mortality rates down below the threshold, even at  
14 these recruitment levels, the stock has the  
15 potential to grow to that 197 million pounds and  
16 achieve the target.

17 That's what the information is  
18 indicating. And as Nancy had pointed out, there are  
19 assumption that go into that. One of the  
20 assumptions is that we're actually going to achieve  
21 our rebuilding fishing mortality rate.

22 TOM FOTE: Yeah, but I would say if  
23 you pull back the table up and you look at where we  
24 were at in 1993, when we first put a quota in place,

1 the quota was 20 million pounds with a spawning  
2 stock biomass of 22 million pounds, and a biomass of  
3 48 million pounds. And we were fishing a higher  
4 rate than we were right now as far as numbers of  
5 fish we were drawing to the system. And we were  
6 actually recruiting more fish into the system  
7 fishing at a higher rate.

8 So, I mean, there is something -- and  
9 I know it's assumptions based, but exactly in 1993  
10 we were at 22 million pound biomass, we fished at a  
11 quota of 20 million pounds, and we had a biomass of  
12 48, and we saw this great increase going on.

13 Then in 2000 we were at a biomass of,  
14 what, we were at a biomass of 65 and a spawning  
15 stock biomass of 48, and 2005 we were at 65 million  
16 pounds spawning stock, biomass at 104. We're now at  
17 a spawning stock biomass somewhere 87 or 93 and a  
18 biomass still at 104. And I'm trying to make hay  
19 out of this and I'm sorry I'm just a fisherman  
20 that's been sitting around or I sat around these  
21 tables for almost 22 years now, and this one's  
22 throwing me for a loop. Because we're -- if this  
23 was striped bass, we'd be looking at targets and  
24 triggers when we reduce quotas. But because we're

1 building to this imaginary -- that's comment, so  
2 I'll get away from the mike. Sorry.

3 COMMITTEE CHAIR JACK TRAVELSTEAD:

4 Laurie, you had a question. I'm sorry I missed your  
5 hand earlier.

6 LAURIE NOLAN: Thank you, Jack.

7 Jessica, I'm wondering on Table 4 on page 7 when you  
8 show us the two columns of TALs, the retrospective  
9 correction column, is it fair to take the five years  
10 of rebuilding, the .143 in one year, and the .205 in  
11 four years, put them together and average them to  
12 come out what F would average over those five years?

13 Can you just add them together and divide by five?

14 JESSICA COAKLEY: No, you can't

15 really do that because you're getting a certain gain  
16 in terms of stock growth -- you know, in response to  
17 that first year. And then that would be different  
18 in the other years. So, it's something we'd  
19 actually have to go back in and make adjustments in  
20 the model to take a look at what those rates might  
21 be.

22 COMMITTEE CHAIR JACK TRAVELSTEAD:

23 Jim. Last question.

24 JAMES FLETCHER: Jessica, do you know

1 what precautionary approach is? I assume you do.  
2 Now, the retrospective bias, if you use the word  
3 precautionary approach where this -- these documents  
4 use retrospective bias, it fits perfectly to achieve  
5 a goal. Now, between 1990 and 2000, or 1989 and  
6 2000, the Center used the term precautionary  
7 approach when it was generating science. If they  
8 decided to do away with the term precautionary  
9 approach after 2000 because the Southeast Science  
10 Center said that was not science, and inserted the  
11 term retrospective bias, would not the results and  
12 the figures that we were looking at and the  
13 condition for the stock reflect what you are  
14 projecting up on that board?

15 JESSICA COAKLEY: You know, in terms  
16 of the use of terminology, the retrospective pattern  
17 is an artifact that we're seeing in this modeling  
18 approach that's being characterized and described as  
19 a retrospective pattern.

20 Now, whether you choose to use the  
21 term -- the term precautionary approach or risk  
22 averse approach could be used to describe an  
23 approach that management takes in a system, whether  
24 there is a retrospective pattern or there isn't a

1 retrospective pattern taking place. I think you're  
2 trying to -- I get at what you're trying to imply  
3 here in terms of use of terminology, but the fact is  
4 there is a retrospective pattern in the model that  
5 we've described here and we've characterized, and  
6 how managers wish to describe it or address it is  
7 another question.

8 JAMES FLETCHER: Jessica, you just  
9 made my point. The management was supposed to use  
10 the precautionary approach or the retrospective  
11 bias, whichever term you choose. The scientists  
12 that have generated these numbers have used from  
13 1990 to 2000 precautionary approach and, to quote  
14 you, they used retrospective bias from 2000 until  
15 now. So, the managers in this room need to look at  
16 the goals and whether you are getting true science  
17 or whether you are getting precautionary science  
18 with another name of retrospective bias. Because  
19 you cannot -- wait a minute. Let me rephrase it.  
20 If you take the years 1998 and 1999, there will be  
21 less retrospective bias than in normal years. And  
22 if you take the years 1993 and 1994, there will be  
23 no retrospective bias. And that is because of the  
24 terms that we use in those years, a precautionary

1 approach or retrospective bias.

2 JESSICA COAKLEY: Jimmy, I'm going to  
3 cut you off right here, because I have to make this  
4 clear, because you've basically said the scientists  
5 have -- you're implying that they've inserted their  
6 own precautionary approach to management through  
7 their description of this retrospective pattern.  
8 That's not the case. What the Southern Demersal  
9 Working Group and the assessment groups have done is  
10 taken the information that's there and described a  
11 pattern that they've seen in fishing mortality  
12 rates, spawning stock biomass and total stock  
13 biomass. We're describing what the information is  
14 and presenting a retrospective pattern that's been  
15 identified in the assessment.

16 Now, what the managers do with that,  
17 whether managers choose to address the retrospective  
18 pattern in setting the TALs, take a precautionary  
19 approach, a risk averse approach, whatever you want  
20 to call it, that is their prerogative. But the  
21 scientists -- the assessment scientists, the  
22 Southern Demersal Working Group, of which I'm a  
23 participant, we are just presenting the information  
24 as it has come forward using the indices, the

1 landings, the numbers are what they are. And it's  
2 inappropriate for you to imply that the scientific  
3 advice is anything but being -- you know, put  
4 forward as we see it. Now, what management does  
5 with it is another question.

6 COMMITTEE CHAIR JACK TRAVELSTEAD:

7 Okay. We're going to take a 10-minute break. I  
8 would encourage the members to use that time to  
9 discuss possible motions with their colleagues.  
10 Please be back at 20 to 11:00.

11 (BREAK: 10:28 a.m. to 10:44 a.m.)

12 COMMITTEE CHAIR JACK TRAVELSTEAD: I

13 assume somebody has a motion that they would like to  
14 offer on this issue. Jim.

15 JAMES RUHLE: Thank you Mr. Chairman  
16 for the opportunity. I will move on behalf of the  
17 Council for the fishing year 2008, that the TAL for  
18 summer flounder be 15.77 which achieves the 75  
19 percent probability without the retrospective  
20 analysis.

21 COMMITTEE CHAIR JACK TRAVELSTEAD: Is

22 there a second to the motion on behalf of the  
23 Council. Seconded by Pete Himchek. Is there a  
24 similar motion on behalf of the ASMFC Board?

1 Howard. Seconded by Pat Augustine. Now let me go  
2 back just briefly to the point that I made at the  
3 start of the meeting. And just we're assuming that  
4 your motion is based on an assumption that Addendum  
5 19 that deals with the specification setting process  
6 will result in the setting of targets and thresholds  
7 that are identical to what the Council has in place.

8 Toni.

9 TONI KERNS (No microphone):

10 (Inaudible.)

11 COMMITTEE CHAIR JACK TRAVELSTEAD:

12 Okay. To be more specifically, it's conditioned on  
13 the adoption of Option 2 in Addendum 19.

14 PAT AUGUSTINE: Why don't we just add  
15 that to the motion, Howard.

16 HOWARD KING: I would so add that to  
17 the motion.

18 COMMITTEE CHAIR JACK TRAVELSTEAD:

19 And the seconder agrees?

20 PAT AUGUSTINE: Yes.

21 COMMITTEE CHAIR JACK TRAVELSTEAD:

22 Okay. We'll get those motions up on the table.

23 Jimmy, back to you.

24 JAMES RUHLE: Thank you, Mr.

1 Chairman. We've had quite a bit of discussion about  
2 this, and I think it's -- I don't need to rehash  
3 every bit of it, but I am extremely concerned with  
4 discards at a lower TAL and what total mortality of  
5 the stock's going to be.

6 Every state has an allocation. I'm  
7 talking about basically the commercial sector for  
8 right now. But these fish are definitely migrating  
9 further north. They're intermixing with a lot of  
10 the traditional New England fisheries and this --  
11 the mortality rate is just going to go through the  
12 roof without some consideration for landings. And  
13 we've never been at this level, 15.77 before, with  
14 17.1 that we have in place this year is the lowest  
15 we've ever been. Unfortunately, we don't have good  
16 data -- we don't have enough data, because it's  
17 August, to determine what the effects of that are  
18 going to be and if there's going to be any overages  
19 and where they may be.

20 But the abundance of these fish is --  
21 everyone's seeing them. It's not anything that  
22 anybody denies that there's a lot of fish out there.  
23 And if in fact that's the case, then mortality, when  
24 you start to reduce the allowable catch -- the

1 landing of these fish has got to increase. You  
2 can't make gear modifications to a trawl on fishing  
3 Georges Bank that's trying to catch yellowtail  
4 flounder to let fluke escape. It can't happen. You  
5 know? I mean there's things that can happen that  
6 are beneficial and there's things that are not.  
7 This is not -- I understand the Service's point and  
8 the Science Center's point on this, but the good  
9 news is to me we've got five more years to reach the  
10 target if the target is ever reached. We do have  
11 five years. We're no different now than we were in  
12 2004 when we came forward with the 30 million pound,  
13 which by the way, I think was a mistake. I don't  
14 think we should talk anything above 25 or something  
15 along those lines. I think 30 is ridiculous. I  
16 think it's what got us in the mess we're in now.  
17 But that's another issue.

18 I feel like it's my responsibility  
19 because I am concerned with discards and the  
20 economic effect on both entities here, both  
21 recreational and commercial, to support the 15.77.  
22 I recognize it's not what the agency has proposing  
23 or the Science Center, but that is my best guess.  
24 It does in fact include the -- reach the 75 percent

1 probability, but it does not include the  
2 retrospective analysis. So, that's the rationale  
3 for the motion. Thank you, Mr. Chairman.

4 COMMITTEE CHAIR JACK TRAVELSTEAD:

5 Thank you. Comments on the motion? Pat.

6 PAT AUGUSTINE: Thank you, Mr.

7 Chairman. Likewise, the commercial sector will be  
8 affected very negatively. So will the recreational.

9 As you all know, New York has gone to a 19 and a  
10 half inch fish. And our -- we have party boat folks  
11 that are having now -- I think maybe 25 or 30 to one  
12 -- 25 or 30 to one. That's along the south shore,  
13 all of Long Island. And if the discard rate  
14 continues and we end up with smaller quota -- and  
15 our size is probably going to stay somewhere up  
16 there, there's no question the mortality rate is  
17 probably going to go double digits. And I would  
18 support the larger number.

19 And again, as far as the  
20 retrospective analysis was concerned, as was  
21 questioned by Mr. Borden and responded to Mr.  
22 MacDonald, it's a tool, as I understand it, that can  
23 be used by National Marine Fisheries Service to help  
24 us meet our target. But again, the uncertainty of

1       how it's being used and what its value will be at  
2       this point in time leaves me feeling kind of queasy.

3       So, with that, I would definitely support this  
4       motion.

5                               COMMITTEE CHAIR JACK TRAVELSTEAD:

6       Rick.

7                               RICHARD COLE: Thank you, Mr.

8       Chairman. I want to give my viewpoints on the  
9       motion. I support the motion, and I think we need  
10      to establish the record on why the Council and --  
11      well, of course not the Board, but from the Board  
12      perspective I also support this motion. But it's  
13      important from the Council perspective that we  
14      clarify what our position is so that the record's  
15      carried forward to the Service.

16                              But again, to the motion, I think  
17      this motion does in fact follow the recommendation -  
18      - some of the recommendations -- or thoughts,  
19      anyway, of the monitoring committee; because if you  
20      look at the minutes from the monitoring committee,  
21      it says clearly in there that additional uncertainty  
22      should be accounted for by increasing the  
23      probability of achieving the retrospective  
24      correction F in 2008. And of course, obviously

1 since this is a 75 percent probability level, we're  
2 doing exactly what the monitoring committee has  
3 recommended here.

4 And kind of the way I look at this,  
5 this 2008, hopefully, I think is a transition year.  
6 And when I say it's a transition year, I think when  
7 we get through this next benchmark assessment in  
8 2008, I think we're going to see some changes. I  
9 think we're going to see possibly a change in the  
10 model. I think we're going to hopefully be looking  
11 at the acceptance of a model that is a forward-  
12 projecting model, that looks at statistical catch  
13 per age, and with that model we'll have a better  
14 terminal estimate of F than what we've had from this  
15 rear-projecting model VPA process. I think that's  
16 important. I think that's -- I'm hopeful that's  
17 going to happen.

18 The other thing is I know the  
19 scientists are looking at improving their ability to  
20 assign proper weight at age in these older fish. As  
21 we all know, there's more older fish in the  
22 population. There's been a lot of assumptions made  
23 in this modeling process, as far as developing these  
24 reference points that we're using, that we've had to

1 make assumptions on these weights at ages and these  
2 older fish. And I think once they refine that  
3 process and that they can assign more accurate  
4 weights to these six, seven, eight-year old fish  
5 that are now in the population, I think we're going  
6 to see some changes in those reference points. And  
7 hopefully some of these targets are not going to be  
8 quite as high as what they are now.

9 I don't disagree that this 197  
10 million pound target is awfully high, especially for  
11 a species that is 50 percent sexually mature at one-  
12 year old. It's just hard for me to accept that  
13 we've got to have that high a target. But  
14 nevertheless, I think this recommendation on this  
15 motion, I think this is a good transition level to  
16 fish on in 2008, and I'm looking forward to better  
17 things after 2008. Thank you, Mr. Chairman.

18 COMMITTEE CHAIR JACK TRAVELSTEAD:

19 Thank you. Ron.

20 RON SMITH: Reluctantly, I can't  
21 support this motion. I think the Council has  
22 disregarded this retrospective bias or pattern over  
23 the last four or five years, and it's one of the  
24 reasons we're in the situation we're in now. We

1 have an F rate that the scientists have told us  
2 would meet the rebuilding goal. And when we're  
3 going over it by essentially 30 percent a year, it's  
4 not like we're trying something and then just  
5 narrowly missing it. We're blatantly missing it.

6 COMMITTEE CHAIR JACK TRAVELSTEAD:

7 Pete.

8 PETER HIMCHEK: Thank you, Mr.

9 Chairman. I'm supporting the motion quite simply  
10 because of the -- I think the 75 percent probability  
11 recognition by the Council does not thrown the  
12 retrospective analysis out the wind -- or out the  
13 door, whatever you want to say. It recognizes that  
14 there's a problem and is accommodating that in  
15 increased probability. Thank you.

16 COMMITTEE CHAIR JACK TRAVELSTEAD:

17 Thank you. Other comments -- Jeff and then Dennis.

18 JEFFREY DEEM: I'm kind of in a poor  
19 spot here because I don't agree with the motion.  
20 I'd like to make a different motion when the time is  
21 appropriate. We're taking the easy way out, and  
22 depending on who you talk to, which side of the  
23 issue you're on, we've been taking the easy way out.  
24 I think we're taking it out now. We have a serious

1 disagreement coming up. It's either going to come  
2 this year or it's going to come next year when the  
3 fishery has to be closed, or maybe the year after.  
4 But I really don't think it will go that long.

5 And the reason that we're overfished,  
6 the reason that the retrospective analysis is so  
7 important is because we're trying -- we're basing  
8 our target or overfishing is based on a target that  
9 I don't think we can ever get to. So, yes, we're  
10 going to be overfishing. We always have been and we  
11 always will be.

12 The people of Virginia pay me to be  
13 here to represent the people of Virginia. And the  
14 first thing they want me to do is protect the  
15 fishery. The fishery's not in trouble. The next  
16 thing they want me to do, and they're paying me to  
17 do, and I have an obligation to do, is to protect  
18 the people's jobs. The only thing that gets in the  
19 way now is that I swore when I joined this Council  
20 under oath to adhere to the Magnuson-Stevenson Act.

21 So, I can't go to the 20 million pound TAL that I  
22 would like to see. I'm going to have to at least  
23 recommend that the people that are in this fishery  
24 that haven't dropped out that are on the borderline

1 now are going to drop out this year because we're  
2 not going to improve the situation and they can't  
3 take another year of it.

4 There are some that -- certainly  
5 plenty that can handle this. So, when it's  
6 appropriate, you tell me, but I would like to  
7 recommend the 50 percent level, and not just because  
8 we're having another assessment coming up next year.

9 There's no telling what that's going to be. To me,  
10 that's just another excuse to put it off and to play  
11 games with the numbers. We are going to have to  
12 have a disagreement with our friends at NMFS, and if  
13 it doesn't happen this year, there's going to be a  
14 whole lot more people put out of business before it  
15 happens next year or the year following.

16 So, I hate a fight, but I love hard  
17 work, and I just -- we're going to have to work at  
18 it. I would like to recommend a TAL of 17.5, the 75  
19 percent, which still meets the law, as I understand  
20 it, and does as little more harm to the people that  
21 need this. This can be done.

22 COUNCIL CHAIR PETER JENSEN: Jeff, I  
23 think you always have the option of making a  
24 substitute motion.

1 JEFFREY DEEM: That's what I'm --

2 COUNCIL CHAIR PETER JENSEN: That's  
3 your choice. And so is that what you're doing now?

4 JEFFREY DEEM: Yes, please. Yes,  
5 sir.

6 COMMITTEE CHAIR JACK TRAVELSTEAD:

7 Okay. We have a substitute motion on behalf of the  
8 Council for a TAL equal to 17.5 million pounds. Is  
9 there a second from the Council on that motion?  
10 Seconded by Ed. Is there a similar motion for the  
11 ASMFC?

12 (No response audible.)

13 COMMITTEE CHAIR JACK TRAVELSTEAD: Is  
14 there a similar motion from the ASMFC?

15 (No response audible.)

16 COMMITTEE CHAIR JACK TRAVELSTEAD:

17 Seeing none, the motion -- the substitute motion  
18 fails under our procedures. So, we're back to the  
19 main motion. Fails for the Council.

20 Again, our procedures we've agreed to  
21 and used for many years is that if we don't get like  
22 motions from both bodies, we don't proceed.

23 COUNCIL CHAIR PETER JENSEN: Unless  
24 we agree to suspend the rules, which is not the case

1 right now.

2 COMMITTEE CHAIR JACK TRAVELSTEAD: So  
3 we're back to the main motion -- the original  
4 motion. Comments on the motion? Ed.

5 EDWARD GOLDMAN: Well, as you can see  
6 by my seconding the failed motion, where I stand,  
7 but back to this motion, I have a little -- we had a  
8 lot of science given to us, which is good. But the  
9 one science that I haven't seen yet is the science  
10 that comes from not the biologists but from the  
11 economists. And we're in a -- I'm in a quandary,  
12 like Jeff said, we take oaths and everything and  
13 we're supposed to manage the fish first. We all  
14 understand that. We're also supposed to keep the  
15 people in business. And therein lies the struggle  
16 in light of the court case, which really makes it  
17 hard in Magnuson -- you know, I'm not sure it can be  
18 done. And then we keep going back to that Number 1  
19 standard trumps Standards 2 through 10.

20 But I think we have to do all that we  
21 can to consider -- you know, the economy the  
22 recreational and the commercial industries produce  
23 and we all -- I'd be preaching to the choir if I  
24 told you about that, because we all know. And I

1 think that's very important. I think we need to  
2 keep that right up front. So, I will support the  
3 motion. Thank you.

4 COMMITTEE CHAIR JACK TRAVELSTEAD:

5 Thank you. My apologies to Dennis and Pat, I had  
6 skipped. Dennis.

7 DENNIS SPITSBERGEN: Just kidding. I  
8 cannot support this motion. I think if somebody  
9 looks at the record last year, and it was after  
10 Jessica had pointed out for the past three years I  
11 think we had averaged 33 percent overage on the  
12 retrospective pattern. Is that -- my recollection  
13 correct on that, Jessica? I think that was what you  
14 presented to us.

15 JESSICA COAKLEY: Yeah, last year  
16 what we had presented was the five-year annual  
17 retrospective pattern. It was a 33 percent  
18 correction --

19 DENNIS SPITSBERGEN: And it was 33  
20 percent over?

21 JESSICA COAKLEY: Yes.

22 DENNIS SPITSBERGEN: And we have  
23 known before, that Chris Moore every year when he  
24 presented, he said we have got this retrospective

1 pattern and we have ignored it and ignored it and  
2 ignored it, and I believe that I said on the record  
3 last year I will not vote again for a quota that  
4 ignores the retrospective pattern. So, I will not  
5 support this motion.

6 COMMITTEE CHAIR JACK TRAVELSTEAD:

7 Pat.

8 PATRICIA KURKUL: Well, for the  
9 similar reasons, I don't support the motion either.

10 People are very focused on the biomass target, and  
11 their concerns about that, but the bottom line here  
12 is that overfishing is still occurring in this  
13 fishery. We have yet, in one year even, to have  
14 reduced fishing mortality rates below the fishing  
15 mortality threshold. And so frankly we just don't  
16 know what this stock will do and how it will respond  
17 when and if we ever get to that goal, which we have  
18 to achieve.

19 I'm very concerned that the motion  
20 does not take into consideration the retrospective  
21 pattern. This is effectively what we did last year,  
22 and I thought it was a good -- I thought it was a  
23 good approach last year to in some ways try to take  
24 into consideration the retrospective pattern,

1 acknowledging that the 75 percent didn't really do  
2 that, but it was certainly better than where we'd  
3 been in the past.

4 But now we know that it didn't work.

5 So, I'd be curious why folks think that the failed  
6 strategy from this year is going to be an effective  
7 strategy for next year. So, I think people need to  
8 talk about that some on the record. Thanks.

9 COMMITTEE CHAIR JACK TRAVELSTEAD:

10 Thank you. Vince.

11 VINCE O'SHEA: Thank you, Mr.

12 Chairman. I'm a bit confused. Some previous  
13 speakers have indicated that this motion is  
14 consistent with the recommendation of the monitoring  
15 committee, and I wanted to ask Jessica perhaps if  
16 this motion is in fact consistent with the  
17 recommendation of the monitoring committee.

18 JESSICA COAKLEY: No. As the motion  
19 stands, it isn't consistent with what the monitoring  
20 committee recommended. They recommended a maximum  
21 TAL of 12.90 million pounds, with a minimum of  
22 11.64, which is -- they're the bounds of the 50  
23 percent probability of the retrospective corrected F  
24 an the 75 percent probability of the retrospective

1 corrected F. And they made it clear at the  
2 monitoring committee that they felt all the  
3 information should be presented to the Council and  
4 the Commission in terms of the uncorrected and  
5 corrected Fs, but that that group would focus the  
6 recommendation on the retrospective corrected  
7 projections because they recognized that there was a  
8 retrospective problem and they felt that it needed to  
9 be addressed. So, that was the monitoring  
10 committee's findings that's in the summary.

11 VINCE O'SHEA: Thank you for  
12 clarifying that, Mr. Chairman.

13 COMMITTEE CHAIR JACK TRAVELSTEAD:  
14 Eric.

15 ERIC SMITH: Where to begin? I said  
16 before -- my earlier comment that it was highly  
17 responsible for us to deal with the retrospective  
18 pattern the proper way, which is to do what Jessica  
19 did and vet it through the monitoring committee and  
20 decide what the magnitude of that is, and then  
21 account for it. And I still feel that way. I hate  
22 it when I'm in this position, I'll say a little bit  
23 tongue in cheek, because I agree with Pat entirely  
24 that we have to get on with dealing with that. Last

1 year was a good way of doing it, and the motion  
2 frankly of 15.7 million pounds, that basically goes  
3 -- if you use that strategy that we used last year,  
4 you account for about half of that retrospective  
5 fix, because you're dropping from the 17 -- the year  
6 that we're in now to 15.7. But to really fix it,  
7 you have to drop to 12.9, assuming you use the 50  
8 percent probability.

9 And I hate the impact that dealing  
10 with that way -- with that problem properly,  
11 responsibly, does to sport and commercial fishermen,  
12 but it's time we have to do that.

13 So, as much as I would like to ease  
14 the burden of management on the regulated public and  
15 go with 15.77, I have a hard time finding a way to  
16 reconcile it. The only way I can do it, frankly, is  
17 to say if both bodies here said deliberately well,  
18 we know we have this problem, we also know we have a  
19 new assessment coming, maybe the new assessment is  
20 going to shed new light and fix some of these  
21 problems in a beneficial way, and then we have '09,  
22 '10, '11 and '12 to deal with that. That's hedging,  
23 but that's the only way I can see doing it.

24 I much more favor simply being in my

1 view what I think is the responsible thing to do is  
2 deal with it properly now and not do what we did  
3 last year, which is sort of start backing towards  
4 where we really needed to be.

5 So, having said that, another point  
6 that I made earlier, if we deal with the  
7 retrospective pattern issue in a responsible way,  
8 take that 28 percent hit, I see no reason -- and by  
9 the way, that's already based on F rebuild. We're  
10 not talking about F target here. We're talking  
11 about a fishing mortality rate of .199 instead of  
12 .28, and then discounting it further for the  
13 retrospective pattern. So, if we use F rebuild and  
14 we fix the retrospective problem, I see no reason  
15 that we also have to use a 75 percent probability to  
16 -- what we've done in the past is hedge against  
17 these other uncertain elements. So, having said all  
18 that, I favor a TAL of 12.9, which is a lot bigger  
19 drop of fish, but I think that's the responsible  
20 thing to do.

21 But I'm not going to offer it as a  
22 substitute motion yet, because I'm kind of a small  
23 part of this puzzle today. I'm not a part of the  
24 Mid-Atlantic Council and I'm just one state on the

1 Commission, as joint members. I'd rather see how  
2 the bodies deal with the main motion. If it fails,  
3 I'll be prepared to offer an alternative; and if it  
4 passes, then that was the will of the groups. Thank  
5 you.

6 COMMITTEE CHAIR JACK TRAVELSTEAD:

7 Thank you, Eric. Chris.

8 CHRIS BATSAVAGE: I'm concerned about  
9 not accounting for the retrospective bias and for  
10 all the things we've talked about this morning and  
11 the monitoring committee has discussed at length.  
12 Basically, going for an F rate of .143, we're hoping  
13 to achieve that target F of .199. It's kind of like  
14 our gun's not quite sighted in. We need to account  
15 for the error.

16 The overlying concern I have with  
17 going with a 15.77 million pound TAL this year is  
18 next year would be the benchmark assessment. If it  
19 doesn't show big improvements, if it shows  
20 essentially what the assessment has shown the last  
21 25 years, and it will be using the same data --  
22 essentially the same time series, then we're still  
23 in the same situation of having to rebuild by 2014.

24 And as difficult the regulations are this year, and

1 possibly next year, I hate to see what they could be  
2 in future years as far as commercial and  
3 recreational allocations and the associated trip  
4 limits and creel limits with that. I just think  
5 towards the fishermen in North Carolina. If the  
6 TALs get smaller and smaller and then the trip  
7 limits get smaller associated with them, a lot of  
8 these guys will be put out before we even get a  
9 chance to rebuild. So, it might be better to take a  
10 small -- relatively small step now as opposed to  
11 having to taking a big hit a couple of years later.

12 Thanks.

13 COMMITTEE CHAIR JACK TRAVELSTEAD:

14 Thank you. Rick.

15 RICHARD COLE: Thank you, Mr.

16 Chairman. I don't want to dwell on this monitoring  
17 committee recommendation, but again it's in the  
18 minutes, it says clearly that the monitoring  
19 committee recommended that the management agencies  
20 select a level of TAL with a higher probability of  
21 achieving the F target. And that's exactly what  
22 this motion does. It's a 75 percent probability.

23 But nevertheless, from the standpoint  
24 of Pat's comment regarding that in fact a 75 percent

1 probability level that we selected last year didn't  
2 work -- well, it's projected that it didn't work,  
3 but nevertheless that was the first year out of all  
4 the years we've been going through this process that  
5 we've ever selected such a high level. And if it  
6 didn't work, well, that was one year. And that's  
7 not much of a track record to try to pinpoint how  
8 successful the 75 percent probability could be or  
9 couldn't be.

10 But there has been a lot of changes,  
11 especially in the recreational fishery, from last  
12 year and this year. What has happened at that --  
13 with the TAL that we had to work with last year, the  
14 states have made dramatic increases in the minimum  
15 sizes that the recreational fishermen have to deal  
16 with in 2007. And we don't really know yet what the  
17 impact of that's going to be. All the states, with  
18 the exception of Maryland, are fishing on a fish  
19 that's basically 18 inches. And that's having a big  
20 impact on the recreational landings.

21 So, we don't know again what that  
22 impacts\* is, and there have been changes, there are  
23 differences this year as opposed to previous years  
24 on how we're managing this fishery. So, I don't

1 want to completely write off the 75 percent  
2 probability as being a successful way of addressing  
3 this retrospective bias. I don't think it's fair.  
4 One year is not fair to just point blank say that 75  
5 percent probability won't work.

6 So, I think it needs to be  
7 considered. I think it's a realistic approach to  
8 dealing with the retrospective bias. And I'm hoping  
9 that in the future we'll have a better model that we  
10 don't have quite that much bias associated with it.

11 But I just wanted to get that on the record. Thank  
12 you.

13 COMMITTEE CHAIR JACK TRAVELSTEAD:

14 Thank you. Other comments? Vito and then David.

15 VITO CALOMO: Thank you, Mr.

16 Chairman. I have maybe an unusual way of looking at  
17 this, from two sides, one of the fishermen's side  
18 and maybe one of the fish side. I look at this as a  
19 group of prisoners in a prison. And by going to the  
20 12.9 we execute half of them. By staying at 15.77  
21 we leave them in prison. If new evidence comes  
22 forward, we may execute all of them, or maybe we'll  
23 set them free. I like the idea of new evidence  
24 coming, maybe we'll set them free.

1                   Speaking on the fish side of this  
2 whole analysis is that I guess Jimmy Ruhle and  
3 myself are speaking the same language yesterday and  
4 today, and we're both fishermen -- or I was a  
5 fisherman at one time -- are saying that you know,  
6 all these analyses all real good, I appreciate  
7 listening to the comments, I appreciate the Mid-  
8 Atlantic comments more than I ever did before. I  
9 enjoyed it the last two days. Pollution -- I know  
10 we're not going to do anything today, but pollution  
11 is becoming a bigger and bigger factor. Sitting  
12 here in Long Island and listening to the news this  
13 morning, the beaches are polluted, 35 percent higher  
14 than any other time, nobody can go swimming today.  
15 The dogfish abundance has taken its toll. You know,  
16 we keep talking about it, but we don't seem to be  
17 increasing the dogfishing quota.

18                   The commorants are eating more fish  
19 than ever before, something that wasn't created by  
20 America, these came from China. Striped bass are  
21 eating more than any other time, and the seals are  
22 on the increase. I know we're not going to go out  
23 and kill seals, but yet we want to go out and  
24 execute fishermen.

1 I'll go back to my prison, and leave  
2 them in prison and let them live on bread and water  
3 for a while, because that's just what they're doing.

4 And I'll end it by saying I support 15.77 if I was  
5 voting on the Mid-Atlantic at this time, and I'm  
6 not. Thank you.

7 COMMITTEE CHAIR JACK TRAVELSTEAD:

8 David.

9 DAVID BORDEN: Thank you, Mr.

10 Chairman. I intend to vote for the motion when the  
11 Commission votes. And I've got a couple of reasons  
12 for doing it. One is the fact that the benchmark  
13 assessment is going to be done next year. And in  
14 fact, my expectation is that the numbers and some of  
15 the assumptions in it are going to change. But I  
16 think that it's prudent on the part of this process  
17 basically to see what that result is before we  
18 embark on further major restrictions in the fishery.

19 Second reason that I support that  
20 position is basically that the National Marine  
21 Fisheries Service is in the process of promulgating  
22 regulations and guidance on AMs and ACLs, and I  
23 believe -- and Pat can correct this if this is  
24 wrong, that it will probably address this issue of

1       how Councils consider and include retrospective  
2       issues and the formulation of those.

3               And that issue is going to have a  
4       direct bearing on how this Council proceeds; and  
5       it's also going to have a direct bearing on how you  
6       do projections in the future.

7               As Jessica has pointed out, the  
8       projections that this Council is using in terms of  
9       reaching those targets assume that the retrospective  
10      pattern essentially ends this year. And I'm not  
11      sure that that -- I'm not criticizing her, but I'm  
12      not sure that is consistent with the guidance that  
13      we're going to get from NMFS. And so I would prefer  
14      to get that guidance and see what the new stock  
15      assessment indicates, and then you have to do what  
16      you have to do in order to comply with the law.

17              COMMITTEE CHAIR JACK TRAVELSTEAD:

18      Any other comments?

19              (No response audible.)

20              COMMITTEE CHAIR JACK TRAVELSTEAD:

21      Comments from the audience on the motion? Tom Fote.

22      Please speak directly to the motion. We'll try to  
23      get to all of you.

24              TOM FOTE: Tom Fote from Jersey Coast

1 Anglers Association. I mean I look at these  
2 numbers, whether we're at 15.77, whether we're at  
3 17.5, and whether we go to 12.9. When we're talking  
4 about putting 15 million pounds more in the stock  
5 next year for the spawning stock biomass to make the  
6 193 million pounds, what is the difference 2 or 3  
7 million pounds one way or the other is going to do  
8 on that 15 million pounds. You know, we are going  
9 to have the same problem if you probably went to  
10 zero. You are going to tell us that we still have  
11 to go below zero to fish, I mean this is how  
12 ridiculous -- we can't support this motion. We  
13 should be somewhere about 20 million pounds, at  
14 least, the same, 19.9, and we're sitting here and --  
15 you know, we're being tied by models.

16 -- was a representative to the  
17 National Marine Fisheries Service because they found  
18 out that the National Marine Fisheries Service  
19 wasn't going to do it.

20 At the same time, they went and  
21 talked to our Congressman the other day and then  
22 there's Bill Hogarth personally, where is this  
23 independent peer review? Said well, it will take a  
24 year and a half, and of course money, so we're not

1 going to do it. Well, if you would have started a  
2 year and a half ago, we'd at least have the numbers  
3 now to look at what goes on here.

4 And a year and a half down the road,  
5 we're still going to be pulling our hair out here.  
6 Vito is perfectly right. We're in prison. And  
7 we're on less than bread and water. We're on water.

8 I mean, this industry is taking a bite. The boats  
9 in New York are going out of business. The boats in  
10 New Jersey will wind up -- the number of boats out  
11 there, if you look at the numbers -- Ray Bogan  
12 couldn't be here, but Ray had the boat registration  
13 -- has gone steadily down in the last three years,  
14 both in New York, New Jersey and Rhode Island.

15 I mean, the number of trips for  
16 summer flounder have gone down. So, what's  
17 happened, people are fishing for striped bass and  
18 other species. And the discard mortality is going  
19 to go up. I don't think this is going to cure any  
20 problem, whether you go -- you know, 17.5, whether  
21 you go 15.44, whether you go 12. We're still going  
22 to have the same problem last year because you're  
23 building a target that we can't reach. And the more  
24 you look at that, you realize we can't. Thank you

1 for your patience.

2 COMMITTEE CHAIR JACK TRAVELSTEAD:

3 Thank you, Tom. Willie.

4 WILLIE EGERTER: Willie Egarter,  
5 United Boatmen. I agree with what Tom Fote just  
6 said. It was perfect. And I agree with Jimmy, I  
7 agree with Vito. Jeff, his proposal that he put up  
8 there would have been even better. We're going to  
9 go down a road and we're going to start it on the  
10 next fish, which will be sea bass later on, where  
11 we're cutting back on all the industries, whether  
12 it's commercial or recreational on all the  
13 fisheries, where are we going to be going next? I  
14 would have supported the 17.5. I think that would  
15 have been a better way to go.

16 I'm not a scientist, so I'm not going  
17 to make any of the assumptions. I'm an advisor  
18 who's making observations every day. So are some of  
19 these other people in the room. By next year, when  
20 they come up with a new -- whatever it's going to be  
21 called -- the new --

22 UNIDENTIFIED (No microphone):

23 (Inaudible.)

24 WILLIE EGERTER: The new benchmark,



1 COMMITTEE CHAIR JACK TRAVELSTEAD:

2 Phil.

3 PHIL CURCIO: Thank you, Mr.  
4 Chairman. Phil Curcio, United Boatmen, New York,  
5 Recreational Fishing Alliance and the New York  
6 Fishing Tackle Trade Association.

7 Assumptions. Assumptions. How many  
8 times have we heard that word here today? I've  
9 attended many of these meetings over the last  
10 several years and I have never heard that word  
11 brought up more frequently than I have today.  
12 Assumptions. All right? That basically tells me  
13 that we have no idea what we have right now. We  
14 don't know how many fish are out there. We're  
15 assuming how many fish are out there. Okay? And  
16 based on that assumption, we're then assuming how  
17 many fish we had in 1935, when nobody had any hard  
18 data to prove what we had in 1935. We've heard  
19 comments around the table about destruction of  
20 ecosystems, loss of wetlands, loss of habitat, loss  
21 of forage species. Increases in predator species,  
22 dogfish, our favorite species, but yet these don't  
23 become part of our view of how many fish we have out  
24 there.

1                   These assumptions are all an academic  
2                   exercise. And I understand the legal reasons behind  
3                   them. However, this academic exercise has impacts  
4                   in reality. All right? You're putting livelihoods  
5                   in jeopardy every day, every year. All right? Yes,  
6                   we are in jail. We're on death row. Okay? And  
7                   we're now looking at being either executed or given  
8                   at least another year stay of execution. And this  
9                   is how this industry has unfortunately had to learn  
10                  to exist over the past several years as we find  
11                  ourselves impacted by Congressional mandate and also  
12                  by scientific assumptions. All right?

13                  I want you to keep in mind the  
14                  extreme hardship that this industry is already  
15                  under. We talk about the long-term impacts.  
16                  There's a great concern about what's going to happen  
17                  in the long term to this stock. However, I would  
18                  suggest that in the long term you won't have a  
19                  fishing industry anymore, but you will have a lot of  
20                  fish. But there'll be nobody to catch them anymore.

21                  The infrastructure is already in many states on the  
22                  verge of collapsing. All right? I know you've  
23                  heard this time and time again, but it's incumbent  
24                  on myself and other representatives of the fishing

1 industry to make sure that this is on the record,  
2 and that you people are considering these things.

3 I've even seen some people at the  
4 table who in past years have taken much more  
5 conservative standpoints on this issue and seem to  
6 be starting to believe what the industry has been  
7 crying out for years.

8 We'd like to see that trend continue.

9 You know, I look at this motion and this represents  
10 another cut of approximately two point something  
11 million pounds from this year's TAL. Do we support  
12 the motion? Very, very reluctantly, only because  
13 it's probably the best that we're going to get. I  
14 would much rather see the 17.5 million pound motion.

15 However, unfortunately, no one on the Commission  
16 had the nerve to stand up and make a companion  
17 motion.

18 We do have stock assessment coming  
19 out. That point's been made. This is a reasonable  
20 wait and see posture. It gives us maybe one more  
21 year of a bye, although I will tell you the party  
22 boat and charter boat industry, unfortunately  
23 there's no hard numbers to back this up because all  
24 we can look at as far as science is concerned is how

1 may permitted vessels there are out there. But I  
2 can tell you from personal experience in New York  
3 State alone that while there may not have been any  
4 significant change in how many vessels there are  
5 permitted to fish as party boats in the state, most  
6 of those boats are staying tied to the dock a good  
7 amount of the time, and these people have gone out  
8 into other industries to make a living. And they've  
9 now gone to this as a part-time thing because  
10 there's just not enough people fishing anymore.  
11 There's no demand because people know what they're  
12 going to be allowed to keep and what they're going  
13 to be forced to throw back. You have a family come  
14 out on a party boat and spend a couple of hundred  
15 dollars, and they're throwing back -- a single fish  
16 could feed that family. A 19-inch fish could feed  
17 that family of three or four that night, and yet  
18 they're being forced to throw that back.

19 And that speaks to the mortality  
20 issue. Once again, I'd like to reiterate that when  
21 you lower the TAL, you're going to see a higher  
22 discard mortality.

23 One other thing I'd like to point out  
24 is that the models that are being used and the

1 assumptions that are being ingrafted over those --  
2 the results of those models, you have a model that  
3 starts as conservative. You then take conservative  
4 assumptions and place them on top of the model and  
5 then you take the conservative end of the output of  
6 that model. You're constricting this industry to  
7 the point of choking it to death, and I would ask  
8 this Council to do the responsible thing.

9 We support this motion. We'd like to  
10 see it passed. Put the pressure on the Service. Do  
11 your responsibility here. Let the Service take the  
12 heat. Thank you very much.

13 COMMITTEE CHAIR JACK TRAVELSTEAD:

14 Yes, sir, you had your hand up? Go ahead.

15 JOHN CHERNIK: John Chernik, I  
16 represent the Imperial Sportsmen's Fishing Club,  
17 which has been around since 1948, and also the  
18 Suffolk Seniors Fishing Club. I'm kind of a novice  
19 on all this stuff, and I have to sit and I have to  
20 listen and try to analyze. Something that the last  
21 gentleman just said which I found very surprised to  
22 hear today is we assume, assumption. The figure  
23 that we're talking about to rebuild this stock is  
24 197 million pounds. From my understanding that this

1 was only seen once way, way back.

2 The chart that Mr. Deem put up, I  
3 found very interesting because a lot of people that  
4 I see and talk to feel that the stock is rebuilt at  
5 a hundred million pounds, that we haven't -- we've  
6 only seen it 197 once and we've never seen it higher  
7 than a hundred million since that time.

8 Friends of mine that do fish -- I  
9 have a friend of mine that fished last week. He's  
10 been fishing for 40 years. Two guys on a boat, they  
11 had 50 fish between 18 and 19 inches. Of course,  
12 they were all returned. I don't know what the  
13 survival rate was. But that shows that there are  
14 quite a few fish out there.

15 I would reluctantly approve of this  
16 amendment, that 15.7, but I also feel that that is  
17 not right, that it should be higher. When you have  
18 all of these charter and open boats that are going  
19 to be going out of business, you also have a  
20 trickle-down on that, also, that the fact that your  
21 tackle dealers, your tackle manufacturers, your boat  
22 manufacturers, your marinas, all of these people it  
23 trickles down and they suffer on the whole thing.

24 And I'm very surprised to hear this

1 term so much today, we assume this, we assume this.

2 Well, if you assume that, why can't we assume that  
3 the fisheries is completely rebuilt because it's  
4 been at a hundred million pounds for the last four  
5 years?

6 COMMITTEE CHAIR JACK TRAVELSTEAD:

7 Any other comments? Okay. Let's hear from Dr.  
8 Weinberg and then I'll get you, Arnold.

9 JAMES WEINBERG: Thank you. I would  
10 just like to clarify one point that the last two  
11 speakers touched on, and they both implied that the  
12 biomass target is somehow related to a biomass that  
13 was observed in 1935 or at least a long time ago.  
14 But in fact that's not correct. The biomass target  
15 has nothing to do with that. And we discussed that  
16 a year ago. And I don't want to get technical, but  
17 it's a simple calculation between the biomass per  
18 recruit and the median number of recruits per year.

19 Thank you.

20 COMMITTEE CHAIR JACK TRAVELSTEAD:

21 Thank you. Mr. Leo.

22 ARNOLD LEO: Arnold Leo. I'm the  
23 consultant for commercial fisheries for the Town of  
24 Easthampton, and I just want to make the point first

1 about commercial fishermen really are the way that  
2 the vast majority of people have any kind of access  
3 to the public resource of seafood. So that -- you  
4 know, what we decide here today also affects the  
5 general public -- you know, not just commercial  
6 fishermen and sports fishermen.

7 And what has been bothering me, both  
8 yesterday and today, is the uncertainty of the data  
9 that's being used -- you know, to bring about these  
10 curtailments of the fisheries. Yesterday with scup,  
11 I mean we've been making the point for some time now  
12 that this -- you know, kilogram per tow goal that  
13 we're supposedly -- you know, striving for is  
14 totally unrealistic. It's never been reached in the  
15 history of the scup fishery, and today with summer  
16 flounder we're looking at trying to rebuild the  
17 stock to a level where apparently it's never really  
18 been before.

19 And as Mr. Deem has pointed out, it  
20 would require a growth rate that somehow seems  
21 completely to be a fantasy to achieve that by -- you  
22 know, 2013. So, I really think that with the  
23 uncertainty of this kind of data that there is a  
24 need to take -- you know, cautious steps and to see

1           how that goes before taking any more extreme steps.

2           There are enough years left so that if in three  
3           years' time -- you know, things look really bad,  
4           then more extreme measures can be taken. Thanks.

5                           COUNCIL CHAIR PETER JENSEN: Charlie.

6           Former Council member. Welcome back.

7                           CHARLES WITEK: Thank you, Mr.

8           Chairman. I'm Charles Witek, West Babylon, New  
9           York. Usually when I address an assemblage like  
10          this, I'm representing an organization. Today I'm  
11          not. Today I'm speaking as an angler, and as  
12          someone pointed out, an ex Council member, who sat  
13          in the seats that you're sitting in and have to make  
14          a decision very much like the decision you have to  
15          make today.

16                          When I think of this decision, I  
17          listen to the conversations and I listen to the  
18          data, I think of an old Clint Eastwood movie and the  
19          question they asked: You feeling lucky? You know,  
20          we're hearing a lot of things. Maybe the  
21          retrospective analysis won't happen. Maybe the 2008  
22          assessment is going to change the reference points.

23          Maybe we'll be lucky. But you know, maybe we won't  
24          be.

1                    Maybe the 2008 assessment is going to  
2 come back like previous stock assessments did and  
3 more or less say the numbers are okay. Maybe we can  
4 ignore retrospective analysis because -- you know,  
5 we did that. We went down that road.

6                    I heard Captain Ruhle a while ago  
7 talk about the problem back in 2003 and why there  
8 wasn't a lot of talk about it. The fact is there  
9 was. I don't recall the meeting, but when this  
10 August meeting met down in Baltimore 2004 or 2005,  
11 both Chris Moore and the Northeast Administrator  
12 pointed out that that retrospective analysis existed  
13 and maybe we should take a more conservative  
14 approach. We were feeling lucky, we didn't do it.  
15 We're here today.

16                    I have to ask you: Do you want to be  
17 here in August of 2008 trying to decide whether we  
18 are going to have the TAL of eight million pounds or  
19 ten million pounds? Because if we're unlucky, that  
20 could happen.

21                    2013 is a real date, it's a real  
22 deadline, it's coming. Right now we can be a little  
23 more conservative and maybe minimize the pain. Now,  
24 there's going to be pain. 15.77 is bad. 11.6 is

1 worse. But then again, eight million pounds or ten  
2 million pounds is worse than that. And that could  
3 happen. I'm not saying it will. Maybe next year  
4 will be 17 million. Maybe it will be 20 million  
5 after the 2008 assessment. I don't know. But the  
6 question is: Are you feeling lucky? And is the  
7 potential downside worth a little gain this year?  
8 Thank you.

9 COMMITTEE CHAIR JACK TRAVELSTEAD:

10 Thank you. Anyone else? A.C.

11 A.C. CARPENTER: Mr. Chairman, I have  
12 a question and then a possible motion on behalf of  
13 the Board. Looking around the room, there are a  
14 number of Board members -- the states are  
15 represented, but there's a number of Board members  
16 that aren't present.

17 If we were to move consideration of  
18 the Board motion, delay it until next week's ASFMC  
19 meeting, since we have a Summer Flounder Board  
20 scheduled at that meeting, would the Council still  
21 be able to vote for this motion or against this  
22 motion and retain the outcome of that and then we  
23 could consider it next week and all of the ASMFC  
24 Commissioners would be present?

1 COMMITTEE CHAIR JACK TRAVELSTEAD:

2 The answer is if you want to suspend the rules and  
3 put it off till next week, you can do that. But I  
4 can tell you this: As Chairman of this group, I  
5 would do everything humanly possible to avoid that.

6 I think that would be the absolute worst thing we  
7 could do. I think we're much better off when we sit  
8 here around the same table and make the decision  
9 together. And I just -- we have too much experience  
10 in going in wrong directions where we put things off  
11 and seal ourselves in a room without the Council  
12 around the table, and end up doing something  
13 different.

14 A.C. CARPENTER: Thank you for your  
15 advice.

16 JACK TRAVELSTEAD: Certainly the  
17 group is entitled to do that. It's an option. But  
18 I certainly wouldn't encourage it. Any other  
19 comments? Ed.

20 EDWARD GOLDMAN: Yeah, I was thinking  
21 about this retrospective and I just kind of feel  
22 that one thing leads to a retrospective increase  
23 could be the increase -- the decreased TAL in the  
24 form of discards and I've said years ago at the

1       ASMFC that the tighter we reign in the regulation,  
2       the higher noncompliance goes up, and I was told  
3       that that's accounted for in the models, but I don't  
4       know if we know exactly how much noncompliance goes  
5       up. Back in February, the Council received a  
6       presentation about the experimental inshore trawl  
7       survey, and it was brought out that 500 flounder  
8       were sexed and basically anything over 16 inches  
9       statistically will be a female, and I raised the  
10      question if this is true, how are we going to -- is  
11      this hampering our rebuilding efforts. And  
12      unfortunately, that question has not been answered.

13               And again, if we reign in the TAL,  
14      that could be adding to that problem, too, because  
15      most states more than likely will have to increase  
16      their -- will vote to increase the minimum size  
17      limits as opposed to shortening the season, due to  
18      economic reasons. So, we have that issue. And I  
19      just think that -- are we feeling lucky? I think we  
20      owe it to the fishing communities to try and feel a  
21      little lucky and hopefully sort this out. And like  
22      it's been said before, we might have a great  
23      fishery, but no fishermen.

24               And that and I think we -- it was

1 also brought out earlier today that the  
2 environmental factors don't seem to be plugged into  
3 the models too well. And as pointed out, the  
4 estrogen studies and the winter flounder and beach  
5 closings are still happening. And as I said first  
6 thing this morning, will this road take us to our  
7 goal? And I'm not convinced it will. Thank you.

8 COMMITTEE CHAIR JACK TRAVELSTEAD:

9 Karen.

10 KAREN CHYTALO: Well, the rookie  
11 here, I'm probably going to make all the rookie  
12 mistakes. Count on it. But I'm listening to a lot  
13 of the comments coming through and -- I mean I  
14 really find that we've directed the monitoring  
15 committee to look at this, put some -- give us some  
16 recommendations, going through all the science,  
17 getting the science to back it up, using the best  
18 assumptions that they can actually come up with into  
19 this type of a model. I feel -- and they said if we  
20 don't take the retrospective analysis or start  
21 incorporating that in, we're just going to pay even  
22 harder. And I think Charlie's comments were on the  
23 mark -- you know, about feeling lucky.

24 I don't know about the rest of you

1 guys, but after looking at some of these data so  
2 far, what's been presented to me being a newbie, I'm  
3 not feeling lucky. I don't know. I'm not feeling  
4 very lucky right now. And so I don't think I can  
5 support this motion right now. I'd be more  
6 comfortable as -- what Eric Smith was saying before,  
7 about 12.9 or something, to get us back down, start  
8 incorporating some of the retrospective, even though  
9 what it does to the industry makes me sick. And  
10 that I find hard to take and hard to stomach.

11 But I think it's something that do we  
12 pay now or do we pay tomorrow? And if we had taken  
13 some harder lines, probably prior years or  
14 something, maybe we wouldn't have been in this  
15 situation where we are right now. And that's where  
16 my concern is. If we don't take the hard line at  
17 some point maybe we can lose the whole fishery, and  
18 I don't want to see that close down. Thank you.

19 COMMITTEE CHAIR JACK TRAVELSTEAD:

20 Thank you, Karen. Jimmy.

21 JAMES RUHLE: Thank you, Mr.

22 Chairman. I know you're anxious to get this over  
23 with. I would like to request a roll call vote on  
24 the part of the Council when this vote is brought to

1 the table.

2           Everybody's made some real good  
3 points here, but again, you've got to recognize that  
4 there are a lot of fish out there. Just the  
5 abundance of these fish is at extremely high levels.

6       I'm not suggesting -- I didn't make this motion  
7 just to get more fish for both the recreational and  
8 commercial. I made this motion so we don't have  
9 unintended discard mortality that is going to go  
10 through the roof with a lower TAL. We don't have  
11 any experience knowing what that rate's going to be  
12 with this low a TAL, and it's -- that makes me feel  
13 unlucky. Whether we're lucky or unlucky, we're  
14 treading grounds that we've never been -- where  
15 we've never been before with this mortality issue.

16           I mean the recreational component of  
17 this fishery is in fact impacting it, and it's going  
18 to impact it even more through mortality. We've got  
19 to face that fact. You know, what's going on here  
20 now with these fish being released is increasing the  
21 mortality. And this ten percent thing I have never  
22 bought. I don't doubt for a minute -- I don't doubt  
23 for a minute that you could gently unhook a fish or  
24 roughly unhook a fish and throw him in a pen and him

1 live four or five days. I do believe if you threw  
2 that fish in the wild, he's dead meat. Something is  
3 going to get him. How the hell do you think fish  
4 survive out there? That's part of their instinct,  
5 to look for the wounded.

6 You start with the potential discard  
7 mortality that's going to occur with the lower TAL,  
8 that's why I feel it is the wrong thing to do to go  
9 too low. One more year, lucky or unlucky, that's  
10 the name of the game. Next year I totally expect a  
11 different outcome out of the new assessment. Got to  
12 recognize that the modeling -- an I don't know  
13 nothing about models except they spit out millions  
14 of friggin numbers -- and granted, there's a lot of  
15 input into it, but the technology that's been  
16 demonstrated in recent years with a indices-based  
17 species has increased. The accuracy has increased.

18 We have the hope that we're going to  
19 get better information. Like everybody said, who's  
20 going to be here to take advantage of it if you take  
21 drastic steps at this point. So, thank you for the  
22 time, Mr. Chairman. Do request a roll call vote.  
23 Thank you.

24 COMMITTEE CHAIR JACK TRAVELSTEAD: We

1 can do that. We're starting to go around the room a  
2 second time and repeat ourselves, but we haven't  
3 heard from Gene, so we're going to hear from Gene  
4 and then I'll hear from Vito and then I'd like to  
5 bring it to a vote.

6 COUNCIL VICE CHAIR EUGENE KRAY:

7 Actually it's a question, and I think I know the  
8 answer, but I'll ask Dr. Weinberg. We keep talking  
9 about the 2008 benchmark assessment. We will not  
10 have that data next August, will we?

11 COMMITTEE CHAIR JACK TRAVELSTEAD:

12 Will we have the results of the 2008 benchmark  
13 assessment next year?

14 JAMES WEINBERG: Yes, I think you  
15 will.

16 COMMITTEE CHAIR JACK TRAVELSTEAD:

17 Thank you.

18 COUNCIL VICE CHAIR EUGENE KRAY:

19 Didn't you say it was occurring in June?

20 JAMES WEINBERG: Yes, but all of our  
21 spring SARCs are in June, and I present the results  
22 to you at this meeting in August.

23 COUNCIL VICE CHAIR EUGENE KRAY:

24 Thank you.

1 COMMITTEE CHAIR JACK TRAVELSTEAD:

2 Thank you. Vito, you're the last word. Jim has a -  
3 -

4 VITO CALOMO: Thank you, Mr.  
5 Chairman.

6 COMMITTEE CHAIR JACK TRAVELSTEAD:

7 Wait a minute, Vito.

8 VITO CALOMO: Go ahead, Jim.

9 JAMES WEINBERG: Yeah, I present the  
10 results to you in August. Now, that will be a real  
11 time crunch for the Technical Monitoring Committee  
12 to have any information much before that. So, there  
13 is a potential problem there with timing.

14 COMMITTEE CHAIR JACK TRAVELSTEAD:

15 So, we may want to delay the August meeting by a few  
16 weeks. Vito.

17 VITO CALOMO: Thank you, Mr.

18 Chairman. I'd like to get the attention of the lady  
19 -- I don't know her name there -- that was asking  
20 about the hard line.

21 COMMITTEE CHAIR JACK TRAVELSTEAD:

22 Karen.

23 VITO CALOMO: Could you pay attention  
24 to me while I speak, please? Thank you. Because I

1 want to talk about the hard line. Those were strong  
2 words, hard line, and you know, there's some  
3 validity to what you say on the hard line. Let me  
4 tell you about the hard line that happened in  
5 Gloucester, Massachusetts, where I come from. The  
6 hard line is taking hard line management we used to  
7 be 100 large vessels. We're seven today. We were  
8 350 vessels in the oldest fishing port in the  
9 country. We're 150 today, and most of them are  
10 small vessels. That's the hard line.

11 The hard line was a 35 pound cod trip  
12 limit and we dumped millions of pounds overboard.  
13 That's the hard line. Not so sure the hard line is  
14 correct in this case and in that case that's proven  
15 years ago.

16 I heard yesterday about the  
17 government of the United States asking us why are we  
18 importing so much fish? Maybe it's the hard line.  
19 The hard line here would be more imports and less  
20 domestic catch and less fish that are watched by  
21 seafood inspectors that are of quality instead of  
22 importing fish from China that people are getting  
23 sick on. That's the hard line.

24 And I think the hard line in some

1 cases is realistic. In this case, I think if you  
2 can watch and take a cut like we're talking at the  
3 15.77 is more realistic, and give an opportunity to  
4 see what goes down the road a little more.

5 Yeah, someday there'll be no fishing  
6 the way we're going with the hard line. If that's  
7 what you want to do, then take the hard line. Thank  
8 you.

9 COMMITTEE CHAIR JACK TRAVELSTEAD:

10 Okay. Dan, are you ready for a roll call? Okay.  
11 Mr. Chairman.

12 COUNCIL CHAIR PETER JENSEN: Okay,  
13 Council. We're going to vote and we'll do it on a  
14 roll call.

15 (Motion as voted.)

16 {On the condition of the approval of option 2 of  
17 addendum 19 and new reference points, move that TAL  
18 be set at 15.77 mil lbs in 2008 which has a 75%  
19 probability of being achieving the F rate of 0.199  
20 without correcting for the retrospective  
21 pattern.}

22 DANIEL FURLONG: Okay. The motion  
23 is on the board to move that the TAL be set at 15.77  
24 million pounds in 2008, which has a 75 percent

1 probability of achieving the F rate of 0.199 without  
2 correcting the retrospective pattern.

3 Mr. Augustine.

4 PAT AUGUSTINE: Yes.

5 DANIEL FURLONG: Ms. Chytalo.

6 KAREN CHYTALO: No.

7 DANIEL FURLONG: Ms. Nolan.

8 LAURIE NOLAN: (Inaudible.)

9 DANIEL FURLONG: Say again?

10 LAURIE NOLAN: Yes.

11 DANIEL FURLONG: Mr. Holder is  
12 absent. Mr. Goldman.

13 EDWARD GOLDMAN: Yes.

14 DANIEL FURLONG: Ms. Puskas.

15 FRANCES PUSKAS: Yes.

16 DANIEL FURLONG: Mr. Himchek.

17 PETER HIMCHEK: Yes.

18 DANIEL FURLONG: Dr. Kray.

19 EUGENE KRAY: Yes.

20 DANIEL FURLONG: Mr. Cole.

21 RICHARD COLE: Yes.

22 DANIEL FURLONG: Mr. Smith.

23 RON SMITH: No.

24 DANIEL FURLONG: Mr. King.

1 HOWARD KING: Yes.

2 DANIEL FURLONG: Mr. Simns.

3 LAWRENCE SIMNS: Yes.

4 DANIEL FURLONG: Mr. Deem.

5 JEFFREY DEEM: Yes.

6 DANIEL FURLONG: Ms. Peabody.

7 MICHELLE PEABODY: Yes.

8 DANIEL FURLONG: Mr. Travelstead.

9 JACK TRAVELSTEAD: Yes.

10 DANIEL FURLONG: Mr. Batsavage.

11 CHRIS BATSAVAGE: No.

12 DANIEL FURLONG: Mr. Ruhle.

13 JAMES RUHLE: Yes.

14 DANIEL FURLONG: Mr. Spitsbergen.

15 DENNIS SPITSBERGEN: No.

16 DANIEL FURLONG: Ms. Kurkul.

17 PATRICIA KURKUL: No.

18 DANIEL FURLONG: The motion passes.

19 I'll give you the numbers. That's 13 in the  
20 affirmative, five against, the Chairman abstaining  
21 and two absent, Mr. Holder and the substitute for  
22 Mr. Hoopes.

23 COUNCIL CHAIR PETER JENSEN: So, the  
24 motion passes.

1 DANIEL FURLONG: Motion passes, 13,  
2 five, one abstain, two absent.

3 COMMITTEE CHAIR JACK TRAVELSTEAD:  
4 Board members, do you understand the motion? Is  
5 there a need to caucus?

6 VITO CALOMO (No microphone): One  
7 second. Thank you.

8 COMMITTEE CHAIR JACK TRAVELSTEAD:  
9 We're ready. All those in favor of the motion,  
10 please raise your right hand.

11 (Response.)

12 COMMITTEE CHAIR JACK TRAVELSTEAD:  
13 Opposed, like sign.

14 (Response.)

15 COMMITTEE CHAIR JACK TRAVELSTEAD:  
16 Abstentions?

17 (No response.)

18 COMMITTEE CHAIR JACK TRAVELSTEAD:  
19 Null votes?

20 (No response.)

21 COMMITTEE CHAIR JACK TRAVELSTEAD:  
22 Seeing none. Seven to two? The vote was seven to  
23 two. The motion carries.

24 Couple other flounder items that

1 we'll need a motion on the RSA. I think all we need  
2 is a motion for up to three percent.

3 PAT AUGUSTINE: Mr. Chairman, I move  
4 that the research set-aside be up to three percent  
5 for summer flounder.

6 JAMES RUHLE: Second.

7 COMMITTEE CHAIR JACK TRAVELSTEAD:  
8 Second by Jimmy Ruhle. Was the motion for the  
9 Council and the Commission?

10 PAT AUGUSTINE: Yes, it was.

11 COMMITTEE CHAIR JACK TRAVELSTEAD: Is  
12 there a second for the Commission?

13 ERLING BERG: Second.

14 COMMITTEE CHAIR JACK TRAVELSTEAD:  
15 Seconded by Erling. Comments on the motion?

16 (No response audible.)

17 COMMITTEE CHAIR JACK TRAVELSTEAD:  
18 Seeing none, we're ready to vote.

19 (Motion as voted.)

20 {Move that up to 3% of the TAL be allocated for RSA  
21 in 2008.}

22 COUNCIL CHAIR PETER JENSEN:

23 COUNCIL CHAIR PETER JENSEN: For the  
24 Council, all in favor, raise your hand.

1 (Response)

2 DANIEL FURLONG: I've got 15.

3 COUNCIL CHAIR PETER JENSEN: Fifteen  
4 in favor. Those opposed, same sign.

5 (No response.)

6 COUNCIL CHAIR PETER JENSEN: Zero.  
7 Abstentions?

8 (No response.)

9 COUNCIL CHAIR PETER JENSEN: None.  
10 The motion passes.

11 COMMITTEE CHAIR JACK TRAVELSTEAD:  
12 Technically, Jan, the exact amount should be out of  
13 the motion. It's just up to three percent. Board  
14 members ready to vote? Is there any objection to  
15 the motion?

16 (No response audible.)

17 COMMITTEE CHAIR JACK TRAVELSTEAD:  
18 The motion carries.

19 Are there any motions on mesh size,  
20 minimum length size, gear restrictions with respect  
21 to summer flounder?

22 (No response audible.)

23 COMMITTEE CHAIR JACK TRAVELSTEAD:  
24 Seeing none, I believe that completes our business.

1 Pat.

2 PAT AUGUSTINE: Mr. Chairman, just  
3 that last comment. Was it a recommendation on the  
4 states not already doing so set aside 15 percent of  
5 their quota? That's just a suggestion to those  
6 states that do not set aside. I think that should  
7 be made clear. To minimize regulatory discards  
8 associated with summer flounder quota.

9 COMMITTEE CHAIR JACK TRAVELSTEAD:  
10 That provision stays in the management plan unless  
11 it's changed here today, so --

12 PAT AUGUSTINE: Thank you. Thank you  
13 for that clarification.

14 COMMITTEE CHAIR JACK TRAVELSTEAD:  
15 Any further business on summer flounder?

16 (No response audible.)

17 COMMITTEE CHAIR JACK TRAVELSTEAD:  
18 Mr. Chairman.

19 COUNCIL CHAIR PETER JENSEN: That's  
20 pretty good timing, so that we'll reconvene at one  
21 o'clock.

22 [LUNCH: 11:52 A.M. - 1:03 P.M.]

23 \_\_\_\_\_  
24 FINALIZE BLACK SEA BASS MANAGEMENT MEASURES

1                   FOR 2008 (2009, 2010) IN CONJUNCTION WITH THE  
2                   ASMFC SUMMER FLOUNDER, SCUP AND BLACK SEA BASS BOARD

3                   COMMITTEE CHAIR JACK TRAVELSTEAD: If  
4 you'll take your seats, we'll move into black sea  
5 bass. Everyone's been doing such a marvelous job,  
6 we want to keep this train moving. And so I'm going  
7 to turn it over to Jessica and she'll go through the  
8 staff report.

9                   JESSICA COAKLEY: Okay. The  
10 information we're going to be talking about is  
11 behind Tab 8 of your briefing book. There are two  
12 things behind the tab. The first is the meeting  
13 summary and consensus recommendations from the Black  
14 Sea Bass Monitoring Committee meeting held on July  
15 19th. And the second item is the memorandum dated  
16 July 10th for myself to the Black Sea Bass  
17 Monitoring Committee.

18                   So, just taking a look at the black  
19 sea bass management measures that we've seen in the  
20 last few years, first row, the overall TAL was 6.8  
21 million pounds in 2003. That increased in 2004 to  
22 eight million pounds; in 2005 to 8.2 million pounds;  
23 in 2006, we had an eight million pound TAL; and in  
24 2007 that decreased to five million pounds.

1                    Looking down to the third and fourth  
2 row, the commercial quota and commercial landings.  
3                    In 2003, 2004 and 2005 the commercial landings came  
4 in under the commercial quota for those years. In  
5 terms of recreational harvest limits, going down a  
6 few more rows. In 2003, the recreational landings  
7 were slightly over the recreational harvest limit  
8 for that year. In 2004 and 2005, the recreational  
9 landings came in under the recreational harvest  
10 limit.

11                    The commercial minimum fish size over  
12 this time period has been 11 inches with a 4.5 inch  
13 diamond mesh and -- well, the vent requirements are  
14 one and three eighths and different shape  
15 configurations and sizes associated with those.

16                    So, the stock assessment itself is  
17 survey based. We use a yield per recruit analysis  
18 to calculate the overfishing threshold, so the F  
19 threshold -- the F max rate equals 0.33. The  
20 minimum biomass threshold is a three-year average  
21 survey value of 0.98 kilograms per tow.

22                    When we were here last year, we found  
23 out that the June 2006 assessment had been rejected  
24 at that point. So, last July the monitoring

1 committee recommended that the Atlantic States  
2 Marine Fisheries Commission Technical Committee meet  
3 to discuss this issue.

4 So, this past December the ASMFC  
5 Technical Committee met along with ten Northeast  
6 Fisheries Science Center scientists in Woods Hole,  
7 and they discussed the issue of the biological  
8 reference points and determined that the current  
9 biological reference points are suitable to manage  
10 this stock, given a lack of viable alternatives.  
11 They provided research recommendations for  
12 continuing work on black sea bass assessment.

13 They did not recommend the peer  
14 review of the existing biological reference points  
15 until additional work could be done, and they  
16 determined a course of action for developing age,  
17 length or tag-based assessments for black sea bass  
18 in the future. So they basically charted a  
19 direction for the assessment scientists to go in  
20 developing an analytical assessment so we can move  
21 away from some of these survey-based methods.

22 So, the Northeast Fisheries Science  
23 Center spring bottom trawl survey indices are  
24 presented in this table. The third column across,

1 the exploitable biomass weight per tow, three-year  
2 average is what we used to compare to our minimum  
3 biomass threshold, the 0.98 kilograms per tow.

4 So, based on that, if you look in  
5 2005, we fell below our minimum biomass threshold,  
6 so the stock was considered overfished. And in  
7 2006, the three-year average weight per tow was  
8 0.566 kilograms per tow; therefore, for 2006, the  
9 stock is still considered overfished.

10 Just taking a look at this  
11 graphically, you can see since the early '90s the  
12 index values have increased. Those values hit a  
13 peak, a single year value of two, which is the white  
14 line, in 2004. Since then, those index values have  
15 dropped. The yellow line is the Northeast Fisheries  
16 Science Center spring three-year average index value  
17 kilograms per tow, and that's what we compare to our  
18 0.98 minimum biomass threshold, which is the green  
19 line. So, you can see in the most recent two years,  
20 those -- that three-year average value has fallen  
21 below the minimum biomass threshold.

22 So, the minimum biomass threshold --  
23 well, as I pointed out, was 0.98 kilograms per tow.

24 That's the 1979 -- '77 to '79 three-year average.

1 The 2006 index was 0.57 kilograms per tow, so the  
2 stock is overfished.

3 In terms of the fishing mortality  
4 threshold, that threshold is 0.33. The last  
5 approved assessment that we had estimated for 2003  
6 that the F was 0.26, which was less than the 0.33.  
7 Fishing mortality threshold, however, our 2005 and  
8 2006 fishing mortality rates are unknown. But we  
9 did know in 2003 that overfishing was not occurring  
10 at that time. But for the most recent year we do  
11 not know.

12 So, this has the log transformed  
13 values for the spring bottom trawl survey indices,  
14 so it's taking those values I showed previously, the  
15 straight values, and log transforming them.

16 And looking across from 2003 onward,  
17 2003, the log transformed values hit a peak at 0.538  
18 in the most recent ten years. In 2004, 2005 and  
19 2006, those index values have continued to drop.

20 So, to calculate the total allowable  
21 landings for black sea bass, we use a relative  
22 exploitation index approach, which is similar to the  
23 approach that's used for the scup TAL setting. We  
24 take the landings value and we divide it by the

1       spring SSB log transformed three-year average and we  
2       get a relative exploitation index. So, for 2006 we  
3       take the 4.9 million pounds, divide it by the 0.263  
4       and we come up with a relative exploitation index of  
5       18.63.

6               That's an increase in index values  
7       from the 2005 value, and if you look forward from  
8       2003, 2004, 2005 and 2006, the landings have  
9       remained relatively constant, a slight decrease in  
10      them over time, while the index values have  
11      continued to drop. So, that's what causes the  
12      relative exploitation index that's calculated to  
13      increase each year that it's calculated.

14              So, for the 2008 total allowable  
15      landings, using the relative exploitation index  
16      approach documented in the monitoring committee  
17      document, the TAL associated with those log  
18      transformed values would be 4.22 million pounds.  
19      That would be a commercial quota of 2.07 million  
20      pounds and a recreational harvest limit of 2.15  
21      million pounds.

22              The state allocation -- commercial  
23      allocation of black sea bass based on that 2.07  
24      million pounds would look like this based on the

1 current allocation scheme that the Commission has in  
2 terms of percentages by state. And this table is  
3 also in the monitoring committee document, as well.

4 In addition, the recommendation was  
5 no change in the current possession limits, the  
6 minimum fish size of 11 inches, the pot/vent  
7 requirements, and also no change in the mesh size  
8 requirements or the RSA up to three percent.

9 So, in conclusion, the  
10 recommendations of both the staff and the monitoring  
11 committee, which concurred with the staff  
12 recommendations, are a one-year TAL for 2008 -- 2008  
13 of 4.22 million pounds, the RSA up to three percent,  
14 and to maintain all the other current regulations  
15 including mesh size requirements, fish size,  
16 possession limits and pot/vent requirements.

17 So, in addition, the monitoring  
18 committee had one other comment that they wanted to  
19 pass on. They wanted to emphasize the importance of  
20 funding projects, such as that there's a specific  
21 line item proposed in the Commission's budget for  
22 approximately \$30,000 to age-archived black sea bass  
23 scales. The Northeast Fisheries Science Center,  
24 when their trawl survey's conducted each year,

1 they've been collecting scales. But given the  
2 limited resources, those have just been archived and  
3 they haven't actually been read.

4 So, if those scales are read and it's  
5 been determined at this point it looks like there  
6 are enough scales to put together the information  
7 for possibly an age-based model, that would allow  
8 progress to move forward on an analytical  
9 assessment. So, they wanted to emphasize the  
10 importance of getting the information they need so  
11 we can move from a survey-based method to an  
12 analytical assessment.

13 Now, in terms of RSA, there doesn't  
14 appear to be an RSA amount issue as we saw with  
15 scup. Under this 4.22 million pounds, the max three  
16 percent would be around 126,000 pounds. The 2008  
17 approved RSA projects is well below that.

18 And back to Jack.

19 COMMITTEE CHAIR JACK TRAVELSTEAD:

20 Questions? Jimmy.

21 JAMES RUHLE: Thank you, Mr.

22 Chairman. Again, Jessica, you did a great job with  
23 that. I'm looking at Table three, four and five.

24 If you look at Table 3 and you refer to this

1 briefly, but you look at the total landings since --  
2 go back even another year to 2003, and they in fact  
3 are reasonably constant across that board for all  
4 sectors. So, that appears to -- it expands beyond  
5 the dates that you referred to, so it's the same.

6 And then you look at Table 4 and the  
7 2006 landings, and we've only got two states that  
8 had overages and none of them were very significant.

9 But more importantly, we've got a lot of states  
10 that do not have -- didn't reach their quota,  
11 basically, their allocation.

12 So, when you look at that and then  
13 you look at the next page, on Table 5, for a state  
14 like North Carolina, I know for a fact that we have  
15 very little opportunity in the fall to land sea  
16 bass. So, I'm basically suggesting that we will not  
17 pass 65 or 68 percent of our landings. Virginia,  
18 the last I heard, if they hit 50 percent they're  
19 going to be damn lucky, you know? It's going to  
20 take a lot. The rest of the states are all  
21 following that same pattern, and it's not in the  
22 form of a question other than to say that this  
23 reflects the concerns and the numbers that you put  
24 up on to board.

1                   So, like I told you, I'll argue all  
2                   day long when I think the numbers being provided are  
3                   wrong. You're not going to get that out of me. I  
4                   need Ms. Kurkul to take a heart pill before I get  
5                   around to making a motion, but I'm not -- I'm  
6                   convinced that there's information there and the  
7                   information is all great and all of that, but the  
8                   fact is I really truly believe that this fish has  
9                   got some problems. This resource has got some  
10                  problems. Its shift -- geographical shift is  
11                  evident, but there's something else going on here.  
12                  I'm not quite sure what it is. I have one possible  
13                  suggestion that I'd like to make, Mr. Chairman, when  
14                  the time's right. But I agree with the monitoring  
15                  committee, the way they've looked at this. And when  
16                  the time is appropriate, Mr. Chairman, I'm willing  
17                  to make a motion if no one else does. Thank you.

18                                COMMITTEE CHAIR JACK TRAVELSTEAD:

19                   Toni.

20                                TONI KERNS: Jimmy, I just want to  
21                   make it clear on the record that those dates didn't  
22                   actually go over. They received transfers from some  
23                   other states. And so they were within the bounds of  
24                   the transfers that the Commission allows. So, they

1 weren't -- while it's higher than the quota that is  
2 listed here, because they got transfers from other  
3 states, they did not have an overage in 2006.

4 JAMES RUHLE: To that point, then, is  
5 that reflected in the state that did the transfer?  
6 Is that number included as a deduction to them  
7 states? For example, if Massachusetts got fish from  
8 Maryland or Delaware, either one of those achieved  
9 their TAC. So, it results in the same thing. The  
10 transfer did not result in any other states going  
11 over.

12 JESSICA COAKLEY: Yes, there is no  
13 state that went over, in the Commission books.

14 COMMITTEE CHAIR JACK TRAVELSTEAD:  
15 David.

16 DAVID BORDEN: Thank you, Mr.  
17 Chairman. Jessica, can you refresh my memory? What  
18 is the rebuilding period for sea bass? When does it  
19 end?

20 JESSICA COAKLEY: The rebuilding  
21 period ends -- I believe it's January 1, 2010. The  
22 rebuilding started in 2000, the same time when the  
23 summer flounder rebuilding period began.

24 DAVID BORDEN: Okay, so basically

1 we've only got a couple of years then to meet that  
2 deadline. Is that correct?

3 JESSICA COAKLEY: That's correct.

4 DAVID BORDEN: Okay. Next question  
5 is: Do the scientists have -- I mean if you look at  
6 the 2006 landings for the entire year for the entire  
7 coast, they're 25 percent below the target. And yet  
8 most of the indices of abundance have declined in  
9 that same period of time. Is there any speculation  
10 on why this is taking place?

11 I mean, intuitively you would think  
12 the opposite would happen. If landings are below  
13 the target, there should be more of a favorable  
14 response from the stock.

15 COMMITTEE CHAIR JACK TRAVELSTEAD:  
16 David, can you repeat the question?

17 DAVID BORDEN: Well, I'm just looking  
18 at -- and I'll give you the figure. If you look at  
19 2004 -- or 2006 --

20 COMMITTEE CHAIR JACK TRAVELSTEAD:  
21 What table are you looking at?

22 DAVID BORDEN: Table 4. When you  
23 look at those landings, the quota was 3.9 million,  
24 basically. And the landings are 2.8 million.

1 They're a million pounds under the quota for the  
2 entire coast for that year.

3 Now, I mean that's just actual  
4 performance, so what that means is that the fishing  
5 mortality that you theoretically achieved by those  
6 regulations, there should have been a lot more  
7 benefits to the stock than what the original quota  
8 was supposed to achieve. And yet none of the  
9 indexes of abundance, if you look at the NMFS pre-  
10 recruit index, that goes down, and most of these  
11 other indexes are still going down, and yet actual  
12 performance in the fishery is not up to what the  
13 quota standard was.

14 So, I mean what's happening here with  
15 this stock that we don't understand. Is there any  
16 speculation on what's going on with the stock?

17 JESSICA COAKLEY: Okay. Well, I mean  
18 in terms of some of the discussion that the  
19 monitoring committee had and that we've had with  
20 other state biologists and groups that are involved,  
21 I mean it's clear from the trawl survey information  
22 that the indices have been dropping. And the  
23 fisheries haven't been achieving the quotas that  
24 they've been set at. One reason could be

1 availability. And then you need to ask yourself the  
2 question, well, why are the fish not available? You  
3 know, are they in different areas? Are they just  
4 not there, where the stock is at a lower level and  
5 the fishery can achieve what the quotas have been  
6 just because the stock is not doing that well? I  
7 mean there are several reasons, but I know those  
8 discussions have gone on among the technical groups.

9 DAVID BORDEN: Okay. Thank you.

10 COMMITTEE CHAIR JACK TRAVELSTEAD:

11 Pete.

12 PETER HIMCHEK: Thank you, Mr.

13 Chairman. Perhaps I can shed some light on this  
14 underutilization of coastal quota. And I know it's  
15 always dangerous to make a forecast, but I will for  
16 2008 or maybe even part of 2007 for the New Jersey  
17 black sea bass fishery. And when the state-by-state  
18 quota management system was set up, we set up a  
19 system for the draggers and the potters and seasonal  
20 trip limits and that's been the millstone around our  
21 necks as far as being able to utilize our quota.  
22 Our trip limits have been fixed. We have no -- we  
23 have no ability -- we don't have the ability for our  
24 Commissioner to change trip limits unless it's an

1 ASMFC requirement.

2 So, we are soon to adopt regulations  
3 that will give our Commissioner that authority. And  
4 essentially what we will set up is we will be able  
5 to change trip limits within each month as we do for  
6 summer flounder. Essentially we monitor summer  
7 flounder eight separate quotas in a calendar year.  
8 And we -- as much as the agency doesn't look forward  
9 to this, we will be handling black sea bass in the  
10 same manner. And we will be able to change the trip  
11 limits through a notice of administrative change,  
12 and it will happen throughout the year.

13 So, if I was going to forecast  
14 landings for 2008 for New Jersey, and it is 20  
15 percent of the coastal quota, I would expect -- and  
16 also, given the uncertainty of what might happen  
17 with blackfish, I would expect our quota to be  
18 rather fully utilized in the future. Thank you.

19 COMMITTEE CHAIR JACK TRAVELSTEAD:

20 Rick.

21 RICHARD COLE: Thank you, Mr.

22 Chairman. I had a process question, Mr. Chairman.  
23 From the standpoint of the Board, next week when the  
24 Board meets, it's my understanding that the Board

1 will be addressing the future management strategy  
2 for black sea bass. And it's my impression that the  
3 options that are available to the Board would not  
4 have any impact on what we, the Board, does here  
5 today in regard to selecting a specific level of  
6 quota. Is that correct?

7 COMMITTEE CHAIR JACK TRAVELSTEAD:

8 You're referring to the decision to continue the  
9 state-by-state quota system? Yes, I think your  
10 conclusion is correct. We'll be setting here today  
11 a TAL. Next week there'll be a decision by the  
12 Board what to do with that TAL. So, I don't see one  
13 decision really affecting the other.

14 RICHARD COLE: Okay. That was my  
15 impression. There's nothing in that addendum that  
16 has anything to do with changing the state-by-state  
17 allocations that are currently in place, and the  
18 only thing that could potentially happen, if they  
19 decided not to do anything, then it would revert  
20 back to the old coastwide?

21 COMMITTEE CHAIR JACK TRAVELSTEAD:

22 Correct.

23 RICHARD COLE: Okay. The other  
24 question regarding process that I have is in regard

1 to the recommendation by the monitoring committee  
2 about the aging -- supporting the aging information.

3 Would it be beneficial to the Commission if the  
4 Council offered a motion to support that here today?

5 COMMITTEE CHAIR JACK TRAVELSTEAD:

6 Well, at somewhere along the line I was going to ask  
7 Vince or Bob to comment on the ASMFC budget and what  
8 the likelihood is of them being able to accommodate  
9 that request. And depending upon their answer, your  
10 suggestion might be in order. But maybe we can go  
11 to Vince now and see what he has to say on that  
12 issue.

13 RICHARD COLE: Good. Because this  
14 obviously is an important issue.

15 COMMITTEE CHAIR JACK TRAVELSTEAD:

16 Vince, care to respond?

17 VINCE O'SHEA: Thank you, Mr.  
18 Chairman. The \$30,000 has not been approved by the  
19 Commission and when the staff puts together the  
20 action plan for 2008, the staff will be consulting  
21 with the chairs of each of our management boards to  
22 get a list and an idea of the types of activities  
23 the different management boards would like to have  
24 considered by the -- in our budget process. And

1 this could certainly go in there in consultation  
2 with you and others on the board that you see fit.

3 But two points I want to make. You  
4 know, we already have -- you've issued a memo to the  
5 Board regarding the decision to do an independent  
6 review of summer flounder, and there's going to be a  
7 significant expense with regard to that. And that's  
8 an issue that is also going to have to be plugged  
9 into our management board. And the other point is  
10 that in any of this business, our resources of  
11 course are limited, and we'd certainly be looking  
12 for other opportunities from either states or -- you  
13 know, perhaps the Science Center or the Service to  
14 come forward. And my suggestion would be that we  
15 also consider those sources, as well.

16 So, a long-winded answer. I think  
17 there's going to be -- you put it on the list and  
18 we'll try to identify potential sources of funding.

19 I hope that's responsive, Mr. Chairman.

20 COMMITTEE CHAIR JACK TRAVELSTEAD:

21 Yes. In fact, I would certainly support that we add  
22 that to the budget. And I'll attempt to do that  
23 when we get to that agenda item at ASMFC. I don't  
24 want to speak too soon, but I think Virginia would

1 probably be interested in making a contribution to  
2 that effort, as well, just to make sure it gets  
3 done. Anyone else with questions? Yes, Chris.

4 CHRIS BATSAVAGE: As far as aging of  
5 black sea bass, has a scale/otolith comparison ever  
6 been done for black sea bass?

7 COMMITTEE CHAIR JACK TRAVELSTEAD:  
8 Scale and otolith comparison? Is that --

9 CHRIS BATSAVAGE: Yes, to compare the  
10 ages you get from the same fish using scales and  
11 otoliths.

12 COMMITTEE CHAIR JACK TRAVELSTEAD:  
13 Old Dominion University does all of our aging, and I  
14 believe that they have made those comparisons, but I  
15 couldn't speak in any more detail as to what their  
16 findings are.

17 CHRIS BATSAVAGE: The reason I ask is  
18 in the South Atlantic for black sea bass, and a lot  
19 of other snapper/grouper species down there they  
20 manage, they've gone to basically aging with  
21 otoliths. And North Carolina, as well as the other  
22 states, have collected otoliths from sea bass in the  
23 fish house. And I was just -- I mean, I definitely  
24 support going to an age-based model with black sea

1 bass. But you know, with the same species in the  
2 south being aged with otoliths, I didn't know if  
3 that might be something that you might want to do in  
4 the Northeast -- eventually, anyways.

5 JESSICA COAKLEY: I mean, I know that  
6 we've had -- at least on the technical committee  
7 level, some discussion about the scales versus  
8 otoliths. And I know from discussions with -- I  
9 think it's Jay Burnett at the aging lab at the  
10 Northeast Fisheries Science Center, that for sea  
11 bass these scales, at least in the Mid-Atlantic and  
12 more -- you know, north of Hatteras, tend to have  
13 very distinctive rings in them, that it's -- you  
14 know, using the scales, it's usually very clear,  
15 which it may be more of an issue down in the South  
16 Atlantic, where you don't have the temperature  
17 fluctuations and the seasonal changes. Sometimes  
18 you don't get as strong of a signal in there. But  
19 if we have any information available, I can track  
20 some of that down for you in more detail.

21 COMMITTEE CHAIR JACK TRAVELSTEAD:

22 Any other questions?

23 (No response audible.)

24 COMMITTEE CHAIR JACK TRAVELSTEAD:

1 Questions from the audience?

2 (No response audible.)

3 COMMITTEE CHAIR JACK TRAVELSTEAD:

4 Mr. Egerter.

5 WILLIE EGERTER: Willie Egerter from  
6 United. Just a quick observation of what is  
7 happening in our state. Recreational right now is  
8 at 12-inch size limit. And right now in the State  
9 of New Jersey, participation is almost -- I'd say  
10 it's 60 percent of what it should be, cut back, just  
11 because we're in a -- what I'm considering now is a  
12 discard fishery, and this is predominantly the  
13 fishery that I'm in recreationally is the sea bass  
14 fishery. And for the last two years, as Mr. Ruhle  
15 says, the fishery has moved further to the north,  
16 leaving a size limit for us of 12 inches -- you  
17 know, of out of our -- it's just made our fishery a  
18 discard fishery. As for the commercial side, as New  
19 Jersey has just said, they've been doing all right  
20 with 11-inch size limit in our state. So, when it  
21 comes to MRFSS data, we're going to see a big  
22 decline. And that's what I heard before. You know,  
23 decline, why we're not catching our fish. Well, in  
24 New Jersey, we have a fishery, but it's a discard

1 fishery. Thank you.

2 COMMITTEE CHAIR JACK TRAVELSTEAD:

3 Any other questions? Jim.

4 JAMES FLETCHER: Did it ever occur to  
5 the science and the monitoring committee that the  
6 reason the landings are down on the commercial fleet  
7 and not matching the projected quota is that the  
8 flounder fishery has shifted as we have come to the  
9 microphone many times and told you to the north.  
10 And thereby, we are not fishing where we  
11 traditionally fished in North Carolina and Virginia  
12 to catch the fish.

13 And that brings up another point.  
14 Because flounder fishing we do not have enough quota  
15 to go after, many of the boats that fish in the  
16 northern fishery now pull six-inch webbing to use  
17 for yellowtails and stuff up north. And when they  
18 come back down, it is not economical for them to  
19 switch to the five-inch. So, the boats  
20 intentionally are pulling larger nets and they're  
21 pulling TEDs, which both exclude the fish.

22 The other thing that should be taken  
23 in on this archival tag study, and this is science,  
24 that the Iranians are using the electron scanning

1 microscope not only to read the age of the fish but  
2 to read pollutants that are in the fish. So, it may  
3 be worth the time to do both that.

4 But the main problem is it's just  
5 like Virginia. If a Carolina boat was not fishing  
6 in Virginia waters when the quota for black sea bass  
7 was set up, he is now limited to landing 200 pounds  
8 -- I think, Jack, of fish and I will bet you if you  
9 look at those 200 pounds of fish, they will all be  
10 large and jumbo.

11 You have forced us to discard. So,  
12 the reason we're not landing it is a change brought  
13 on by regulations. And that should be looked at.  
14 Thank you.

15 COMMITTEE CHAIR JACK TRAVELSTEAD:

16 Any other comment or questions? Jimmy.

17 JAMES RUHLE: Thank you, Mr.  
18 Chairman. Just been thinking about something. I'd  
19 like some other people's input on this. Knowing how  
20 sea bass react when you catch them recreationally,  
21 knowing that we're a million pounds short of our TAC  
22 for several years in a row, knowing that a  
23 commercial size limit is 11 inches and recreational  
24 is 12, what would the effect of dropping their

1 recreational limit from 12 to 11 be in final  
2 mortality?

3 If you're releasing 50, 70 percent of  
4 what you're catching in sea bass, I'll guarantee you  
5 you have a very, very low survival rate. I don't  
6 think anybody would disagree with that. We're being  
7 reasonably precautionous -- I hate to use that word,  
8 but it's better than retroactive -- retrospective --  
9 in place of lowering this quota.

10 And I would like to hear other  
11 people's comments on what they expect the effect to  
12 be if we were to in fact lower the recreational  
13 fishery to 11 inch. I don't think you'd see any  
14 significant difference in mortality. But I'd be  
15 anxious to hear from those either state directors or  
16 anglers around to see what their thoughts are on it.

17 And Mr. Chairman, is this the  
18 appropriate place to make that change? If it's so  
19 decided that we'd like to try it for a year, this is  
20 a one-year specification, right? Nothing more than  
21 one year? Can't be so wrong.

22 COMMITTEE CHAIR JACK TRAVELSTEAD:

23 Jimmy, we typically set the recreational measures  
24 for these species at the December meeting. So, I

1 think there may be more information from staff. I  
2 don't think they have the information here today to  
3 address that measure. It's certainly a topic worthy  
4 of discussion. But perhaps at the December meeting.

5 Unless some of the other people around the table  
6 have some insight on that.

7 JAMES RUHLE: Then I would request  
8 that that analyzation be presented at that meeting  
9 so we can make a rational decision at that point.  
10 Thank you, Mr. Chairman.

11 COMMITTEE CHAIR JACK TRAVELSTEAD:  
12 Very good. Yes, sir.

13 WILLIE EGERTER: I'd just like to --  
14 what Jimmy was just saying. My fishery is  
15 predominantly done in say 60 to 120 feet of water on  
16 the average. Sometimes it's a little deeper. And  
17 we watch -- like I said, ours is a discard fishery  
18 right now and 95 percent of those fish either stay  
19 on the surface and the birds get them, or they go  
20 down so weak that with the dogfish rate that's in  
21 our area, I'm thinking that -- you know, that  
22 whatever you have for a mortality rate for them is  
23 going to be way higher, especially in New Jersey.  
24 Thank you.

1 COMMITTEE CHAIR JACK TRAVELSTEAD:

2 Any other questions?

3 (No response audible.)

4 COMMITTEE CHAIR JACK TRAVELSTEAD: I  
5 think we're then ready to proceed with a motion.  
6 Jimmy.

7 JAMES RUHLE: Anybody else want to  
8 make it?

9 (No response audible.)

10 JAMES RUHLE: All right. I'm going  
11 to move for the fishing year 2008 that a -- for  
12 black sea bass, a TAL of 4.22 million pounds, a  
13 commercial quota of 2.07 million pounds, a  
14 recreational harvest limit of 2.15 million pounds,  
15 maintain current minimum fish size at 11-inch,  
16 maintain current gear requirements. And I will have  
17 a comment about the gear requirements at a later  
18 date. I don't recommend we include the research  
19 set-aside in this motion, Mr. Chairman. Thank you.

20 COMMITTEE CHAIR JACK TRAVELSTEAD: We  
21 have a motion from the Council being seconded by Pat  
22 Augustine. Pat.

23 PAT AUGUSTINE: Similar motion, Mr.  
24 Chairman, on behalf of the Board.

1 COMMITTEE CHAIR JACK TRAVELSTEAD: Is  
2 there a second to that motion? Seconded by Erling.  
3 Comments on the motion? Jimmy.

4 JAMES RUHLE: Thank you, again, Mr.  
5 Chairman. Like I said before, I think there's some  
6 issues with this fish and I think some of them may  
7 be resolved. You know, when you got lobstermen in  
8 Maine going out catching black sea bass in lobster  
9 pots and don't have a friggin clue what that fish  
10 is, pretty much tells you there's something going  
11 on. And it's happened.

12 It's happened -- not frequently, but  
13 it's happening more and more all the time. And I  
14 don't mean southern Maine. Northern Maine is a hell  
15 of a long ways from southern maine, and it's  
16 happening up there, too. So, there's definitely a  
17 geographical shift taking place.

18 But last year I don't think I would  
19 have been as willing to accept this TAL that we're  
20 recommending now, because last year we were able to  
21 find these fish in much deeper water than we've ever  
22 traditionally found them, 100, 120 fathoms. That's  
23 very, very rare. And I mean big tows.

24 But this year it didn't happen.

1        Didn't even come close to happening. And that -- to  
2        me it indicates something else has changed. With  
3        the Bigelow coming on line in a couple years, and  
4        the survey beginning and going out to 250 fathoms, I  
5        think we might have an opportunity at that point to  
6        capture some of these snapshots of what is changing  
7        in the ecosystem as far as these fish. They're not  
8        all in the Gulf of Maine. I understand that. But  
9        there's something going on. But we'll go anywhere  
10       we have to go to catch part of Virginia's quota, for  
11       example. And if it's not our quota, it's the sea  
12       bass potters. So, we're having a hell of a time  
13       doing it. And that indicates to me that there's  
14       something going on.

15                        But while we're talking about it, I  
16       think there's a mortality taking place, Mr.  
17       Chairman, that you should be concerned about,  
18       because it's related to Virginia's ITQ fishery.  
19       When you have an event like you had that five-day  
20       Northeaster we had this spring, the mortality in  
21       pots is a hundred percent. And because we don't  
22       have a closed season, we got pots in the water 365  
23       days a year not being tended as long as 30 and 40  
24       days. And Mr. Chairman, that's a problem. I'll

1 reward anybody that does the right thing when  
2 they're fishing. But if they're playing the game  
3 and they're killing fish and they're not getting any  
4 benefit from it and not reporting it, I've got a  
5 problem.

6 So, I suggest that we look at that in  
7 a little more detail. I don't think we have any  
8 research set-aside projects to make that  
9 determination. It's anecdotal information, but it's  
10 been provided to me by several people that this  
11 event -- and it wasn't just Virginia, but other  
12 states because of what Pete talked about have  
13 closures. During that closure, the responsible  
14 fishermen open those pots. They may use wet  
15 storage, but the door's open. And that's okay. But  
16 if you've got a pot that has no escapement other  
17 than small fish, a habitat pot, and you get a  
18 certain amount of fish in it, you get a solid-ass  
19 gale of wind to come around like that one did,  
20 that's not good.

21 So, you know, let's put it out there.

22 I mean I don't want to be a finger-pointer, but  
23 that's -- I'm not happy with that kind of  
24 performance by anybody. So, with that, Mr.

1 Chairman, that's my rationale. Thank you.

2 COMMITTEE CHAIR JACK TRAVELSTEAD:

3 Okay. Thank you. Comments on the motion?

4 (No response audible.)

5 COMMITTEE CHAIR JACK TRAVELSTEAD:

6 Comments from the audience?

7 (No response audible.)

8 COMMITTEE CHAIR JACK TRAVELSTEAD:

9 All right. Mr. Chairman.

10 COUNCIL CHAIR PETER JENSEN: Council  
11 ready to vote?

12 (Motion as voted.)

13 {Move that TAL be set at 4.22 mil lbs. in 2008  
14 (commercial quota of 2.07 mil lbs and recreational  
15 harvest limit of 2.15 mil lbs.) and that there be  
16 no changes to the commercial minimum fish and other  
17 vent, mesh, or gear requirements in 2008.}

18 COUNCIL CHAIR PETER JENSEN: All  
19 those in favor of the motion on the board, raise  
20 your hand.

21 (Response.)

22 COUNCIL CHAIR PETER JENSEN: Okay.  
23 Eighteen in favor. Those opposed, the same sign.

24 (No response.)

1 COUNCIL CHAIR PETER JENSEN: Zero.

2 Abstentions?

3 (No response.)

4 COUNCIL CHAIR PETER JENSEN: Zero.

5 The motion passes.

6 COMMITTEE CHAIR JACK TRAVELSTEAD:

7 For the Board, is there -- I'm sure there's no need  
8 to caucus at this point. Okay. Caucusing being  
9 done, all those in favor of the motion, please raise  
10 your right hand.

11 (Response.)

12 COMMITTEE CHAIR JACK TRAVELSTEAD:

13 And opposed, like sign.

14 (Response.)

15 COMMITTEE CHAIR JACK TRAVELSTEAD:

16 We've got one back here. Abstentions?

17 (No response.)

18 COMMITTEE CHAIR JACK TRAVELSTEAD:

19 Null votes?

20 (No response.)

21 COMMITTEE CHAIR JACK TRAVELSTEAD:

22 Okay. What was the vote? Eight to one, the motion  
23 carries.

24 That took care of everything except

1 RSAs. Can we get a motion on the RSA from anyone?

2 JAMES RUHLE: Move up to three  
3 percent set-aside for 2008 fishing year research  
4 set-aside.

5 COUNCIL VICE CHAIR EUGENE KRAY: I'll  
6 second.

7 COMMITTEE CHAIR JACK TRAVELSTEAD:  
8 Seconded by Gene. Is there a similar motion from  
9 the Board? Moved by Pat Augustine.

10 PAT AUGUSTINE: So moved, Mr.  
11 Chairman.

12 COMMITTEE CHAIR JACK TRAVELSTEAD:  
13 Seconded by Erling. Comments on the motion?

14 (No response audible.)

15 COMMITTEE CHAIR JACK TRAVELSTEAD:  
16 Mr. Chairman.

17 (Motion as voted.)

18 {Move that up to 3% of the TAL (or approved RSA  
19 amount 86,780 lbs) be allocated for RSA in 2008.}

20 COUNCIL CHAIR PETER JENSEN: On the  
21 motion on the board, from the Council, all those in  
22 favor, raise your hand.

23 (Response.)

24 COUNCIL CHAIR PETER JENSEN: Eighteen

1 in favor. Those opposed, same sign.

2 (No response.)

3 COUNCIL CHAIR PETER JENSEN: Zero.

4 Abstentions?

5 (No response.)

6 COUNCIL CHAIR PETER JENSEN: Zero.

7 Motion passes.

8 COMMITTEE CHAIR JACK TRAVELSTEAD:

9 From the Board, is there any objection to the  
10 motion?

11 (No response.)

12 COMMITTEE CHAIR JACK TRAVELSTEAD:

13 The motion carries. Gene.

14 COUNCIL VICE CHAIR EUGENE KRAY: I  
15 want to go back to Jimmy and Willie's comment with  
16 regard to doing an analysis about going to an 11-  
17 inch fish. I would support that. I don't fish in  
18 as deep water as Willie does, but I fish basically  
19 the Cape May reef, which is 30, 40 feet, different  
20 spots. And we have the same problem there, even in  
21 that shallow water. Not all fish, but many of the  
22 smaller ones we see going belly up when we dump them  
23 back. So, I would support moving down to an 11-inch  
24 fish.

1 COUNCIL CHAIR PETER JENSEN: Okay.

2 Let's take a short break while we get set up for  
3 bluefish.

4 (BREAK: 1:44 P.M. to 1:52 P.M.)

5 COUNCIL CHAIR PETER JENSEN: Looks  
6 like we're about ready to go. If everyone will take  
7 their seats, we'll do bluefish. Procedurally, it  
8 gets a little more complicated now. We have three  
9 chairmen up here. So, there are two separate ones  
10 for the Council and the chair and myself. So,  
11 that's the musical chairs that's going on up here.

12 COMMITTEE CHAIR JACK TRAVELSTEAD:

13 Before we do get into bluefish, I want to take this  
14 opportunity to thank Jessica for all the work she  
15 did putting in all of those reports. I guess she's  
16 stepped out of the room, but I think everyone shares  
17 our appreciation of the amount of time that Jessica  
18 puts into those presentations. And I think it -- as  
19 a result of that, I think we're actually ahead of  
20 schedule today as a result of the work that she  
21 does. So, we certainly appreciate it.

22 And I think that sort of sets the  
23 gold standard for you, Jim. Keep that in mind. I  
24 think we'll just proceed as we have before, with Jim

1 giving the presentation?

2 COUNCIL CHAIR PETER JENSEN: Go right  
3 ahead.

---

4  
5 FINALIZE BLUEFISH MANAGEMENT MEASURES FOR 2008  
6 IN CONJUNCTION WITH THE ASMFC BLUEFISH BOARD

7 JAMES ARMSTRONG: Thank you, Jack.  
8 We can skip to the last slide, if that will make me  
9 look good. Okay. So, here's our -- very briefly,  
10 our agenda. Review the updated stock information  
11 for status of the stock. Then go through the  
12 recommendations from the monitoring committee, and  
13 to a lesser extent Council staff, with regard to  
14 TAC/TAL and recreational transfer, the resulting  
15 recreational possession limit and commercial quota,  
16 and research set-aside allowance. So, the action  
17 item will be for the Council and then I guess as  
18 well the Board to vote on those bulleted items.

19 So, going first to updated stock  
20 information. The stock assessment was updated using  
21 the ASAP model that was endorsed in the most recent  
22 peer review. That was in 2005. So, using 2004 as  
23 the terminal year in the time series.

24 In the recent update, biomass for the

1 most recent year for which we have data, which was  
2 2006, is approximately 95 percent of the BMSY. So,  
3 we're pretty close to a rebuilt stock here, but we  
4 just have a little bit to go.

5 Also in 2006, fishing mortality, the  
6 ratio of fishing mortality to FMSY was less than  
7 one, was about 80 percent. So, overfishing was not  
8 occurring. The target or the threshold fishing  
9 mortality for the rebuilding phase is 0.19. And in  
10 2006, the realized fishing mortality rate was .15.

11 Here's a figure from a report sent to  
12 the Commission Stock Assessment Subcommittee showing  
13 the biomass trajectory for the entire time series  
14 that we have data, that the assessment covers. And  
15 you can see the 2010 rebuilding deadline highlighted  
16 on there. And right in the nick of time, the dotted  
17 line crossing up over the blue line, which is where  
18 we need to be by then.

19 So, if we kind of zoom into that, in  
20 2007 the current year, which we don't have an  
21 estimate of biomass for, we have a projection of  
22 biomass for the current year, and that's everything  
23 on this figure then is a projection. But if we look  
24 at the -- sort of a closeup of the biomass

1 trajectory, then we see that by about 2009 we should  
2 be above the rebuilding target.

3 Another piece of information, the  
4 resulting TAL, I'll get into how that's calculated,  
5 but the TAL that came from the updated projection of  
6 biomass for 2008 allows for an increase relative to  
7 the current year of about 1.4 percent. And Table 1  
8 in the -- you've got -- by the way, we're under Tab  
9 9 here, you probably already know that.

10 There's a sheet -- the first sheet is  
11 what we'll mostly be working off of, but there's a  
12 blue divider after that and that's the typical turn-  
13 of-the-crank monitoring committee memo, and this is  
14 Table 1 in that memo. And I just am highlighting  
15 here in the top right corner the TAL that results  
16 from the updated assessment. And relative to the  
17 current TAL, so you can see it's slightly higher.  
18 Not as dramatic as an increase as it was from '06 to  
19 '07, but an increase nonetheless.

20 So, here's the process for  
21 calculating the management measures that you all  
22 will be recommending today. A lot of you are very  
23 familiar with that, but I'll just run it very  
24 quickly. First, there's a TAC, total allowable

1 catch, which is generated by the -- as the projected  
2 yield corresponding to the target F in -- for the  
3 fishing year that we're talking about.

4 Then to get the TAL, total allowable  
5 landings, we subtract an estimate of discards. So,  
6 that's the next step. Then in accordance with  
7 Amendment 1 to the FMP, we then allocate 17 percent  
8 of that resultant TAL to the commercial sector, 83  
9 percent to the recreational sector. Then we're  
10 allowed to transfer the resulting recreational --  
11 the initial recreational harvest allowance, we're  
12 allowed to transfer pounds from there to the  
13 commercial sector up to a maximum of a 10.5 million  
14 pound commercial quota.

15 There is also -- but what has to be  
16 taken into mind when this exercise is done is if you  
17 try to maximize -- say, achieve 10.5 million pounds  
18 in the commercial quota, will you have enough  
19 recreational landings left over to provide room for  
20 the expected recreational landings in the upcoming  
21 year. If the answer is no, then the appropriate  
22 transfer amount is going to have to be less than  
23 that maximum.

24 So, just to go through really

1 quickly, here's a series of tables and I've just  
2 highlighted what I'm going to talk about. The  
3 projected yield in metric tons in the top row and  
4 then in pounds is highlighted here. That would  
5 achieve -- is projected to achieve the target F in  
6 2008. The assumed discards for 2008, which is a  
7 running average of discards, estimated discards, is  
8 about 3.7 million pounds. Subtract that and you get  
9 your resulting TAL. So, that's the baseline that  
10 we're dealing with to achieve target F.

11 Then the initial 17/83  
12 commercial/recreational split results in about 4.8  
13 and 23.4 million pounds, respectively. And if --  
14 this is just hypothetically -- a recreational  
15 transfer of about 3.7 million pounds were to occur,  
16 it would then achieve a commercial quota of eight  
17 and a half million pounds and a recreational harvest  
18 limit of about 19.7 million pounds.

19 You can see just below -- I didn't  
20 highlight the -- the row just below this, the 19.7  
21 million pound value there contains the estimate of  
22 recreational landings. So, you can see that a  
23 transfer of about 3.7 million pounds here would  
24 provide ample cushion for the recreational fishery.

1 This is not one that would violate the process.

2 Okay. So, the monitoring committee  
3 recommendations coincide with the information I just  
4 gave you. A TAC of 14.464 metric tons, which  
5 equates to 31.9 million pounds. And once you take  
6 away the estimate of discards, a TAL of 28.2 million  
7 pounds.

8 A staff recommendation was made where  
9 I tried to sort of follow the basic trend in the  
10 past, where I tried to maximize the transfer to the  
11 commercial sector, and then drop it down to account  
12 for what I thought the RSA was going to be at the  
13 time. New information was presented later that  
14 indicated that the RSA is a lot less.

15 Anyway, the initial staff  
16 recommendation would have resulted in a commercial  
17 quota of about 8.875 million pounds. In reviewing  
18 how the transfer was calculated, the monitoring  
19 committee decided that for your decision-making that  
20 it would be more useful to recommend a range.

21 So, the range of reasonable  
22 recreational transfers is probably on the order of  
23 two and a half to four and a half million pounds,  
24 depending on which side -- you know, you want to

1 give more cushion to. And that would result in  
2 commercial quotas ranging from about 7.2 to 9.3  
3 million pounds, and the final recreational harvest,  
4 which ranging from 18.9 to 21 million pounds. Also  
5 the status quo recreational possession limit of 15  
6 fish was recommended.

7 Here's -- just to show you the trend  
8 in landings for the time series, you see that back  
9 in the '80s there were a lot more bluefish landed.  
10 Mostly that was in the recreational sector. So, you  
11 see the legends on the bottom of the figure here.  
12 The blue line is the commercial landings. The red  
13 line is recreational. And then the black line is  
14 the sum of those, the total landings.

15 So, there's been quite a decline. If  
16 we kind of zoom in to the more recent period, then  
17 we can see that commercial landings are pretty  
18 stable. There's a slight upward trend. Or there is  
19 an upward trend in the recreational landings  
20 resulting in a general upward trend in total  
21 landings.

22 Here we have those landings relative  
23 to the TAC for each of those years. So, you can see  
24 that between '99 and '05, there was quite a bit of

1 room between the total landings and the TAC. In  
2 2006, that dropped quite a bit, but that has  
3 probably more to do with the improvement in the  
4 model that was used to assess the stock than in any  
5 sort of a riskier approach to management that was  
6 taken.

7 And the dotted lines for '07 and '08  
8 indicate that the landings there are of course going  
9 to be estimates, and the precautionary management  
10 approach here would be to choose management measures  
11 that would likely result in total landings that are  
12 slightly less than the total -- that would allow  
13 enough cushion so that it's unlikely that the total  
14 allowable landings would be harvested.

15 Okay. So, if you go to the back of -  
16 - dealing with the whole range idea that the  
17 monitoring committee recommended, on the back of the  
18 first page under Tab 9, you see sort of a set of  
19 scenarios. And the first two scenarios -- well, the  
20 scenarios are -- remember -- okay. The scenarios  
21 are from top to bottom the absolute maximum. The  
22 top row would have a zero transfer from the  
23 recreational to the commercial sector. That's sort  
24 of a hypothetical. It's never been done before.

1 The resulting commercial landings there are  
2 highlighted in -- the percentage of the commercial  
3 landings over -- likely commercial landings over the  
4 resulting commercial quota are highlighted in red to  
5 indicate that it's likely that if that option was  
6 chosen, then of course the commercial quota would be  
7 exceeded.

8 The same thing if -- in the second  
9 scenario, Scenario B, if the recreational transfer  
10 was maximized to achieve the commercial quota of  
11 10.5 million pounds, then it's likely that the  
12 recreational landings would exceed -- the expected  
13 recreational landings would exceed the recreational  
14 harvest limit. Okay?

15 So then we get into a little bit more  
16 of real-world stuff, and this is more in keeping  
17 with the range of transfers that the monitoring  
18 committee recommended. Under Scenarios C and D, we  
19 have sort of an upper and -- a lower and upper limit  
20 to those transfer amounts. Scenario C would allow  
21 for the -- would result in a commercial quota that's  
22 equivalent to the last three years average  
23 commercial landings. So, it would assume that the  
24 commercial landings in '08 would come in right at

1 the average we've seen in the last three years.

2 Scenario D would assume that the  
3 projected recreational landings are going to be  
4 achieved right to the pound, and it would allow for  
5 maximization of the transfer to give as much cushion  
6 to the commercial sector as possible.

7 And then in between there is the  
8 staff recommendation, which was -- where a transfer  
9 of a little over four million pounds to result in an  
10 8.875 million pound commercial quota.

11 And compared to what the expected  
12 recreational landings are and expected commercial  
13 landings are, both the commercial quota and the  
14 recreational harvest under that scenario are likely  
15 to allow for some -- for the landings to exceed  
16 those limits without also exceeding the TAL.

17 I had a lot of time, but you guys  
18 probably don't want to go through this. I just  
19 thought it would be -- there are a number of ways to  
20 kind of generate estimates of commercial -- expected  
21 commercial and recreational landings. And I won't  
22 bore you with any of that though.

23 So, anyway, if we go with the -- sort  
24 of the middle of the range transfer scenario, then

1 you see here the resultant commercial landings for  
2 '08 and recreational landings for '08, sum to total  
3 landings that are below the TAL.

4 If you assume -- in my previous  
5 slide, if i had gone through that, the sort of worst  
6 case scenario for both -- you know, commercial and  
7 recreational landings, and it is likely -- there's a  
8 possibility that the TAL would be exceeded.

9 Unfortunately, I don't have any probabilities to  
10 associate with those estimates. Those are just  
11 different approaches to generating them that are  
12 independent of each other.

13 The 50,000 pounds of RSA has been  
14 conditionally approved and that has a pretty minimal  
15 effect on the resulting commercial quotas, depending  
16 on what transfer amount you choose.

17 Here's just a scenario that you may  
18 be interested in -- a worksheet you may be  
19 interested in. This has the states -- hopefully  
20 I've got them all in there, good -- and some  
21 alternative '08 commercial quotas. Okay? So, those  
22 would be commercial quotas that you could recommend  
23 a transfer to achieve a commercial quota of and then  
24 choose a number -- one of the numbers at the top of

1 the four columns to the right there.

2 Seven and a half million pounds would  
3 be approximately the average commercial landings  
4 from 2000 to 2006. Eight million pounds would be a  
5 little bit more than that. 8.5 million pounds is  
6 pretty close to the maximum commercial landings that  
7 were achieved from that time period, and that was in  
8 2000 -- or I mean 2001.

9 And then the 8.875 would give the  
10 maximum cushion to the commercial sector. So, what  
11 I want to point out, though, is relative to the  
12 landings that were realized last year by the states,  
13 the State of Rhode Island and New York both exceeded  
14 their quotas, Rhode Island by 900 pounds, not too  
15 big a deal there, and New York by 100,000 pounds.

16 But depending on which of these  
17 transfer scenarios you pick, what I've done is I've  
18 highlighted the allocated landings for those states  
19 for a number of states where relative to '06 they  
20 would come in less. In other words, there's a  
21 likelihood -- it increases the likelihood that  
22 transfers would be needed by those states in order  
23 to stay below their quotas.

24 So, those would be, of course, the --

1 under the seven and a half million pound commercial  
2 quota scenario, Rhode Island and New York would need  
3 transfers also in the eight million pound quota.  
4 When you get to eight and a half million pounds --  
5 North Carolina shouldn't be highlighted, it's still  
6 the same one, but once you get up to 8.875 the staff  
7 recommended a transfer amount -- only New York and  
8 North Carolina -- I'm sorry. There are mistakes. I  
9 guess I haven't measured up to Jessica's high  
10 standards.

11 For North Carolina here, the  
12 highlighted amounts should be down toward the --  
13 should be the other two cells in that row, not the  
14 ones that are highlighted, but the ones just to the  
15 left of that.

16 So, in other words, the lower the  
17 commercial landings, the lower the likelihood that  
18 you're going to need a transfer.

19 Okay. So, the actions needed by the  
20 Council and the Board today are recommendations for  
21 a TAC, TAL, the recreational transfer, commercial  
22 quota, recreational transfer result in a certain  
23 commercial quota and recreational harvest, a  
24 recreational possession limit and an RSA amount.

1 TAC and TAL are pretty much handed to you as -- you  
2 know, the outcome of the updated assessment to  
3 achieve target F. 31.9, 21.2, respectively. A  
4 recreational possession limit of 15 fish would be  
5 status quo. Conditional approval of 50,000 pounds  
6 RSA is in there. But what remains to be decided by  
7 this group is the recreational transfer amount.

8 So, the transfers -- the range of  
9 transfers from the monitoring committee correspond  
10 to about two and a half to four and a half million  
11 pounds.

12 I've got a worksheet set up and if  
13 you want to -- you know, specify any particular  
14 transfer amount, just to achieve an exact -- you  
15 know, a nice round number for your resulting  
16 commercial quota, I can generate that on the fly  
17 here. But recall that the range here is about two  
18 and a half to four and a half million pounds. So,  
19 that's about it for me. Thank you.

20 COMMITTEE CHAIR JACK TRAVELSTEAD:

21 Don't even give them too many options. We'll be  
22 here all day. Always hold that back. Questions?  
23 Pat.

24 PAT AUGUSTINE: Thank you, Mr.

1 Chairman. Good presentation, Jim. In the event  
2 that -- and I know the answer, but for everybody  
3 else and on the record. In the event the  
4 recreational sector goes over, if we do the  
5 transfer, in 2008, then the overage will be just  
6 subtracted from the 2009 quota?

7 JAMES ARMSTRONG: I'm sorry. As far  
8 as I understand, there's no penalty for recreational  
9 overage. One of the things I didn't mention is that  
10 2006 was the first year in which there was an  
11 overage on the recreational side. There was also  
12 about a one and a half million underharvest by the  
13 commercial sector. So, the TAL was not exceeded.

14 Under the -- for the commercial  
15 sector, there's specific language that an overage  
16 would be subtracted from the states who contributed  
17 to that overage. But there's no provision on it for  
18 the recreational fishery.

19 PAT AUGUSTINE: Then a follow-on  
20 question, Mr. Chairman. So, why are we asking for  
21 an increase for the commercial quota to go to two  
22 and a half million? Do they have a market for it or  
23 is this to take care of discards -- to reduce the  
24 amount of discards they have? Do we know the reason

1 for that?

2 UNIDENTIFIED (No microphone):

3 (Inaudible.)

4 PAT AUGUSTINE: Well, I don't know  
5 who else can answer it. Only you, Jim.

6 JAMES ARMSTRONG: Why you'd be  
7 looking for an increase in the commercial quota?  
8 Well, the commercial quota actually -- yeah,  
9 relative to -- again, the -- last year what was done  
10 was the -- and in keeping with prior years, what we  
11 tried to do is maximize the commercial quota. It  
12 use to be that you could do that and run very little  
13 risk of the recreational harvest exceeding the --  
14 so, the upper limit on this is just in keeping with  
15 that.

16 I would -- at this point in time, and  
17 having -- you know, met with the monitoring  
18 committee and run through these different scenarios,  
19 probably recommend a smaller transfer because it's  
20 likely that -- because what we're seeing here is  
21 steady commercial landings and increasing  
22 recreational landings. So, I think the more risk  
23 averse approach is to go with a transfer amount of  
24 maybe three or three and a half million pounds.

1 PAT AUGUSTINE: Mr. Chairman, when  
2 you're ready for a motion, I'll be glad to offer one  
3 for each.

4 COMMITTEE CHAIR JACK TRAVELSTEAD:  
5 We've got several questions, though. Gene and then  
6 Dan.

7 COUNCIL VICE CHAIR EUGENE KRAY:  
8 Thank you, Mr. Chairman. Jim, how much did we  
9 transfer for this year we're in right now? How many  
10 million pounds did we transfer from recreational to  
11 commercial?

12 JAMES ARMSTRONG: That's in Table 1  
13 for the --

14 (Pause.)

15 COUNCIL VICE CHAIR EUGENE KRAY: If I  
16 recall correctly, it was somewhere in the order of  
17 two to three million pounds, but my memory is not  
18 that good.

19 (Pause.)

20 JAMES ARMSTRONG: It was a transfer  
21 of 3.969.22 -- 3,969,220 pounds. And that's -- one  
22 of the things that happens here with the bluefish  
23 fishery, we have a sort of a current estimate of  
24 projected recreational landings for 2008. Between

1 now and the publishing of the final rule, that  
2 estimate is refined or adjusted.

3 And what happened last year is even  
4 though the commercial quota was an original transfer  
5 -- originally, the commercial quota was set at nine  
6 and a half million pounds. It was then bumped down  
7 to -- by the Service to avoid exceeding the  
8 projected recreational landings. But the  
9 recreational -- yeah, it was around four million  
10 pounds.

11 COUNCIL VICE CHAIR EUGENE KRAY:

12 Here's my concern. My concern -- and I expressed  
13 the same thing last year. If we're cutting back on  
14 both recreational and commercial obviously, if we're  
15 cutting back on summer flounder, we're cutting back  
16 on sea bass, we're cutting back on scup, what is it  
17 going to leave us to fish for? I mean -- and you're  
18 taking away blue -- I have a feeling, it's only a  
19 feeling, that if we're cutting back those other  
20 fish, guys who were fishermen, many of them like me,  
21 who don't care what they catch as long as they're  
22 catching something, we're going to go after  
23 bluefish, and that's going to skyrocket the landings  
24 in the recreational. That's my concern.

1                   Now, could we transfer some? I would  
2 take the least -- the two and a half million pounds  
3 figure that you had up there as being the range from  
4 2.5, I think it was, to 4.75 or something like that.

5                   I would -- matter of fact, I'll put it in the form  
6 of a motion. I make a motion that we transfer two  
7 and a half million pounds from the recreational  
8 quota to the commercial quota.

9                   COMMITTEE CHAIR JACK TRAVELSTEAD:

10                  Gene, we're not quite ready for motions --

11                  COUNCIL VICE CHAIR EUGENE KRAY:

12                  Okay.

13                  COMMITTEE CHAIR JACK TRAVELSTEAD: --

14                  if you don't mind, but we will come back to you. I  
15                  have other people on the list and then we'll come  
16                  back to that issue. Dan. Dan?

17                  DANIEL FURLONG: Pass.

18                  COMMITTEE CHAIR JACK TRAVELSTEAD:

19                  Other questions? Any other questions from the  
20                  Council or Board?

21                                 (No response.)

22                  COMMITTEE CHAIR JACK TRAVELSTEAD:

23                  Willie.

24                  WILLIE EGERTER: Thank you. Willie

1 Egerter, United Boatmen. Just as Gene had  
2 mentioned, we've already gone on three other species  
3 that we've been cut out of. And if you looked at  
4 the increase in the recreational fishery over the  
5 past couple of years, every time we've cut back on  
6 the other three, we've had an increase into the blue  
7 fishery. And now if we go with the -- you know, the  
8 4.5 million pounds and the recreational goes over,  
9 the following year we're going to have to be coming  
10 back. And if the commercial aren't -- you know,  
11 you're trying to utilize a commercial fishery, which  
12 is fine. But don't give too much of it to where  
13 we're going to all of a sudden have a battle trying  
14 to get some back. Thank you.

15 COMMITTEE CHAIR JACK TRAVELSTEAD:

16 Jimmy.

17 JAMES RUHLE: Thank you, Mr.

18 Chairman. Pat touched on it before, but let's make  
19 it -- I need to hear it again. If in fact we --  
20 whatever the transfer amounts to, whether it be two  
21 and a half million or four million, there is no  
22 effect on the recreational fisheries for that year.

23 If you go over, there is no penalty. There is  
24 absolutely no effect whatsoever. If you decide to

1 go with the lower transfer, all's it does is  
2 negatively affect the commercial landings. We are  
3 restricted. We hit the quota, that's it. We're  
4 done. You have nothing -- same as the summer  
5 flounder, basically.

6           Somewhere down the road, certainly  
7 you would have to pay for it. But in this case,  
8 doing this on an annual basis, and let's use scup as  
9 -- recent landings of scup, the allocation is 78  
10 commercial, 22 recreational, but if you look at the  
11 average landings over the last four or five years,  
12 it's 34 -- 66. So, there's a fishery that either  
13 one of us are reaching the quota on, but the  
14 proportions of the plan are in balance. And all's  
15 the attempt here to do is to provide the opportunity  
16 to keep fishing for the recreational and commercial  
17 both.

18           And I understand your concerns, but I  
19 don't think there is any attempt and never has been  
20 an attempt by the commercial sector to say if you  
21 transfer four million pounds this year, we know  
22 you're going to -- you've got to give us four  
23 million next year. That's not the case.

24           That transfer is based on the

1 performance of both fisheries, Willie. Not speaking  
2 to you in -- I shouldn't --

3 UNIDENTIFIED (No microphone):

4 (Inaudible.)

5 JAMES RUHLE: Wait a minute. I can't  
6 talk to you through -- I'm talking to you through  
7 the Chairman. Excuse me. But that's the issue, Mr.  
8 Chairman. I just wanted to make sure that I was  
9 clear on it. There is actually no -- there would be  
10 no restriction. It certainly would be noted next  
11 year that the recreational landings did go up. But  
12 as far as this year, or 2008, it doesn't negatively  
13 affect the ability to fish. Thank you.

14 COMMITTEE CHAIR JACK TRAVELSTEAD:

15 Also keep in mind that in 2006 anyway the  
16 commercials -- I'm looking at Table 5 -- the  
17 commercial sector did not catch their quota. That  
18 was down about 1.6 million pounds. So, there is a  
19 little bit of wiggle room there.

20 Virginia's always been willing to  
21 transfer quota to a number of states that need it.  
22 I think we continue to be willing to do that; and in  
23 fact, we seem to have quota left over every year  
24 that goes unutilized. So, there is some wiggle room

1 in those numbers. Any other -- Pete.

2 PETER HIMCHEK: Thank you, Mr.  
3 Chairman. That's a perfect lead-in to my dilemma in  
4 New Jersey. We have just recently closed our  
5 commercial bluefish fishery due to extraordinary  
6 catch in the pound net sector. And our quota is  
7 allocated by gear type, and we have had to close the  
8 entire fishery because of reaching our quota, which  
9 means that the gillnetters will be coming to our  
10 Marine Fisheries Council meeting September 6th  
11 saying -- you know, we didn't get our fair share of  
12 the quota. And I'm not too proud to beg here for  
13 fish for these -- you know, for -- cover them for a  
14 couple months.

15 So, we're in a dilemma for 2007 on  
16 our commercial fishery, and anybody that can  
17 transfer some quota to us for a couple of months, no  
18 strings attached, please contact me immediately.

19 COMMITTEE CHAIR JACK TRAVELSTEAD:  
20 There are always strings. Always strings. No, I'm  
21 just kidding. We'll talk after the meeting. Jimmy.

22 JAMES RUHLE: Thank you, Mr.  
23 Chairman. Just a question for Pete. And I think  
24 you're right. If it's coming out of Jersey, they're

1 not strings, they're ropes. They might be chains.

2 But where are these pound nets? Are  
3 they ocean pound nets or pay pound nets, Pete? I'm  
4 surprised to hear --

5 PETER HIMCHEK: They're in  
6 Raritan/Sandy Hook bay. There are only a couple of  
7 them, but it was an extraordinary catch. And then  
8 the hook and line catch and that exceeded its  
9 percentage of the quota, so that means certain gears  
10 aren't going to get their share.

11 COMMITTEE CHAIR JACK TRAVELSTEAD:  
12 Chris.

13 CHRIS BATSAVAGE: As far as the 2006  
14 commercial landings, and looking at what North  
15 Carolina landed in '06, and we're at 2.79 million  
16 pounds, but the average over the past ten years, '97  
17 to 2006, was 3.2 million pounds. So, there's some  
18 fluctuation in the commercial landings in North  
19 Carolina, and a lot of it's just the availability of  
20 the fish. And the individual trips are large  
21 catches. So, when the fish are abundant down there,  
22 we have pretty high landings for the year. And when  
23 they're not as abundant -- so, I mean I hate to just  
24 kind of look at 2006 being a trend. It might just

1 be one point. And if we have a cold winter,  
2 Virginia and North Carolina may have a lot of  
3 bluefish, and we could have some high landings in  
4 those years. Thank you.

5 COMMITTEE CHAIR JACK TRAVELSTEAD:

6 Other questions?

7 PAT AUGUSTINE (No microphone): Ready  
8 for a motion?

9 COMMITTEE CHAIR JACK TRAVELSTEAD:

10 Gene had -- I guess Gene had a motion in mind. If  
11 there are no further questions, we'll go back to  
12 Gene.

13 COUNCIL VICE CHAIR EUGENE KRAY: I  
14 propose that we -- I move that we transfer two and a  
15 half million pounds of bluefish to the commercial  
16 sector from the recreational sector.

17 COMMITTEE CHAIR JACK TRAVELSTEAD:

18 That's on behalf of the Council, that motion. Is  
19 there a second to that motion?

20 JAMES RUHLE: Point of order, Mr.  
21 Chairman.

22 COMMITTEE CHAIR JACK TRAVELSTEAD:

23 Yes.

24 JAMES RUHLE: I may be out of order

1 myself, but don't we need to establish the TAL and  
2 TAC before we talk about the transfers?

3 COMMITTEE CHAIR JACK TRAVELSTEAD:

4 Well, I was going to ask him to do that if we got a  
5 second to the motion.

6 JAMES RUHLE: Well, shouldn't it be  
7 included in the motion before you ask for a second?

8 COMMITTEE CHAIR JACK TRAVELSTEAD: It  
9 can be. Gene, did you want to specify a TAC and TAL  
10 that's associated with your transfer? If you look  
11 on the second page --

12 JAMES ARMSTRONG: Just to help with -  
13 - see exactly what numbers come out when you -- what  
14 I've got up on the screen here, any time I change  
15 this recreational transfer amount, I just changed it  
16 to what you recommended, Dr. Kray. And then what  
17 I've got over here in Column E is the sort of  
18 recreational cushion. And then what I've got -- you  
19 can see in the highlighted -- the first highlighted  
20 row is the commercial quota that would result from  
21 that.

22 COUNCIL VICE CHAIR EUGENE KRAY: I  
23 have it here. I would make a motion that we  
24 establish a TAC for the 2008 year in the bluefish

1 fishery of 31,887,334 pounds, and a TAC -- I'm  
2 sorry, that's a TAC. And then a TAL of 28,156,182  
3 pounds.

4 COMMITTEE CHAIR JACK TRAVELSTEAD: In  
5 addition to the --

6 COUNCIL VICE CHAIR EUGENE KRAY: In  
7 addition to a transfer of two and a half million  
8 pounds from the recreational to the commercial  
9 sector.

10 COMMITTEE CHAIR JACK TRAVELSTEAD:  
11 Okay. I think that's a complete motion at that  
12 point. Is there a second to the motion for the  
13 Council? Seconded by Pat Augustine.

14 PAT AUGUSTINE: And a friendly note  
15 to Dr. Kray, if he'd be willing to change it. Dr.  
16 Kray, if you'll notice on Jim Armstrong's second  
17 page there, he was more specific and they had  
18 outlined it as 2,366,449, which would be a projected  
19 recreational landing of 89.8. That's the third  
20 scenario, C. Would that be -- would you be amenable  
21 to that?

22 COUNCIL VICE CHAIR EUGENE KRAY: I  
23 would accept that, yes.

24 PAT AUGUSTINE: Good. And then I

1 would make the same motion on behalf of the  
2 Commission Board.

3 BOARD CHAIR HOWARD KING: Thank you,  
4 Pat. I didn't actually ask for one.

5 PAT AUGUSTINE: Well, I'll give you  
6 one if you ask me for it.

7 BOARD CHAIR HOWARD KING: Thank you.  
8 Do we have a second to that motion by Pat? Erling.

9 COMMITTEE CHAIR JACK TRAVELSTEAD:  
10 Comments on the motion?

11 (Off the record discussion regarding motion.)

12 PATRICIA KURKUL: Thank you, Mr.  
13 Chairman. A comment and a question, I guess. The  
14 comment is: Remember for the last two years now  
15 we've actually adjusted the Council and Board  
16 recommendation between the proposed rule and the  
17 final rule stage based on more complete information  
18 on what in fact was happening in the recreational  
19 sector. So, as we get the WAVE 5 information, we  
20 took that the last two years and adjusted the  
21 commercial allocation down and the recreational  
22 allocation back up, based on projections that show  
23 that the recreational was going to be higher than we  
24 thought it was at this point in the year.

1                   So, I just wanted to remind you that  
2                   that's out there and that's another sort of stop-gap  
3                   to avoid the situation where we end up with too much  
4                   on one side or the other later on.

5                   And the question was I just didn't  
6                   know where we ended up on the motion, whether we  
7                   were actually using the numbers that Gene had  
8                   proposed or we'd changed to Scenario C.

9                   COMMITTEE CHAIR JACK TRAVELSTEAD: We  
10                  have changed to Scenario C.

11                  PATRICIA KURKUL: Okay. Thank you.

12                  COMMITTEE CHAIR JACK TRAVELSTEAD:  
13                  Okay. So that everybody's clear. There was a hand  
14                  -- Larry is next.

15                  LAWRENCE SIMNS: I think we ought to  
16                  balance it a little better because like we said  
17                  before, the recreational goes over, they don't have  
18                  to pay it back. It won't affect them. But if the  
19                  commercial goes over, we're going to have to pay it  
20                  back.

21                  And the other thing is if we don't  
22                  catch it, and the recreational goes over, we still  
23                  don't go over our total amount. So, I would like to  
24                  see somewheres in between 25 to maybe 3,000 or 35.

1 COMMITTEE CHAIR JACK TRAVELSTEAD:

2 Jim.

3 JAMES RUHLE: Thank you, Mr.

4 Chairman. I have a question for Pat, if you don't  
5 mind. Your last comment, Pat, said in mid-season --  
6 or mid-term during the year -- at some time during  
7 the year you adjust the numbers. Is it -- if in  
8 fact the -- does it work either way as easily for  
9 you? In other words, if we specify a higher number  
10 or just say we were to go with the transfer of four  
11 million pounds, and you've made the determination  
12 that that was too much, does it work equally both  
13 ways? It doesn't, does it?

14 PATRICIA KURKUL: No.

15 JAMES RUHLE: Could you explain that  
16 a little clearer, please?

17 PATRICIA KURKUL: Yes. What we look  
18 at are the recreational -- the recreational numbers  
19 as WAVE 5 becomes available, and we generally get  
20 that after the proposed rule stage, but before the  
21 final rule stage. So, before we publish final  
22 specifications, we generally have WAVE 5  
23 information.

24 Now, based on that, what we've been

1 able to say in the past is that the recreational  
2 numbers were higher than what we had projected, and  
3 so that we needed to readjust the commercial to  
4 recreational.

5 We wouldn't go the other way because  
6 that's actually a policy call by the Council to  
7 transfer the quota from the recreational side to the  
8 commercial side.

9 JAMES RUHLE: With that said, Mr.  
10 Chairman -- thank you very much for that, Pat.  
11 That's the way I understood it. With that said, Mr.  
12 Chairman, I'm going to offer a substitute motion.  
13 Substitute motion would be for the fishing year 2008  
14 that the TAC be 31,887,334; TAL 26,156,182; and  
15 let's just say Scenario E, which is -- well, there's  
16 a transfer of 4,088,449. It's exactly the same  
17 numbers in Scenario E, Mr. Chairman. That's the  
18 motion.

19 COMMITTEE CHAIR JACK TRAVELSTEAD: A  
20 lot of those numbers don't change, so I'll take that  
21 as an amendment to the motion, I think.

22 JAMES RUHLE: You take it as an  
23 amendment to the --

24 COMMITTEE CHAIR JACK TRAVELSTEAD:

1 You're amending the transfer number; right?

2 JAMES RUHLE: Yes, sir. Exactly.

3 COMMITTEE CHAIR JACK TRAVELSTEAD:  
4 Everything else stays the same?

5 JAMES RUHLE: Exactly. Yes, sir.

6 COMMITTEE CHAIR JACK TRAVELSTEAD:  
7 That's for the Council. Is there a second to the --  
8 Larry Simms seconds the motion.

9 BOARD CHAIR HOWARD KING: Similar  
10 motion? Similar amendment? Pat.

11 PAT AUGUSTINE: Similar change for  
12 the Board. Thank you.

13 BOARD CHAIR HOWARD KING: Second,  
14 Vito.

15 COMMITTEE CHAIR JACK TRAVELSTEAD:  
16 Okay. We now have an amendment to the motion. Are  
17 there comments on the amendment? A.C.

18 A.C. CARPENTER: Mr. Chairman, it  
19 looks like Pat Augustine amended his own motion, so  
20 if he's agreeable, I'll make the motion for him and  
21 -- to move to amend it.

22 COMMITTEE CHAIR JACK TRAVELSTEAD:  
23 We've always let Pat amend his own motions.

24 A.C. CARPENTER: Oh. In that case --

1 PAT AUGUSTINE: I've even withdrawn  
2 my own motions. Thank you.

3 COMMITTEE CHAIR JACK TRAVELSTEAD:  
4 I'd get in a lot of trouble if I didn't.

5 PAT AUGUSTINE: But it's the right  
6 thing to do, Mr. Chairman, so thank you.

7 COMMITTEE CHAIR JACK TRAVELSTEAD:  
8 Okay. Karen, did you have your hand up?

9 KAREN CHYTALO (No microphone):  
10 (Inaudible.)

11 COMMITTEE CHAIR JACK TRAVELSTEAD:  
12 Okay. Other comments on the amendment? A.C.

13 A.C. CARPENTER: We were offered the  
14 spreadsheet where he could show us the difference.  
15 Could we put that back up just to -- I remember what  
16 the cushion was on the other one. I just want to be  
17 able to look at this before I vote.

18 (Pause.)

19 COMMITTEE CHAIR JACK TRAVELSTEAD:  
20 Okay. There are the numbers, A.C. Everyone  
21 understand that? Any further comments on the  
22 proposal to amend?

23 (No response audible.)

24 COMMITTEE CHAIR JACK TRAVELSTEAD:

1 Comments from the audience? Yes, sir.

2 GREG DIDOMENICO: Thank you, Mr.  
3 Chairman. Greg DiDomenico, Garden State Seafood  
4 Association. With all the confusion about which  
5 motion, Pat amended or not, I just wanted to of  
6 course support the four million pound transfer to  
7 the commercial sector. We have a few fisheries,  
8 specifically our gillnet fishery, that's got very  
9 good observer coverage, lands a very good product,  
10 and they've become very, very reliant upon this  
11 fishery. And this is the same -- of course, same  
12 group of people -- same group of fishermen that have  
13 had these tremendous reductions in the monkfish  
14 fishery. So, anything we can do to give them a hand  
15 would be most appreciated. Thank you.

16 COMMITTEE CHAIR JACK TRAVELSTEAD: I  
17 think we're ready to vote.

18 (Motion as voted.)

19 {Move to set the TAC for bluefish for 2008 at  
20 31,887,334 pounds with an overall TAL of 28,156,182  
21 pounds; a transfer amount of 4,088,449 pounds from  
22 recreational sector to commercial sector to achieve  
23 a commercial quota of 8,875,000 pounds and a  
24 recreational harvest limit of 19,281,182 pounds.}

1 COUNCIL CHAIR PETER JENSEN: For the  
2 Council on the motion to amend, which is an  
3 amendment of the transfer amount. All those in  
4 favor, raise your hand.

5 (Response.)

6 COUNCIL CHAIR PETER JENSEN: Eighteen  
7 in favor. The same sign for opposition?

8 (No response.)

9 COUNCIL CHAIR PETER JENSEN:  
10 Abstentions?

11 (No response.)

12 COUNCIL CHAIR PETER JENSEN: The  
13 motion passes.

14 BOARD CHAIR HOWARD KING: Do the  
15 Board members need to caucus? I think not.

16 (No response.)

17 BOARD CHAIR HOWARD KING: All right.  
18 Then all those in favor, raise your hand.

19 (Response.)

20 BOARD CHAIR HOWARD KING: I got  
21 eight. All opposed?

22 (No response.)

23 BOARD CHAIR HOWARD KING: Opposed,  
24 Erling?

1 UNIDENTIFIED (No microphone):

2 (Inaudible.)

3 BOARD CHAIR HOWARD KING: Okay. I  
4 think I got you before. All those opposed?

5 (No response.)

6 BOARD CHAIR HOWARD KING:  
7 Abstentions?

8 (No response.)

9 BOARD CHAIR HOWARD KING: I got  
10 eight, zero. I think I got everyone.

11 COUNCIL CHAIR PETER JENSEN: Okay.  
12 Now we have an amended motion, which is the main  
13 motion for the Council. All those in favor of that  
14 motion as amended?

15 (Response.)

16 COUNCIL CHAIR PETER JENSEN: Fifteen  
17 in favor. Those opposed, same sign.

18 (No response.)

19 COUNCIL CHAIR PETER JENSEN: Zero.  
20 Abstentions?

21 (No response.)

22 COUNCIL CHAIR PETER JENSEN: Zero.  
23 The motion carries. One abstention? One  
24 abstention. The motion carries.

1 BOARD CHAIR HOWARD KING: Like vote  
2 for the Board. All those in favor?

3 (Response.)

4 BOARD CHAIR HOWARD KING: All those  
5 opposed?

6 (No response.)

7 BOARD CHAIR HOWARD KING:  
8 Abstentions?

9 (No response.)

10 BOARD CHAIR HOWARD KING: None. The  
11 motion carries.

12 COMMITTEE CHAIR JACK TRAVELSTEAD:  
13 Okay. What is left? RSA is left and I think the  
14 staff was recommending 50,000 pounds there. Pat.

15 PAT AUGUSTINE: Do you prefer to have  
16 it as a 50,000 pound or up to three percent, in case  
17 there's anything else?

18 JAMES ARMSTRONG: There's an  
19 allowance -- but so far -- well, in the past it was  
20 363,000 pounds request for the Supplemental Finfish  
21 Survey. That was turned down this year. And  
22 there's a NEAMAP request for 50,000 pounds  
23 conditionally approved, so that's what's -- I don't  
24 think it's going to exceed that.

1 PAT AUGUSTINE: If that's all that's  
2 required --

3 JAMES ARMSTRONG: Last year we  
4 specified a specific poundage, though.

5 PAT AUGUSTINE: Well, if that's all  
6 that's required, Mr. Chairman --

7 COMMITTEE CHAIR JACK TRAVELSTEAD:  
8 ASMFC staff is telling me they'd prefer a motion of  
9 up to three percent.

10 PAT AUGUSTINE: Why don't I do that  
11 then? I'll make a motion on behalf of the Council  
12 and the Commission, research set-aside up to three  
13 percent.

14 COUNCIL VICE CHAIR EUGENE KRAY: For  
15 the Council, second.

16 COMMITTEE CHAIR JACK TRAVELSTEAD:  
17 Okay. Gene seconds for the Council.

18 VITO CALOMO: Commission second.

19 COMMITTEE CHAIR JACK TRAVELSTEAD:  
20 Vito seconded for the Board. Any discussion on the  
21 motion?

22 (No response audible.)

23 (Motion as voted.)

24 {Move that up to 3% of the TAL (or approved RSA

1 amount 85,790 lbs) be allocated for RSA in 2008.}

2 COUNCIL CHAIR PETER JENSEN: For the  
3 Council, all those in favor, raise your hand.

4 (Response.)

5 COUNCIL CHAIR PETER JENSEN: Eighteen  
6 in favor. The same sign for opposition?

7 (No response.)

8 COUNCIL CHAIR PETER JENSEN:  
9 Abstentions?

10 (No response.)

11 COUNCIL CHAIR PETER JENSEN: The  
12 motion carries.

13 BOARD CHAIR HOWARD KING: For the  
14 Board, is there any opposition?

15 (No response.)

16 BOARD CHAIR HOWARD KING: All in  
17 agreement?

18 (No response audible.)

19 BOARD CHAIR HOWARD KING: The motion  
20 carries.

21 COMMITTEE CHAIR JACK TRAVELSTEAD:  
22 The last item is the recreational possession limit.

23 Unlike flounder, scup and sea bass, we always set  
24 the recreational measures at this meeting. On the

1 other hand, unless someone wants to change from the  
2 current 15-fish possession limit, I don't think we  
3 need a motion. Is there a motion on possession  
4 limit?

5 (No response audible.)

6 COMMITTEE CHAIR JACK TRAVELSTEAD:

7 Seeing none, I think we're done?

8 COUNCIL CHAIR PETER JENSEN: Jimmy.

9 JAMES RUHLE: Just briefly, Mr.

10 Chairman, if you don't mind, you might want to  
11 advise ASMFC staff that the term behind the scene is  
12 one thing. Behind the screen is something else.  
13 She doesn't look very comfortable right there.

14 COUNCIL CHAIR PETER JENSEN: Pete.

15 PETER HIMCHEK: Mr. Chairman, just  
16 for my information, what would the mechanism be for  
17 New Jersey to request a within-year transfer on the  
18 bluefish?

19 COUNCIL CHAIR PETER JENSEN: I think  
20 that's state to state, so -- Mr. Travelstead is  
21 available to talk to, I think.

22 BOARD CHAIR HOWARD KING: For members  
23 of the Board, I just need to say for the record that  
24 Pat Augustine abstained.

1 UNIDENTIFIED (No microphone):

2 (Inaudible.)

3 BOARD CHAIR HOWARD KING: Oh, I'm  
4 sorry, of course -- that Pat Kurkul abstained.  
5 Thank you.

6 PAT AUGUSTINE: Pat, you had your  
7 hand up a lot today, so I thought you were waving.  
8 I wasn't sure what you were doing.

9 COUNCIL CHAIR PETER JENSEN: I think  
10 we're finished for the day. We sort of caught up on  
11 some miscellaneous items yesterday, and there really  
12 isn't much that we can catch up on today, until  
13 tomorrow. Dan.

14 DANIEL FURLONG: Just housekeeping  
15 for tonight, if we're finished for the day.

16 COUNCIL CHAIR PETER JENSEN: We're  
17 not quite finished, but go ahead.

18 DANIEL FURLONG: I thought you just  
19 said we were finished.

20 COUNCIL CHAIR PETER JENSEN: Well, I  
21 did, but ASMFC has one item they forgot.

22 DANIEL FURLONG: Oh, okay.

23 BOARD CHAIR HOWARD KING: The ASMFC  
24 Management Board needs to vote on de minimis for

1 bluefish for two states, Georgia and South Carolina.

2 Pat, are you making that motion?

3 PAT AUGUSTINE: I'm making that  
4 motion. Move on behalf of -- I'm sorry, Georgia and  
5 North Carolina?

6 UNIDENTIFIED (No microphone): South  
7 Carolina.

8 PAT AUGUSTINE: South Carolina.  
9 Let's make North Carolina, too. No -- South  
10 Carolina receive de minimis status --

11 BOARD CHAIR HOWARD KING: Do we have  
12 a second?

13 PAT AUGUSTINE: -- for 2008.

14 BOARD CHAIR HOWARD KING: A.C.  
15 Carpenter had his hand up first. Seconded. No need  
16 to caucus, I take it?

17 (No response audible.)

18 BOARD CHAIR HOWARD KING: In that  
19 case, all in favor of de minimis for Georgia and  
20 South Carolina for bluefish, raise your hands.

21 (Response.)

22 BOARD CHAIR HOWARD KING: Okay.  
23 Opposed?

24 (No response.)

1 BOARD CHAIR HOWARD KING: None.

2 Abstentions?

3 (Response.)

4 BOARD CHAIR HOWARD KING: One. Thank  
5 you.

6 COUNCIL CHAIR PETER JENSEN: Mr.  
7 Ruhle.

8 JAMES RUHLE: Thank you, Mr.  
9 Chairman. I'd like your opinion on whether or not  
10 we could proceed with the discussion on Squid,  
11 Mackerel, Butterfish Amendment 9? I recognize that  
12 is an agenda item for tomorrow. What time do you  
13 got? Maybe something happened to my watch here.

14 UNIDENTIFIED (No microphone): 2:48.

15 JAMES RUHLE: That's what I thought,  
16 okay. Is there any downside to discussing Amendment  
17 9, Mr. Furlong, at this time? I think Greg  
18 DiDomenico and Geir Monsen --

19 DANIEL FURLONG: Yeah, actually, I  
20 believe there would be a downside, and that is that  
21 the public notice for this -- it's one thing to have  
22 a disclaimer in there that times and sequences may  
23 be changed. But when you change a whole day, I  
24 think you have a problem, because there may be

1 public anticipating that Amendment 9 will be dealt  
2 with tomorrow. And if you deal with it today, and  
3 they show up tomorrow, you've excluded them from  
4 that process. So, I would really have a problem  
5 moving to deal with Amendment 9 for Council approval  
6 today.

7 JAMES RUHLE: All right. What about  
8 a Squid, Mackerel, Butterfish report?

9 DANIEL FURLONG: Sounds good to me.

10 COUNCIL CHAIR PETER JENSEN: Are you  
11 ready?

12 JAMES RUHLE: No, not right now. I  
13 mean give me five minutes. But I can be. I can be  
14 ready in ten minutes with no problem.

15 COUNCIL CHAIR PETER JENSEN: All  
16 right. We'll take a ten-minute break.

17 (BREAK: 2:50 p.m. to 3:05 p.m.)

18 COUNCIL CHAIR PETER JENSEN: A little  
19 bit of change of plans. Jimmy was going to give the  
20 committee report for Squid, Mackerel, Butterfish,  
21 but I think it's probably a good idea not to split  
22 the committee report from the action on Amendment 9.

23 And so we'll do them all at the same time tomorrow.

24 And so I think in order to catch up a little bit

1 today, we'll do the Research Set-Aside Committee  
2 Report and then we'll finish up for the day. So,  
3 Dennis, if you're ready.

4 DENNIS SPITSBERGEN: Yes, Mr.  
5 Chairman, I'm ready. And does that mean I'm filler  
6 for the rest of the afternoon? I can probably drag  
7 this out for five, ten minutes.

8 UNIDENTIFIED (No microphone): You'll  
9 get the hook before that.

10 COUNCIL CHAIR PETER JENSEN: We'll  
11 see if you have an audience after ten minutes.

12  
13 RESEARCH SET-ASIDE COMMITTEE REPORT

14 DENNIS SPITSBERGEN: Okay. Thank  
15 you, Mr. Chairman. If the Council would turn behind  
16 Tab 2, you will find the information that was  
17 provided to the committee by Clay Heaton. And Clay  
18 did a wonderful job of putting this information  
19 together.

20 We had a very good delegation at our  
21 committee meeting: John Hoey and Earl Meredith from  
22 the Center, Paul Perra from the Region, and Nancy  
23 from the Center. Joel MacDonald showed up. I'm not  
24 sure why he was trying to keep us in line, but he

1 was there at the meeting. I think Dan was at the  
2 meeting. We really had a good little group  
3 gathering.

4 And we had two purposes: One, of  
5 course, was to come up with the research priorities,  
6 and the other one was to -- well, if you read in the  
7 briefing book, initiate discussion on potential  
8 approaches for incorporation of research results  
9 into the management process.

10 And what I had the committee do or  
11 encouraged the committee to do was look at a policy  
12 that the New England Council had put together, their  
13 Research Steering Committee, for having their  
14 project peer reviewed so they could be used for  
15 management purposes. But as it turned out, when we  
16 got into trying to set priorities, that took a  
17 little longer than we had anticipated. So, we never  
18 did get to that. So, that's something that's going  
19 to be for a future meeting.

20 Everyone should have a copy of the  
21 research priority list in front of them. If you  
22 turn to Item Number 2 in the briefing book behind  
23 Tab 2, you will see the previous list that we had  
24 for research priorities. And if you look at the new

1 list that came out, you will see that the committee  
2 did considerable paring of the original list.

3 And pretty much what -- well, in  
4 fact, if you look a couple of pages beyond that,  
5 it's Item Number 3, example list. This is something  
6 that Clay put together for us. And what he was  
7 doing was looking at it from more of a thematic  
8 perspective, and just pulling out those that were  
9 purely associated with gear, gear development, gear  
10 testing, what have you, and put that in the list and  
11 just used that as a starter.

12 So, what the committee did was sat  
13 down, went through that list first and pared out  
14 several out of there that we really didn't feel fit  
15 in the RSA program. Then we went back to the old  
16 list and looked at issues that were purely gathering  
17 biological data, went through that group. And  
18 pretty much that is what you see on the list that  
19 you have in front of you now, the new list.

20 We didn't take any motions. These  
21 were all done pretty much by consensus. So, I don't  
22 have a motion to put in front of you. I guess a  
23 couple of things I will point out. Most anything  
24 that had survey or mainly indexing in it, we have

1       been through. We've had a big apple out of that  
2       barrel of surveys and feel right now that until  
3       something changes to where we feel much more  
4       comfortable with financing surveys and long-term  
5       projects of that sort, we just felt like that wasn't  
6       something we should be considering for the research  
7       set-aside projects.

8                So, what you have in front of you is  
9       what the committee pared it down to. Hopefully I  
10      have all of the committee members. Hmm, I'm looking  
11      around and I'm feeling a little lonesome here. Oh  
12      no, I guess Vince is the only one missing. So, I  
13      have the committee members here and really what I  
14      mainly did was refereed and said do you want to keep  
15      that one in or throw it out? And each of the items  
16      were discussed and justification for including them  
17      in or eliminating them was put on the table. And if  
18      the committee felt by consensus that was the  
19      direction to go, that's the direction we went. And  
20      so what you have in front of you this afternoon is  
21      the list that we pared it down to.

22               So, I guess what I would do is throw  
23      it out to the Council. Again, we didn't make a  
24      motion. It was purely done by consensus, but I

1 would throw it out for the Council. And if there  
2 are those who think that there should be additions  
3 or subtractions or whatever, I guess I would say  
4 have at it.

5 I will point out one more thing, and  
6 I brought this up earlier, and I'm going to continue  
7 looking at this, and that's the Northeast Consortium  
8 issue. We discussed that a little bit. And I  
9 intend to do a little pursuing of that to see what  
10 we can look at for this area.

11 So, that was the one other item that  
12 was discussed at the meeting. So, with that, Mr.  
13 Chairman, I will kick it back to you and the Council  
14 can go whatever direction it would like to.

15 COUNCIL CHAIR PETER JENSEN: In that  
16 regard, let me ask a question. What do you normally  
17 do with this list of priorities beyond the Council?

18 DENNIS SPITSBERGEN: This goes to the  
19 -- well, it goes to the Center now. It used to go  
20 to the Grants Office, but it goes to the Center now  
21 and it's published in the Federal Register  
22 requesting proposals -- what do they call it?  
23 Request for Proposals.

24 COUNCIL CHAIR PETER JENSEN: So what

1 we're really talking about then is a list that will  
2 end up being a Federal Register Notice and a public  
3 notice?

4 DENNIS SPITSBERGEN: That is correct.

5 COUNCIL CHAIR PETER JENSEN: Okay.

6 Gene.

7 COUNCIL VICE CHAIR EUGENE KRAY:

8 Thank you, Mr. Chairman. Dennis, Number 1, I think  
9 you did a great job in paring everything down. And  
10 I fully support it. My question basically is:  
11 There were a number of those priorities that we had  
12 ongoing studies. And you indicated that you  
13 eliminated all of those. Is that correct?

14 DENNIS SPITSBERGEN: Well, there are  
15 some ongoing studies that we didn't, but the surveys  
16 -- the committee pretty well felt like -- I think  
17 you're privy to some of the discussion that has gone  
18 on that a lot of this survey work that we have  
19 funded through the RSA, we felt like we're going to  
20 go into the assessments and to utilize the  
21 assessment.

22 And the indication now is that -- I'm  
23 trying to be diplomatic on this -- is that quite a  
24 bit of this may not work. Laurie just mentioned to

1 me apples and oranges. There are some apples that  
2 we thought we were going to put these oranges into,  
3 and they apparently aren't fitting. And until we  
4 feel much more comfortable that surveys are going to  
5 be something that we can utilize or abundance  
6 indices and this type of thing, we wanted to put  
7 those on hold until we were much more comfortable  
8 with going in that direction.

9 COUNCIL VICE CHAIR EUGENE KRAY: My  
10 concern was -- and some of those projects were  
11 funded about three or four years in a row, if I  
12 recall correctly. Do we lose that data? Or is that  
13 data still useful? In other words, have we spent  
14 money that's --

15 DENNIS SPITSBERGEN: I wasn't going  
16 to call on Nancy, but now that she's raised her  
17 hand.

18 NANCY THOMPSON: Yeah, I mean some of  
19 the concerns that we have are making these kinds of  
20 investments, and then what are the data that we get  
21 back, and how relevant is that data in terms of  
22 putting it into a stock assessment.

23 So, I mean -- you know, we work  
24 really hard to look at those data, to evaluate those

1 data and determine how relevant they are. In many  
2 cases, they are not relevant. And so -- you know,  
3 then it becomes a difficult decision. And so the  
4 RSA program is so precious, each fish is so  
5 significant, that -- you know, we got into a  
6 discussion about surveys, and really where should  
7 the investments be made? And I think from my  
8 perspective there are better ways to make those  
9 investments which will provide information that we  
10 can use in assessments to reduce the uncertainty of  
11 the assessments. And that really was much of the  
12 tenor of the discussion.

13 COUNCIL CHAIR PETER JENSEN: Dennis.

14 DENNIS SPITSBERGEN: Let me make  
15 something clear. NEAMAP is a little bit of a  
16 different animal. And that survey is -- that may  
17 have been what you were bringing up, okay, because  
18 that's a little bit of a different animal. The  
19 general feeling is that that's going to be very  
20 productive.

21 We have also been led to believe that  
22 there may be funding from other directions that are  
23 going to take care of that. If there are not, then  
24 that's something that the committee will of course

1 have to take a hard look at for the next year, and  
2 see whether we can work something out on that,  
3 because I think everyone feels very strongly that  
4 that should be an ongoing project.

5 COUNCIL CHAIR PETER JENSEN: Pat.

6 PAT AUGUSTINE: Thank you, Mr.  
7 Chairman. Then it was the committee's sense that  
8 the areas that were selected for 2009, if in fact  
9 they were done and completed, they would help us  
10 make better management decisions or assist the  
11 Council in making better management decisions?

12 DENNIS SPITSBERGEN: We at least felt  
13 like this list would provide those who wanted to  
14 send in project proposals that they would be more  
15 directed in the direction of things that we felt  
16 like we needed to have done.

17 We don't know exactly what kind of  
18 proposals we're going to get based on this list, and  
19 those decisions would have to be based on what kind  
20 of proposals we got in.

21 PAT AUGUSTINE: Thank you, Mr.  
22 Chairman.

23 COUNCIL CHAIR PETER JENSEN: Dennis,  
24 you and I had a sidebar discussion about how this

1 same list might be used in connection with your  
2 trying to get access to the Northeast Consortium.  
3 And so I'm not sure exactly how that happens, but  
4 this can have a dual purpose of being RSA proposal  
5 and a suggestion that people may want to submit  
6 proposals under the upcoming solicitation by the  
7 Center. So, I'm not sure how we do that, but --

8 DENNIS SPITSBERGEN: Yeah, I'm not  
9 sure either, but that's something we probably need  
10 to take a hard look at. And again, I would like to  
11 see us even move toward that kind of setup in the  
12 Mid-Atlantic, instead of depending on that. And of  
13 course, that is line item funding that goes through  
14 that Northeast Consortium. And if you look back  
15 further into your book, you will find several  
16 projects in there that are multi hundred thousand  
17 dollar projects that are funded by that. And it  
18 would be nice to have that kind of funding to do  
19 some of our work.

20 NANCY THOMPSON: I absolutely agree -  
21 - you know, with the direction that you're going  
22 with this, Pete. I really think it would be very  
23 useful for all of us if there were some entity which  
24 is very similar to the Northeast Consortium in the

1 Mid-Atlantic. And I think in that way then we can  
2 obviously engage many other academic partners in the  
3 research. And I think that's really helpful.

4 And there's no question that the  
5 Northeast Consortium has been able to work with us  
6 very closely in terms of providing information that  
7 is directly relevant to the science advice that is  
8 used to support management.

9 COUNCIL CHAIR PETER JENSEN: When do  
10 you expect the solicitation to come out for that  
11 federal money that would go to the Consortium? What  
12 month or -- about what --

13 NANCY THOMPSON: Well, like I said  
14 when we had this discussion about how it happened  
15 this year with the broad announcement of  
16 availability of funds, because the earmarks were all  
17 rolled up and there essentially were no earmarks and  
18 the competition then took place, substituting  
19 obviously for those earmarks, and we're not sure  
20 obviously what's going to happen this year.

21 So, I don't know if there's actually  
22 going to be a competition or if in fact when the '08  
23 budget comes out, if some of these earmarks will be  
24 included or not.

1                   So, actually our main budget people  
2                   are here and so I hope I'm not misspeaking, but --  
3                   you know, last year we did have the competition. It  
4                   was a unique year. We were told we couldn't have  
5                   earmarks. What' going to happen this year, I don't  
6                   know.

7                   COUNCIL CHAIR PETER JENSEN:

8                   Appreciate that. Dennis.

9                   DENNIS SPITSBERGEN: Just one more  
10                  comment. In discussion with John Hoey, he indicated  
11                  that once our committee is reconstituted he would  
12                  like to have a good half day or more to sit down  
13                  with the committee -- we got into a little bit of a  
14                  philosophical discussion but ran out of time to  
15                  really get into a lot of discussion we'd like to  
16                  have of what direction we'd like to have things go.

17                  So, once we get the committee  
18                  reconstituted, I would maybe discuss with you  
19                  setting up some kind of a committee meeting  
20                  somewhere where we don't get a whole lot of  
21                  interference from anybody and can have a pretty good  
22                  discussion on some things.

23                  COUNCIL CHAIR PETER JENSEN: I do

24                  know who the Chairman is going to be.

1                   JAMES WEINBERG: Thank you. I just  
2 wanted to clarify something. From looking through  
3 this list, I think that there are things on here  
4 which are clearly going to help management. But  
5 also there are things on here that can potentially  
6 be useful to stock assessment.

7                   What was taken -- from listening in  
8 at the RSA meeting, what they seemed to take off  
9 were priorities related to trying to conduct a  
10 survey, which generally could turn into a five or a  
11 ten-year project. And that's not the sort of thing  
12 that they wanted to have on this list.

13                   But there are projects on here, like  
14 getting the size and age structure of a particular  
15 fish, or how much mortality is caused by discarding  
16 this or that. Those are all useful pieces of  
17 information that can give local or regional  
18 information that we wouldn't necessarily get  
19 ourselves at the Center.

20                   So, I don't think you should have the  
21 impression that it's just become a list for better  
22 management, but there are things on here that can be  
23 used in stock assessment, but not surveys.

24                   COUNCIL CHAIR PETER JENSEN: Further

1 questions, comments? Phil.

2 PHILIP RUHLE: Thank you, Mr.

3 Chairman. I wasn't able to attend this meeting this  
4 time around. But a couple of things jump up at me.

5 One, if I'm not mistake -- I mean I understand the  
6 -- the Northeast Consortium's process and I've been  
7 involved with them for quite a while. And I do  
8 agree with Nancy, as far as the peer review and  
9 having a way of going through the projects, that's -  
10 - you know, the outcome of a lot of work and it  
11 tends to be -- from what I've seen of it, has a lot  
12 of merit.

13 But in my mind, I can't remember the  
14 Consortium having any survey projects. I don't  
15 think any projects that I can remember going through  
16 that process are survey-related. The industry based  
17 surveys were not part of that. The other ones  
18 weren't. So, I'm a little disturbed with this  
19 backing off from the surveys in the research set-  
20 aside. You know, doing any stock assessment work or  
21 survey work.

22 It goes to a point that I keep hear  
23 being made -- I've heard quite a few places. You  
24 can go play scientist all you want with -- you know,

1 gear or books or events or all of this, but you  
2 don't come into the stock assessment vault because  
3 it gets kicked out. And to not have any -- I don't  
4 feel like it should ever be competing science, but  
5 it should be something that helps the picture of the  
6 assessment that you're trying to look at.

7 In New England we had a couple  
8 different industry-based surveys that took place to  
9 answer specific questions. And there are still  
10 issues with them as it goes forward, but to take and  
11 back away completely from doing anything along them  
12 lines, to me is troubling. Thank you, Mr. Chairman.

13 COUNCIL CHAIR PETER JENSEN: Well,  
14 perhaps that needs a little better definition, and  
15 I'll say what I think I had understood them to say,  
16 and that is they were not going to commit to  
17 continuing year after year after year funding for  
18 those kind of projects. Dennis.

19 DENNIS SPITSBERGEN: Yeah, and I  
20 think I also said that we were backing off until we  
21 felt more comfortable. We didn't say we'd never do  
22 surveys again, but we've got some discomfort right  
23 now with the way surveys have been done and the fact  
24 that they haven't been something that we could use

1 the way we intended to.

2 So, this is an annual process that we  
3 put together this priority list. And just for the  
4 present time, we don't feel comfortable with looking  
5 at surveys.

6 COUNCIL CHAIR PETER JENSEN: Nancy.

7 NANCY THOMPSON: Yeah, we had  
8 discussion obviously about this at the New England  
9 Council meeting, as well. And I mean my view of  
10 this program is that we're talking about cooperative  
11 research. And again, in my view, cooperative  
12 research means that we're working together.

13 And that's been an issue as far as  
14 some of these surveys are concerned, and  
15 particularly some of the industry-based surveys and  
16 things like that, is that the surveys are developed  
17 and then people go out and they're implemented, and  
18 then as far as cooperation and working with our  
19 scientists is concerned, it happens after the fact.

20 And when it happens after the fact,  
21 then it's difficult in terms of looking at the data  
22 and saying that they're relevant. And so I mean my  
23 view again is that this is cooperative research, and  
24 we obviously need to be integrated, which is why we

1 bring up the NEAMAP, I think, survey so often,  
2 because the NEAMAP survey was cooperative in the  
3 sense that we sat down with industry folks and  
4 designed a survey. And we were very much involved  
5 in implementation of that and doing -- you know,  
6 making sure that it was done in a particular way so  
7 that when the data were provided to us, we knew what  
8 to expect and we knew that those data were relevant  
9 and meaningful and could be -- you know, brought  
10 into the stock assessment process.

11 So, that's where some of the  
12 discussion about the RSA and surveys go, as well.  
13 First of all, surveys are not cheap. And surveys  
14 are operations. And the RSA -- you know, I think  
15 was set up to develop some pilot projects or to  
16 really home in on specific research projects, rather  
17 than operations.

18 We always have this discussion about  
19 okay, so then we have a survey. The next question  
20 is: Is it working? If it's working, how do we make  
21 it operational? And is RSA the way to go to make it  
22 operational? So, that's some of it, as well, and  
23 those are some of the concerns I think -- you know,  
24 that were certainly aired during the meeting.

1 COUNCIL CHAIR PETER JENSEN: Phil.

2 PHILIP RUHLE: Thank you, Mr.

3 Chairman. Thank you, Nancy. I mean, I understand -  
4 - we've had this discussion a couple times, but I  
5 totally understand that and I totally understand  
6 what you're saying, Pete. As long as I've been  
7 sitting here, and way before that, been arguing that  
8 that is the role. If you develop a survey or  
9 something like that, you do it in a pilot scenario.

10 The funding for that should -- that's where  
11 research cooperative funding should come from, to  
12 get the pilot up, running. If it works and looks  
13 like it needs to go forward, then the funding should  
14 be coming from somewhere else, not out of the  
15 continuing right there.

16 But as you point out with NEAMAP,  
17 they sat down and designed it. Well, I've been  
18 involved in three of these other surveys and the  
19 Science Center and the Service were sitting at the  
20 table in the design right on through every one of  
21 them -- you know? And there's a major issue with  
22 me. They sat right there in the design and in the  
23 placement and then kick it at the end of the day.  
24 That's where I have a problem. Thank you.

1 COUNCIL CHAIR PETER JENSEN: Further  
2 comment on the list? Jimmy.

3 JAMES RUHLE: Not necessarily on the  
4 list, and I'm reasonably sure I'm correct on this,  
5 and it's a response to one of Philly's questions,  
6 I'm almost positive that the Inshore Gulf of Maine  
7 Survey is some way funded by the Consortium. I'm  
8 almost positive of that, because that woman -- that  
9 Sally Sherman who was actually involved with some of  
10 the setting up of the NEAMAP was talking about they  
11 had the -- of course, they had significant funding  
12 issues, but I'm reasonably sure that -- wasn't it  
13 last year that the line item for the Consortium was  
14 eliminated completely? Their potential budget was  
15 significantly reduced. Something has happened in  
16 the interim to bring it back. But just -- I think  
17 there's a tie there. It may not be coming directly  
18 from the Consortium to the State of Maine. It might  
19 be another way. But I'm reasonably sure that  
20 there's a tie there at some level. But that's --  
21 I'm not a thousand percent sure.

22 COUNCIL CHAIR PETER JENSEN: Pat.

23 PATRICIA KURKUL: The funding for the  
24 Inshore Gulf of Maine Survey is actually bounced

1 back and forth between the Consortium and the  
2 cooperative research program.

3 COUNCIL CHAIR PETER JENSEN: Further  
4 discussion?

5 UNIDENTIFIED (No microphone):  
6 (Inaudible.)

7 COUNCIL CHAIR PETER JENSEN: I don't  
8 think so. I think unless we have a motion to make  
9 some changes, then this will be the list that we  
10 use.

11 Dennis, one of the questions that the  
12 committee was asked to consider is whether the RSA  
13 was in fact achieving its original purpose. And so  
14 I think I'm interpreting the list -- this list as a  
15 refocusing of the RSA intent, and so the question is  
16 answered. Am I correct?

17 DENNIS SPITSBERGEN: I think you're  
18 correct on that, yes.

19 COUNCIL CHAIR PETER JENSEN: Thank  
20 you. Further discussion on research set-aside?  
21 Dan.

22 DANIEL FURLONG: We hear the word a  
23 lot, both Nancy and Pat just used it, the concept of  
24 cooperative research, cooperative survey work and so

1 on. One of the fundamental problems with this  
2 program is that there was a legal determination made  
3 that these quota set-asides would be grants. And  
4 the government has like three ways to get money out:  
5 grants, cooperative agreements, and contracts.

6 And to me, this should have been a  
7 cooperative agreement. And I don't know how we can  
8 convince the powers to be to revisit the decision to  
9 change this from a grant program to a cooperative  
10 agreement program. And that would make things a lot  
11 easier in terms of insuring cooperation between the  
12 agency and the industry if in fact these types of  
13 set-asides could be categorized as cooperative  
14 agreements rather than grants.

15 Now, I'd also like to say -- I don't  
16 know if anybody's -- Nancy mentioned that we had the  
17 financial officer or the budget officer here. I  
18 would like to introduce Gary Reisner. We've had  
19 important people at our Council in the last year,  
20 like Senator Schumer and Congressman Pallone and  
21 Congressman Gilchrest have all shown up here in the  
22 last 12 months. But let me tell you, we've really  
23 got an important guy today in the person of Gary  
24 Reisner, and I hope he can introduce someone who's

1 probably as important, or more so.

2 So, Gary, I would like to throw this  
3 over to you with the idea that I hope you can  
4 influence the decision makers on this program to  
5 reconsider the notion that we use this as a grant --  
6 rather than a grants program, but a cooperative  
7 agreement program. And I know you're in that world.

8 So, I would like for Gary to take the microphone  
9 here and make some comments and introduce his  
10 traveling partner.

11 GARY REISNER: I'll look into whether  
12 we can go to cooperative agreements versus grants or  
13 contracts. I know there's an issue on that, and I  
14 haven't been directly involved in it, but I will try  
15 to get more involved.

16 COUNCIL CHAIR PETER JENSEN: Gary,  
17 for the benefit of our Council members, tell us a  
18 little bit about who you are and what you do.

19 GARY REISNER: I'm Gary Reisner. I'm  
20 the CFO, Director of Budget, for the National Marine  
21 Fisheries Service. I do the National Marine  
22 Fisheries Service, part of NOAA. Maureen Wylie, who  
23 is probably more important, is the CFO for NOAA.  
24 So, she oversees not only the National Marine

1 Fisheries Service, the Weather Service, satellites  
2 and sundry other activities. And one of the things  
3 we've been trying to do is explain the value of the  
4 Council system and the controversies that come up,  
5 and how those controversies then get reflected back  
6 in our need for additional research, our need for  
7 more enforcement activities, or more management  
8 regimes.

9 And so that's why we came, and we  
10 appreciate your having us. I want to apologize. We  
11 actually left earlier than we had planned to so that  
12 we could be here in the morning to hear some of the  
13 fun controversial discussions, but unfortunately I  
14 guess there were storms and roads were flooded and  
15 planes were delayed, so we were looking at Shea  
16 Stadium for about an hour on the highway.

17 Anyway, this is Maureen Wylie. I  
18 don't know, Maureen, if you want to say a couple  
19 words.

20 MAUREEN WYLIE: Thank you very much  
21 for allowing me to come and watch how this kind of  
22 sausage is made. I understand that we're trying to  
23 balance a lot of interests here, and it really helps  
24 me when we're trying to make resource allocation

1 decisions at a relatively esoteric level to be able  
2 to hear your views about, say, cooperative research.

3 I agree with you that it should be  
4 cooperative, and I would be happy to discuss that  
5 with our grants attorneys. But you know, when there  
6 are lawyers involved, complexity ensues.

7 UNIDENTIFIED (No microphone):  
8 Remember we're on the record.

9 MAUREEN WYLIE: I understand.

10 UNIDENTIFIED (No microphone):  
11 (Inaudible.)

12 MAUREEN WYLIE: Well, I definitely  
13 will check. But I can't guarantee that I'll win, so  
14 -- but as I said, I appreciate very much -- this is  
15 a new area for me and it's certainly -- you have a  
16 great challenge and one that you obviously take  
17 very, very seriously. And thank you very much.

18 COUNCIL CHAIR PETER JENSEN: Joel.

19 JOEL MACDONALD: Thank you, Mr.  
20 Chairman. It was probably a little unfair to have  
21 Gary talk about how this decision was made with  
22 respect to using grants in this process. I believe  
23 the decision -- and I wasn't involved in it, but I  
24 am one of the attorneys, and I believe the attorneys

1 in Barbara Fredericks' office -- Barbara is the  
2 Assistant General Counsel for Administration at the  
3 Department level, and I know her -- not that well,  
4 but -- you know, I can actually approach her through  
5 my chain of command and see if the issue can be  
6 revisited.

7 I know there was a huge harangue over  
8 whether grants or contracts were going to be used in  
9 this context. But you know, I will undertake to do  
10 that for the Council.

11 GARY REISNER (No microphone): One of  
12 the issues with grants is: Is the purpose of the  
13 work directly related to our ability to do our job?

14 And the closer it is to that --

15 DANIEL FURLONG: You might want to  
16 get to the mike so we can tape -- you're being taped  
17 when you get to the mike, so we hold you to this  
18 stuff.

19 GARY REISNER: One of the issues is  
20 when -- contracts are designed to be issued when  
21 you're needing activities done solely for the  
22 purpose of us administering our programs and running  
23 our activities.

24 The further you get away from that,

1 you get into grants, which don't necessarily  
2 directly benefit our actual on-the-ground work.  
3 Part of the issue I think that came up with regards  
4 to these was this issue of was this work being done  
5 for a need that we have.

6 In other words, we're responsible for  
7 doing surveys, to use that example, so -- and  
8 sometimes we contract for surveys. Was this another  
9 vehicle to contract for a survey that we were  
10 responsible for doing anyway? And I think some of  
11 the discussion was around that, and that's what got  
12 the movement away from grants and over towards  
13 contracts.

14 Cooperative agreements are in the  
15 middle there, and I think that is a vehicle that we  
16 can try to explore.

17 COUNCIL CHAIR PETER JENSEN: Well, we  
18 appreciate that. And I think one of the things we  
19 struggle with is under the current process,  
20 timeliness. You know, from the time we initiate  
21 something to try to answer a question, the  
22 information doesn't come until several years later  
23 by the time you contract -- you know, advertise it,  
24 contract it and get the reports. And so timeliness

1 is also an issue.

2 Further discussion?

3 (No response audible.)

4 COUNCIL CHAIR PETER JENSEN: Thanks,  
5 Joel, for undertaking that. Appreciate it.

6 Dan, you had a housekeeping  
7 announcement, I think?

8 DANIEL FURLONG: Yes. As you're  
9 aware, we have three of our members who are in their  
10 last Council meeting. They've either termed out or  
11 moved on to greener pastures. This evening we're  
12 having a -- I would call it a heavy hors  
13 d'oeuvres/light dinner. It's over in the main  
14 building where you checked in, in that lobby. If  
15 you were to walk from the check-in desk toward the  
16 restaurant, there's a set of stairs on your left.  
17 Our event will be upstairs, it runs from 7:00 until  
18 9:00, and I hope you can attend.

19 If you're here and you're on expenses  
20 for the Council, we're just going to dock you the  
21 \$30 dinner fee. That leaves you two dollars for  
22 your dinner. Anybody else who's here, you certainly  
23 are welcome to attend. We encourage you to attend.

24 This is an opportunity to share a little

1 camaraderie and say goodbye to those members who are  
2 leaving the Council. And hope to see you there at  
3 seven o'clock. And you can see myself or Jan and  
4 we'll collect the 30 bucks. And that's it.

5 And then tomorrow we start at eight  
6 o'clock with the Tilefish Committee on Amendment 1,  
7 and then at nine o'clock the Council convenes to  
8 consider Amendment 9 for Secretarial submission on  
9 the Squid, Mackerel, Butterfish Plan.

10 COUNCIL CHAIR PETER JENSEN: Okay.  
11 Jimmy.

12 JAMES RUHLE: Thank you, Mr.  
13 Chairman. If my understanding's correct, Gary and  
14 his -- was it Maureen? I missed the name -- are in  
15 fact holding the purse strings to a lot of our  
16 issues. We've got to make up something here for the  
17 next couple hours, even if we don't know what the  
18 hell we're talking about.

19 COUNCIL CHAIR PETER JENSEN: Why  
20 don't you contribute toward their attending the  
21 party tonight? That might have some influence.

22 JAMES RUHLE: Well, I mean, I'll try  
23 to do that. But I mean this is just like taking an  
24 observer. How often do we get done at three o'clock

1 in the afternoon? Stuff happens when I take an  
2 observer on my boat that never happens on a regular  
3 basis. But you try to explain that to that observer  
4 -- you know? I've never caught one of them before.

5 Sure you didn't -- you know? We don't normally get  
6 done at three o'clock, believe me. Somebody else  
7 has to back me up on this, but we do appreciate your  
8 support to this Council process. It is -- sometimes  
9 it's like pulling teeth, but I think it takes -- in  
10 order to do the right thing for the resource, it  
11 takes involvement from all aspects. And it does in  
12 fact take people to -- away from their normal jobs  
13 and normal lives to get involved with this to get  
14 all of the issues on the table. Because I can't  
15 stress it enough. Those of us that put in a  
16 significant amount of time in the ocean see changes  
17 well before they're reflected in science. And  
18 without that input at this table, this process is  
19 not going to work well at all. And it does need to  
20 be reflected.

21 COUNCIL CHAIR PETER JENSEN: Well,  
22 and that's a good point. And I think everyone  
23 around the table can reflect on daily activities  
24 they have, either reading something, getting an e-

1 mail, making telephone calls, all the things that go  
2 on other than the time we're sitting at this table.

3 And so in that sense it's full-time attention, even  
4 though it's not a full-time job.

5 Further comments, discussion, before  
6 we end for the day?

7 (No response audible.)

8 COUNCIL CHAIR PETER JENSEN: Okay.  
9 We'll see you all in the morning.

10  
11 WHEREUPON:

12  
13 THE MEETING WAS SUSPENDED AT 3:40 P.M.  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF NORFOLK

I, PAUL T. WALLACE, a Professional Court Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the foregoing transcript represents a complete, true and accurate transcription of the audiographic tape taken in the above entitled matter to the best of my knowledge, skill and ability.

In witness whereof, I have set my hand and Notary Seal this 29th, day of September, 2007.

\_\_\_\_\_  
PAUL T. WALLACE. Notary Public  
My Commission Expires

October 3, 2008

THIS FOREGOING CERTIFICATION OF  
THIS TRANSCRIPT DOES NOT APPLY TO ANY REPRODUCTION

OF THE SAME BY ANY MEANS UNLESS UNDER THE DIRECT  
CONTROL AND/OR DIRECTION OF THE CERTIFYING REPORTER.

Pages: 1-125

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL  
Room 2115 Federal Building  
300 South New Street  
Dover, Delaware 19901-6790

COUNCIL MEETING

7-9 AUGUST 2007

at

Danfords on the Sound  
25 East Broadway  
Port Jefferson, NY 11777

THURSDAY, AUGUST 9, 2007

## I N D E X

TOPIC	PAGE
INTRODUCTIONS AND ANNOUNCEMENTS	
PETER JENSEN	4
APPROVAL OF JUNE COUNCIL MEETING MINUTES	
PETER JENSEN	4
Motion - Approve Minutes	
Dennis Spitsbergen	4
Vote - (passed)	5
APPROVAL OF AMENDMENT 9 TO THE SQUID, MACKEREL, BUTTERFISH FMP FOR SECRETARIAL SUBMISSION	
JAMES ARMSTRONG	5
Motion - Alternative 4B	
James Ruhle	27
Vote - (passed)	34
Motion - Alternative 8D	
James Ruhle	41
Motion to Substitute -- 8A	
Laurie Nolan	43
Vote - (passed)	50
Vote - (passed)	51
Motion - Alternative 9A	
James Ruhle	52
Vote - (passed)	52
Motion - Submission	
James Ruhle	53
Vote - (passed)	54
NMFS LAW ENFORCEMENT REPORT	
ANDREW COHEN	56
UNITED STATES COAST GUARD REPORT	
TIM BROWN	74
SURFLAM OCEAN QUAHOG/TILEFISH COMMITTEE REPORT	
LAWRENCE SIMNS	80
Motion - Alternative 5.19.A	
Lawrence Simns	81
Vote - (passed)	83
Motion - PSP Protocol	
James Ruhle	88
Vote - (passed)	96

SQUID, MACKEREL, BUTTERFISH COMMITTEE REPORT	
JAMES RUHLE	97
Motion - Base Years	
James Ruhle	97
Vote - (passed)	98
Motion - SSC Peer Review	
James Ruhle	99
Vote - (passed)	103
Motion - Sector Implementation	
James Ruhle	105
Motion To Amend	
Dennis Spitsbergen	106
Vote - (passed)	107
Vote - (passed)	109
CONTINUING AND NEW BUSINESS	
DANIEL FURLONG	122

1 [9:15 a.m.]

2 \_\_\_\_\_  
3 INTRODUCTIONS AND ANNOUNCEMENTS

4 COUNCIL CHAIR PETER JENSEN: Let's  
5 see if we can get started, so we can finish on time  
6 here. We have several items to finish up our  
7 meeting today. We need to approve the minutes of  
8 the prior meeting and we're going to have a  
9 committee report from Surfclam Committee, and we  
10 need to approve Amendment 9, and we'll have a  
11 presentation from Jim on that. And the Enforcement  
12 Committee Report or the Enforcement Report, and then  
13 the Surfclam/Ocean Quahog Committee Report, and  
14 there'll be action to be taken there.

15 \_\_\_\_\_  
16 APPROVAL OF JUNE COUNCIL MEETING MINUTES

17 COUNCIL CHAIR PETER JENSEN: So, can  
18 I have a motion to approve the minutes?

19 DENNIS SPITSBERGEN: So moved.

20 COUNCIL CHAIR PETER JENSEN: Second?

21 LARRY SIMNS: (Inaudible.)

22 COUNCIL CHAIR PETER JENSEN: Any  
23 discussion?

24 (No response audible.)

1 COUNCIL CHAIR PETER JENSEN: Any  
2 opposition to approving the minutes?

3 (No response audible.)

4 COUNCIL CHAIR PETER JENSEN: Minutes  
5 are approved. Let's go to the presentation on  
6 Amendment 9, and then we'll follow that with the  
7 Committee Report.

8  
9 APPROVAL OF AMENDMENT 9 TO THE  
10 SQUID, MACKEREL, BUTTERFISH FMP  
11 FOR SECRETARIAL SUBMISSION

12 JAMES ARMSTRONG: Thank you, Mr.  
13 Chairman. Okay. I'll try to keep this as brief as  
14 possible, given the constraints of time. For those  
15 of you -- what you have available through the  
16 briefing book, and it's also available on the back  
17 table, is the Executive Summary for Amendment 9.

18 Most of you know this, but at the  
19 last Council meeting, a number of issues were  
20 removed from Amendment 9, specifically Management  
21 Issues 6, 7 and 10. Those consist of the loligo  
22 minimum mesh size requirements, exemptions from  
23 loligo minimum mesh that apply to the illex  
24 moratorium permitted vessels, and butterfish GRA

1 measures. So, those were deferred to Amendment 10  
2 for further consideration. So, for the purposes of  
3 today's actions, they still exist in Amendment 9,  
4 but the Council will be taking -- adopting the no  
5 action alternative, with the understanding that  
6 they're going on to the next amendment.

7 So, originally there were ten  
8 possible management actions or management issues in  
9 Amendment 9. Elimination of three of those leaves  
10 us with seven, but they still have the same numbers  
11 associated with them that were in the original  
12 document.

13 Originally, I thought I'd go through  
14 all the public comments, and I'm going to breeze  
15 through that as quickly as possible and bring them  
16 up as needed during the discussion of the  
17 alternatives. Then the two actions for the Council  
18 will be to select the preferred alternatives. There  
19 are still a number of alternatives in the amendment  
20 that have not -- I'm sorry, a number of issues in  
21 the alternative for which there are not preferred  
22 alternatives yet. And then finally, the Council  
23 will approve the amendment for Secretarial  
24 submission, and Jan has all the language for all of

1 these actions already set up, so when we get to that  
2 point, we should be able to move pretty quickly.

3 The public comment period lasted from  
4 April 6th to May 27th. Announcements were made  
5 through the Federal Register as well as through our  
6 massive mailing distribution list. There were four  
7 hearings: Warwick, Rhode Island; Riverhead, New  
8 York; Cape May, New Jersey; and Virginia Beach.

9 They ran from the 14th to the 17th of  
10 May. You can see the attendance off to the right-  
11 hand side there. The Riverhead, Long Island meeting  
12 was the most highly attended and longest-lasting  
13 meeting of the four. There was a lot of  
14 participation there. In all of the meetings, only  
15 commercial industry representatives were present.  
16 There were no recreational environmental groups or  
17 NMFS personnel at any of the public meetings.

18 Comments were also sent in through  
19 letters, e-mails and faxes. We received 11 letters,  
20 some of them with multiple signatures from  
21 commercial industry groups, three from recreational  
22 fishery groups, one from an environmental  
23 conservation group, and one from the Town of  
24 Easthampton, New York.

1                   And a summary of all the comments,  
2                   the responses to the comments, as well as copies of  
3                   the written comments that were sent in have been  
4                   compiled and are included in Volume 2 of the  
5                   amendment. They are the final appendix in that  
6                   volume, Appendix 11. And that is not available,  
7                   except in electric form, for those of you who got  
8                   CDs. If you want a hard copy of it, feel free to  
9                   contact us.

10                   I'm just going to -- I'm going to  
11                   skip through the review of the public comments at  
12                   this point, other than what I just said.

13                   Okay. Let's go on to the management  
14                   actions that are in the amendment. The first,  
15                   Management Issue Number 1 is multi-year  
16                   specifications. There are three alternatives. The  
17                   Council's preferred alternative has been identified  
18                   as Alternative 1B, which would allow for multi-year  
19                   specifications up to three years for all four  
20                   species currently managed under the FMP. Currently,  
21                   multi-year management is only allowed for loligo.

22                   I have a little red asterisk next to  
23                   Alternative 1A. During public comments, a number --  
24                   a few commenters chimed in and felt that multi-year

1 specifications were inappropriate under this FMP.  
2 They thought that it was unrealistic to set  
3 management targets more than one year in the future.

4 This, however, is an administrative  
5 type of action, and the Council is not obligated to  
6 undertake multi-year specifications, if it were to  
7 go with its preferred alternative; and, even if it  
8 was to go through with that, and new information was  
9 to come to light suggesting that the specifications  
10 for an upcoming year are no longer appropriate, the  
11 Council is fully able to re-evaluate the measures  
12 and adjust as needed.

13 The second issue in the amendment is  
14 the moratorium on entry into the directed illex  
15 fishery. The Council has identified -- there are  
16 four alternatives under there, including the no  
17 action alternative, but the action Alternative 2B  
18 has been identified by the Council as its preferred  
19 alternative. That would extend the current  
20 moratorium on entry into the illex fishery  
21 indefinitely. And during the public comment period  
22 there was some support for Alternative 2D, which  
23 would have done the same thing. However, it would  
24 have also allowed entry into the fishery through a

1 permit transfer system. In other words, you  
2 wouldn't have to -- it wouldn't be limited to the  
3 sale of a permitted vessel. There would be some  
4 sort of a permit transfer system. And that was --  
5 some commenters felt that that would allow increased  
6 flexibility in the existing system.

7 Okay. Management Issue Number 3  
8 addresses the biological reference points that exist  
9 for loligo. There are two alternatives: do  
10 nothing, or adopt the SARC 34 recommendations.  
11 These biological reference points are not the  
12 biomass target thresholds, but rather the fishing  
13 mortality targets and thresholds that were  
14 recommended by the 34th SARC.

15 That Alternative 3B is the Council's  
16 preferred alternative. One of the questions that  
17 came up during the public comment period kind of  
18 caught me flat-footed. If you look at the SARC's  
19 recommendations, they address quarterly fishing  
20 mortality targets and thresholds. And then it was  
21 brought up that currently the loligo fishery is  
22 managed under a trimester-based quota system. So,  
23 what do we do with the SARC's recommendation under  
24 those circumstances?

1                   So, I contacted the Science Center  
2                   and they let me know that because the fishing  
3                   mortality rates are additive, that no matter what  
4                   the quota allocation scheme is, subannual quota  
5                   allocation scheme is, the target total annual F,  
6                   target F for the annual F would be .96, and the  
7                   threshold would be 1.24.

8                   So, currently the -- or as  
9                   recommended by the SARC, the quarterly targets would  
10                  be .24, and thresholds would be .31. However, under  
11                  the current trimester system, that would translate  
12                  to F targets of .32 and F threshold of .41.

13                  So, there may be some refinement of  
14                  the language under the Council's preferred  
15                  alternative of that in order to take into account  
16                  and allow for flexibility if the subannual quota  
17                  system was to be modified in the future.

18                  Okay. The fourth issue is:  
19                  Designation of EFH for loligo eggs. There are two  
20                  alternatives under this issue: no action, or to  
21                  designate EFH based on documented observations of  
22                  loligo egg mops.

23                  The observations of loligo egg mops  
24                  are documented in a Fishery Bulletin journal article

1 by Emma Hatfield and Steve Cadrin published in 2002.

2 This is Figure 4 from that article. And it  
3 illustrates through consultation with commercial  
4 industry participants areas where they have  
5 encountered loligo egg mops, and what times of year  
6 they have seen them.

7 So, here's the same picture, only  
8 this is digitized and the areas are translated into  
9 ten-minute squares to make them more definable when  
10 the language is put into place.

11 During the public comment period,  
12 this alternative generated widespread concern from  
13 the fishing community that this was a first step  
14 toward permanently closing these areas to fishing.  
15 There's also a lot of doubt expressed as to the  
16 validity of the areas identified.

17 In consultation with the Northeast  
18 Regional Office, I received some guidance, and here  
19 are a few -- here's a bit of that to take into  
20 consideration. The first one is that if these areas  
21 are designated as EFH for loligo eggs, they would  
22 not restrict fishing activities. The designation  
23 would not restrict fishing activities.

24 If the mitigation or restriction of -

1 - or some sort of management action on fishing or  
2 non-fishing impacts on the EFH were to be  
3 considered, then the scope of the mitigation would  
4 be restricted to adverse effects on habitat, not on  
5 the eggs themselves. In other words, you have to  
6 look at the actual language that describes the  
7 habitat. And for the most part, the habitat that  
8 corresponds to loligo egg EFH is not considered to  
9 be highly vulnerable to bottom-tending mobile gear.

10 Okay?

11 Also, the EFH, there was some comment  
12 about the temporal nature of these areas. You saw  
13 on the maps -- you know, areas along the coast, and  
14 one would imagine that they would -- you know, sort  
15 of be permanently designated. But the timing of the  
16 south to north use of those areas for egg deposition  
17 by loligo would be incorporated into the designation  
18 of the EFH language.

19 Also, as for the veracity of the  
20 information, the Service felt that while the  
21 information on the locations in that document were  
22 not completely satisfactory -- you know, perfect,  
23 they do represent the best scientific information  
24 that is currently available. And as such, failure

1 to approve Alternative 4B would be in contradiction  
2 to the EFH provisions of the Magnuson-Stevens Act.

3 The fifth issue is area closures to  
4 reduce squid, mackerel, butterfish gear impacts on  
5 EFH. There are four alternatives under this issue:  
6 no action alternative and then three potential  
7 closure areas that are not mutually exclusive. They  
8 could all be acted on or a subset of them could be  
9 chosen. This is what they look like. We have  
10 Alternative 1 is the Head of Hudson Canyon. I guess  
11 you can see the cursor moving up there. That's the  
12 sort of L-shaped thing. Over here then there's a  
13 very large area designated as tilefish HAPC. And  
14 then there are two small canyons, Oceanographer and  
15 Lydonia Canyons, off to the eastward here. So,  
16 those are the -- those correspond to the three  
17 action alternatives: Head of Hudson, Tilefish HAPC  
18 and these two small canyons.

19 Just to illustrate, here's an overlay  
20 of loligo fishing trips with the locations of these  
21 canyons. The dark and light areas don't show you  
22 where most of the loligo are taken. It just shows  
23 trips where loligo were caught.

24 So, but anyway, as you can see,

1 there's a substantial amount of fishing effort or  
2 loligo catch that comes out of this area that's  
3 currently designated as Tilefish HAPC. Some effort  
4 in the Hudson Canyon, as well, and then very little  
5 if any going on in the Lydonia and Oceanographer  
6 Canyons.

7 Currently, the Council has identified  
8 the closure of Lydonia and Oceanographer Canyons as  
9 its preferred alternative, not choosing to close  
10 Head of Hudson or Tilefish HAPC.

11 During the comment period, there was  
12 general agreement among fishery and industry  
13 commenters that the Head of Hudson and Tilefish HAPC  
14 closure would cause widespread economic distress.  
15 There was also a comment from an environmental  
16 conservation group that said the characterization of  
17 the benefits from these closures, especially to  
18 tilefish, was inadequate as provided in the  
19 document.

20 In response to that, I would just say  
21 that Alternatives 5B, Head of Hudson, and 5C,  
22 Tilefish HAPC, have already been determined by the  
23 Council not to be practicable. In other words, the  
24 costs do not -- or the costs outweigh the benefits.

1       So, that's why they've chosen 5D as their preferred  
2 alternative.

3               In response to the concern by the  
4 environmental conservation group, I would suggest  
5 that a refinement of what's available or what's  
6 illustrated in Amendment 9 as Tilefish HAPC is going  
7 to be greatly improved through the development of  
8 Amendment 1 to the Tilefish FMP. So, there should  
9 be -- it should be a smaller, more accurate area  
10 that is designated as that.

11               And also because the purpose -- it  
12 will fall within -- and also it will fall within the  
13 scope of the Tilefish FMP to mitigate as practicable  
14 impacts from the entire range of fisheries,  
15 including squid, mackerel, butterfish fisheries, on  
16 tilefish habitat that might be disturbed. So,  
17 anyway, that should take care of that concern, I  
18 think.

19               Okay. Here's one of the issues  
20 that's -- we're not going to be dealing with, so  
21 minimum mesh size requirement is no action.

22               Issue 7, exemptions from the loligo  
23 minimum mesh for illex moratorium vessels from June  
24 to September, no action on that.

1 Issue 8, loligo possession limit  
2 during the directed limit -- for the directed illex  
3 fishery during periods of closures for the directed  
4 -- for the loligo fishery. There are four  
5 alternatives under this issue, and they would  
6 basically provide for varying amounts of retention  
7 of loligo with poundage limits, as well as  
8 percentage limits on them.

9 During the public comment period, I  
10 would say especially during the visit to Riverhead,  
11 there was a lot of comment felt that the action  
12 alternatives here unfairly benefited the illex fleet  
13 at the expense of the loligo fleet. I would add  
14 that this issue has not only been -- has not -- may  
15 have originated in Amendment 8, but it's been  
16 attempted in specifications both last year and again  
17 this year. We don't know whether it's going to be  
18 successful this year, but we can definitely say that  
19 it was not successful as worded last year.

20 One of the things that -- some of the  
21 guidance I got from the Service was that it might be  
22 likely to succeed -- one of the action alternatives  
23 might be likely to exceed -- succeed if it were  
24 linked to a requirement for vessel monitoring

1 through an electronic reporting system.

2 This is just an illustration to show  
3 that the retention of loligo on directed illex trips  
4 is a rare event. What you have here are illex trips  
5 during closure periods, and then the amount of  
6 loligo retained. An illex trip here was defined as  
7 basically an illex moratorium permitted vessel that  
8 retained any illex. You can see that by far -- most  
9 of them were pure illex, and then just a few of them  
10 retained illex as mostly loligo, but some illex.  
11 Almost all of these trips were pretty clean. And  
12 the whole point of this action would be to take care  
13 of -- to address the potential for those rare events  
14 given the large size of catch by the illex trip.

15 So, when they do -- should they catch  
16 loligo and they would tend to -- the incidental  
17 catch would be very large in comparison to a typical  
18 loligo vessel. And during -- this is another  
19 illustration to just show -- comparing the illex  
20 vessels to loligo vessels that do not possess illex  
21 moratorium permits, during closure periods the  
22 catches in the range of the closure period trip  
23 limits were predominantly by loligo vessels. So,  
24 this sort of addressed an issue that was brought up

1 at the Riverhead public hearing that during the  
2 closure periods, a lot of the loligo fleet -- the  
3 value of loligo goes up, and a lot of the loligo  
4 fleet looks forward to the increased value of  
5 loligo. And they will go out and target loligo and  
6 catch up to the closure period trip limit. So,  
7 there we go.

8 The ninth issue in the amendment is a  
9 requirement for electronic daily reporting in the  
10 directed illex fishery. There are two alternatives  
11 under here: one, do nothing. The second would be  
12 to establish a requirement for electronic daily  
13 reporting. This has been strongly supported by the  
14 illex fishery in the past; however, during the  
15 development of this amendment, the support by the  
16 industry appears to have been withdrawn. The basis  
17 for that was concern about mandating an electronic  
18 reporting system while the necessary infrastructure  
19 to process the transmitted data has not yet been  
20 established.

21 In consulting with the Service, the  
22 Regional Office, my contacts there indicated that an  
23 electronic trip report system might -- is not likely  
24 to be fully operational until sometime after Year

1 2009.

2 Issue 10 is also one of the issues  
3 that has been kicked off to Amendment 10, so on  
4 that, the butterflyfish GRAs, the Council is going to  
5 be taking no action.

6 Sorry. I don't know how that got in  
7 there.

8 All right. So, what we've done is  
9 gone over the -- hopefully both the -- I've tried to  
10 fold in the public comments as well as an overview  
11 of the alternatives, letting you know which  
12 alternatives the Council has already identified,  
13 which management issues the Council has already  
14 identified preferred alternatives for, and which  
15 ones still need a preferred alternative to be  
16 identified.

17 So, the next step is the two action  
18 items: to finalize the preferred alternatives, and  
19 I would suggest that you refer to the Executive  
20 Summary under Tab 11 during your discussion of that.

21 And then, finally, to approve the amendment for  
22 Secretarial submission. That's all I have.

23 COUNCIL CHAIR PETER JENSEN: Thanks,  
24 Jim. Questions? Jimmy.

1                   JAMES RUHLE: Thank you, Mr.  
2 Chairman. Sorry for the delay here. A couple  
3 questions. First of all, a compliment to Jim. Did  
4 a great job putting this together. And it just  
5 makes it clearer. I don't know where you found the  
6 red ink, but that was a damn good move, and what it  
7 if we'd have had this earlier, I think we would  
8 have been a whole lot further along the line in --  
9 but I mean that's hindsight. But when you have an  
10 issue this controversial, if it can be put out in  
11 this manner, it mitigates the problems.

12                   But I guess what I've got is a few  
13 questions on the few alternatives that we don't have  
14 preferreds for. And we've got to proceed here some  
15 way, shape or form, and I'd like to ask either Ms.  
16 Kurkul or Dr. Thompson on the egg mop -- on Number  
17 4, the concern that we have, Nancy, and this is  
18 going to be brand new to you, all right? There's no  
19 preferred alternative. Of course we got concerns  
20 that the best scientific data available, which by  
21 the way there's three people in this room sat at the  
22 table with Cadrin and Hatfield and helped develop in  
23 Woods Hole, has completely changed from that time.

24                   The squid migrations have changed.

1 The spawning habits have changed. So, the actual  
2 designated areas, even though they would represent  
3 the same type of habitat, don't apply. So, the  
4 question is if we support the scientific  
5 recommendation -- the scientific data that's  
6 available, what's the process to modify that in the  
7 future once something new comes forward? That's the  
8 concern that I have.

9 NANCY TOMPSON: I mean, what you're  
10 asking me is that there's new information that's  
11 available that has not been through some kind of  
12 peer review. And that's problematic, obviously, in  
13 terms of how we interpret that information and how  
14 we can or can't use that information.

15 Yeah, this is all brand new to me, in  
16 terms of where that information came from. But as I  
17 recall, in listening to Jim's presentation, this  
18 information was published, as well, if I recall.  
19 That's -- it came through a publication; right, Jim?

20 Okay. So, now there's new information. I'm not  
21 sure where that new information came from, but -- I  
22 mean unless there is some review of that new  
23 information, which validates the changes, then I'm  
24 not sure -- you know, where we are as far as that is

1 concerned. I mean, it's after the fact kind of  
2 thing and it needs to go through some kind of  
3 validation process.

4 Jim, maybe you can help here, yeah,  
5 If that's okay? Can I defer to -- okay.

6 JAMES WEINBERG: Yeah, I think that  
7 something that Jim raised in his presentation might  
8 alleviate some of the concern. It did for me. And  
9 that was when he pointed out that the egg mops are  
10 in open water, and this is cruising often captured  
11 in midwater or near the surface even. And this is  
12 not an area where that's likely to have a big impact  
13 in terms of closing most of the major fisheries that  
14 -- at least a lot of the ones we talk about here.

15 So, the emphasis on protecting the  
16 habitat, rather than the egg mops, was a really  
17 important point to make. But I think that if this  
18 is the best available science that we have at the  
19 moment, we always recognize that science marches on  
20 and there is going to be new information in the  
21 future, and that applies to everything.

22 So, I think if it's stated in here  
23 that this is the best we have at the moment, and  
24 that these -- certainly these areas that I see on

1 the map are very broad. I mean, like that area in  
2 Southern New England, I don't think that egg mops  
3 were found in every one of those locations that are  
4 hatched in. They're point locations where they were  
5 observed.

6 So, it seems to be a rather broad  
7 kind of a fuzzy picture of where we think they  
8 occur. And I guess if there's new data out there,  
9 that needs to come forward and if the document could  
10 reflect the uncertainty that we have about -- you  
11 know, whether the -- the old information might be  
12 replaced by something newer and more precise, that  
13 could be indicated. But as it doesn't seem likely  
14 to have a big impact on protecting something, then  
15 I'm not sure that it's something that's a big  
16 concern. But that's getting out of my area.

17 JAMES RUHLE: Okay. Well, Mr.  
18 Chairman, if you don't mind, having said --  
19 understood that, I opposed early on the inclusion of  
20 this. The no action was my preferred alternative  
21 for years with this, simply because of this concern.

22 But recognizing that 9 now could be held up even  
23 longer if we don't do something. We've got to get  
24 past this EFH designation. But I'm not going to sit

1 here and support something that I know is not  
2 correct, today. It was correct when we put it  
3 forward, but my suggestion at the public hearing  
4 that I attended was to expand this area to really  
5 encompass what we believe is Essential Fish Habitat  
6 for loligo eggs. And it's one foot of water off the  
7 beach to 200 fathoms. It is everywhere.

8 That is where now -- if we went back  
9 on that same chart and indicated since we sat down  
10 in Woods Hole where we have taken loligo egg mops --  
11 now I'm referring to mops because they only stay  
12 mops for two weeks, three weeks, then they disperse  
13 and spread up into the upper water column. But if  
14 they're an egg mop in 50 fathoms east of Hudson  
15 Canyon, they're not going to pop up in the water off  
16 of Hatteras. They're going to pop up somewhere in  
17 that general area.

18 So, a better designation would be a  
19 broader area. However, that's not been peer  
20 reviewed. But it's less controversial. So, as long  
21 as I know that there's something we can do in the  
22 future, through whatever mechanism to reflect what  
23 the industry and the scientists come forward with as  
24 new information, that's all I need. If I've got

1 that comfort, then I can support it.

2 NANCY THOMPSON: Yeah, I mean, that's  
3 what I'm trying to figure out, is where do these new  
4 data come from? And I mean is this information that  
5 we would have or is this information that would come  
6 from somebody else? And then the next step is in  
7 terms of getting this new information, getting it  
8 validated basically through the -- a peer review  
9 process. And that means -- you know, either us  
10 sitting down with you again and going through the  
11 new information perhaps, and then running it through  
12 the SSC, or -- you know, something like that.

13 Because I mean yeah, this is new to  
14 me. I don't know where the data -- you know, what  
15 the new data are that you're talking about and where  
16 it's coming from. But we ought to probably sit down  
17 and figure out where those data come from and then  
18 figure out a way to quickly get it -- you know, peer  
19 reviewed so that it does then become -- you know,  
20 something that's out there and available, more than  
21 simply just saying there's new information.

22 PATRICIA KURKUL: Yeah, I think the  
23 peer review part of it is probably the more  
24 difficult piece of this. In fact, it's probably --

1 what you do with it then is quite a bit more  
2 straightforward. We regularly encourage a review of  
3 the EFH information, and in fact require it every  
4 five years. So, there's an understanding and  
5 acceptance that this information is going to be  
6 refined over time.

7 JAMES RUHLE: That's a very critical  
8 point, Mr. Chairman. With what you just said -- and  
9 Nancy, some of this information is available, but  
10 it's anecdotal or empirical at this point, but I'm  
11 reasonably sure, as the Bigelow gets online, and the  
12 combination of the plankton studies that's being  
13 done by the vessels now and that in deeper water  
14 stratas and the spring/fall survey, plus the NEAMAP,  
15 all of it together is going to generate some  
16 information. As long as there's an opportunity, and  
17 that's it. Five years from now, we can revisit this  
18 and say okay, we were off on this. But that's  
19 exactly what I needed to hear.

20 So, with that being said, Mr.  
21 Chairman, I would offer a preferred alternative for  
22 4B, for Alternative 4.

23 COUNCIL CHAIR PETER JENSEN: Okay.  
24 Moved and seconded. A couple of people had their

1 hands up, but I want to go now to discussion on the  
2 motion specific. Pat, you had your hand up first.

3 PAT AUGUSTINE: Thank you, Mr.  
4 Chairman. The biggest concern I have was looking at  
5 the locations of those egg mops and then the  
6 comments that we've heard from loligo fishermen that  
7 these are midwater. Eggs mops are sometimes  
8 midwater, as Jimmy had pointed out, and others had  
9 pointed out. Some as close to one foot of water  
10 down to 200 meters.

11 The problem I see here is once we've  
12 identified a whole area as EFH, as we did when we  
13 were going through looking at the 13 canyons, we  
14 scoped down to two specifically and seemed to be  
15 those would be the ones that we would use for EFH.  
16 But this area is so large along the shoreline, if  
17 you will, that it's almost like a random -- a random  
18 picking of locations that will become EFH or  
19 protected from various fishing gears and times of  
20 the year.

21 Even when we go back to revisit those  
22 five years from now, maybe the loligo will be back  
23 there. Maybe they won't. But the question is will  
24 you ever reduce an area of EFH in view of the fact

1 that EFH starts at the shoreline and goes out to 200  
2 feet or 200 fathoms.

3 My concern is that I agree we need  
4 it. The question is when or how do you ever change  
5 it, and whether we want to change it. I know we're  
6 concerned about specific gear types having a very  
7 negative effect upon habitat. We've concerned  
8 ourselves with trawl gear and so on. But the bottom  
9 line is everything in the ocean is habitat. So,  
10 where does it stop and how do you change an area  
11 once it's been truly identified?

12 I mean maybe it's a rhetorical  
13 question, but I think it has to be asked or answered  
14 somewhere down the road. I understand that these  
15 sites were selected because randomly it was found  
16 that egg mops appears in those areas, apparently  
17 enough so that they should be identified.

18 But I think we're going down a very  
19 steep, slipper slope if we don't ask these  
20 questions. And I guess my biggest question would  
21 be: Once an area is determined to be considered EFH  
22 and designated as such, how or will it ever be  
23 possible to change or reduce that? Not talking  
24 about GRAs. We're talking about EFH.

1                   So, I don't know if Pat can answer  
2                   that or Nancy would want to try that. I know you're  
3                   new at this, Nancy, but I think it's critical.  
4                   Maybe Dr. Weinberg will do it.

5                   COUNCIL CHAIR PETER JENSEN: Go  
6                   ahead, Jim.

7                   JAMES WEINBERG: Well, I was just  
8                   thinking about how the EFH's were refined when L.A.  
9                   McGee has given presentations here. In the past,  
10                  the first cut of it was to designate EFH as  
11                  everywhere that it was ever found. But the new more  
12                  recent approach is to take percentiles of basically  
13                  looking at where it's been found and relating it to  
14                  habitat characteristics and other things, but not  
15                  designating all 100 percent of the places it's been  
16                  found, but looking at shapes that encompass the -- a  
17                  percentile of the range.

18                  So, I think we're not ready to do  
19                  that with this, but that would be -- if more data  
20                  were available, that would be the next step.

21                  PAT AUGUSTINE: To follow on, just  
22                  for clarification purposes, then I'll get off it.  
23                  So, what you're suggesting is as time goes on, or  
24                  until such time that all commercial fishermen have

1 EMS on their vessels, changing one area or another  
2 area, protecting one area versus another area,  
3 cutting it up in blocks and squares, that's not even  
4 going to be doable in terms of being able to fish in  
5 those areas over this period of time?

6 Do you follow where I'm going with  
7 that? Once you've identified an area as EFH without  
8 VMS on your boat, you're a commercial fisherman and  
9 you go wandering through there, you cross over the  
10 line, you're in trouble. So, just a consideration.

11 Thank you.

12 COUNCIL CHAIR PETER JENSEN: Okay.

13 Ron. Ron, you had your hand up?

14 RON SMITH: No, I pass.

15 COUNCIL CHAIR PETER JENSEN: Phil,  
16 you had your hand up before we went to the motion.  
17 Further discussion on the motion? Karen.

18 KAREN CHYTALO: I guess this is  
19 follow up on what Pat was saying, too. These EFH --  
20 this is the normal EFH designation; correct? Is  
21 that what you're looking at? Typically what we use  
22 -- I'm a habitat person, so we use these things for  
23 our review of major projects.

24 I mean, having this kind of

1 information is very helpful when you're evaluating  
2 these -- especially these large energy projects that  
3 are coming our way. You know, knowing things like  
4 having this kind of information for -- now we're  
5 working on the broad waters issue -- you know, where  
6 it's going to be sucking in a million gallons of  
7 water a day in the midwater column. I mean, this is  
8 important information to know that. And that could  
9 be used as part of those determinations, as to  
10 whether or not placement of these things are in the  
11 right location.

12 So, the more that we can get on the  
13 boards -- at least know to look at this issue, to  
14 evaluate it for that certain location, of having it  
15 highlighted, to me is a good thing for protection of  
16 the environment so that we can reduce impacts to any  
17 of these resources.

18 Maybe it's an issue in that specific  
19 location or maybe it's not -- you know, because that  
20 is so broad. But at least it highlights, look at  
21 this issue, pay attention to it before you make a  
22 decision on any projects. So, therefore, I think  
23 that having some of these EFH designations, even  
24 though they're large -- you know, which makes me --

1       which is kind of like well, it almost becomes semi-  
2       meaningless, but at least it does highlight the  
3       issue to take a look at it, especially for doing any  
4       of those large reviews that we're getting hit with  
5       day after day. And I know all the states up and  
6       down the coast are getting hit with these types of  
7       reviews to do, also. Thank you.

8                   COUNCIL CHAIR PETER JENSEN: Phil.

9                   PHILIP RUHLE: Thank you, Mr.

10       Chairman. I would just have to wonder how we go  
11       about -- I mean I understand you're going to go back  
12       and do a review of these -- they're under a constant  
13       reviewing procedure. But when you -- it would be  
14       beneficial to initiate a new look at these egg mops  
15       and that -- the information Jimmy was just speaking  
16       of and any new -- I mean that's fairly far back in  
17       time at this point. So, would it be beneficial to  
18       the Council to ask to initiate a new review of it,  
19       or to look at the new information or even just go  
20       through the observer base and see what could be  
21       discerned out of it at this point, instead of  
22       waiting for it to happen five years down the road  
23       with nothing being in place.

24                   COUNCIL CHAIR PETER JENSEN: Dan.

1 DANIEL FURLONG: Pat, just to clarify  
2 what this alternative relates to, if you turn to  
3 Roman Numeral VII behind Tab 11?

4 PAT AUGUSTINE: Yes.

5 DANIEL FURLONG: And under the Impact  
6 Analysis it says that the Alternative 4B identifies  
7 EFH for loligo eggs based upon documented  
8 observations. By implementing Alternative 4B,  
9 future impacts to EFH for loligo eggs can be  
10 identified and mitigated. Alternative 4B would not  
11 restrict fishing activities. Okay? Such an action  
12 could only be taken if it were determined that  
13 fishing adversely effects the loligo EFH, and would  
14 require a separate modification. So, just to  
15 clarify, what we're doing here is that we're not  
16 closing any areas, okay?

17 PAT AUGUSTINE: Thank you.

18 COUNCIL CHAIR PETER JENSEN: Okay. I  
19 think we're ready to vote on this one.

20 (Motion as voted.)

21 {Move to adopt Alternative 4B as a preferred  
22 alternative in Amendment 9 to the Atlantic  
23 Mackerel, Squid, and Butterfish FMP.}

24 COUNCIL CHAIR PETER JENSEN: All

1 those in favor of the motion on the board to adopt  
2 Alternative 4B as a preferred alternative, raise  
3 your hand.

4 (Response.)

5 COUNCIL CHAIR PETER JENSEN: Fourteen  
6 in favor. Those opposed, same sign.

7 (No response.)

8 COUNCIL CHAIR PETER JENSEN:  
9 Abstentions?

10 (No response.)

11 COUNCIL CHAIR PETER JENSEN: Zero,  
12 zero. The motion passes. Jimmy.

13 JAMES RUHLE: Thank you, Mr.  
14 Chairman. That brings us to the next option,  
15 alternative, that does not have a designation. And  
16 unfortunately, this one is actually tied to 9, the  
17 next one, which deals with the VMS. And we have  
18 crafted some other alternatives or options in  
19 discussions since this amendment was completed. So,  
20 we're basically back to the same thing.

21 This has already been out to public  
22 review and, Jim, I'm going to ask you to present the  
23 results of the scoping meetings on this issue, if  
24 you would, just to refresh everybody on it before we

1 offer a motion. Is that possible, Mr. Chairman?

2 And then a question, while you're  
3 digging that up. If I could, a question to Pat.  
4 With this issue here, this amendment, knowing that  
5 10's coming, if we were to design something more  
6 efficient, easier for law enforcement to deal with,  
7 better for the resource, would we be able to include  
8 that in 10 before it gets too far along, or is that  
9 not -- how would we modify this? I don't think we  
10 can do it. We do it through specs now. You're  
11 looking for something else. So, what's the  
12 mechanism to do that?

13 PATRICIA KURKUL: Well, I think the  
14 problem with the specs is that we've said that the  
15 major deficiency, as we see it, is an effective  
16 monitoring program. And so you couldn't change the  
17 monitoring program through the specification  
18 process, or add a declaration in, or that kind of  
19 thing.

20 So, I think you'd be really  
21 restricted in what you could do in the  
22 specifications to try to resolve some of the  
23 deficiencies we see with this. So, it would take  
24 some type of action, either a framework or an

1 amendment. I'm not going to encourage you to put it  
2 in Amendment 10, because as you know we're --  
3 anything that slows that down at this point is a  
4 problem. So, I'll just leave it at that.

5 JAMES RUHLE: All right. Well, the  
6 analysis that Jim's put up there, we're going to --  
7 well, we can see it. I'll get him to walk through  
8 it. But with what Pat has just said, recognizing  
9 that it isn't going to take another complete action  
10 here, 8C with the five percent and the 20,000, I was  
11 actually considering a middle ground there between  
12 10,000 and 30,000, which is 20. But it's tied to a  
13 five percent on board, which we've talked about is  
14 law enforcement has concerns with.

15 But the problem with the five  
16 percent, it doesn't give you enough -- it doesn't  
17 make any difference. You're looking at an average  
18 trip of illex on an RSW boat of 60,000. Five  
19 percent of that is 3,000. You're already allowed  
20 2500, so you really -- it's not beneficial.

21 So, before I offer a motion, I'm just  
22 suggesting that 8C has very little benefit, you  
23 know? So, I would ask Jim to give us the analysis  
24 of the public hearings and then we'll offer a motion

1 after that.

2 JAMES ARMSTRONG: Well, my impression  
3 from the -- this was something where just the  
4 commercial industry representatives provided  
5 comment. I didn't get any from recreational or  
6 environmental sectors.

7 So, verbal commenters, there were  
8 some in support of Alternative -- the action  
9 alternatives would be -- we're looking at -- let's  
10 see what this does. Not a whole lot. All right.

11 Anyway, can you see on there where  
12 the cursor is? If it's highlighted in blue, then  
13 that means they spoke up and the number there says  
14 how many. The number at the top, where -- here's  
15 the location, and the total number of speakers at  
16 that meeting. So, there were four meetings. Here  
17 are the total numbers of attendees and then if it's  
18 highlighted in blue, they provided input and then  
19 the remainder down here means they didn't address  
20 it.

21 So, Jimmy, did you support -- or your  
22 recollection of Virginia Beach was support of a no  
23 action alternative on this?

24 JAMES RUHLE: I think you know better

1 than that.

2 JAMES ARMSTRONG: Okay.

3 JAMES RUHLE: No, I don't think so.  
4 No, I don't think at that -- Jim, I honestly don't  
5 know. There was more issues on the table because of  
6 the confusion between -- it could have been.

7 JAMES ARMSTRONG: That's what I had  
8 in my notes. Basically, what I have in Appendix 11  
9 here, 31 industry participants expressed -- 31  
10 industry participants expressed opposition to the  
11 action alternatives under this issue. The basis for  
12 their opposition varied, but generally -- it was in  
13 generally one of two categories: 1, the measures  
14 represented an unfair benefit to the illex fleet; or  
15 2, there was a recognition that under the current  
16 trimester-based system for loligo, then the need for  
17 the action was no longer warranted.

18 The idea here is that in the months  
19 August and September when the likelihood for -- when  
20 the overlap of the loligo and illex is greatest  
21 toward the end of the illex season, that's actually  
22 when a new trimester would be starting up. And so  
23 the likelihood that there would be a closure during  
24 that period is -- was considered to be low.

1                   However, there was support from some  
2 commenters for Alternative 8A and -- which would  
3 have been the 30,000 pound limit, and -- I'm sorry,  
4 8B, 30,000 pound limit as well as 8D, which was the  
5 smaller 10,000 pound limit. That was -- among the  
6 action alternatives, that was the one that received  
7 the greatest support among the written comments.

8                   Oh, you know what? That's why I've  
9 got it. Yeah, I still got you on Number 1.

10                   JAMES RUHLE: I brought this to the  
11 Council's attention four or five years ago. I'm  
12 tired of fighting this. I really am. But I can't  
13 make a motion supporting the no action, because it  
14 just is the wrong thing to do for the resource.  
15 Simple as that. And I know everybody's concerns  
16 about the percentages. I think the problem has in  
17 fact been reduced because of the trimesters.  
18 However, we submitted -- in June, we submitted a  
19 specifications package that include 5,000.

20                   That's what we asked for for the  
21 upcoming year. And there was some support from the  
22 -- some support from the scientific -- from the  
23 Center that that was within reason. They actually  
24 mentioned the 10,000, but we had to move the line

1 out to 50 -- from 50 fathoms to 80 fathom, which is  
2 totally unenforceable.

3 So, just to get things going here, I  
4 would move that 8D be the preferred alternative  
5 under Alternative 8. 8D.

6 COUNCIL CHAIR PETER JENSEN: Is there  
7 a second to the motion? Motion's seconded by  
8 Dennis. Discussion on the motion? Laurie.

9 LAURIE NOLAN: Thank you, Pete. Pat,  
10 do you want to -- Pat just put her hand -- do you  
11 want -- okay. This topic has received a lot of  
12 discussion at a number of our Council meetings. And  
13 I'm trying to recall all the reasons that we lined  
14 up why this wasn't a good idea. Allocation being  
15 one of them during a closure, where the industry is  
16 limited to 2500 pounds a trip. We've got a closure,  
17 and we're allowing a specific sector to exceed that  
18 limit while the remainder of the industry is still  
19 bound by 2500 pounds.

20 That being, I suppose, the biggest  
21 issue, a lot of recommendations came out of the  
22 industry on ways to get around this. One of them  
23 being that perhaps the illex fleet should consider  
24 purchasing research set-aside, and go out and buy

1       some loligo quota and then if you're in a situation  
2       where we have a loligo closure and you've exceeded  
3       the 2500, you can cover your catch through the  
4       research set-aside.

5                 Jim noted earlier that during a  
6       loligo closure, the price of loligo goes up. And  
7       the industry enjoys being able to land the 2500  
8       pounds at a high price. And by allowing the illex  
9       fleet to come in with 30,000 pounds or -- you know,  
10      would certainly affect the price. And not only  
11      that. We've got the research set-aside projects in  
12      place. And industry members go out and auction for  
13      those fish to catch them during the closures when  
14      the fish are worth more money.

15                So now you've got industry members  
16      purchasing loligo quota to go catch during a  
17      closure. They're paying for that privilege. And  
18      now we're going to allow the illex fleet to compete  
19      with that market and possibly drive that price down.

20                I think you're undermining the principle of the  
21      research set-aside and what entices the industry to  
22      participate in that process, and pay for the  
23      resource.

24                So, again, I just feel this is an

1 allocation issue, and I think the idea that the  
2 illex fleet has the opportunity to participate in  
3 the auction process and purchase the fish in order  
4 to cover their overages is a very viable solution to  
5 the problem. Rather than talking about these  
6 alternative trip limits. And the percentages have  
7 time and time again been pointed out by law  
8 enforcement as something that's unenforceable.

9 So, I think -- I would actually move  
10 to substitute or amend this motion, but I certainly  
11 don't support it, and I would support no action as  
12 the preferred alternative.

13 COUNCIL CHAIR PETER JENSEN: Well,  
14 are you making a motion?

15 LAURIE NOLAN: I'll make a motion to  
16 substitute.

17 COUNCIL CHAIR PETER JENSEN:  
18 Substitute motion.

19 LAURIE NOLAN: That Alternative 8A,  
20 no action, be the preferred alternative.

21 COUNCIL CHAIR PETER JENSEN: Okay.  
22 Is there a second to that motion? There is a second  
23 to the motion. Discussion on the substitute motion?

24 JAN BRYAN: I'm sorry. Who was the

1 second?

2 DANIEL FURLONG: Puskas.

3 COUNCIL CHAIR PETER JENSEN:

4 Discussion on the substitute motion?

5 (No response audible.)

6 COUNCIL CHAIR PETER JENSEN: From the  
7 audience? Geir.

8 GEIR MONSEN: Thank you, Mr.  
9 Chairman. Geir Monsen from Sea Freeze. We have  
10 fished illex since '87. Even way back when there  
11 was no restrictions on what we could land of loligo  
12 squid, we have never landed any quantity of loligo  
13 squid, for the simple reason that when we catch a  
14 mixture of loligo and illex, the loligo is very  
15 small and the value is very close to what the illex  
16 is worth. And to try to work on a mixed fishery  
17 like that, it's just a tremendous amount of work.  
18 And if they do, the captain probably will be dead or  
19 thrown overboard and swimming out in the ocean.  
20 It's just not happening.

21 A thing like this is meant to try to  
22 protect our competitors that don't handle all the  
23 fish and freeze on board, that get it on board their  
24 boat and got to get it on the deck under

1 refrigeration in order to save both the illex and  
2 the loligo.

3 If they get down on their hands and  
4 knees and try to sort a mixed tow, then all the fish  
5 are going to be bad. So, they have to take the  
6 chance of hoping that there is not a high percentage  
7 of loligo and bring it in.

8 And all this is meant to do is to try  
9 to keep honest people honest, and not punish them  
10 for something that they intentionally didn't try to  
11 do. This is not an allocation issue at all. Never  
12 been. But it's perceived by some people to be that,  
13 and I think that's wrong. Thank you.

14 COUNCIL CHAIR PETER JENSEN: Greg.

15 GREG DIDOMENICO: Thank you, Mr.  
16 Chairman. Greg DiDomenico, Garden State Seafood  
17 Association. We support Alternative D. We  
18 supported Alternative D in our comments and we  
19 support Alternative D now.

20 I just want to reiterate a few  
21 things. First of all, this has a maximum limit of  
22 up to 10,000 pounds of loligo, as stated in the  
23 amendment. I also wanted to say that we had provided  
24 rationale in our comments that was supportive of

1 Alternative D, and basically very supportive -- I  
2 shouldn't say supportive, but along those same lines  
3 as what the staff analysis supports, which says that  
4 the dealer database for 1996 through 1999, there  
5 were 387 trips that occurred during that time  
6 period, 260 of those trips had no loligo landings at  
7 all. The remaining 127 trips, loligo comprised ten  
8 percent or less of the trip landings. So, the staff  
9 analysis, the database analysis, supports  
10 Alternative D. This will not give any encouragement  
11 to a directed fishery; and again, we support this.

12 COUNCIL CHAIR PETER JENSEN: Okay.

13 You're saying B?

14 GREG DIDOMENICO: D.

15 COUNCIL CHAIR PETER JENSEN: D.

16 GREG DIDOMENICO: D.

17 COUNCIL CHAIR PETER JENSEN: You're  
18 favoring the original motion?

19 GREG DIDOMENICO: D.

20 COUNCIL CHAIR PETER JENSEN: Okay,  
21 all right. Yes, sir.

22 VINNY CARILLO: Vinny Carillo,  
23 Fishing Vessel Tenacious, Montauk. I support 8A,  
24 like I have all along. We fish under a TAC.

1           Whether it was quarterly or now trimester, and it's  
2           still a hard TAC that we fish under. That's why we  
3           close the fishery down and go to 2500 pounds. I  
4           don't think it's fair to take that and start giving  
5           somebody else -- or even loligo fishermen an extra  
6           25 to 7500 pounds.

7                           I think if we're going to reallocate  
8           the TAC, then it has to be for everybody. There's  
9           1100 loligo fishermen. If you're going to have 2500  
10          pounds go to 10,000, the 10,000 should be for  
11          everybody. You can't close a fishery down and then  
12          let somebody else go catch 10,000 pounds, because  
13          like Laurie had said, some days illex are 17 cents,  
14          some days loligo is two dollars. And I'm not saying  
15          someone's going to go do it, but at 10,000 pounds at  
16          two dollars, it looks pretty appealing to somebody  
17          when illex isn't worth that much.

18                           I don't care if they've got to get on  
19          their hands and knees, sort or not sort, it's still  
20          fundamental. So, if you're going to reallocate this  
21          TAC that we've been working under, when you close  
22          the fishery down and go to 2500, if you're going to  
23          reallocate the 10,000, I think you should do it  
24          across the board. Otherwise, I support 8A, no

1 action.

2 COUNCIL CHAIR PETER JENSEN: Thank  
3 you. Phil.

4 PHILIP RUHLE: Thank you, Mr.  
5 Chairman. I'm still arguing for the 18. I mean I  
6 understand the concerns, but the reality of it is  
7 just what Geir was saying before. An RS squid --  
8 and illex RSW boat can't sort the stuff out. If the  
9 mixing occurs, he's out of business.

10 Now, what you haven't looked at when  
11 you look at this -- you know, the unfairness or what  
12 have you, maybe the boat's inside need to think  
13 about, is this mixing occurs, I can't go illex  
14 fishing. I'm shut off, that's it. I positively  
15 cannot do it. That's my last trip. I hit the mix  
16 and I'm done until that goes away. So, when I get  
17 done illex fishing, I'm turning around and going  
18 right into the loligo fishery. You know, I'm coming  
19 inside, whether it's closed or open. If it's the  
20 2500, I'm coming inside and working on the 2500 a  
21 day. That's what I got -- my only option I have  
22 left would be to go to that fishery.

23 So, I mean that's the reality of it.

24 Personally, I mean -- you know, when you're into

1 this discussion -- we've discussed it back in  
2 Southampton once before. This is just a mechanism  
3 so I ain't breaking the law. I ain't trying to  
4 break the law. I mean these fish mix and I can't  
5 get out of it.

6 So, the reality is if I can't work,  
7 if it's against the law for me to land these things  
8 or have this mixing, or just get through this -- you  
9 know, me and the rest of the RSW boats are going to  
10 be in there squid fishing -- loligo fishing.

11 COUNCIL CHAIR PETER JENSEN: Pat.

12 PAT AUGUSTINE: Thank you, Mr.  
13 Chairman. I was wondering if enforcement had  
14 weighed in on the percentages as presented in B, C,  
15 D, or not, and had they mentioned that to the  
16 committee, their enforcement concerns about going  
17 with a percentage as opposed to pounds?

18 COUNCIL CHAIR PETER JENSEN: I think  
19 it's been talked about quite a few times, yeah.  
20 Pat.

21 PATRICIA KURKUL: Yeah, that's what I  
22 was going to reiterate, that we continue to have the  
23 same monitoring, enforcement and administrative  
24 concerns with this -- with the other alternatives.

1 So, I support the substitute motion. And you know,  
2 frankly, looking at the -- who attended the public  
3 hearings, the majority of the folks at least  
4 attending the public hearings don't even support it.

5 So, I think we've debated this extensively. I  
6 don't see any other alternative really on the table  
7 that's viable besides the no action alternative, and  
8 I would suggest we call the question, Mr. Chairman.

9 COUNCIL CHAIR PETER JENSEN: Laurie.

10 LAURIE NOLAN: I agree with Pat, call  
11 the question. But I just have to say one more  
12 little thing. At one point in one of our debates, I  
13 asked industry -- the illex industry a question, and  
14 that was: Has anyone been ticketed for a violation  
15 of too much loligo possession at any time, and the  
16 answer was no, so --

17 COUNCIL CHAIR PETER JENSEN: Okay,  
18 we're going to vote. This is a vote on the  
19 substitute motion that's on the board.

20 (Motion as voted.)

21 {Move to adopt Alternative 8A - no action - as the  
22 preferred alternative in Amendment 9 to the  
23 Atlantic Mackerel, Squid, and Butterfish FMP.}

24 COUNCIL CHAIR PETER JENSEN: All

1 those in favor of the substitute motion, raise your  
2 hand.

3 (Response.)

4 COUNCIL CHAIR PETER JENSEN: Ten in  
5 favor. Those opposed?

6 (Response.)

7 COUNCIL CHAIR PETER JENSEN: Three  
8 opposed. Abstentions?

9 (Response.)

10 COUNCIL CHAIR PETER JENSEN: One  
11 abstention. The motion carries. So that now  
12 becomes the main motion. Any further discussion on  
13 --

14 (Pause.)

15 COUNCIL CHAIR PETER JENSEN: The main  
16 motion now is to select Option 8A as the preferred  
17 alternative. All those in favor of the motion,  
18 raise your hand.

19 (Response.)

20 COUNCIL CHAIR PETER JENSEN: Ten in  
21 favor. Those opposed?

22 (Response.)

23 COUNCIL CHAIR PETER JENSEN: Three  
24 opposed. Abstentions?

1 (Response.)

2 COUNCIL CHAIR PETER JENSEN: One  
3 abstention. The motion carries. Jimmy.

4 JAMES RUHLE: Thank you, Mr.  
5 Chairman. I would move that 9A be the preferred  
6 alternative in option -- Alternative 9 in the --  
7 Amendment 9.

8 LAURIE NOLAN: I'll second.

9 COUNCIL CHAIR PETER JENSEN: Okay.  
10 Second by Laurie. Discussion on the motion?

11 (No response audible.)

12 COUNCIL CHAIR PETER JENSEN: Okay.  
13 We're ready to vote. From the audience, I'm sorry,  
14 I don't mean to ignore the audience.

15 (No response audible.)

16 COUNCIL CHAIR PETER JENSEN: Okay.  
17 Let's vote.

18 (Motion as voted.)

19 {Move to adopt Alternative 9A (no action; no  
20 requirement for electronic daily reporting in the  
21 directed Illex fishery) as a preferred alternative  
22 in Amendment 9 to the Atlantic Mackerel, Squid,  
23 and Butterfish FMP.}

24 COUNCIL CHAIR PETER JENSEN: All in

1 favor of the motion, raise your hand.

2 (Response.)

3 COUNCIL CHAIR PETER JENSEN: Fifteen  
4 in favor. Opposed?

5 (No response.)

6 COUNCIL CHAIR PETER JENSEN:  
7 Abstentions?

8 (No response.)

9 COUNCIL CHAIR PETER JENSEN: No  
10 abstentions. The motion carries. One abstention?  
11 No, you want to go on to -- okay.

12 JAMES RUHLE: Next issue.

13 COUNCIL CHAIR PETER JENSEN: The  
14 motion carries, no abstentions.

15 JAMES RUHLE: Thank you, Mr.  
16 Chairman. Move to forward Amendment 9 to the Squid,  
17 Mackerel, Butterfish FMP for Secretarial submission.

18 COUNCIL CHAIR PETER JENSEN: Is there  
19 a second to the motion?

20 LAURIE NOLAN: I'll second.

21 COUNCIL CHAIR PETER JENSEN: Laurie  
22 seconds the motion. Motion to send it forward as we  
23 have amended it today to include other preferred  
24 alternatives. So, discussion on the motion?

1 (No response audible.)

2 COUNCIL CHAIR PETER JENSEN: It's  
3 just understood that this motion includes the  
4 previously identified preferred alternatives that  
5 were reported on. Okay. This will be a roll call  
6 vote, so --

7 (Motion as voted.)

8 {Move that the Council approve Amendment 9 to the  
9 Atlantic Mackerel, Squid, and Butterfish FMP for  
10 submission to the Secretary and implementation of  
11 the Council's preferred alternatives.}

12 COUNCIL CHAIR PETER JENSEN:

13 DANIEL FURLONG: The motion is before  
14 you. It's: Move that the Council approve Amendment  
15 9 to the Atlantic Mackerel, Squid and Butterfish FMP  
16 for submission to the Secretary and implementation  
17 of the Council's preferred alternatives.

18 Okay. Mr. Augustine.

19 PAT AUGUSTINE: Yes.

20 DANIEL FURLONG: Ms. Chytalo.

21 KAREN CHYTALO: Yes.

22 DANIEL FURLONG: Ms. Nolan.

23 LAURIE NOLAN: Yes.

24 DANIEL FURLONG: Mr. Holder is

1 absent. Mr. Goldman.

2 EDWARD GOLDMAN: Yes.

3 DANIEL FURLONG: Ms. Puskas.

4 FRANCES PUSKAS: Yes.

5 DANIEL FURLONG: Mr. Himchek is  
6 absent? Dr. Kray.

7 COUNCIL VICE CHAIR EUGENE KRAY: Yes.

8 DANIEL FURLONG: Mr. Cole.

9 RICHARD COLE: Yes.

10 DANIEL FURLONG: Mr. Smith.

11 RON SMITH: Yes.

12 DANIEL FURLONG: Mr. King.

13 HOWARD KING: Yes.

14 DANIEL FURLONG: Mr. Simns.

15 LAWRENCE SIMNS: Yes.

16 DANIEL FURLONG: That's Pat and Fran.

17 You got the wrong -- it's not Larry and Howard.

18 Mr. Deem.

19 JEFFREY DEEM: Yes.

20 DANIEL FURLONG: Ms. Peabody.

21 Absent. Mr. Travelstead.

22 JACK TRAVELSTEAD: Yes.

23 DANIEL FURLONG: Mr. Batsavage.

24 Absent. Mr. Ruhle.

1 JAMES RUHLE: Yes.

2 DANIEL FURLONG: Mr. Spitsbergen.

3 DENNIS SPITSBERGEN: Yes.

4 DANIEL FURLONG: Ms. Kurkul.

5 PATRICIA KURKUL: Abstain.

6 DANIEL FURLONG: Abstaining. The  
7 motion will carry. Looks like 14 in support, none  
8 against, two abstentions and five absences.

9 COUNCIL CHAIR PETER JENSEN: Okay.  
10 The motion carries. It will be sent forward to the  
11 Secretary. Jimmy, do you want to do your committee  
12 report now and then we'll take a short break for  
13 those people that need to check out before 11:00 or  
14 by 11:00?

15 JAMES RUHLE: You wouldn't want to  
16 consider the Law Enforcement reports, sir?

17 COUNCIL CHAIR PETER JENSEN: Well, we  
18 can do it either way. Are you ready with the Law  
19 Enforcement Report?

20 ANDREW COHEN: Yes, sir.

21 COUNCIL CHAIR PETER JENSEN: Okay.  
22 Then let's do that.

23 \_\_\_\_\_  
24 NMFS LAW ENFORCEMENT REPORT

1                   ANDREW COHEN: Thank you, Mr.  
2 Chairman. Good morning, everybody. Andy Cohen,  
3 Special Agent in Charge of Northeast Enforcement  
4 Division, for those of you who I have not yet met.

5                   I have a short report this morning,  
6 and then we can have discussion, if you'd like, as  
7 usual. During this period, we have seized a little  
8 bit less than \$300,000 in assets from alleged  
9 violations. The largest of those seizures was a  
10 \$138,000 seizure that resulted from a trip limit  
11 violation in the Elephant Trunk.

12                  We've had some substantial Elephant  
13 Trunk issues. However, as word gets out, I  
14 anticipate that those are going to level off, and  
15 hopefully decrease in the future.

16                  We currently have almost 1600 boats  
17 being monitored by VMS and the VMS program continues  
18 to evolve. And I think we've made some pretty good  
19 progress in resolving some of the issues that have  
20 come up in the past regarding violations caused by  
21 the wrong code being put in and the quality of data.

22                  On the flip side, as we solve some  
23 problems, other problems seem to develop. So, I  
24 just caution a reminder that VMS is still a

1 relatively new system. We're going to have bumps in  
2 the road. We're acutely aware of the shortcomings  
3 of the system, and we're committed to fixing them.  
4 But it's just the nature of the beast, new  
5 technology. We have a lot of good applications that  
6 we're going to continue to find new challenges with  
7 VMS, but we'll work through them.

8 We are actively involved in drafting  
9 enforcement provisions for the upcoming aquaculture  
10 bill. And as I said to you during the last meeting,  
11 we are very concerned about the impact of  
12 aquaculture, both legal and illegal, that will  
13 affect the commercial fishing industry. We continue  
14 to see mislabeled aquaculture products being sold on  
15 the market, either as other type of aquaculture  
16 products or as wild products.

17 Recently we've seen an increase of  
18 farmed Chinese scallops being marketed as New  
19 England scallops, Atlantic sea scallops, and we're  
20 pursuing ways to prosecute those instances of  
21 mislabeling.

22 I'm sure you've all read about the  
23 new scrutiny that FDA has put on Chinese seafood  
24 imports. Those inquiries are to our collective

1 benefit, because it puts it in the -- in the minds  
2 of the American public. And you know, when it's on  
3 the cover of USA Today, and again it was in Fish  
4 News today -- I don't think you've seen it, but it  
5 just popped up on my laptop here. That scrutiny can  
6 only mean improvements for us.

7 And I also would like to add that the  
8 FDA inquiry into Chinese seafood imports was  
9 prompted by a NOAA investigation, the one that I  
10 told you about before involving catfish from Vietnam  
11 that was laundered through Laos and came into the  
12 United States marketed as a variety of things,  
13 including grouper and flounder, yellowtail, and a  
14 whole host of other products. That Vietnamese  
15 catfish investigation led us to Chinese problems and  
16 prompted the FDA to have their crackdown.

17 Kind of unfortunately, FDA's gotten  
18 all the headlines and we haven't. Maybe that's not  
19 unfortunate. Time will tell.

20 Observer cases continue to be a  
21 priority for us. Year-to-date, we've opened about -  
22 - I believe it's 61 or 63 observer related  
23 investigations. That is not to say that 63 of those  
24 were violations, and it certainly does not indicate

1 that 63 NOVAs will be assessed. However, we're  
2 looking into these issues. We close them out as we  
3 can. We correct them without formal enforcement  
4 action whenever we can. And we prosecute the worst  
5 offenders.

6 Right now we're preparing a case on  
7 one individual for intimidation of an observer.  
8 This individual would not let the observer know what  
9 location the fishing was taking place in. And there  
10 was some nonreporting of marine mammal takes  
11 involved. That was serious enough for us to work on  
12 referring that to General Counsel.

13 We are currently looking into four  
14 refusals to carry an observer. Only one of those  
15 four may result in a violation. The other three  
16 have been closed out as unfounded or otherwise  
17 resolved. And in the last quarter, the last several  
18 months, we've had ten safety violations involving  
19 observers. And all of those were resolved by Office  
20 of Law Enforcement without a formal enforcement  
21 action taking place. It was simply an outreach that  
22 corrected the problem.

23 I think that in the coming year --  
24 I'm hoping that we're going to see these observer

1 cases level off as word gets out. We've had a  
2 dedicated special agent working with the observer  
3 program for just about a year now, and the fellow  
4 really hit the ground running and it was very --  
5 seemed to be a very target rich environment. Word  
6 on the docks is that people are becoming educated,  
7 people are becoming compliant, and hopefully this  
8 will not be a real high-profile issue in the future.

9 It will just kind of taper off to a manageable  
10 amount of cases.

11 Other than that, I don't have  
12 anything new to report. There are a number of new  
13 cases listed in the Enforcement Report. We have a  
14 number of ongoing cases that I've briefed you on in  
15 the past, so I won't bore you with those details  
16 again. But I'd be happy to field questions, if  
17 there are any.

18 COUNCIL CHAIR PETER JENSEN: Pat.  
19 Pat Kurkul, you wanted to say something?

20 PATRICIA KURKUL: I'm sorry, Mr.  
21 Chairman. I just wanted to make an announcement at  
22 the end of this -- the Enforcement Report, so --

23 COUNCIL CHAIR PETER JENSEN: I  
24 thought you wanted to do it at the end of Andy's

1 report.

2 PATRICIA KURKUL: No, no, sorry.

3 COUNCIL CHAIR PETER JENSEN: I'm  
4 sorry. Jimmy.

5 JAMES RUHLE: Thank you, Mr.  
6 Chairman. I'd like to get Andy's opinion on  
7 something here that's actually two different issues.  
8 In one sense, they're related. In another sense,  
9 they're not. The first one relates to the  
10 discrepancies that are becoming very apparent with  
11 the database information that's being provided back  
12 to the fishermen. All's I'm asking for is that  
13 there be no form of -- any form of increased law  
14 enforcement activity for those vessels that request  
15 this information. In other words, there's no other  
16 way to put it, other than harassment. And I'm just  
17 hoping that as these fellows go through this process  
18 and if it's determined that there are significant  
19 differences of opinions or numbers, or however you  
20 want to call it, that it doesn't lead to any kind of  
21 action that's not at all warranted.

22 I just want to put that out there,  
23 because I think there's going to be a lot of  
24 requests and I think there's going to be significant

1 differences, and I just want to make sure that  
2 there's no possible potential for that to happen.  
3 That's the first thing.

4 ANDREW COHEN: Can I respond to that  
5 before you give me your second thing? I'm aware  
6 that there are issues with the accuracy of data, and  
7 I'm not going to speculate on the reasons for that.

8 All I'll say is that the agency in general is aware  
9 of it and different offices are taking different  
10 steps to correct that problem. I don't know if  
11 we'll ever have a perfect world, but we're going to  
12 strive for it.

13 As far as enforcement's -- well,  
14 there are two things. We occasionally get referrals  
15 of potential problems from other NOAA offices,  
16 including the Statistics Office, and we have and we  
17 will continue to investigate those. And I've got to  
18 tell you, the majority of those are easily explained  
19 away, and they're not explained away by issuing  
20 violations. Because there are data problems.

21 If people call the agency and inquire  
22 about their data because of a perceived discrepancy,  
23 we don't use that as a witch hunt. However, we may  
24 look at the data, we may look at the information to

1 verify that there is or is not a problem.

2           There is no witch hunt and I don't  
3 think that the term harassment is warranted, because  
4 we're -- as we may look at something, we look at it  
5 to prove that there is no problem, as well as there  
6 is to prove that there is a problem.

7           If your question is: Am I putting  
8 additional resources forward to look at self-  
9 reporters? No, I am not. And I can't think of an  
10 instance why I would do that. We're working with  
11 the collectors of that data in the agency to prevent  
12 violations and to address violations. We're working  
13 with the industry to absolve them of any false  
14 assumptions on the part of anybody because there are  
15 discrepancies in the data.

16           COUNCIL CHAIR PETER JENSEN: Phil.

17           PHILIP RUHLE: Did you have your  
18 second --

19           JAMES RUHLE: If you don't mind, Mr.  
20 Chairman, my apologies. I didn't realize that  
21 harassment was a worse term than witch hunt. So now  
22 I'll know which one to refer to when I make this  
23 comment. But I appreciate your answer. I just  
24 wanted to make it clear that this problem in the

1 eyes of the industry is going to get to be real big.

2 And I just want to make sure there was no after-  
3 effects of it.

4 The second one is more direct. And  
5 it is extremely problematic to me. Geir Monsen,  
6 who's in night room, sent his boats to the Gulf of  
7 Mexico to fish butterfish. They -- actually they  
8 went down there looking for chub mackerel, couldn't  
9 find any, ended up with some butterfish. Packed  
10 some at Pascagoula, Mississippi, and then brought  
11 some back to Rhode Island. These butterfish do not  
12 have a plan. These butterfish are not part of the  
13 complex for the Mid-Atlantic species. They have  
14 nothing to do with it.

15 On the vessel trip report that he  
16 sent in, he put the wording Gulf butterfish. It was  
17 sent back to him that that is inappropriate. He  
18 sent it back again and explained the situation  
19 through phone calls and so forth, and he received a  
20 written notice back that said -- pick a species from  
21 species table -- and I can't recall the number.  
22 That is falsifying records. There is no other way  
23 to describe it. The species he's fished for is not  
24 on the list, yet the direction to him was to use

1 something on that list.

2 I need some guidance from you -- and  
3 then when he did not react to that, he got a notice  
4 of -- not violation, notice of noncompliance. So,  
5 what is your advice in this situation, Mr. Cohen?

6 ANDREW COHEN: Well, Mr. Monsen, I  
7 appreciate you allowing yourself to be used as the  
8 example. We'll talk afterwards. But I can't tell  
9 you how to solve the problem. I have to refer that  
10 back to the components of NOAA in Gloucester who  
11 collect that data and who sent that notice out.

12 Mr. Ruhle was kind enough to share  
13 those two letters with me prior to this meeting, so  
14 I have a prepared answer. From a law enforcement  
15 standpoint, I can say that if an instance like that  
16 was forwarded to us for investigation, the confusion  
17 that may have arose from those notices and from the  
18 lack of the correct code for the correct species on  
19 the form would certainly be evident to an  
20 investigation -- to an investigator. And it would  
21 certainly play into whether or not that violation  
22 would be prosecuted.

23 Now, in this case, from the facts  
24 that you've told me, from those facts, it certainly

1 doesn't appear that we would ever take an  
2 enforcement action. I hesitate to make a blanket  
3 statement that we would never take an enforcement  
4 action based on those kind of requirements, because  
5 every circumstance is certainly different.

6 You asked for my advice? My advice  
7 is for the affected people in industry to call the  
8 number on the notice, straighten it out, get a  
9 definitive answer. That answer will not come from  
10 my office. It is not yet a law enforcement problem.

11 However, I think that the question is a wise one,  
12 because nobody, including my folks, want to make an  
13 enforcement problem. We have -- and I've said this  
14 before. We have enough real problems to address  
15 where we can't go looking for excuses to issue  
16 violations.

17 COUNCIL CHAIR PETER JENSEN: Pat  
18 Kurkul.

19 JAMES RUHLE: Thank you, Andy. I  
20 appreciate it.

21 PATRICIA KURKUL: Thanks. To follow  
22 up on that, Andy's right, that's my problem, not  
23 his. And the first step I think in trying to  
24 resolve that kind of problem is if you can't do it

1 at the staff level, then to talk to John Witzig.  
2 And if that doesn't work, then you need to talk to  
3 me. I will look into this, and try to deal with  
4 this problem.

5 And I'd also agree with Andy. If  
6 this is something that we forwarded to enforcement  
7 as noncompliance, it's certainly not something we  
8 would expect to be prosecuted, because it's -- given  
9 the facts on the table, as Andy said, it's clearly  
10 not the type of thing that we want to pursue.

11 COUNCIL CHAIR PETER JENSEN: Well,  
12 and I think Jimmy, this is on the agenda. We did  
13 write a letter to Pat. Pat responded. We're going  
14 to have a presentation in December. Pat has agreed  
15 to put it on the Regional Coordinating Council  
16 discussion agenda, and so you have put the issue on  
17 the table and I think it's going to be dealt with.  
18 So, I hope we don't have to beat this around too  
19 much more, unless you have something new to bring  
20 out.

21 JAMES RUHLE: Well, actually, Mr.  
22 Chairman, thanks for the opportunity. It's a little  
23 different issue. This is not on the table. We were  
24 not aware -- I was not made aware of this in

1 Hampton, not at all. This issue pertaining to this  
2 coding is a completely different issue from the  
3 database. I just want to make people understand.

4 A letter has already been received by  
5 Geir that says he's out of compliance. And that's  
6 the concern that I have. I mean --

7 UNIDENTIFIED (No microphone):

8 (Inaudible.)

9 JAMES RUHLE: All right. Well --

10 COUNCIL CHAIR PETER JENSEN: Phil,  
11 did you have something else on this?

12 PHILIP RUHLE: Yeah, well, not on  
13 that. One, I would just back up to the issue  
14 before, if I could for a second, on the data issue.

15 Like you said, you're going to be handling it and  
16 talking about it and stuff like that. But I've  
17 talked to -- just to reiterate what Jimmy said, I've  
18 talked to quite a few people on this thing, and  
19 there is a concern, however you want to use the  
20 term. The concern really arises from a few years  
21 back. There was a boat up our way, actually got  
22 written up for having one conger eel that he wasn't  
23 -- was not on his vessel trip report. There was  
24 other action involved in it or something.

1                   But at the end of the day, he took  
2                   out a bench of yellowtails. There was one eel that  
3                   wasn't on the report. It went through the house and  
4                   -- this is what's driving this concern, that you can  
5                   get a violation -- you'll be violated because you  
6                   missed reporting something. And as you go back and  
7                   look at your data and the data comes out, we'll go  
8                   into this, so -- anything the Council can do to  
9                   alleviate the industry's fears of this would be  
10                  greatly -- I think tremendously helpful in trying to  
11                  satisfy this -- start looking at this problem,  
12                  because there are a lot of people who are very, very  
13                  hesitant to even start thinking about trying to ask  
14                  for their history or participating in this when they  
15                  got a chance at being written up for something. And  
16                  that's just a perception that's out there. Jim made  
17                  that clear.

18                         But the second point is just to  
19                         Andy's report. You said under the observer thing  
20                         you had ten safety issues that were resolved without  
21                         a violation, if I heard you right. My question to  
22                         that is although there was no violation, how much  
23                         time was lost by the boats that had this problem or  
24                         something? I mean there was no actual violation,

1 but at the end of the day did boats end up losing  
2 time, money and expenses because of these problems?

3 ANDREW COHEN: I didn't say there was  
4 no violation. I said that there was no enforcement  
5 action taken other than correcting the action. I  
6 don't know how much time was taken up by the  
7 process. I do know that the boats had a problem and  
8 that we chose a very low level of enforcement. So,  
9 I think another way to phrase the question might be:  
10 How could these boats have sailed on time? By not  
11 violating.

12 PHILIP RUHLE: This just goes back to  
13 the issue that's been discussed here before. I mean  
14 boats that go out and comply and get the safety  
15 inspection, get their sticker, be in compliance, the  
16 observer comes down -- they got the sticker on the  
17 boat. Maybe one extinguisher ran out last month.  
18 I'm not sure what the scenario came down to. But  
19 having the observer -- and I understand the safety  
20 issues and all this. Having the observer have the  
21 right to stop a boat from sailing because something  
22 is not -- or he deems it unsafe or what have you,  
23 has ups and downs. You know?

24 I mean I don't want an observer going

1 down to a wreck and going aboard the thing being  
2 unsafe. But having the observer have the right to  
3 come down, which has happened down here in Jersey,  
4 come down on a four, five million dollar boat that  
5 has everything you can think of and one raft, one  
6 life ring, something -- just one thing on his list  
7 is out of whack and he's got a bone so that it gets  
8 called.

9           It just needs to be highlighted that  
10 there's two sides to this. And the industry bears a  
11 serious cost with some of this -- these actions,  
12 where the observer can come aboard the boat and  
13 cancel a trip just because -- there's a sticker on  
14 the boat that says it's good for two years. You  
15 know, it met them requirements. If something fell  
16 out of date a week or a half a year or six, eight  
17 months later, that allows this to happen. So, it  
18 still needs to be something looked at in that  
19 action.

20           COUNCIL CHAIR PETER JENSEN: Thank  
21 you, Andy.

22           ANDREW COHEN: Can I just respond to  
23 that?

24           COUNCIL CHAIR PETER JENSEN: Go

1 ahead.

2 ANDREW COHEN: You're making broad  
3 statements without giving me any specifics regarding  
4 these ten violations.

5 PHILIP RUHLE: I don't know who they  
6 were.

7 ANDREW COHEN: I know. So, I cannot  
8 to respond to whether or not they were de minimis.  
9 I will say that when we can resolve something at a  
10 lower level, such as what we call a fix-it, I think  
11 it benefits everybody. If you'd like scrutiny, we  
12 can make a federal case out of every violation and  
13 document the heck out of it, and then I can provide  
14 you with those kind of answers. But I don't think  
15 that's -- I don't think that's in anyone's best  
16 interest.

17 I think that when we investigate  
18 something, we resolve it as quickly as we can at the  
19 appropriate level, and we move on. We don't detain  
20 people longer than we have to. We don't impede  
21 commerce more than we have to. And we certainly  
22 don't fish for statistics. I merely said that there  
23 were ten violations identified, and all of them were  
24 resolved at a very low level to everybody's benefit.

1 COUNCIL CHAIR PETER JENSEN:

2 Commander Brown, are you ready to give your report?

3 Thanks.

4 \_\_\_\_\_  
5 UNITED STATES COAST GUARD REPORT

6 LCDR TIM BROWN: Thank you, Mr.

7 Chairman, for the opportunity to speak this morning.

8 I'm Lieutenant Commander Tim Brown, U.S. Coast  
9 Guard, District 5 Enforcement, and I'll be speaking  
10 to the Fifth Coast Guard District Enforcement Report  
11 that you should all have in front of you. There are  
12 also some copies on the back table for the public.

13 Before I begin, I'd just like to  
14 thank everyone for really welcoming me to the  
15 committee this week. It's been a great time for me,  
16 and I look forward to working with you over the next  
17 several years.

18 Just going into the report, and I'm  
19 not going to speak to each page of it or specifics,  
20 but just some highlights. Mid-Atlantic Fisheries  
21 Enforcement Operations: Operations in June and July  
22 focused mainly on the sea scallop fishery with a  
23 secondary emphasis on dolphin/wahoo and  
24 snapper/grouper in our southern area of

1 responsibility, and then lobster off the New Jersey  
2 coast.

3 You can see we had almost 50  
4 boardings over the last two months of commercial  
5 fishing vessels, which compares well to the same  
6 period last year. One significant fisheries  
7 violation, which was on a scallop boat for twine  
8 top. And no commercial fishing vessel termination -  
9 - safety terminations, which is a good sign,  
10 indicating compliance -- high compliance with safety  
11 regulations in the fishery. You can see how they  
12 are broken down there, 70 percent sea scallops, and  
13 then a few others.

14 On the next page of the report,  
15 you'll see it goes into fiscal year to date. That's  
16 since October of 2006. And again, the numbers  
17 there, the boarding activities compare favorably to  
18 fiscal year 2006 with 800 boardings of commercial  
19 fishing vessels so far this year. 37 significant  
20 violations.

21 One thing I would note there, the  
22 significant violation rate, four and a half percent,  
23 that's below our standard -- Coast Guard wide  
24 standard of three percent or less. So, we're seeing

1 more violations in the Mid-Atlantic than we want to  
2 see; and in fact, we have one of the highest  
3 violation rates throughout the Coast Guard. So, we  
4 have some problems there and I think those have  
5 mainly occurred -- Mr. Randall provided a brief on  
6 all those throughout the last several months, but I  
7 think most of those have been in the sea scallop and  
8 then the striped bass fisheries.

9           Again, I spoke to the one significant  
10 violation we had this period, undersized twine top.

11           Moving on to some other Coast Guard  
12 activities, safety and other law enforcement  
13 activities, you can see in the summaries on pages 2  
14 and 3 some evidence of our engagement with our other  
15 partners, Fisheries Service and the states. And  
16 maybe some things to highlight there: a boating  
17 under the influence violation on a commercial  
18 fishing vessel, and then some other activities.

19           Also, one area that we have the  
20 opportunity to help out in at-sea, marine mammal  
21 interactions. You can see that on 25 July, and  
22 there's a picture there in the report, Station Ocean  
23 City transported members of the Brigantine Marine  
24 Mammal Stranding Center out to the location of an

1 entangled leatherback sea turtle and was able to  
2 successfully free him.

3 So, that's good news on that front.

4 And I thought it was really interesting. You  
5 look at the size of the man's first in that picture.  
6 That's a big animal.

7 And 20 commercial fishing vessel  
8 safety decals issued over the last two months, so we  
9 applaud those fishing vessels reaching out to our  
10 examiners and taking that positive step.

11 No search and rescue -- or two search  
12 and rescue cases, but thankfully no deaths this  
13 period in the commercial fishing industry that the  
14 Coast Guard responded to. That's good.

15 Then the final section of the report  
16 is just some outreach or highlights for information  
17 that we want to get out to the public. And I'm not  
18 going to talk to every one of those, but I would  
19 like to talk to one, which I know has been an issue  
20 of concern, I believe, to the Council and the public  
21 -- offshore gear conflicts.

22 I just want to speak quickly to that.

23 We provide some guidance in the report on what  
24 members of the public can do if they detect one of

1 these going on. We're not going to be able to  
2 respond to every gear conflict, but we'll make an  
3 attempt, if we're made aware of them. The best  
4 thing that they can do is document what they see and  
5 get us the information either real-time,  
6 immediately, or when they return to the dock. And  
7 that just helps us take some action in response to  
8 that. And real time may be able to elicit an on-  
9 scene response, so that would be the most optimal  
10 thing to do.

11 And then the final couple pages of  
12 the report just list all the boardings, commercial  
13 fishing vessel boardings that occurred over the  
14 period June and July, so you can see where they've  
15 taken place in the Mid-Atlantic.

16 And that's all I have. If you have  
17 any questions?

18 COUNCIL CHAIR PETER JENSEN:

19 Questions from the Council? Gene.

20 COUNCIL VICE CHAIR EUGENE KRAY:

21 Thank you, Mr. Chairman. Commander Brown, on page  
22 5, the top of page 5, you talk about the 75/25 rule.

23 I believe that's under the Lacey Act. I'm very  
24 happy to see that we have a waiver. This was

1 brought to our attention about -- I want to say it's  
2 about two years ago. I recall it was in Baltimore  
3 because you had a lot of Maryland watermen there  
4 expressing concerns that if they have a three-man  
5 crew, there's no way -- and one of them happens to  
6 be not a U.S. citizen, then they can't go out. So,  
7 I'm very happy to see that you folks have put  
8 through a waiver system. We were looking for that  
9 for years. And I just want to commend you on that.

10 LCDR TIM BROWN: Yes, sir. Just to  
11 highlight there, that's a Jones Act --

12 COUNCIL VICE CHAIR EUGENE KRAY:  
13 Jones Act.

14 LCDR TIM BROWN: -- not the Lacey  
15 Act, but yes, there is a waiver system in place.  
16 And there are fishing vessel owners taking advantage  
17 of that, so --

18 COUNCIL CHAIR PETER JENSEN: Any  
19 further questions?

20 (No response audible.)

21 COUNCIL CHAIR PETER JENSEN: Pat, you  
22 had something you wanted to --

23 PATRICIA KURKUL: Just one quick  
24 announcement, Mr. Chairman. We did in fact take

1 action -- modified emergency action in the  
2 groundfish fishery -- modified from what the Council  
3 requested, that is. The emergency action is to  
4 reduce the size limit for haddock to 18 inches in  
5 both the Georges Bank and Gulf of Maine areas. And  
6 I don't have the effective dates on that, but that I  
7 think was filed in the Federal Register yesterday.

8 COUNCIL CHAIR PETER JENSEN: Good.  
9 Thank you. Okay. I think we're going to take a  
10 short break, and make it as short as possible. And  
11 if anybody needs to check out, and we'll reconvene  
12 when I get a quorum back in the room.

13 DANIEL FURLONG: Checkout is 11:00,  
14 so you've got to hustle.

15 (BREAK: 10:54 a.m. to 11:08 a.m.)

16 COUNCIL CHAIR PETER JENSEN: Please  
17 take your seats. We're going to have the  
18 Surfclam/Ocean Quahog Committee Report and then we  
19 will finish up with the Squid, Mackerel, Butterfish  
20 Report, assuming Mr. Ruhle comes back. Okay, Larry,  
21 I think we're ready to go.

22 \_\_\_\_\_  
23 SURFCLAM OCEAN QUAHOG/TILEFISH COMMITTEE REPORT

24 LAWRENCE SIMNS: Okay. The committee

1 report on Surfclam/Ocean Quahog/Tilefish. The  
2 committee met to address the language in Section  
3 303-A-D regarding the collection of royalties under  
4 an IFQ system for the tilefish fishery.

5 The committee voted Alternative 19A,  
6 no action, as the preferred alternative. Under this  
7 alternative, the collection of royalties would not  
8 be implemented for the initial or any subsequent  
9 distribution of allocations in the Tilefish IFQ  
10 program.

11 The information regarding royalty  
12 collection presented to the committee by Council  
13 staff would be included in the draft document,  
14 Amendment 1, for public hearing purposes.

15 We also had a report from the  
16 surfclam industry, and Dave's going to give us that  
17 report.

18 COUNCIL CHAIR PETER JENSEN: Okay.  
19 So, I think you need to make a motion on behalf of  
20 the committee.

21 LAWRENCE SIMNS: So, the committee  
22 would ask that the Council to vote for Alternative  
23 19A, no action.

24 COUNCIL CHAIR PETER JENSEN: Okay.

1 That's a committee recommendation, no second is  
2 required. Discussion on the motion?

3 (No response audible.)

4 COUNCIL CHAIR PETER JENSEN:

5 Discussion on the motion to be included in the  
6 public hearing document?

7 (No response audible.)

8 COUNCIL CHAIR PETER JENSEN: I don't  
9 see any discussion. Any questions from the  
10 audience?

11 JAMES KENDALL (No microphone): Can  
12 you get it on the board, please?

13 COUNCIL CHAIR PETER JENSEN: Sure.  
14 Can you see it from back there?

15 UNIDENTIFIED (No microphone):  
16 (Inaudible.)

17 COUNCIL CHAIR PETER JENSEN: It's a  
18 fairly straightforward motion, Jim. If you have any  
19 of the background material, it's no action.

20 JAMES KENDALL (No microphone): I  
21 just didn't know which one he was referring to.

22 COUNCIL CHAIR PETER JENSEN: Well,  
23 it's a no action, and it's -- the requirement is  
24 that the Council consider royalties, and not

1 required to take any action. So, this is the  
2 consideration of no action. Ready to vote?

3 (Motion as voted.)

4 {Move alternative 5.19.A as the preferred  
5 alternative. No action.}

6 COUNCIL CHAIR PETER JENSEN:

7 All those in favor of the motion on  
8 the board, raise your hand.

9 (Response.)

10 COUNCIL CHAIR PETER JENSEN: Eleven,  
11 okay. The motion passes. Any abstentions?

12 (Response.)

13 COUNCIL CHAIR PETER JENSEN: One  
14 abstention, okay. The motion passes.

15 DANIEL FURLONG: You can't vote from  
16 there.

17 UNIDENTIFIED (No microphone): Now  
18 you know how I feel.

19 LAWRENCE SIMNS: You want to get Dave  
20 to give his presentation?

21 COUNCIL CHAIR PETER JENSEN: Okay.

22 DAVID WALLACE: I know you're all  
23 really anxious to get out of here, and I understand,  
24 and so I'll be really brief. Most of you were in

1 the room when I made a presentation -- a short  
2 presentation to the Surfclam/Ocean Quahog/Tilefish  
3 Committee. And the clam industry's happen to have  
4 tilefish over there with us.

5 The issue is very straightforward.  
6 Georges Banks -- technically, anything east of 69  
7 degrees west is closed to PSP because of a PSP  
8 outbreak in 1990 that facilitated the closure by the  
9 FDA and the Mid-Atlantic -- and the National Marine  
10 Fisheries Service.

11 At that point, neither of those  
12 agencies had the resources or the money to do the  
13 water testing as required by states within the three  
14 miles; and so therefore, since there was no way to  
15 facilitate the testing to be assured that the  
16 product was safe, the area remained closed.

17 In 1995, NMFS and the FDA published a  
18 proposed protocol which required at-sea testing and  
19 then disposal of hazardous waste for anything that  
20 passed, which was in the first issue there was no  
21 testing mechanism besides the Mass. Bio-Assay to  
22 test at-sea. That requires a whole series of  
23 technical things, including specialized technicians,  
24 the mass colony kept at-sea, et cetera, et cetera,

1 and then a shipload of clams if it were all declared  
2 hazardous waste, was going to require about \$750,000  
3 to dispose of it in a hazardous waste disposal site,  
4 and so that was the straw that broke the camel's  
5 back.

6 In about 2005, a company called  
7 Jellett Rapid Test made a presentation to the ISSC  
8 and many other countries for a test that does not  
9 require killing of animals or use of acid to test  
10 for PSP or ASP at-sea -- or in their test. And  
11 therefore, and it's a relatively straightforward  
12 test, it does not require a lot of extensive  
13 training, and the ISSC adopted it as a screening  
14 method.

15 It tests at the water quality level,  
16 which is half of what the product level could be.  
17 Then the product levels threshold is approximately  
18 one fourth of the recognized amount that human  
19 beings could ingest without any difficulty. So,  
20 we're testing at one eighth of what humans could  
21 ingest without any negative effects. And so we're  
22 testing way, way down in very, very small amounts.

23 Anyhow, in 2006, there was a meeting  
24 put together by FDA and the National Marine

1 Fisheries Service who have joint jurisdiction. And  
2 we modified -- they modified the protocol. And the  
3 protocol then says that we'll use Jellett's system  
4 to test at-sea in a small area. If all the tests  
5 are negative, then the vessel can fish. It brings  
6 it in. A third party -- certified third party comes  
7 down, takes samples, sends them off to a laboratory  
8 -- a certified laboratory which tests to confirm the  
9 results.

10 The test results from sea are also  
11 sent to the laboratory for confirmation. And at  
12 that point then it will test negative, because the  
13 vessel obviously is not going to bring in any  
14 positive product. And then it is released into  
15 commerce.

16 We -- I requested that -- and the  
17 clam industry requests that the Mid-Atlantic take  
18 some position of saying -- you know, can -- suggest  
19 that FDA, USDA, the states all work together to  
20 facilitate making this protocol -- moving the  
21 protocol forward.

22 You should understand that the only  
23 thing that we are trying to do right now is to have  
24 a pilot project, which would last some period of

1 time, to just confirm that all of these processes  
2 work the way they're supposed to.

3 And we have actually already started  
4 that, because we're also involved in a test of the  
5 Gulf of Maine and Georges Banks through GUMTOX,  
6 which was funded by the National Ocean Service,  
7 takes in Woods Hole Oceanographic, the States of  
8 Maine, New Hampshire, Massachusetts, industry and a  
9 couple of academic institutions. And so we're  
10 already testing this at-sea, confirming it on land;  
11 and so forth, everything has worked just as planned.

12 And so we're looking for your  
13 support, understanding that there are about 40  
14 percent of the saleable surfclams currently exist on  
15 Georges Banks. The rest of them are mostly in  
16 northern New Jersey and most of them are further  
17 offshore than they used to be, so that they're  
18 smaller. And we are now catching clams that are  
19 five, five and a half inches, instead of six and six  
20 and a half inches, which if we let the clams get  
21 bigger, then we will get more bushels -- it will  
22 take fewer animals per bushel. So, we'll get more  
23 bushels. And so what we're really interested in  
24 doing is moving our fishing effort -- some of our

1 fishing effort out on Georges Banks to take the  
2 pressure off of New Jersey. And I'll be happy to  
3 answer any questions.

4 COUNCIL CHAIR PETER JENSEN: Jimmy.

5 JAMES RUHLE: Just one quick  
6 question, Dave. I come in a little bit late. When  
7 you said it was going to take a lot of clams for  
8 testing, did you say a shipload? I want to make  
9 sure I heard what you said there.

10 DAVID WALLACE: Well, I think that I  
11 said if we had a rejection, then we have to get rid  
12 of a shipload.

13 JAMES RUHLE: Okay, that's very good.  
14 Put a little more emphasis on the P there, Captain.

15 DAVID WALLACE: Ship-load. Well, I  
16 guess I didn't -- I hadn't even thought about that.

17 COUNCIL CHAIR PETER JENSEN: Jim.

18 JAMES RUHLE: Thank you, Mr.  
19 Chairman. I'm prepared to offer a motion. The  
20 motion would be that the Council draft and send a  
21 letter to the FDA, National Marine Fisheries Service  
22 and northern states and request that the FDA and  
23 NMFS facilitate talks with states and establish a  
24 process agreement under which NMFS could issue a

1 permit with FDA concurrence to implement the PSP  
2 protocol.

3 COUNCIL CHAIR PETER JENSEN: Second  
4 to the motion? Okay. We've got a second.  
5 Discussion on the motion? Jim.

6 JAMES WEINBERG: I had raised my hand  
7 actually before the motion was made, and I had a  
8 question and a comment for Dave. First is that  
9 there are ocean quahogs out there, as well, and I  
10 didn't hear you mention ocean quahogs and I just  
11 wondered if there's any plan to test them or harvest  
12 them.

13 And then a comment is just that  
14 everything you've described sounds really good, and  
15 I'm impressed with all the testing and third party  
16 testing and so forth. But I'm wondering, as this  
17 gets going, I don't know if you planned this far,  
18 but if you have several boats out there fishing and  
19 someone catches a bad bunch, where are they going to  
20 drop it? And will there be coordination so that the  
21 next boat doesn't pick it up and you end up kind of  
22 dispersing what might have been a patch over a whole  
23 area?

24 DAVID WALLACE: Good questions. The

1 second question first. In the areas that we propose  
2 in the protocol are about three square miles. It is  
3 envisioned that would be about -- the area would be  
4 about three miles long, a mile wide. The vessel  
5 would take samples from each corner and the center.  
6 They all would have to be negative.

7 Now, these are just test tows, so  
8 they're only one or two minutes, because all they  
9 really need are 12 clams to homogenize, to  
10 facilitate the test. And so they would catch them,  
11 they'd take the 12 pounds and then drop them as they  
12 steam to the next, which would take some period of  
13 time. And since these vessels only go eight or nine  
14 knots, so it takes minutes to go three miles.

15 And all of those have to test  
16 negative. If one of those test positive, then that  
17 vessel has to move and not during the protocol,  
18 because there will be no one else out there, but  
19 after the protocol is implemented then they would  
20 have to notify NMFS, the FDA and all vessels that  
21 have the separate permit to fish out there that they  
22 had a positive sample at X point. And so then it  
23 would be required of all the other vessels to avoid  
24 that area.

1                   And your first question, once the  
2 pilot project is complete, this would be open to all  
3 shellfish in the area. Scallops roe on. Scallops  
4 are now open just for the inductor muscle, but there  
5 is a push to have Georges Bank scallops used as roe  
6 on for export to Europe. And then carnivorous  
7 snails, there is a huge market for those. They can  
8 become very toxic because they accumulate the toxin.

9                   And ocean quahogs would also be allowed, all under  
10 the protocol using the same techniques. And  
11 mussels. Mussels would have to have a higher number  
12 of samples than the other critters.

13                   COUNCIL CHAIR PETER JENSEN: Pat  
14 Augustine.

15                   PAT AUGUSTINE: Thank you, Mr.  
16 Chairman. Is there a full-blown copy of this  
17 protocol?

18                   UNIDENTIFIED (No microphone):  
19 (Inaudible.)

20                   PAT AUGUSTINE: Do we have a copy of  
21 it? Will a copy of it be attached? Right here it  
22 just talks about PSP protocol. I support the  
23 motion, but without further definition --

24                   COUNCIL CHAIR PETER JENSEN: I think

1 we can certainly get it. It's been published in a  
2 Federal Register notice.

3 DAVID WALLACE: I think it's posted  
4 on the FDA website.

5 PAT AUGUSTINE: Okay. Secondly,  
6 would it be appropriate to have -- what was the  
7 board you're on, shellfish board, Larry? The  
8 shellfish board?

9 LAWRENCE SIMNS: ISSC.

10 PAT AUGUSTINE: Would it be  
11 appropriate to ask that board to write a letter or  
12 not?

13 LAWRENCE SIMNS (No microphone): They  
14 already approved it, I think.

15 PAT AUGUSTINE: They approved it?

16 UNIDENTIFIED (No microphone):  
17 (Inaudible.)

18 PAT AUGUSTINE: I'd call the  
19 question.

20 COUNCIL CHAIR PETER JENSEN: Okay.  
21 Are we ready to vote on this one? Go ahead.

22 DANIEL FURLONG: Just to clarify,  
23 Dave, I thought you said USDA, as well.

24 DAVID WALLACE (No microphone):

1 (Inaudible.)

2 PAT AUGUSTINE (No microphone): Just  
3 FDA.

4 COUNCIL CHAIR PETER JENSEN: Fran.

5 FRANCES PUSKAS: Yes, I have a  
6 question. Is this pertaining just to clams and  
7 quahogs, or is this going to open up -- you  
8 mentioned other species that are being sent or would  
9 be sent to foreign markets.

10 DAVID WALLACE: Well, vessel owners  
11 who would like to catch other products that are  
12 forbidden from catching them currently because of  
13 this, if they complied with all the test -- you have  
14 to test the crews, you have to be able to manipulate  
15 these samples at sea, and you have to demonstrate  
16 your capability, you have to get a separate permit  
17 from the National Marine Fisheries Service. There's  
18 a whole series of additional reporting requirements  
19 and it's relatively complicated. But if they comply  
20 with all of those requirements, then they would be  
21 able to catch and land and then have further tested  
22 all those bivalves and carnivorous snails that are  
23 currently not allowed to be harvest because of the  
24 PSP requirements.

1                   FRANCES PUSKAS: So, you're asking  
2 our endorsement for all of them, too, or you're just  
3 asking for clams and quahogs? Or would that come  
4 automatically?

5                   DAVID WALLACE: It would come  
6 automatically, and I just brought that up because I  
7 don't want you to think that it is just for  
8 surfclams, which is from my clients' point of view  
9 the only thing that they are interested in. But  
10 once it's approved, it's open to everyone who can  
11 comply with all these restrictions.

12                   COUNCIL CHAIR PETER JENSEN: Okay. I  
13 think we're ready to vote on this one, so -- Karen.

14                   KAREN CHYTALO: Just one thing.  
15 We've been using this protocol in New York State in  
16 looking at our hard clams and mussels and oysters,  
17 and we've been monitoring all around the island and  
18 stuff. Last year we had a problem in Northport  
19 Harbor and Huntington Harbor complex, where we did  
20 have to close the beds right before Memorial Day  
21 weekend because of very high PSP levels.

22                                 And we've been able to track the  
23 Jellett test versus doing the mouse bioassay, which  
24 we've been doing for the last two years now. And

1 the Jellett test has been right on the mark. We've  
2 been very happy with that test, and it's been very  
3 successful in doing that level of work.

4 And so I think we're developing here  
5 in New York a body of evidence. You know, at least  
6 it's on a localized basis in a small area. The  
7 value of that is also -- we're also funding a  
8 research project, Dr. Chris Gobler at Marine  
9 Sciences Research Center, to look at that bay, why  
10 did it cause a bloom there and why did we have to  
11 close that down because of the high levels in the  
12 oysters and mussels in this case -- blue mussels.

13 So, but we're finding the test is  
14 very reliable and -- but the incidences are very  
15 temperature dependent, too. We're finding that it's  
16 more in the late spring and then early fall, but not  
17 during the summer. It's too warm for an event to  
18 take place. But at least we're developing some  
19 methodologies and I think it's something we could do  
20 to -- and the Jellett test is really quick, so it's  
21 a good way to do things.

22 COUNCIL CHAIR PETER JENSEN: Okay.  
23 Thanks. Okay. I think we're ready to vote on this  
24 motion.

1 (Motion as voted.)

2 {Move that the MAFMC write a letter to the FDA,  
3 NMFS and northern states requesting that the FDA  
4 and NMFS facilitate talks with states and establish  
5 a process and agreement under which NMFS could  
6 issue a permit with FDA concurrence to implement  
7 the PSP protocol.}

8 COUNCIL CHAIR PETER JENSEN: All  
9 those in favor of the motion, raise your hand.

10 (Response.)

11 COUNCIL CHAIR PETER JENSEN: Twelve.

12 Opposed?

13 (No response.)

14 COUNCIL CHAIR PETER JENSEN:

15 Abstentions?

16 (Response.)

17 COUNCIL CHAIR PETER JENSEN: One  
18 abstention. The motion carries. Anything else,  
19 Larry, on the surfclams?

20 LAWRENCE SIMNS: No, that's it for  
21 the committee report.

22 COUNCIL CHAIR PETER JENSEN: Okay,  
23 thanks. I think the last remaining item is Squid,  
24 Mackerel, Butterfish Committee Report.

---

SQUID, MACKEREL, BUTTERFISH COMMITTEE REPORT

1  
2  
3 JAMES RUHLE: Thank you, Mr.  
4 Chairman. Squid, Mackerel, Butterfish Committee met  
5 on Monday of this week and had discussions on  
6 primarily Amendment 10, and one of the real hot  
7 topics was the potential for industry funded  
8 observers if we go with a bycatch cap.

9 We actually -- three actions that  
10 have to be put in front of the Council. I don't  
11 think there's any need to go through all of the  
12 issues related to the observer concerns -- I mean,  
13 yeah, the observer funding and all of that. That's  
14 going to come up again for sure. But we've got  
15 three actions that the committee took that will  
16 require Council action. And I'm going to take them  
17 out of order, do the easy ones first, and then other  
18 one -- the more difficult one last.

19 The first one, Mr. Chairman, was to -  
20 - on behalf of the committee, move that the 1994 to  
21 1998 as the base years for determining butterfish  
22 bycatch allocations based on current loligo landings  
23 distributions for trimester periods.

24 COUNCIL CHAIR PETER JENSEN: That's a

1 motion for the committee. No second required.

2 Discussion on the motion?

3 (No response audible.)

4 COUNCIL CHAIR PETER JENSEN: I don't  
5 see anybody responding. Ready to vote on this  
6 motion?

7 (Motion as voted.)

8 {Move to use 1994-1998 as the base years for  
9 determining the butterfish bycatch allocations  
10 based on the current Loligo landings distributions  
11 for trimester periods.}

12 COUNCIL CHAIR PETER JENSEN: All  
13 those in favor, raise your hand.

14 (Response.)

15 COUNCIL CHAIR PETER JENSEN: Twelve  
16 in favor. Opposed?

17 (No response.)

18 COUNCIL CHAIR PETER JENSEN: None.  
19 Abstentions?

20 (Response.)

21 COUNCIL CHAIR PETER JENSEN: One  
22 abstention. The motion carries.

23 JAMES RUHLE: Thank you, Mr.  
24 Chairman. I guess I actually should have asked Mr.

1 Seagraves. I can't hardly see -- I can't see him  
2 behind the post. Are there any issues that you have  
3 related to that one? If you do, just chime in.

4 RICHARD SEAGRAVES: Okay. No, that's  
5 fine.

6 JAMES RUHLE: I didn't think it was  
7 necessary.

8 RICHARD SEAGRAVES: No, that's  
9 adequate.

10 JAMES RUHLE: All right, good. Next  
11 action: Move on behalf of the committee to  
12 incorporate the SSC peer review of mesh study in the  
13 loligo fishery done by Eric Powell of Rutgers  
14 University.

15 COUNCIL CHAIR PETER JENSEN: Motion  
16 by the committee. No second required. Discussion  
17 on the motion? Laurie.

18 LAURIE NOLAN: Thank you. I mean,  
19 maybe a little bit just to let everyone know. This  
20 is to somehow determine what options there could be  
21 for an increase in mesh size where research has been  
22 done. And there's been some done, so we're asking  
23 that to be peer reviewed in order to justify using  
24 one of the recommendations that comes out of that,

1 rather than some of the extreme alternatives in the  
2 document.

3 COUNCIL CHAIR PETER JENSEN: Okay.  
4 Rich, you want to add to that, what the status of  
5 that is?

6 RICHARD SEAGRAVES: Yes, the Council  
7 initiated peer review -- well, to back up again.  
8 Eric Powell has completed a study looking at mesh  
9 selectivity in the loligo fishery, looking at both  
10 the -- trying to come up with selectivity factors  
11 for butterfish to estimate butterfish -- reductions  
12 in butterfish retention for mesh size in the loligo  
13 fishery, and also to look at the effect on the  
14 loligo catch, as well.

15 That report was submitted as a final  
16 report as part of the Research Set-Aside Program,  
17 and we were advised by the Regional Administrator at  
18 previous meetings it needed to be peer reviewed.  
19 We've initiated that peer review with a subset of  
20 the SSC, and that was just initiated. We have no  
21 response yet. But so the process has been initiated  
22 and this motion is asking that we incorporate that  
23 review in the development of the amendment.

24 COUNCIL CHAIR PETER JENSEN: Pat, did

1 you have something?

2 PATRICIA KURKUL: Yeah, just  
3 additional clarification, I guess. What does it  
4 mean incorporated? Just once the SSC peer review is  
5 completed that the committee will consider it in  
6 terms of developing --

7 UNIDENTIFIED (No microphone):  
8 (Inaudible.)

9 PATRICIA KURKUL: Okay. And how does  
10 this affect --

11 COUNCIL CHAIR PETER JENSEN: My  
12 characterization of this is it's a placeholder  
13 pending the review.

14 PATRICIA KURKUL: How does this  
15 affect the time line for Amendment 10?

16 COUNCIL CHAIR PETER JENSEN: Rich, go  
17 ahead.

18 RICHARD SEAGRAVES: Hopefully it  
19 won't affect -- I mean we're going to move along on  
20 the review as quickly as possible. I think -- you  
21 know, obviously -- and I don't know what -- how far  
22 this motion would carry, but I think it will be --  
23 the review will be completed and we'll be able to  
24 incorporate the information in time to stay on our

1 time line.

2 Now, if the review is not completed  
3 timely, I guess that's an issue for the Council to  
4 debate. It's a good point. And we're not going to  
5 -- will we then hold up the amendment would be the  
6 issue. And that's -- I don't think that's the  
7 intent. I think the intent is that if it's  
8 available, that it be used.

9 PATRICIA KURKUL: Well, I guess this  
10 is as good a time as any, then, to talk about the  
11 time line a little bit. I think at the committee  
12 meeting, our folks notified the committee, anyway,  
13 that at this point we're very concerned about the  
14 status and the progress with Amendment 10. We're  
15 well beyond the deadline. The agreement with  
16 splitting Amendment 9 and Amendment 10 was it  
17 wouldn't delay Amendment 10, and we were under the  
18 understanding that Amendment 10 would actually be  
19 available at this meeting for consideration.

20 Now it's been moved up to the October  
21 meeting. And so at this point I need to notify the  
22 Council that if in fact it's not available at the  
23 October meeting, we will be moving forward with a  
24 Secretarial action. We just can't wait any longer

1 on this amendment.

2 COUNCIL CHAIR PETER JENSEN: I think  
3 perhaps the next motion relates to that in some way.

4 So, ready to vote on this motion?

5 JAMES RUHLE: Now I'm a little  
6 confused. Pat's comments had nothing to do with the  
7 next motion. You were referring to the review of  
8 this study delaying Amendment 10 or are you talking  
9 about any other options?

10 PATRICIA KURKUL: I was talking about  
11 anything delaying Amendment 10.

12 JAMES RUHLE: All right. Very good.

13 COUNCIL CHAIR PETER JENSEN: Let's  
14 vote on this motion then. I think we're ready.  
15 Okay.

16 (Motion as voted.)

17 {Move to incorporate SSC peer review of mesh study  
18 in the Loligo fishery done by Eric Powell of  
19 Rutgers.}

20 COUNCIL CHAIR PETER JENSEN: All  
21 those in favor of the motion, raise your hand.

22 (Response.)

23 COUNCIL CHAIR PETER JENSEN: Thirteen  
24 in favor. Opposed?

1 (No response.)

2 COUNCIL CHAIR PETER JENSEN: None.

3 Abstentions?

4 (No response.)

5 COUNCIL CHAIR PETER JENSEN: No  
6 abstentions. The motion carries.

7 You have another motion?

8 JAMES RUHLE: Yes, sir. Actually  
9 I've got several. Actually, we got a little screw-  
10 up here in the summary of this document. I'm  
11 reasonably sure -- reasonably sure that the  
12 committee took action to remove loligo from  
13 potential sectors in Amendment 10. Then we took 10  
14 -- another motion followed. But in taking it  
15 procedurally, the way that I recall it went down, we  
16 had a motion to remove 10 -- I mean to remove illex  
17 -- loligo from the consideration of sectors. Then  
18 it was followed by another motion.

19 So, I'm going to offer a motion, and  
20 it's on not behalf of the committee, because it's  
21 not reflected in the minutes, to remove loligo from  
22 consideration for sectors in -- well, it says  
23 Amendment 10 -- in an upcoming action, however you -  
24 - let's do that. However you want to handle it, Mr.

1 Chairman.

2 COUNCIL CHAIR PETER JENSEN: Let me  
3 suggest that I attended the committee meeting and  
4 you did do that. But then I think that was  
5 superseded by the last action, which said you're  
6 going to take sectors out of that amendment.

7 JAMES RUHLE: Okay. So, you're  
8 satisfied, if it was to come up in another action do  
9 we need to have another motion from the committee or  
10 the Council -- or committee and Council -- to  
11 exclude loligo or not?

12 COUNCIL CHAIR PETER JENSEN: Well,  
13 when you get to the point of working on sectors, you  
14 might want to do that. But for now I think your  
15 final action, which was to take it out of the  
16 amendment, supersedes the earlier action you took on  
17 loligo.

18 JAMES RUHLE: Understood, all right.  
19 Then on behalf of the committee, Mr. Chairman, I'll  
20 move to delay -- the committee motion was: Move to  
21 delay sector implementation in Amendment 10;  
22 instead, incorporate into Amendment 11.

23 It should be noted that -- well,  
24 that's the motion. Let me get it up there.

1 COUNCIL CHAIR PETER JENSEN: Okay.  
2 And I think it should be noted for Pat's benefit  
3 that one of the prime movers there was so that it  
4 would not delay Amendment 10. Laurie.

5 LAURIE NOLAN: I just wonder if we  
6 shouldn't be so specific to incorporate it into  
7 Amendment 11. The suggestion was a stand-alone.  
8 So, I don't know that that's committing it to  
9 Amendment 11 or just a stand-alone amendment?

10 JAMES RUHLE: The motion on the  
11 board, Mr. Chairman, is the committee motion. If it  
12 wants to be amended or something like that, that's  
13 fine. I'm just putting it up there as it was  
14 standard.

15 COUNCIL CHAIR PETER JENSEN: Is yours  
16 the nature of an amendment, Laurie, or --

17 DENNIS SPITSBERGEN: I'll make it  
18 either incorporate into Amendment 11 or as a stand-  
19 alone amendment. That will be my amended motion.

20 COUNCIL CHAIR PETER JENSEN: Can I  
21 suggest you say a separate action instead of another  
22 amendment?

23 DENNIS SPITSBERGEN: I think we have  
24 to do it by an amendment is the reason that I said

1 amendment. My understanding is if we're going to do  
2 a sector, it's going to have to be done through an  
3 amendment.

4 COUNCIL CHAIR PETER JENSEN: Okay.

5 DENNIS SPITSBERGEN: So, that was my  
6 reason for including amendment --

7 COUNCIL CHAIR PETER JENSEN: Okay,  
8 fair enough.

9 DENNIS SPITSBERGEN: So, we would  
10 say instead: Incorporate into Amendment 11 or a  
11 stand-alone amendment.

12 COUNCIL CHAIR PETER JENSEN: Okay.  
13 Motion to amend. We need a second.

14 (Response.)

15 COUNCIL CHAIR PETER JENSEN: Second.  
16 Discussion on the motion to amend?

17 (No response audible.)

18 COUNCIL CHAIR PETER JENSEN: Okay.  
19 Let's vote on that one.

20 (Motion as voted.)

21 {Move to delay sector implementation in Amendment  
22 10, instead incorporate into Amendment 11 or  
23 another stand alone amendment.}

24 COUNCIL CHAIR PETER JENSEN: All in

1 favor of the motion to amend, raise your hand.

2 DANIEL FURLONG: Can I get caught up  
3 with Jan over here?

4 (Response.)

5 COUNCIL CHAIR PETER JENSEN: Thirteen  
6 in favor. Opposed?

7 (No response.)

8 COUNCIL CHAIR PETER JENSEN: Zero.  
9 Abstentions?

10 (No response.)

11 COUNCIL CHAIR PETER JENSEN: No  
12 abstentions. So, the amendment is now -- the main  
13 motion is now amended. And so now the new wording  
14 is up there, is what I was looking for. So, the  
15 amended motion is on the board to incorporate  
16 another amendment. Are we clear?

17 JAN BRYAN: Who was the second on  
18 that?

19 DANIEL FURLONG: Travelstead.

20 COUNCIL CHAIR PETER JENSEN: Is the  
21 wording okay, Dennis, on --

22 DENNIS SPITSBERGEN: All I really  
23 wanted added onto the previous motion was in  
24 Amendment 11 or in a stand-alone amendment. So,

1 there was only like about four words to be added.

2 So, it would be --

3 DANIEL FURLONG: Are you changing  
4 that, Jan?

5 JAN BRYAN: You've got three of us  
6 back here working on this. What are we changing  
7 now?

8 COUNCIL CHAIR PETER JENSEN: You want  
9 to go back to the original motion and simply add the  
10 phrase --

11 DENNIS SPITSBERGEN: Go back to the  
12 original motion and all you have to do is add after  
13 Amendment 11 or a stand-alone amendment. Okay. Now  
14 I'm comfortable.

15 COUNCIL CHAIR PETER JENSEN: Okay.  
16 So, the amended motion is now on the board. So,  
17 let's vote on the amended motion. All those in  
18 favor of the amended motion?

19 (Response.)

20 COUNCIL CHAIR PETER JENSEN: Thirteen  
21 in favor. Opposed?

22 (No response.)

23 COUNCIL CHAIR PETER JENSEN: None.  
24 Abstentions?

1 (No response.)

2 COUNCIL CHAIR PETER JENSEN: None.

3 The motion carries. What else?

4 JAMES RUHLE: Thank you, Mr.

5 Chairman. That concludes the actions by the  
6 committee, but while we're on this subject, I would  
7 like to ask the Regional Administrator her position  
8 on sectors related to Mid-Atlantic fisheries. I'm  
9 very well aware of what the expression of the  
10 Service has been in New England, but I'm very  
11 curious to know what her issues are, what her  
12 opinion on sectors in the Mid-Atlantic are at this  
13 time. Not related to -- associated with 10,  
14 recognizing that that was the biggest problem that  
15 was on the table. That's now removed, so --

16 PATRICIA KURKUL: I think when  
17 properly done, the sectors are useful and a valuable  
18 management alternative and tool, and certainly could  
19 see them being implemented in some of the Mid-  
20 Atlantic fisheries.

21 JAMES RUHLE: With that being said,  
22 Mr. Chairman, we asked for -- well, we were given a  
23 presentation on sectors from Jason on -- he did a  
24 lot of work utilizing the information that was

1 available from Amendment 13's hook groundfish sector  
2 and probably incorporated some of it from the fixed  
3 gear sector, the two existing sectors that are in  
4 New England.

5           Actually, if I had the opportunity to  
6 review this document before it was passed out, I  
7 would not have allowed the presentation. It was  
8 simply just overwhelming. It was too many questions  
9 that relate specifically to sector policy as opposed  
10 to the issues that we wanted on the table.

11           But having done that, I appreciate  
12 Jason's effort on it. But if we were to utilize --  
13 let me back up a little. I had envisioned that --  
14 even though it is an allocation, that this would be  
15 parallel actions going down. And at the time  
16 Amendment 10 was ready, had this portion of it not  
17 been developed to the satisfaction of the industry  
18 and the agency that it would fall out, but there  
19 would have been a mechanism to do it through a  
20 framework.

21           And it looks like now there's a  
22 significant amount of complications. So, that's why  
23 I didn't vote on this on the committee level as  
24 Chair, but had some concerns. Recognizing concerns

1 that the agency and everyone else has with 10, I  
2 don't have a problem with that.

3 The problem I have is I don't want to  
4 lose the opportunity to at least get started with  
5 the sector discussion, and some polling or  
6 soliciting of the industry to make a determination  
7 of how the industry would respond to it.

8 We have with us a frame -- a  
9 basically straw man that we could go through in a  
10 real short time frame, if the Chair wishes to do so,  
11 and fill in some of these blanks and just see what  
12 we end up with, or schedule it for the next meeting,  
13 which I don't think is a good idea. We could in  
14 fact lose some traction. I don't know who the hell  
15 is going to do this. That's the next thing, with  
16 everything we got going on.

17 So, it's up to the Chair how he wants  
18 to proceed. If you want to take this strawman and  
19 fill in some of the potential ranges that we would  
20 use, answer the questions that were presented to the  
21 committee, I think it could be done in a reasonably  
22 short amount of time. If you want to do that. If  
23 not, then I would have another issue that I need to  
24 bring to the attention of the --

1 COUNCIL CHAIR PETER JENSEN: Well, I  
2 think the way I would like to see this proceed, and  
3 this comes out of the committee discussion, I think  
4 virtually every member of the committee said they  
5 supported sectors as a concept. And the staff has  
6 done a lot of work. And page 16 to 22, I think of  
7 your briefing document, there is a draft document  
8 the staff prepared, which is called Establishing a  
9 Process for Sector Allocations in the Illex Fishery.

10 What I would suggest we do, and I'm  
11 willing to do it, is to ask the staff to go ahead  
12 and complete that paper and fill in some suggested  
13 data points or numbers that are not there now, and  
14 circulate it to the committee for their review, and  
15 then possibly circulate it to the advisors. And  
16 then I think we may be in a position of suggesting  
17 to the Service that we do an Advanced Notice of  
18 Proposed Rulemaking in order to get public comment  
19 on it. And I think that way you could keep the  
20 momentum going on the development, so that you could  
21 then make a decision as to whether you wanted a  
22 stand-alone or incorporate it into some other  
23 amendment.

24 So, that would be my suggestion. Let

1 the staff go ahead and complete the paper. You all  
2 review it. Then we give it to the advisors. And  
3 then we make a decision on whether we want to  
4 request an Advanced Notice of Proposed Rulemaking.

5 JAMES RUHLE: What are you looking  
6 at again there, sir? I got confused. Which  
7 document behind the tab?

8 COUNCIL CHAIR PETER JENSEN: Starting  
9 on page 16 of your briefing book.

10 DANIEL FURLONG: Tab 1.

11 JAMES RUHLE: 16 and then what?

12 COUNCIL CHAIR PETER JENSEN: And then  
13 17, 18, 19, 20, 21 and 22 is a draft document. And  
14 the staff did not put in the selections on what  
15 years you would use. And so I'm suggest that let  
16 the staff go ahead and put in their suggested  
17 elements that are missing now, and then the  
18 committee can review it, can be sent out by e-mail  
19 or however, and then they'll send it out to the  
20 advisors. And then perhaps go Advanced Notice of  
21 Proposed Rulemaking.

22 JAMES RUHLE: Well, I'm looking at --  
23 Mr. Chairman, I'm looking at the document that was  
24 distributed by Jason, and it has some of the

1 questions that are asked. In other words, you're  
2 giving full latitude to the --

3 COUNCIL CHAIR PETER JENSEN: No,  
4 that's not the document I'm referring to.

5 JAMES RUHLE: I know it's not. But  
6 that one asks specific questions that the Council  
7 could fill in the blanks with ranges right now.  
8 What experience has the staff got with developing  
9 time frames as opposed to the industry, just ranges?

10 Where are they going to start? Where are they  
11 going to get their information? That's what I don't  
12 --

13 COUNCIL CHAIR PETER JENSEN: They're  
14 going to start by consulting with the committee.  
15 That's what I'm suggesting. Laurie, go ahead.

16 LAURIE NOLAN: Yeah, I would think,  
17 Jim, that this would have to go through the scoping  
18 process and we would be alerting the public that the  
19 Council is considering sectors in the illex fishery.

20 And you go out to the public with some broad range,  
21 maybe Jason's document that he's produced, and you  
22 get the feedback so that you're getting time lines  
23 and all those qualifiers and all that stuff comes  
24 back from the industry through a scoping process.

1                   Or -- I mean, I think it has to be  
2                   scoping. I don't think you can even hold just a  
3                   committee meeting with advisors. You have to open  
4                   this up to the public, I would think.

5                   COUNCIL CHAIR PETER JENSEN: Well,  
6                   I'm thinking that would be the request for Advanced  
7                   Notice of Proposed Rulemaking. That's when it would  
8                   go to the public, assuming we get everything done  
9                   here.

10                  JAMES RUHLE: Well, Mr. Chairman, I  
11                  don't recall seeing any scoping documents that were  
12                  completely developed by staff just to send to the  
13                  public, on plans that I'm familiar with. We always  
14                  provide some ranges, something to start with, and  
15                  that's what the question is. Where do we get those  
16                  --

17                  COUNCIL CHAIR PETER JENSEN: Well,  
18                  that's fine. They can provide ranges in the  
19                  document. All I'm looking for is in order to not to  
20                  lose the momentum, get a document out there that you  
21                  the committee can start looking at and start putting  
22                  in these values, and then make your decisions about  
23                  how you want to go public with it. That's all I'm  
24                  suggesting.

1 JAMES RUHLE: Okay, that's fine.

2 COUNCIL CHAIR PETER JENSEN: Greg,  
3 you had a comment?

4 GREG DIDOMENICO: Yes, quick. Greg  
5 DiDomenico, Garden State Seafood Association. Just  
6 one quick question. Don't want to -- I want to make  
7 sure -- I'm very comfortable with the motion. I  
8 just want to make sure of the rest of the intent of  
9 this discussion.

10 Jimmy, would you support the staff  
11 doing further analysis on different dates as the  
12 ones that are already in the draft document?

13 JAMES RUHLE: Sure. Anything.

14 GREG DIDOMENICO: Thank you.

15 COUNCIL CHAIR PETER JENSEN: So, I  
16 don't know that we need any motion. We just need a  
17 consensus that if I ask the staff to go ahead and  
18 continue developing that document, give it to the  
19 committee for their review and comment, and then if  
20 it's okay, we'll send it out to the advisors and  
21 then we'll decide how we want to go public.

22 So, if there's no objection to that,  
23 I will ask the staff to go ahead and further develop  
24 that document, and send it to the committee for

1 review.

2 JAMES RUHLE: Okay, that's fine.  
3 Last issue, Mr. Chairman, that we need to get some  
4 guidance from the Regional Administrator on some  
5 issues coming up pertaining to the Transboundary  
6 Resources Sharing Agreement or the TRAC or whatever  
7 you want. Under a notice from the Science Center  
8 that indicates what species are going to be talked  
9 about in discussions with Fred Serchuk and others,  
10 it's apparent that four more species are going to be  
11 added to the list that consists of halibut, pollock,  
12 dogfish and mackerel.

13 Mid-Atlantic has absolutely no  
14 experience dealing with the management portion of  
15 that. And we do have the Mackerel Working Group  
16 that have some members that are familiar with that.

17 So, I would just suggest that this link be created  
18 between the agency and the Council to include Mid-  
19 Atlantic as part of this management process along  
20 with New England. Because in fact we're talking  
21 about two species that the Mid has the lead  
22 management on -- well, full lead on mackerel and  
23 splits the -- still lead on dogfish. So, it's  
24 something that's coming and I'd like your comments

1 on that.

2 PATRICIA KURKUL: We don't actually  
3 have agreement to add four species to the TRAC at  
4 this time. That list that you're talking about was  
5 a list that we provided to the Canadians probably --  
6 it was either last year or the year before. And in  
7 fact, we did run that through the Mid-Atlantic  
8 Council at that time. And all that was was from a  
9 U.S. perspective what our priorities might be for  
10 joint assessment of stocks in the future with  
11 Canada.

12 From that, I continue to push a joint  
13 assessment for dogfish and mackerel, and the  
14 Canadians at this point have agreed to these -- to  
15 those two stocks. Dogfish I want to say -- I think  
16 they're both in '09 at this point. I know mackerel  
17 is in '09. I'm not sure whether you remember --  
18 both of them are '09, Jim?

19 JAMES WEINBERG: No, the --

20 JAMES RUHLE: Dogfish is '08.

21 PATRICIA KURKUL: Is '08.

22 JAMES WEINBERG: December.

23 PATRICIA KURKUL: '08, okay. So,  
24 dogfish, '08. Mackerel, '09. And I think the

1 confusion is that this goes through a group we call  
2 the Steering Committee, the U.S./Canada Steering  
3 Committee. And that's not the -- that is a  
4 management group, but so far all we've agreed to at  
5 this point is these joint U.S./Canada assessments,  
6 which is a science side issue.

7 So, the Steering Committee is not  
8 dealing with these issues beyond -- that's where we  
9 hold the discussions about whether or not we will or  
10 will not jointly assess, and the process -- I think  
11 there was a discussion at the Center recently with  
12 some of the members of the mackerel industry on the  
13 process for the TRAC, and how best to have  
14 involvement in that process, which is completely  
15 separate again from the Steering Committee process.

16 So, I think it's important for the  
17 industry to stay involved in the TRAC process and to  
18 be involved in that as we move forward with joint  
19 assessments with the Canadians.

20 At this point, I don't see any  
21 additional discussions on the Steering Committee --  
22 at the Steering Committee level about mackerel or  
23 dogfish until those assessments are completed for  
24 the most part. And at that point we certainly need

1 to have Mid-Atlantic representation at those  
2 Steering Committee meetings.

3 JAMES RUHLE: So, if I may, Mr.  
4 Chairman, are you recommending that we formed a  
5 working group -- Mackerel Working Group, which  
6 consists basically of the Mid-Atlantic advisors.  
7 You're suggesting that they stay involved with the  
8 TRAC as it's further developed at this point?

9 PATRICIA KURKUL: Yes.

10 JAMES RUHLE: All right. Well, we'll  
11 talk, Mr. Chairman, whether we want to put that on.

12 It's silly to drag all of the mackerel guys to New  
13 Bern, you know, which is like five miles north of  
14 Florida. And we'll just bring them to Secaucus  
15 where we can deal with things and go from there.

16 So, I just wanted to -- the point is  
17 that this is a new process for Mid-Atlantic, these  
18 transboundary issues. And if they're going to be  
19 talking about mackerel and dogfish, we need to get  
20 our ass in gear and be ready for it. And they are  
21 tough negotiators.

22 Our counterparts sit on these in  
23 Canadian waters -- I mean in Canadian fisheries.  
24 The difference is they don't have any Councils.



1 Privilege Program.

2 Also, one more time, since I have the  
3 floor, behind Tab 16 is the Council Coordination  
4 Report. We're still looking for comments. We hope  
5 to have that at the 99 percent level by the end of  
6 the month. So, please get any comments to us by the  
7 end of August. And our October meeting is indeed in  
8 New Bern, North Carolina, 16 through 18 of October.

9 COUNCIL CHAIR PETER JENSEN: Any  
10 further business to come before the Council? Jim.

11 JAMES WEINBERG: Thank you. I don't  
12 want to delay things, but it's just an important --

13 COUNCIL CHAIR PETER JENSEN: Please  
14 don't.

15 JAMES WEINBERG: -- an important  
16 point related to summer flounder that I couldn't  
17 answer when we were speaking about summer flounder  
18 the other day. So, the answer occurred to me in the  
19 middle of the night, and I looked it up.

20 There was a question on page 41 that  
21 Pat Augustine asked about the zeros. And in fact,  
22 those zeros are all placed in the early years of  
23 that table. And they are just placeholders to fill  
24 in the table. That was before that survey actually

1 started. And when it started, they were actual --  
2 all values that are non-zero. So, the whole  
3 analysis was done correctly.

4 PAT AUGUSTINE (No microphone): Thank  
5 you for that. (Inaudible.)

6 COUNCIL CHAIR PETER JENSEN: Okay.  
7 Well, to our departing members, it's been great  
8 knowing you. Smooth sailing. And we hope you'll  
9 come back and see us again. And so we're adjourned.

10  
11 WHEREUPON:

12  
13 THE MEETING WAS CONCLUDED AT 11:55 A.M.  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF NORFOLK

I, PAUL T. WALLACE, a Professional Court Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the foregoing transcript represents a complete, true and accurate transcription of the audiographic tape taken in the above entitled matter to the best of my knowledge, skill and ability.

In witness whereof, I have set my hand and Notary Seal this 1st, day of October, 2007.

\_\_\_\_\_  
PAUL T. WALLACE. Notary Public  
My Commission Expires

October 3, 2008

THIS FOREGOING CERTIFICATION OF  
THIS TRANSCRIPT DOES NOT APPLY TO ANY REPRODUCTION

OF THE SAME BY ANY MEANS UNLESS UNDER THE DIRECT  
CONTROL AND/OR DIRECTION OF THE CERTIFYING REPORTER.