

Pages: 1-135

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL
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Dover, Delaware 19901-6790

COUNCIL MEETING

14-15 APRIL 2010

at

The Sanderling Hotel
1461 Duck Road
Duck, North Carolina 27949

(Morning Session)

WEDNESDAY, APRIL 14, 2010

I N D E X

TOPIC	PAGE
INTRODUCTIONS AND ANNOUNCEMENTS LEE ANDERSON	4
APPROVAL OF MEETING MINUTES RICHARD ROBINS:	8
NMFS REGIONAL ADMINISTRATOR REPORT PATRICIA KURKUL	9
NEFSC SCIENCE CENTER REPORT JAMES WEINBERG	11
NOAA OFFICE OF GENERAL COUNSEL REPORT JOEL MACDONALD	21
UNITED STATES COAST GUARD REPORT LCDR TIM BROWN	24
ASMFC EXECUTIVE DIRECTOR'S REPORT VINCE O'SHEA	39
NEW ENGLAND COUNCIL LIAISON REPORT RICHARD ROBINS	45
SOUTH ATLANTIC COUNCIL LIAISON REPORT RED MUNDEN	57
EXECUTIVE DIRECTOR REPORT DANIEL FURLONG	73
STATUS OF MAFMC'S FMPS RICHARD SEAGRAVES	77
APPROVAL OF MONKFISH AMENDMENT 5 RICHARD ROBINS	76
Motion - Alternative 2	
Howard King	85
Vote - (passed)	85
Motion - Defer to NEFMC	
Howard King	89
Vote - (passed)	91
(Change motion to support)	118

Motion - Southern Fishery Management Area	
Howard King	92
Vote - (passed)	92
Motion - Section 3.2	
Howard King	95
Vote - (passed)	103
Motion - 3.3.1	
Peter Himchak	106
Vote - (passed)	107
Motion - Option 2B	
Howard King	108
Vote - (passed)	109
(Change motion to support)	118
Motion - Group Motion	
Howard King	130
Vote - (passed)	132

1 [8:14 a.m.]

2
3 INTRODUCTIONS AND ANNOUNCEMENTS

4 COUNCIL VICE CHAIR LEE ANDERSON:

5 I've asked the Chair -- a few minutes at the start
6 of this meeting. I figure if I start while
7 everybody's talking, then they'll be quiet when we
8 get to the real business.

9 But the point of this story is that
10 you came to the Anderson Fish Museum, and I want
11 everyone to know that the Anderson Fish Museum has
12 an extension division, outreach, and this is a --
13 with my tongue firmly held in cheek, this is a
14 display from the Anderson Fish Museum Outreach.

15 And next slide. Okay. The title of
16 the little extension is Fisheries Management, The
17 Mid-Atlantic Council and Marketers: A Short
18 Cautionary Tale.

19 The next slide, please. This is --
20 in part of our education project, this is a copy of
21 a book that has just been published, and you may
22 know the senior author who is up there, and in fact
23 some of you may say that the whole reason to have
24 this announcement is that's because it's a book, but

1 of course that's not correct.

2 UNIDENTIFIED: Is this one on
3 Amazon.com?

4 COUNCIL VICE CHAIR LEE ANDERSON: You
5 can buy it and ...

6 PAT AUGUSTINE: You mean you're not
7 passing out autographed copies?

8 COUNCIL VICE CHAIR LEE ANDERSON:
9 Later. But the real point of this story is about
10 marketing and fisheries economics.

11 You notice that there are some
12 pictures in there. There's a picture of a
13 commercial port on top. There's a picture of some
14 gear over here. And this is some artisanal
15 fisheries on the left.

16 Now, the one in the center there is
17 one of the traditional graphs that's used in
18 fisheries economics. It's total revenue and total
19 cost.

20 Now, this is not the way the book
21 cover was sent to the printer, and this is where the
22 cautionary tale comes in. Next slide, please.

23 You all see this picture? This
24 picture, which is really the center of the fisheries

1 management universe, shows the Mid-Atlantic Council,
2 it shows some very astute fellows there talking
3 about fisheries management.

4 Next slide. And this is true.

5 That's what was supposed to be in the center of the
6 picture there, was this -- the picture there. But
7 the marketers said we can't have this, we want to
8 have the people know what's inside the book. And I
9 said well, fisheries management's inside the book.
10 He said no, it's economics.

11 So, the marketer took that picture
12 out and put that silly graph in. Now, I tell you I
13 was quite upset, but --

14 (Inaudible comments away from microphone.)

15 COUNCIL VICE CHAIR LEE ANDERSON:

16 Yeah. Now, if you have -- the next slide, please.

17 UNIDENTIFIED: I like the way the

18 names have changed to protect the innocent. None of
19 the names --

20 COUNCIL VICE CHAIR LEE ANDERSON:

21 That's right. That wasn't very clever. This is
22 another version of the slide that was going to go in
23 the center. And you may recognize that domed head
24 there in the back. And the title of this picture is

1 the outreach director of the Anderson Fish Museum
2 lecturing to the -- what should we call them? The
3 uninitiated.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Uninformed or ...

6 COUNCIL VICE CHAIR LEE ANDERSON: The
7 uninformed. Look at the look in the eyes. Erling
8 looks like he is so excited about what I'm going to
9 say that -- and the rest of the folks are, as well.

10 But the issue here is -- that I like
11 this picture is because it does show that our folks
12 are always eager to learn, and this picture shows
13 it.

14 Have you ever seen better students in
15 your life? I think that would have been a great
16 center picture there. The back of my head. Only
17 the people would know.

18 Final slide: Don't let marketers
19 make decisions, because they'll do the wrong thing
20 for fisheries management.

21 Thank you for your indulgence.

22 Anybody who wants --

23 (Applause.)

24 COUNCIL VICE CHAIR LEE ANDERSON:

1 Anybody who wants a copy of the book, I can send you
2 a flier that will let you buy it for 15 percent off.

3 So, what a deal, huh?

4 UNIDENTIFIED: Then you're bound to
5 sell four copies.

6 COUNCIL CHAIRMAN RICHARD ROBINS: So,
7 what's the marginal costs on that, Lee?

8 COUNCIL VICE CHAIR LEE ANDERSON: You
9 don't want to know.

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 That's right. Okay. Thank you, Dr. Anderson.

12
13 APPROVAL OF MEETING MINUTES

14 COUNCIL CHAIRMAN RICHARD ROBINS: All
15 right. We're now convened as a full Council; so,
16 first order of business is approval of the December
17 2009 and February 2010 minutes. Pat.

18 PAT AUGUSTINE: So moved, Mr.
19 Chairman, to approve the minutes of those meetings.

20 COUNCIL CHAIRMAN RICHARD ROBINS: I
21 would ask if there are any -- are there any
22 modifications of the minutes?

23 (No response audible.)

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Okay. Second by Gene Kray. Any objection to the
2 motion?

3 (No response audible.)

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Seeing none, we'll approve by consent. Thank you.

6 Organizational reports. Pat, are you
7 ready for the Regional Administrator Report?

8 PATRICIA KURKUL: I am. Thank you.

9
10 NMFS REGIONAL ADMINISTRATOR REPORT

11 PATRICIA KURKUL: I have a fairly
12 short report today. For Amendment 10 to Atlantic
13 Mackerel, Squid and Butterfish, we published the
14 final rule implementing Amendment 10 on March 11th.

15 The measures are to increase the minimum cod-end
16 mesh requirement for the loligo fishery and that
17 measure is not effective until September 13th, 2010.

18 And then of course there is the butterfish
19 mortality cap and the observer notification
20 requirements, which become effective April 12th.
21 Did become effective April 12th. I forget. What is
22 today?

23 The amendment also includes a
24 requirement to have an annual assessment of the

1 rebuilding program, which we now know may not be
2 necessary, but -- I'm sure this is something we're
3 going to discuss tomorrow again.

4 Summer flounder, scup and black sea
5 bass, we published a correction and an extension in
6 the emergency closure for the black sea bass
7 recreational fishery on April 7th. It extends the
8 closure through midnight, May 21st. This is
9 consistent with the start date that has been agreed
10 to by both the Commission and the Council at this
11 point, start date for the fishery.

12 Let's see. What I hope is my final
13 update on implementation of the limited access
14 general category individual fishing quota program.
15 The IFQ program went into effect finally on March
16 1st. There are 329 IFQ vessels and 40 vessels that
17 have both an IFQ and a limited access scallop days-
18 at-sea permit.

19 In addition, there are 107 northern
20 Gulf of Maine and 288 individual -- incidental catch
21 permits that have been issued.

22 The total allowable catch for the IFQ
23 vessels is 2.3 million pounds roughly. The TAC for
24 both the IFQ and scallop days-at-sea permits is

1 about 226,000 pounds, and individuals IFQs were of
2 course calculated with respect to these TACs.

3 We've developed a website that has a
4 dedicated scallop IFQ program web page that does
5 link to the pertinent information and information
6 sheets for this fishery.

7 On March 31st, 2010, the final rules
8 to implement Multispecies Amendment 16, Framework 44
9 and the Northeast -- and the sector operations plans
10 were filed in the Federal Register and were -- these
11 rules were published on April 9th. This program
12 will become effective on May 1st of this year. And
13 that's all I have, Mr. Chairman.

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Thank you, Pat. Questions for Pat?

16 (No response audible.)

17 COUNCIL CHAIRMAN RICHARD ROBINS: All
18 right. Thanks. We'll go on to the Science Center
19 Report.

20
21 NEFSC SCIENCE CENTER REPORT

22 JAMES WEINBERG: Thank you, Mr.
23 Chairman. First, some notes about our surveys. The
24 spring bottom trawl survey, which is conducted on

1 the Bigelow, is about two-thirds done, and the
2 survey will end on May the 4th.

3 The Center -- the Ecosystems Survey
4 Branch is continuing to work on a catchability
5 study, comparing the cookie sweep with the
6 rockhopper sweep, and that work is being done on
7 four commercial vessels.

8 There's been some outreach education
9 going on where the Ecosystem Survey Branch
10 participated in a workshop where they gave a tour of
11 the Bigelow and the NEFSC gear facility, explaining
12 how the survey was done and how the data are
13 collected.

14 On the trawl gear that's used for our
15 surveys, the Canadian scientists are having
16 discussions with the Science Center about adopting
17 the same type of trawl gear that we use on the
18 Bigelow, and if they decide to adopt the same trawl
19 that we use, then that would be very good in terms
20 of consistency, because the same gear would be used
21 all the way from North Carolina through Nova Scotia.

22 So, we'll see what the Canadians decide about that.

23 On the reports that come from our
24 trawl surveys and other surveys, the hard copies of

1 the bottom trawl survey from 2009 and the sea
2 scallop resource survey reports have been mailed
3 out. Wendy Gabriel wanted me to mention that now
4 that the survey is being done on the Bigelow,
5 there's some confusion in the -- among people in the
6 public sector.

7 The numbers that are in these
8 resource survey reports, otherwise known as
9 fishermen reports, are raw numbers, so they're the
10 actual catches of fish that come up in a tow, and
11 they're not adjusted in any way to be standardized
12 against the Albatross numbers.

13 So, people that are getting these
14 reports shouldn't try to compare the catches in a
15 current report from the Bigelow to previous catches
16 that were done with the Albatross.

17 In order to make that comparison, you
18 have to know about the calibration coefficients and
19 so forth. So, Wendy wanted me to just mention that
20 because there is some confusion out there on that.

21 On the SBRM response, you recall that
22 at your last meeting I believe Paul Rago presented
23 the proposal for the observer coverage for this
24 fishing year, or fiscal year. And we're awaiting a

1 response still from the New England Fishery
2 Management Council. We have the comments from your
3 Council, and as soon as we get the feedback from the
4 New England Council, then we'll revise our observer
5 coverage and report back to you with our response.
6 And the Center did reply to Chairman Robins on that,
7 basically expressing that point.

8 Then, moving on to stock assessments,
9 we've been very busy. The SARC that took place in
10 late November and December on surfclams and
11 butterfish, I reported on the results of that stock
12 assessment at your previous meeting. The TRAC had a
13 mackerel meeting which just took place in Woods Hole
14 in early March, and there was -- the final reports
15 on that are not out yet, but we had some discussion
16 yesterday already about what the results are, and we
17 would be prepared to have someone come at your next
18 meeting, if you would like a more formal
19 presentation of the TRAC results on mackerel.

20 Paul Rago was here yesterday
21 explaining the final outcome of the dogfish
22 biological reference point review, and had told you
23 the news that the stock based on the peer review is
24 rebuilt. We're working, planning for the June SARC,

1 which is coming up the first week of June, and we'll
2 have sea scallops, monkfish and pollock peer
3 reviewed at that meeting.

4 We also have updates that will be
5 done this spring and summer on many of the Mid-
6 Atlantic stocks, and there will also be a TRAC done
7 in mid July on the eastern Georges Bank cod, eastern
8 Georges Bank haddock and Georges Bank yellowtail.

9 We're now planning for the next SARC,
10 which will occur in the fall of 2010, and loligo is
11 on the agenda for that SARC, as well as three hake
12 species. And then just wanted to mention that in
13 June of 2011 that SARC will have summer flounder on
14 it and -- as well as three winter flounder stocks.

15 That concludes my report. Thank you.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Jim, thank you. Just to follow up, I think the idea
18 of a TRAC assessment presentation for the mackerel
19 results at the next meeting would be a timely piece
20 of information for us.

21 Also, what is the exact time line,
22 roughly, on the SBRM determination? Because we were
23 very significantly concerned about the level of
24 coverage and our ability to administer the loligo

1 and the butterfish cap program.

2 JAMES WEINBERG: Yeah, I don't have
3 an exact date for you. We've gotten back to the New
4 England Council and let them know that we're waiting
5 for their feedback and --

6 NANCY THOMPSON (No microphone): We
7 got theirs.

8 JAMES WEINBERG: We got theirs?
9 Okay. Go ahead.

10 NANCY THOMPSON: It's just about now,
11 as far as the timing is concerned, and we got -- we
12 have your input obviously. We have it from the New
13 England Council now and we also have it from the
14 Regional Office. So, we'll take a look at it and
15 then obviously come back to everybody with what we
16 can and can't do.

17 I think everybody's anticipating,
18 obviously, based on the funding that we have and
19 that there haven't been a lot of changes and
20 particularly relative to the direction for where
21 that funding is to go hasn't really changed; so, I
22 think you can probably anticipate what the answer
23 will be. I mean, we'll do whatever we can,
24 obviously, and we understand clearly the issue and

1 we absolutely agree that there needs to be a bump-up
2 in observer coverage, particularly with small mesh.

3 So, we'll respond, but we have all
4 the input that we need now, so we'll turn that
5 around.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Okay. And yeah, obviously, in the long run, I think
8 the coastal states in our region are going to have
9 to work to ensure that we have more funding for
10 observer coverage in our region, because so much of
11 it gets committed in New England because of the
12 Congressional constraints that are there and the
13 funding constraints. Howard.

14 HOWARD KING: Yeah, Jim. When would
15 the next summer flounder SARC findings be actually
16 reported out and how would that cycle with
17 specification setting by Council?

18 JAMES WEINBERG: Yeah, that's a good
19 question. We -- the SARCs are typically done in the
20 early part of June and then the -- we get reports
21 from the chairman of the review panel about three
22 weeks after the meeting is concluded, which is kind
23 of a consensus of the findings.

24 But it takes an additional one to

1 three weeks until we get the individual reports from
2 all the reviewers, and then we finalize the
3 assessment summary report after we have all the
4 reviews back.

5 So, I would say that we'll have an
6 assessment summary report that can be published the
7 final week of July, but we'll have a pretty good
8 sense of what the findings are before that, which we
9 will share informally with the appropriate members
10 of the Council that need to -- for instance, as I
11 was talking with John this morning.

12 So, I would present those results to
13 you at your August Council meeting in 2011.

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Rich.

16 RICHARD SEAGRAVES: Yeah, just a
17 follow-up. So then, the findings of that SARC would
18 go into play in 2012, so it would be immediately
19 incorporated into the quota-setting for the upcoming
20 fishing year, which will be '012 at that point.

21 My question to Jim is relative to the
22 mackerel TRAC report. In earlier discussions at the
23 Executive Committee, we were talking about time
24 lines and the fact that the SSC wants the

1 information 15 working days prior to deliberation.

2 We're coming up on the quota
3 specifications for 2011, which the Council will
4 consider at its June meeting. And if you look at
5 the schedule behind Tab 8, we're scheduled to have
6 an SSC meeting, I think it's the 11th and 12th, but
7 the drop-dead date to get the information to the SSC
8 to meet the 15 working day criteria is I think next
9 Monday. It's April 19th.

10 So, my concern is when that final
11 report would be available. I mean, if it's not
12 available, we've got drafts of it and we're assuming
13 that there won't be any major changes, so we're
14 working with the draft information, but if we can
15 have the final prior to the 19th mailout, would be
16 very good.

17 JAMES WEINBERG: I'll pass that along
18 to the Chairman of the TRAC and try to facilitate
19 that for you.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Thanks, Jim. Further questions for Jim or Nancy?
22 Jim.

23 JAMES FLETCHER: Dr. Weinberg, would
24 you please explain to the people that went out of

1 business in the dogfish processing whether this
2 immediate rebuilding of the dogfish was a change in
3 the number of fish in the ocean or a change in the
4 way the math was done.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Jim, you can direct your questions through the
7 Chair, please. Okay.

8 JAMES FLETCHER: Well, would you ask
9 him to explain it, please, whether this was a change
10 in the number of fish in the ocean or whether it was
11 a change in the way the math was done.

12 COUNCIL CHAIRMAN RICHARD ROBINS: And
13 I would suggest that we already had a presentation
14 on this from Dr. Rago yesterday; but Jim, if you
15 care to add anything to that.

16 JAMES WEINBERG: I think your answer
17 is correct. Dr. Rago largely followed the same
18 analytical methods that were done previously. There
19 was some additional information that he incorporated
20 in on the survival of young related to the size of
21 females and pup weight, but that was the main
22 change.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Thanks for that clarification. Any other questions

1 for the Science Center?

2 (No response audible.)

3 COUNCIL CHAIRMAN RICHARD ROBINS: All
4 right. Seeing none, Joel MacDonald.

5
6 NOAA OFFICE OF GENERAL COUNSEL REPORT

7 JOEL MACDONALD: Thank you, Mr.
8 Chairman. I just have two brief items. In New York
9 in United Boatmen versus Locke, which you may recall
10 is the challenge to the 2008 summer flounder
11 recreational measures, there was a judicial hearing
12 on April 2nd before Judge Gershon in Brooklyn.

13 Both sides presented their arguments.
14 The judge made no ruling, as is normally the case.
15 We have no idea what time frame it will take for
16 her to issue a decision on this.

17 You may recall that there were also
18 two other lawsuits, one filed separately by New
19 York, one filed by United Boatmen, with respect to
20 the 2009 summer flounder recreational measures, and
21 obviously the decision in this case is going to have
22 an impact on those two other pieces of litigation.
23 So, as soon as I find out, you will find out.

24 In another case, United Boatmen and

1 Recreational Fishing Alliance versus Locke, which
2 you may recall is a challenge to the closure of the
3 recreational black sea bass fishery in the EEZ, we
4 finally have a briefing schedule. We expect to file
5 our brief on April 23rd.

6 The issue right now is well, what
7 will that brief look like, because the plaintiffs
8 are making noises about wanting to supplement the
9 administrative record with documents that were
10 created after the agency made a decision to close
11 the fishery.

12 Typically, that's not allowed in an
13 administrative record case. It's all the records
14 that the decision-maker relied upon in making the
15 decision. Obviously, if a document is generated
16 after the decision, it wasn't relied upon by the
17 agency.

18 So, our motion on the 23rd will
19 either be a motion in opposition to supplement the
20 record or a motion for summary judgment. And I
21 believe the briefing schedule will probably conclude
22 maybe around May, early June. And typically the
23 judge will probably hold a hearing on that sometime
24 thereafter. And that's it, Mr. Chairman.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Thank you, Joel. Questions for Joel? Howard.

3 HOWARD KING: Just real quick. Can
4 you remind me how the findings of these -- how the
5 legal finding of these suits might affect future
6 actions by the Council?

7 JOEL MACDONALD: Howard, it's sort of
8 a crystal ball exercise because you can never tell
9 where the judiciary is going to roam. It depends a
10 lot upon the judge involved.

11 The worst case scenario would be --
12 and I don't expect this, but probably saying you
13 can't use MRFSS to set any recreational or other
14 quotas for closures.

15 I don't expect that, because I mean
16 if you look at it, even though the NRC report
17 criticized the methodology and design of the MRFSS
18 program, nowhere in that document did it say you
19 can't use it.

20 Now, if you look at National Standard
21 2, it says you use the best available scientific
22 information possible. That's the only information
23 available on a large scale with respect to the
24 recreational landings.

1 And so the agency and the Council, if
2 it were told that you can't use MRFSS data, it would
3 be in kind of a unique position.

4 On the other end of the scale, I
5 mean, the judge could just -- you know, flatly rule
6 in our favor, in which case -- you know, MRFSS --
7 we're able to use MRFSS and I expect if that were
8 the case then the plaintiffs drop the 2009
9 challenges, because they are virtually identical in
10 terms of the -- you know, the claims.

11 So, if the 2008 decision is in our
12 favor, obviously -- you know, there's no hope that
13 they could prevail on the 2009 lawsuit. So, that's
14 where we are right now.

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Thanks, Joel. Additional questions?

17 (No response audible.)

18 COUNCIL CHAIRMAN RICHARD ROBINS: All
19 right. Next report is Lieutenant Commander Tim
20 Brown.

21
22

23 UNITED STATES COAST GUARD REPORT

24 LCDR TIM BROWN: Thank you, Mr.
 Chairman. I'll be speaking from the Fifth Coast

1 Guard District Enforcement Report labeled 1 February
2 through 31 March.

3 Before I launch into the report,
4 though, I want to say a few things. Again, thanks
5 for joining me last night and the little departure
6 ceremony there, I appreciate very much your
7 hospitality and sending me off in a great way.

8 And I've told a number of people it's
9 just bittersweet to be leaving a great job in a
10 great location where my family and I have been very
11 happy, but this is a great opportunity that I have
12 ahead of me. So, thank you for being there and
13 being a part of that.

14 I want to bring your attention --
15 Admiral Wayne Justice, who you all met a number of
16 times now, has been our District Commander for the
17 last, about, ten months. He's going to have a
18 change in command and retirement ceremony in the end
19 of May.

20 And Rear Admiral Dean Lee, who I
21 think some of you might know from being the sector
22 commander down in North Carolina just a few years
23 ago, will be taking his place and becoming the new
24 Fifth District Commander. So, I'm sure my

1 replacement will work to get him up and to meet you
2 all and to be engaged with the process, and I
3 suspect that he will be, just knowing a little bit
4 about who he is.

5 My replacement, Lieutenant Kevin
6 Saunders, he'll be here tomorrow and he'll be
7 joining me and I'll try to introduce him to all of
8 you. Right now he's at the University of Rhode
9 Island undergoing a marine affairs program, and he
10 wraps up at the end of the May and be coming in the
11 office just a few days later. He should be at the
12 Council in June along with you.

13 Just a little bit about his
14 background, I'm sure he'll do an intro when he gets
15 here, as well, but just to put you all at ease, I
16 know he's going to fill my shoes very well and do a
17 fine job for you.

18 Before going to URI where he's at now
19 he was down in Portsmouth, Virginia, but at a local
20 sector command where he was the station manager, so
21 responsible for managing -- supervising the stations
22 in coastal Virginia and also the fisheries law
23 enforcement office there.

24 Because that, he was the executive

1 officer of the Southeast Regional Fisheries Training
2 Center in Charleston, where he engaged with -- you
3 know, the South Atlantic Council and NOAA Fisheries
4 from Southeast Region.

5 So, he's got a good background for
6 the job and I'm sure he'll -- like I said, I know
7 he'll come in and do an outstanding job.

8 Let's see. Launching into the
9 report, it's 239 fisheries boardings conducted the
10 last couple months in the Mid-Atlantic. This is
11 also in conjunction with our Operation Safe Catch,
12 which is still ongoing and will run through the end
13 of this month.

14 Seven significant violations
15 detected. Those were all in the striped bass
16 fishery and the details are broken down in -- on
17 Page 3 of the report. Pretty comparable to where we
18 were at last year, this time, almost all the numbers
19 are the same, if you want to do a quick comparison.

20 The next couple pages outline how our
21 fisheries boardings during this period and then
22 fiscal year to date broke down by fishery and by
23 gear type.

24 One thing to highlight, first year of

1 the LAGC IFQ fishery, and 1 March we had a big pulse
2 op for that fishery offshore. I think, you know, it
3 still remains to be seen what the final outcome or
4 what all the impacts of that change in management
5 are, but from what we've seen the pace of fishing is
6 considerably slower than it was last year and -- you
7 know, we're just noticing that out on the fishing
8 grounds.

9 So, I think that's a good thing for a
10 number of reasons, safety included. We're just
11 making that fishery -- the fisheries operators have
12 more control over when they're out there, so I think
13 that's a good thing. Because the weather in
14 February and March this year certainly wasn't
15 anything to write home about.

16 On Page 4 of the report detailed the
17 significant violations, as I mentioned, all of them
18 this period were on striped bass vessels -- striped
19 bass fishery. And the first report there is the
20 most significant of all of them. A North Carolina
21 trawler off Oregon Inlet fishing about -- more than
22 three and a half miles into the EEZ, came on-board
23 and discovered about 150 striped bass. Worked with
24 NOAA OLE and we had a good relationship and had

1 already done a lot of the pre-operational planning
2 with them before the day of this event and ended up
3 seizing about 4200 pounds of fish when they got to
4 the dock.

5 That was a strong message, I think,
6 to the industry down there. And then the others --
7 you know, detailed the other cases we had in late
8 February and early March off Virginia/North
9 Carolina.

10 You know, we know this isn't every
11 boat that's out there in the EEZ, and we certainly
12 can't be everywhere at all times, but I think you
13 can see the level of effort we're putting towards
14 it.

15 Other enforcement activities, a
16 number of safety terminations are detailed in those
17 reports and the reasoning for those safety
18 terminations.

19 Marine protected species efforts, a
20 number of significant events over this period. And
21 one just to highlight on the 9th of March, Station
22 Fort Macon down there in North Carolina -- or down
23 here in North Carolina, working with the Turtle
24 Research and Rehabilitation Center helped return ten

1 rehabilitated sea turtles out about 38 nautical
2 miles offshore into the Gulf Stream, returned those
3 -- returned those turtles to their natural
4 environment. So, I think that was a good effort,
5 just showing the local kind of small unit
6 coordination we have with our partners.

7 And then commercial fishing vessel
8 safety efforts, also part of Op. Safe Catch, as I
9 mentioned earlier, we're continuing to walk the
10 docks and continuing to get out there and try to
11 issue as many of those dockside exam decals as we
12 can. 63 for this period and 200 so far fiscal year
13 to date. So, you know, roughly 66 percent or so of
14 the -- two-thirds of the ones we're visiting are
15 ending up getting decals, so that's pretty good.

16 And then some search and rescue
17 highlights on Pages 6 and 7. You can read those at
18 your leisure.

19 And outreach information -- I'm
20 sorry, was -- most of it was lost here somehow.

21 The numbers for the how to get your
22 dockside exam for the northeast are in there. I
23 don't know where they went from the previous report
24 for the Mid-Atlantic, but then I do want to

1 highlight something that I found on the back table,
2 or outside, all Down East commercial gillnet
3 fishermen, there's a meeting coming up here with
4 NOAA Fisheries Office of Law Enforcement and U.S.
5 Coast Guard this Friday in Harker's Island to talk
6 about observer program, talk about gillnet
7 regulations and safety gear requirements.

8 So, the details are on the table
9 outside, and Special Agent Joe Wilson there is the
10 local point of contact.

11 One other item I know was in the
12 outreach information, I wanted to mention Commercial
13 Fishing Industry Safety Advisory Committee is
14 seeking new members, so that's an organization that
15 we work with mostly out of our headquarters office
16 in D.C. to help write commercial fisheries regs and
17 to implement commercial fisheries measures, try to
18 get the feeling of the fishing industry and feedback
19 from the fishing industry on how we can do that most
20 effectively.

21 So, there's a Federal Register
22 Notice. If anyone's interested in that, they can
23 see me after and I'll get it to them. And that's
24 all I have, Mr. Chairman.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Thank you, Tim. Pres.

3 PRESTON PATE: Thank you, Rick. Tim,
4 was there -- can you tell me the status of any fines
5 that would be leveled against the Lady Samara for
6 those 150 stripers that were seized.

7 And in answering that, do you have an
8 opinion as to whether or not those pending fines, if
9 there are any, are commensurate with the \$100 per
10 fish fines leveled against the recreational vessels
11 that are also in your report?

12 LCDR TIM BROWN: Thank you for the
13 question, Preston. I really don't think I can
14 comment, though. I believe that case is still under
15 investigation and you have to talk to the NOAA Law
16 Enforcement about that. I'm really not sure I can
17 comment.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Gene.

20 EUGENE KRAY: Thank you, Mr.
21 Chairman. Tim, the -- I know that -- I've seen
22 copies of correspondence between the Commission,
23 ASMFC and the Coast Guard with regard to the issue
24 of fines, and I serve on the Striped Bass Board for

1 the Commission.

2 The recommendation was to consider
3 increasing that fine and also in the case of
4 particularly charter boat captains pulling the
5 license or suspending the license of those.

6 Has there been any further movement
7 on that? I know -- I've seen the correspondence
8 between Admiral Justice and Captain O'Shea.

9 LCDR TIM BROWN: Thanks, Gene, for
10 your question. Yes, we are relooking at those few
11 cases which we've had on charter boats from the
12 Coast Guard and take action -- appropriate action
13 after -- you know, we look at that vessel's history
14 and the captain's history and what this is about.
15 So, we are looking into that at the ASMFC's guidance
16 or recommendation.

17 And with regard to -- you know,
18 summary settlement penalty schedules, that's
19 something we'll have to take up with NOAA OLE. So,
20 thank you.

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Erling.

23 ERLING BERG: Tim, on Pages 9 through
24 14 you have the boarding activity, Appendix A. And

1 there's quite a few boardings and most of them say
2 no violation, and then some others say no additional
3 action. Were there violations found on those? Why
4 is there a difference?

5 LCDR TIM BROWN: I think there's a
6 number of reasons why you might see that, but no
7 violations you -- yeah, it's pretty easy to
8 understand what that is. No additional action maybe
9 there was like -- I see the All In on there, and I
10 know that was a -- we issued a violation in that
11 case, but we basically closed it out through a
12 summary settlement on-board. So, it doesn't require
13 further action.

14 So, there may have been a -- you
15 know, a fix-it done -- you know, some type of
16 commercial fishing vessel safety violation that was
17 found but was fixed on the spot, something like that
18 that was taken care of right onboard and doesn't
19 require a follow-up.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Thanks, Tim. Any additional questions? Sean
22 McKeon.

23 SEAN MCKEON: Sean McKeon, North
24 Carolina Fisheries Association. Thank you, Tim, for

1 your report. I wanted to just say that we certainly
2 believe those that violate the law, this striped
3 bass incident, should be prosecuted to the full
4 extent of the law.

5 They're very detailed in the report
6 about the violations and the things that go on in
7 our industry, but I did want to go on record as
8 saying the hypocrisy of the enforcement arm of
9 National Marine Fisheries Service is glaring. Dale
10 Jones is absent. He's been removed. No one can
11 find out where he is or what has been done. Few
12 have any information, although I'm sure you're not
13 allowed to talk about it, where he is.

14 An agency that is so detailed in
15 prosecuting our industry and who makes special
16 efforts -- and they should, when the law is broken -
17 - I would not argue that they shouldn't, but can't
18 tell us where this man is who has on record been
19 found to have shredded documents during the
20 investigation by the Inspector General's Office, as
21 most of you know, and I think -- Dale Jones is the
22 head of enforcement, National Marine Fisheries
23 Service, who's been removed from office, probably
24 because he has shredded those documents, it was

1 admitted the Inspector General investigator said he
2 did. They cannot find out any information about
3 where he is, whether he's on leave, whether he's
4 still being paid. We've heard some things that are
5 very unsettling about what's happened, but I just
6 want to note for the Council that we believe the
7 glaring hypocrisy to continue to prosecute cases
8 that are suspect when there have been at least a
9 hundred files on record in the Inspector General's
10 Report have been destroyed by the very man who's in
11 charge of prosecuting our industry and others, and I
12 just wanted to point out the hypocrisy in the
13 detailed investigations, the details of when our
14 folks step across the line if they have -- if they
15 have a violation, not having a decal, taking -- not
16 being able to take an observer without a voluntary
17 decal, all kinds of things like that.

18 But again, I want to make it very
19 clear, violations of law should be prosecuted to the
20 full extent of the law, and I would stand behind
21 that and not encourage anyone to break the law, but
22 I think it needs to be said that that's -- agency
23 charged with prosecution is riddled with what the
24 Inspector General's report said systemic abuse.

1 They had an 8.4 million dollar fund
2 that they were unaccountable, has never been
3 audited. That's the fund that they take when they
4 fine people in our industry, they put that money
5 into an account. And I just wanted to go on record
6 saying this.

7 And I'm sorry if it upsets anybody.
8 I'm really sorry if it's maybe out of order, but it
9 needed to be said. And I was hoping that Andy Cohen
10 would be here, who on record twice said we're not
11 going to be intimidated by these reports, continue
12 to do what we do, because I think those are the
13 individuals that have given this agency a bad name.

14 You are a credit to the industry --
15 to your profession, Tim, and I appreciate your
16 report, but I did want to go on record. Thank you.

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 John.

19 JOHN MCMURRAY: Thank you. Just for
20 the record, Andy Cohen will be coming in in the June
21 meeting and responding to some of the findings in
22 the IG report.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Thanks for the follow-up. Pat.

1 PATRICIA KURKUL: I think that we
2 need to be careful. There's a lot of allegations
3 out there, and to just blindly repeat the
4 allegations is really irresponsible. Let's wait
5 for --

6 SEAN MCKEON (No microphone):
7 (Inaudible.)

8 PATRICIA KURKUL: -- the Inspector
9 General's report -- you had your say.

10 SEAN MCKEON (No microphone): It's
11 not an allegation. It's (inaudible.)

12 PATRICIA KURKUL: No, there are
13 allegations. We should wait for the Inspector
14 General's report. We should wait for the
15 information before we go about making these kinds of
16 accusations.

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Thank you, Pat. And again, on a positive note, for
19 those of you who weren't able to join us last night,
20 we did have an opportunity to thank Lieutenant
21 Commander Tim Brown for three years of service on
22 the Council.

23 Tim is going to be going to Lake
24 Huron, Michigan, to take command of a buoy tender up

1 there, the Hollyhock, Number 214. And I'm sure it's
2 going to be a whole lot colder up here than it has
3 been down here, but -- we want to take again this
4 opportunity to thank Commander Brown for his service
5 to the Council.

6 (Applause.)

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Okay. Now we're behind Tab Number 6, the New
9 England Council Report and -- oh, I'm sorry. I
10 skipped Vince. Vince. Captain O'Shea.

11
12 ASMFC EXECUTIVE DIRECTOR'S REPORT

13 VINCE O'SHEA: Good morning, Mr.
14 Chairman. Thank you. One of the things that
15 Commander Brown mentioned was that his relief is up
16 at the University of Rhode Island getting --
17 completing his master's in marine policy --
18 fisheries policy.

19 And I think that that's a significant
20 thing to note, because a number of years ago the
21 Coast Guard made the policy decision that the folks
22 that are in the Coast Guard that come to the Council
23 would benefit both the Council and the Coast Guard
24 by having some post-graduate credentials to go along

1 with their operational credentials.

2 So, it's good to see that Commander
3 Brown's relief is going to have those credentials
4 when he comes to this Council. And I think it
5 represents a good commitment from the Coast Guard of
6 how significant fishery management councils are to
7 the Coast Guard mission.

8 Mr. Chairman, the Commission's winter
9 meeting summary is in your briefing book, courtesy
10 of my fellow Executive Director, Dan Furlong. And
11 thank you, Dan, for doing that. There's a summary
12 of the issues that we covered.

13 Dr. Kray mentioned the two letters
14 that I was directed to write by the Commission, one
15 to Admiral Justice on striped bass enforcement, and
16 the suggestion that greater attention be given to
17 the license holders, the charter boats that are
18 perhaps caught in the EEZ possessing striped bass,
19 and in some cases anecdotal reports are received in
20 excess of the bag limits.

21 I was also directed to write a letter
22 to -- at the time Dr. Balsinger, suggesting that
23 NOAA General Counsel look at a penalty schedule for
24 summary settlement on the striped bass, penalties

1 for the recreational side. And those letters went
2 out.

3 Joel gave an update on litigation,
4 summer flounder. The Commission is also tied up in
5 those cases, and on March 9th there's one issue
6 that's evolved out of this is the quasi-federal
7 agency argument regarding the ASMFC. We've appealed
8 that decision from now, the late Judge Sifton, into
9 the Second Circuit Court of Appeals, and that
10 hearing was argued -- held and argued on March 9th
11 in Manhattan, and we don't have really a time line
12 when the Court will decide that.

13 But the impact of our appeal has been
14 to sort of suspend our proceedings in the New York
15 United Boatmen case that's over in Brooklyn Federal
16 Court.

17 The other litigation that came before
18 the Commission -- we had three complaints filed
19 against us and the ACCSP regarding fishermen that
20 were taking issue with the amount of IFQs and --
21 that they got for the general category scallop
22 fishery. And their complaint was a failure to get
23 credit for unreported and unknown landings based on
24 faulty database within ACCSP. And of course we're

1 the administrative home of ACCSP, we were brought
2 into that.

3 Complaints were filed in three
4 jurisdictions, Camden, Newark and Baltimore District
5 Courts. We answered two of the complaints, and as
6 soon as we filed our answers -- shortly after we
7 filed our answers, the plaintiffs withdrew their
8 complaints against us, and before we had to file in
9 Baltimore, they agreed to drop their complaints
10 against the ACCSP and that happened -- that happened
11 a couple of months ago.

12 And finally, Mr. Chairman, our next
13 meeting is in Alexandria, Virginia. It's the week
14 of May 3 through 6, and we've had a number of
15 changes to the first notice agenda, so I just -- our
16 current notice was published on the website
17 yesterday. So, I just ask anybody that's interested
18 in perhaps coming, just please double-check our
19 revised agenda. We've made quite a bit of changes
20 to it due to changes in topics that have come up.

21 I think -- I did have one question
22 this morning -- yesterday from somebody, and the
23 question was on the black sea bass regulations why
24 did the Commission set recreational measures -- why

1 did they not set recreational measures in a joint
2 meeting? And the answer to that is recall that we
3 did have a joint meeting in December and we did set
4 a joint -- we did set the recreational measures, but
5 then the SSC came out with a revised number for us
6 and we had that number at the February meeting and
7 our Commissioners decided to react to the revised
8 number coming out of the SSC, and then you recall
9 the Commission -- I mean the Council, we met in
10 Salisbury and then you addressed or gave a
11 recommendation to -- but that was the reason why
12 there wasn't this year a joint meeting for the final
13 set of regulations.

14 That's all I have, Mr. Chairman.
15 Happy to answer any questions. And as always,
16 thanks for your hospitality.

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Vince, thank you, and thank you for being here with
19 us this week. I just have a quick question about
20 the -- I guess the Summer Flounder, Scup, Black Sea
21 Bass Board is going to meet. Do they have action
22 items pending in front of them or is that a -- is
23 that simply going to be an update-type meeting, do
24 you know?

1 VINCE O'SHEA: No, I'd have to look -
2 - I have to look at it. I don't think that we're
3 going to -- I mean, if you're thinking of something
4 -- we're not going to revisit -- as far as I know,
5 we're not going to revisit black sea bass rec
6 measures. Our states had to get going on the state
7 regs, and as Pat's already reported, we're winding
8 up to open on May 22nd. Thank you.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Thank you. Pete.

11 PETER HIMCHAK: Yes, thank you, Mr.
12 Chairman. I guess this is an appropriate time to
13 report on the issue that came out of the ASMFC
14 meeting week was a recommendation for a
15 determination of noncompliance with New Jersey on
16 the Atlantic Coastal Sharks Plan and we had not
17 implemented our -- the required management measures.

18 There were 30 or so measures that needed to be
19 implemented by February of 2010.

20 We were able to avert a moratorium
21 because we were able to quickly enact a seasonal
22 closure for large coastal groups, which was a very
23 time-sensitive issue.

24 We have until July 30th to complete

1 our entire regulatory packet, which has been
2 published in the New Jersey Register. So, we --
3 yeah, the determination from the ASMFC really helped
4 us as far as moving our regulations along. They had
5 been stalled for over a year, and we are on schedule
6 to implement all the required shark regulations by
7 July 30th. So, we were able to avoid a moratorium
8 on sharks. Thank you.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Pete, thanks for that update from New Jersey. Any
11 other questions for Vince?

12 (No response audible.)

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 Okay. Seeing none, we'll go on to the New England
15 Report.

16
17 NEW ENGLAND COUNCIL LIAISON REPORT1

18 COUNCIL CHAIRMAN RICHARD ROBINS: I

19 think we may have some committee report updates,
20 perhaps, but Gene Kray and I attended the recent
21 Habitat Committee meeting and we wanted to follow
22 the habitat omnibus amendment more closely now that
23 it's beginning to get a little bit of momentum.

24 And you may recall about a year ago

1 we had an update on the SASI model from Chad
2 Demarest, who's now at Woods Hole, but was then the
3 lead staffer for New England Council. And so Tom
4 Hoff has been added to the New England Habitat PDT.

5 Gene and I attended the recent committee meeting,
6 and we had anticipated that some management actions
7 might be recommended out of that meeting. In fact,
8 the output of the meeting fell short of that. They
9 passed a series of motions that were basically
10 tasking the PDT with more evaluation and analysis of
11 options and tradeoffs and potential management
12 actions.

13 One of the final actions that the
14 committee took was recommending that the PDT provide
15 a list of potential appropriate sites to protect
16 deep sea corals, and I'll just remind the Council
17 that the geographic scope of this action goes from
18 the Hague Line to Cape Hatteras, so this is going to
19 be an item of interest for us, I think, as it
20 continues to move forward.

21 I think as the process goes along, we
22 would do well to have an update from the New England
23 Council's habitat staff and it seems that since
24 they're not quite into management alternatives yet,

1 we might want to wait. We had talked about having
2 an update at the June meeting, but the way that last
3 committee meeting went, I'm not sure that -- we may
4 want to wait until about August.

5 But I see John's here with us today
6 and -- John, I don't know if you have any additional
7 thoughts on that, but it looks to me like the way
8 that output was from the committee, they were
9 tasking the PDT with a fair amount of more
10 evaluation and analysis rather than settling in on
11 management options.

12 So, I don't know if you can give us a
13 sense of the time line from your perspective.

14 JOHN PAPPALARDO: Yeah, thanks, Rick.

15 I was at that meeting, as well, and we've got a
16 situation where I think we need to go back and
17 clarify the role of the PDT, the role of the
18 committee.

19 The committee meeting you attended
20 not only had the Council meeting, but had an
21 advisory panel capacity attendance, as well as a
22 Plan Development Team. So, it was all of the bodies
23 meeting together.

24 And I tend to favor meetings like

1 that, because it really starts to expose the lack of
2 clarity that each group has in terms of what their
3 responsibilities are and what their expectations
4 are.

5 So, I plan to sit down with Paul
6 Howard next week, as well as with the Executive
7 Committee, to review our progress on that. And I
8 think you're right, we're slipping behind where we
9 thought we were going to be and going to need to
10 take a look at that time line.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Well, thanks again, John. I think at the
13 appropriate point it would be very helpful for our
14 Council to get another update of the omnibus.

15 We've seen some of the technical work
16 that went into the SASI model, but the geographic
17 scope of the omnibus is very significant. I think
18 when we start talking about, for example, protecting
19 the corals and the canyons of the Mid-Atlantic,
20 we're going to want to be up to speed on that. And
21 certainly participate in that decision. Whether
22 that's through the committee or -- you know, whether
23 we might discuss other ways for this Council to be
24 engaged in that consultation and decision as it goes

1 forward. But that's an action that we're going to
2 want to continue to follow very closely, I think.
3 Thanks, John.

4 Erling and Howard, do you all have
5 any updates for us from the recent committee?

6 HOWARD KING: Well, before Erling
7 starts, the Monkfish Committee is scheduled for 11
8 o'clock and I see that the New England Council
9 Monkfish Chair, Terry Stockwell, is in the room now.

10 We should take that up after the general council
11 report.

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Erling.

14 ERLING BERG: Thank you, Mr.
15 Chairman. There hasn't been a Council meeting since
16 our last meeting in Cambridge. There will be a New
17 England Council meeting week after next in Mystic,
18 Connecticut.

19 I did attend the Herring Committee
20 meeting in Portland and mostly it was dealing with
21 the trip monitoring and slipped cod-ends, where they
22 dump the cod-end before they bring it aboard because
23 it's not -- you know, not what they want. And
24 that's a big issue up there.

1 Lastly, Monday of last week I was in
2 Boston, I attended a Groundfish/Scallop meeting that
3 was charged with the yellowtail issue, the bycatch
4 of the yellowtail issue and how to deal with the
5 scallopers and what are we going to do.

6 And it was very narrowly defined.
7 There was a motion from the council to this new
8 committee that I happen to be on to come up with
9 some kind of a scheme where the scallopers would
10 join groundfish sectors to acquire yellowtail quota.

11 The scallop industry did not want any
12 part of this. It was rejected outright. So, they
13 did send this back. The committee sent this back to
14 the Council for -- come up with a broader scope
15 because they -- it was a dead end. They couldn't do
16 anything.

17 So, that kind of ended that part of
18 it and then the next thing we chose some advisors to
19 this committee, there was ten advisors to this
20 committee. And Frank Blount is here and maybe he
21 can -- you know, elaborate more on it, but that's
22 basically all I have. Thank you.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Frank, is there any way to put a more positive spin

1 on that?

2 FRANCIS BLOUNT: No --

3 COUNCIL CHAIRMAN RICHARD ROBINS: I
4 think I know the answer to the question. I read all
5 about it.

6 FRANCIS BLOUNT: That's about it for
7 now. He did a good job with that. And the Council
8 hasn't met. We'll be meeting the week after next,
9 and maybe we'll have some decisions after that.
10 Nothing new.

11 COUNCIL CHAIRMAN RICHARD ROBINS: It
12 obviously remains one of the most significant issues
13 for that fleet; so hopefully there can be some
14 creative solutions brought to bear on it. All
15 right. Thanks.

16 South Atlantic Report. I'm sorry.
17 Gene?

18 EUGENE KRAY: On that issue of the
19 scallopers and the yellowtail flounder, I received
20 some correspondence from Gib Brogan from Oceana with
21 regard to the accounting -- I forget the context,
22 but when he mentioned it, it jumped into my head,
23 that in effect those -- those yellowtail are not
24 being considered as being discarded, and they need

1 to have an accounting for it. So, this is just a
2 continuation of that whole process, I think. So,
3 we'll see where that goes.

4 COUNCIL CHAIRMAN RICHARD ROBINS: I
5 think part of the idea is to try to incentivize
6 avoidance. I mean, it's not unlike the discussion
7 we had about chinook salmon in the pollock fishery
8 in our workshop. Erling.

9 ERLING BERG: Well, the new
10 regulations, if I remember, state that you can't
11 discard these fish anymore. Any yellowtail of legal
12 size has to be brought back to the dock.

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 John.

15 JOHN PAPPALARDO: I guess on this
16 specific issue I would -- while I didn't attend the
17 joint committee meeting, the yellowtail scallop
18 issue, I would say my read and conversations with
19 people is there's still a debate whether or not
20 there's an issue. And until we get to the point
21 where we agree that there is an issue that needs a
22 remedy, we're going to continue to do this waltz
23 that we're doing.

24 So, that's another issue -- on top of

1 the habitat issue that I talked about earlier,
2 that's another issue that we're going to have to
3 come back to the drawing board to determine whether
4 or not we've chosen the right course of action
5 looking at a market-based solution to the issue.

6 The industry, with the help of the
7 mayor of New Bedford came to that committee meeting
8 and told us -- told the committee that the solution
9 the Council had chosen wasn't the right course of
10 action and had a host of remedies that he offered
11 up.

12 So, it comes down to a resource issue
13 in New England. Do we have the time to take up a
14 third action in scallops this year? Because that's
15 what it would take.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Chris.

18 CHRISTOPHER ZEMAN: I just want to
19 clarify Gene's comment. I think you were
20 referencing the Oceana letter regarding summer
21 flounder discards or estimated summer flounder
22 discards, not yellowtail flounder. But -- and I
23 just -- it seems to me like that is -- I think the
24 scallop industry is making progress on addressing

1 groundfish bycatch and when we're doing managed
2 fisheries -- one thing I'm reviewing is the SBRM
3 data and looking at the estimates of summer flounder
4 discards based on those SBRM reports.

5 I'm still reviewing it, but my
6 preliminary data shows that the fishery does capture
7 significant amount of summer flounder as well. And
8 I don't think there's much being done on that or --
9 I think because the focus has really been on
10 yellowtail flounder so far, but there is this -- I
11 think potential for interactions between summer
12 flounder and scallops and I was wondering if this
13 might be a time for the Mid-Atlantic Council to
14 raise this as something that maybe direct the New
15 England Council's Scallop PDT to investigate this or
16 evaluate this.

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Chris, the -- and John, you can clarify -- help me
19 clarify this, but the New England Scallop PDT has
20 evaluated interactions with the scallop fleet in
21 other fisheries. And when they did that, they set a
22 threshold. And if the interactions were below the
23 threshold, then they were considered to warrant
24 management. And I think that threshold was five

1 percent when they did that. And yellowtail was well
2 above that line. Summer flounder were just below it
3 at four percent. But that was in the development of
4 Amendment 15, because it goes into whether or not
5 you needed ACLs and AMs and sub-ACLs and sub-AMs for
6 some of these different interactions.

7 But as I recall, the PDT has already
8 analyzed that at the New England Council and their
9 finding was that summer flounder was below the
10 threshold and yellowtail was above. I think the
11 yellowtail interactions were on the order of ten
12 percent or in some cases it's significantly higher,
13 depending on where the rotational fisheries operate.

14 In some cases, the scallop fishery could take up to
15 30 percent of the yellowtail TAC. Erling.

16 ERLING BERG: Thank you, Mr.
17 Chairman. The interaction between the scallopers
18 and summer flounder is a seasonal event. In the
19 winter, the summer flounder lives offshore from the
20 scalloping -- where they participate in their
21 fishery. You will catch them in the spring when
22 they're moving inshore and you'll also catch them
23 for a little while in the fall when they're moving
24 back offshore. But I mean they don't live on the

1 same bottom. You know, they live in different
2 places.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Chris.

5 CHRISTOPHER ZEMAN: On the same point
6 -- you know, looking at -- just looking at 2007/2008
7 observer data, the more significant source of summer
8 flounder discards seem to be from the groundfish --
9 groundfish fisheries, including the U.S./Canadian
10 area. Also the large mesh and small mesh trawls.
11 Compounded -- I think that would clearly -- clearly
12 reach that five percent threshold.

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 Well, certainly the interactions are above that
15 level if you look at them in combination, but that's
16 the groundfish fleet interacting with them, as well.

17 So, perhaps we could have a staff review of the
18 interactions prior to the next meeting and discuss
19 that a little bit. And I can try to get a copy of
20 the PDT analysis that went into that. That was
21 earlier on in the development of Amendment 15, but I
22 know there was a stock by stock look at -- or
23 species by species assessment of interactions with
24 that fishery. John. Frank.

1 FRANCIS BLOUNT: Yeah, if I can, I
2 mean if you have the five percent threshold, I'm not
3 sure that the New England Council is the place --
4 the authority for summer flounder and that would lie
5 with this Council when it comes to setting the ACLs
6 and the AMs.

7 The New England Council would have no
8 authority at all on the fluke. I mean, it could put
9 in scallop regulations, but to protect the fluke,
10 that would be -- you know, this Council, if I'm not
11 mistaken.

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Okay. Any other questions on the New England issue?

14 (No response audible.)

15 COUNCIL CHAIRMAN RICHARD ROBINS: All
16 right. Pres. Red, I'm sorry. Are you ready for
17 the South Atlantic?

18 RED MUNDEN: Yes.

19 UNIDENTIFIED: We just can't figure
20 you two out.

21
22 SOUTH ATLANTIC COUNCIL LIAISON REPORT

23 RED MUNDEN: Thank you, Mr. Chairman.
24 The South Atlantic Council Report is at the very

1 end of the material behind Tab 6, and I asked the
2 staff to pass out three handouts that I intended to
3 attach to this report, but my computer and I had
4 different ideas as to how that material should be
5 attached to the report. So, my resolution was to
6 make a hard copy to pass out. So, you should have
7 that. And I'll briefly touch on those three
8 handouts after I go through the report at the end of
9 Tab 6.

10 This report covers the South Atlantic
11 Council meeting that was held March the 1st through
12 the 5th in Jekyll Isle, Georgia; and as usual, the
13 South Atlantic Council met for a full week.

14 The first day, Monday, we had a
15 meeting of the Mackerel Committee, and I serve as a
16 Mid-Atlantic Council voting member at a committee
17 level for mackerel. And king mackerel are unique in
18 that the stock is managed by -- jointly by the Gulf
19 Council and the South Atlantic Council.

20 Certain times of the year, and I
21 believe it's during the spring, some of the Gulf
22 king mackerel move around to the southern part of
23 Florida in a mixing zone. And so you have fish that
24 were Gulf fish that turn over -- that temporarily

1 reside down in southern Florida.

2 But I wanted to include in the report
3 that the Gulf northern king mackerel zone fishery
4 closed on February 4th. It opened January the 1st.

5 And then after reviewing information, NMFS decided
6 to reopen the season March the 3rd through the 8th
7 to allow the harvest of six percent of the quota
8 that had not been harvested from the Gulf portion of
9 the quota. So, I thought it was interesting that
10 they had an opening of five days just to allow them
11 to take an additional six percent of the quota.

12 Of interest to this Council is that
13 the Gulf will be the lead Council on Amendment 18 to
14 the mackerel plan. This is king mackerel. And they
15 are considering establishing catch shares for the
16 king mackerel that fall under the Gulf jurisdiction,
17 and this could affect some of the fishermen who fish
18 for king mackerel both on the Gulf and then off the
19 east coast of Florida in that mixing zone.

20 And several fishermen from the South
21 Atlantic area jurisdiction have approached the South
22 Atlantic Council about possibly implementing catch
23 shares to the fishermen that requested it; not the
24 whole fishery, but to the ones that requested -- I

1 guess it would be similar to a sector -- to see if
2 this might be an acceptable approach to management
3 of mackerel in the South Atlantic area jurisdiction.

4 Then we moved into snapper/grouper.

5 The Snapper/Grouper Committee met Wednesday,
6 Thursday and Friday of the Council meeting. And one
7 of the hot items that's on the agenda now, or it
8 seems like every meeting, is Amendment 17 to the
9 Snapper/Grouper Fisheries Management Plan, and the
10 Council changed its preferred option for area
11 closures for red snapper and the preferred option
12 would close the waters from 98 feet to 240 feet deep
13 offshore, from an area just north of Melbourne,
14 Florida, northward, all the way up to a point near
15 the mouth of the Savannah River at the juncture of
16 the Georgia/South Carolina border.

17 And regardless of the area that's
18 closed -- this is a preferred option to have this
19 closure I just described -- but regardless of the
20 final closure, the possession of red snapper will be
21 prohibited both north and south of this closed area.

22 So, this area is closed to fishing for all
23 snapper/grouper species, but you still will not be
24 able to possess red snapper outside of these areas.

1 Also, NMFS has put in a temporary
2 measure -- an interim rule to protect red snapper
3 while they are -- the Council is working on
4 Amendment 17A. And that 180-day closure is expected
5 to expire in early June. It will be extended for
6 another 180 days until the amendment hopefully is
7 finalized.

8 Moving over to the second page of the
9 report, we start off with Amendment 18 and that's
10 the amendment that the Mid-Atlantic Council has the
11 most interest in. We revised some of the items in
12 Amendment 18. One thing that was decided because of
13 the deep water closure, which I mentioned earlier in
14 17B, would eliminate the need for some other
15 snapper/grouper restrictions.

16 One of the things that's been
17 discussed for a number of meetings is whether or not
18 snapper/grouper species should be allocated on a
19 state-by-state basis and this is going to be covered
20 in a later amendment, Amendment 21.

21 In Amendment 18, the preferred option
22 for the Council is to place a limit of 50 on the
23 number of black sea bass pots that could be fished
24 in a fishing operation, and also to require the

1 fishermen to bring in those pots at the end of each
2 fishing trip.

3 The most important thing in Amendment
4 18 is that the Council chose as their preferred
5 alternative to extend the snapper/grouper fishery
6 management unit northward through both the Mid-
7 Atlantic and New England Councils. So, if this
8 action is approved by the Council as part of
9 Amendment 18, then the jurisdiction for
10 snapper/grouper will extend all the way up through
11 the New England area jurisdiction.

12 It's expected that the final vote on
13 Amendment 18 will come either the June meeting or
14 the September meeting in 2010. And just very
15 briefly touching on some other amendments, Amendment
16 20 is -- will be specific for rec fish, and it will
17 look at the individual fishing quotas. Also, the --
18 some portions of the action that were initially
19 intended for Amendment 20 will have -- will be moved
20 to the Comprehensive Annual Catch Limit amendment
21 that the South Atlantic Council is working on.

22 Amendment 21 was initiated at the
23 meeting in March, and under this amendment, the
24 Council will consider different management methods

1 for management of snapper/grouper species and some
2 of the management measures that will be analyzed
3 will be trip limits, the changes in the availability
4 of endorsements allowing access to the fisheries,
5 catch shares for quota-managed species and regional
6 or individual state quotas. And we at the Mid-
7 Atlantic Council have used a number of these
8 management measures for several species for a long
9 period of time. It seems that the South Atlantic
10 has decided that their normal way of managing a lot
11 of snapper/grouper species just by season alone or
12 quota is -- needs to be refined.

13 Amendment 22 will be specific for red
14 snapper and one of the things that they'll be
15 discussing in Amendment 22 -- and this is an
16 amendment that's basically intended for long-range
17 planning, but they'll address such issues as how to
18 decide when to reopen the fishery, sector
19 allocations, acceptable fishing methods and seasons
20 and so forth.

21 Then moving down to specific actions
22 from the South Atlantic, vermillion snapper, also
23 called bee-liners, the fishery opened January the
24 1st. The quota was 315,000 pounds, and that was the

1 amount that was allocated for the fishery for the
2 first half of the year from January through June.
3 The quota was taken up very quickly and the fishery
4 closed on March 19th and will remain closed until
5 June the 30th, 2010, and then it will reopen on July
6 the 1st.

7 Similar situation for golden
8 tilefish. The fishery opened the first of January.

9 As of March 18th, 75 percent of the quota had been
10 taken, so they reverted back to a 300 pound bycatch
11 allowance and then I received notice that the
12 fishery closed April the 12th for the rest of 2010
13 because even at the 300 pound bycatch allowance
14 remaining quota, 25 percent remaining quota had been
15 harvested.

16 As I mentioned earlier, the Council -
17 - the South Atlantic Council is working on a
18 comprehensive annual catch limit amendment. That's
19 a work in progress.

20 We also talked about dolphin and the
21 Council discussed the development and refining of
22 potential management alternatives for dolphin, such
23 as a commercial trip limit and recreational
24 accountability measures.

1 The dolphin fishery does not operate
2 under a quota as per se. There's a commercial cap
3 for dolphin and so the Council asked NMFS to look at
4 the 2009 commercial landings to see whether or not
5 the commercial cap had been exceeded, and this is
6 the kind of information they felt like they would
7 need in the event that in the future they wanted to
8 put more restrictive measures on the dolphin/wahoo
9 fishery.

10 And finally for snapper/grouper, they
11 are looking at the snapper/grouper complex and
12 identifying a number of species as ecosystem
13 component species, which would give them the option
14 of whether or not to develop biological reference
15 points or management measures for these species.

16 The next meeting of the South
17 Atlantic Council will be in June the 7th through the
18 11th in Orlando, Florida. And it just so happens
19 that that's the same week that the Mid-Atlantic
20 Council is meeting in New York City. So, I will
21 have to talk with the Chairman and look at the
22 agendas for both meetings, because this is the
23 meeting where quite possibly they will be making the
24 final decision on whether or not to move the

1 northern boundary of snapper/grouper on up into John
2 Pappalardo's area of jurisdiction.

3 Finally, just briefly looking at the
4 three handouts that I asked the staff to pass out,
5 the first one I'd like to call your attention to is
6 a news release. It's the South Atlantic Fisheries
7 Management Council March -- dated March the 8th,
8 2010. And the most important thing about that is
9 the third page has a map showing the closure that is
10 the preferred option to protect snapper/grouper and
11 it runs from Savannah all the way down to Melbourne,
12 Florida, as I said earlier, in waters from 98 feet
13 out to 240 feet deep.

14 Initially, they were proposing the
15 closure to come all the way up to the North
16 Carolina/South Carolina border, almost down to the
17 Cape Fear River. And they looked at landings and
18 determined that the closure that's shown on this
19 press release was more appropriate, because that's
20 where most of the mortalities are occurring to
21 snapper/grouper.

22 The second document is a South
23 Atlantic update. This is about eight pages long.
24 And I included this because it has summaries of

1 Amendment 17B, which has been approved by the
2 Council and submitted to the Secretary of Commerce
3 and has a lot of things that I talked about over the
4 last two years about what's going on with
5 snapper/grouper. That's on the very front page.

6 If you look over at Page 2, on the
7 right-hand column, there are items there that are
8 covered under 15B. That has already been -- that
9 amendment has already been approved by the Secretary
10 and again, as you run through that you'll see some
11 of the things that are -- will be enacted if they
12 haven't already for snapper/grouper.

13 And then Page 5 shows the preferred
14 alternatives for the snapper/grouper closures that
15 were superseded by the ones in the news release. It
16 just goes from Savannah River down to Melbourne,
17 Florida.

18 On Page 7, right-hand column, there's
19 a summary of snapper/grouper regulations entitled
20 snapshot, and again if you go through that, you'll
21 see all of the things that have been put in place
22 for snapper/grouper species. The shallower water
23 groupers, the deep water groupers and whatnot.

24 And the final bit of information is a

1 back and -- front and back copy of the
2 snapper/grouper complex recreational regulations.
3 And some of the items that are shown in bold type
4 are identified as new items. The handout that I
5 had, they were in red, but I couldn't get enough
6 copies for all of the Council members. But I just
7 want to share this with the Council so that you
8 would have a feel for all of the restrictions that
9 the South Atlantic has had to put in place to -- in
10 attempt to reduce fishing on a snapper/grouper
11 species and to recover those stocks.

12 Mr. Chairman, that covers the South
13 Atlantic. I'll be glad to address any questions
14 that you or the Council may have.

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Red, thank you. Is it still your understanding that
17 the governance proposals that we had worked out with
18 the South Atlantic would move forward if the
19 management unit is extended through the New England
20 region?

21 RED MUNDEN: That is not specifically
22 one of the alternatives, but the Council Chairman
23 and the full Council agreed to the proposal that you
24 made for the Mid-Atlantic Council as to how we would

1 want to manage snapper/grouper in both the Mid-
2 Atlantic and New England, should that action be
3 approved.

4 COUNCIL CHAIRMAN RICHARD ROBINS: Do
5 you think we need to send an updated letter to them
6 for consideration at their June meeting on that?

7 RED MUNDEN: It would probably be a
8 good idea to keep it fresh and -- before the members
9 of the Council.

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Dan.

12 DANIEL FURLONG: On this point, could
13 you refresh my memory regarding what General Counsel
14 said about that?

15 RED MUNDEN: Yes. At the December
16 meeting, when we were meeting -- the Snapper/Grouper
17 Committee was meeting, we talked about moving the
18 northern boundary for snapper/grouper management
19 unit and the NOAA General Counsel rep at the table
20 said, well, why are we doing this? You know, these
21 fish are in the Mid-Atlantic area jurisdiction. Why
22 don't we let them worry about it?

23 And so she said, but I need to think
24 about it. And then at the meeting in March she said

1 well, I've talked to some constituents and other
2 folks within the agency and if the Councils want to
3 do this, it's okay.

4 So, basically the Council said well,
5 let's do it. So, it turned out to be a non-issue, I
6 think.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Harley.

9 HARLEY SPEIR: Maryland put in a
10 couple of regulations recently. One is to gain
11 authority over the snapper/grouper complex so that
12 we can regulate. And the other regulation looks at
13 the snapper/grouper complex and the possession, size
14 and creel limits that the South Atlantic had, and
15 we've adopted those in this proposed regulation.
16 And it should be effective sometime late this
17 summer.

18 The other thing is VIMS is also
19 looking at some sort of stock discrimination study,
20 DNA study. Are you familiar with it? But they've
21 asked Maryland if we would sample off the docks to
22 see if we have any of these snapper/grouper complex
23 coming in for DNA analysis.

24 We're -- right now we're actually

1 somewhat unaware that they are coming in in
2 quantity, but there is a notion that some people may
3 be trying to avoid Virginia's present regulations
4 and landing in Maryland.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Thanks for that update, Harley. Peter.

7 PETER HIMCHAK: Yes, thank you, Mr.
8 Chairman. I was wondering if Mr. Munden could
9 comment on some of the enforcement headaches that
10 you're going to encounter with the area closure.
11 And I don't know specifically the -- I'm not a red
12 snapper fisherman, but I mean what actually is
13 allowed within the closed areas?

14 I see you allow for spear fishing
15 because there's no bycatch of red snapper, but again
16 it's the intent of the fishermen fishing in a closed
17 area for a particular species. We encountered this
18 when we required circle hooks during a striped bass
19 area closure. And they said well, I'm not fishing
20 for striped bass, but -- so I don't need a circle
21 hook.

22 So, how -- what kinds of angling
23 would be allowed in the closed area and what would
24 be the specifications on what gear they could or

1 could not use to say they're not directing on red
2 snapper; they're fishing, but they're fishing on
3 something else?

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Red.

6 RED MUNDEN: The intent is to
7 prohibit the possession of snapper/grouper, all
8 species in those closed areas. And that is because
9 even if you have a closure and a prohibition on the
10 harvest of red snapper, the bycatch mortality will
11 prevent the stock from recovering.

12 And just to show you what kind of
13 pickle they're in, the projected recovery period for
14 red snapper ranges from something like 28 years to
15 45 years, and I think that's saying it's going to
16 take at least 30 -- an average of 35 years for the
17 stock to rebuild. So, what they're trying to do is
18 to minimize the take of red snapper by closing these
19 areas.

20 Spear fishing, there's a lot of
21 debate about that, and my take on this is that we
22 still allow fishing by trolling and spear fishing,
23 but not bottom fishing, is what they would like to
24 do.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Red, are they still planning on giving sub-ACLs to
3 the Mid on species like snowy grouper, if they
4 extend the FMP?

5 RED MUNDEN: Allocating a portion of
6 the annual catch limit, yes, and Dr. Crabtree, the
7 Regional Administrator, said he really didn't care,
8 it didn't matter to him what kind of measures that
9 the Mid-Atlantic or the New England Councils put in
10 place as long as you didn't exceed the allocation.
11 And he also said the allocation will be very small.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Thank you, Red. Any additional questions for Red
14 for the South Atlantic Report?

15 (No response audible.)

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Dan, are you ready for the Executive Director
18 Report?

19
20 EXECUTIVE DIRECTOR REPORT

21 DANIEL FURLONG: Yes, sir. Thank
22 you, Mr. Chairman. Before we move into the
23 information behind Tab 7, I would point out that
24 distributed this morning is the 2009 report to

1 Congress on the disclosure of financial interests
2 and recusal requirements for regional fishery
3 management councils and scientific and statistical
4 committees.

5 So, you know, we do try to make a
6 good effort of notifying members and -- with the
7 recent reauthorization of the Magnuson Act to
8 include the SSC members. We tell you that this is a
9 necessary document that has to be provided to us
10 because all information eventually goes -- goes
11 right in front of Congress.

12 So, when Jan starts to harass you
13 about getting your report in, she's doing it -- you
14 know, to honor Congress's intent. It's a statutory
15 requirement. So, there you go.

16 Now, turning to Tab 7, the first item
17 behind there is a summary of the motions from our
18 blizzard meeting in Cambridge, Maryland. And I
19 won't steal any of Jessica's thunder. We'll be
20 dealing with the ACL/AM omnibus amendment today at
21 one o'clock. But that's what that email highlights
22 for her benefit.

23 Recall, I sent a picture where her
24 driveway was -- the snow was taller than she is, so

1 she had a tough time getting around in February and
2 March.

3 The next item relates to black sea
4 bass in terms of measures for 2010 and there are a
5 number of -- recall at our last meeting we as a
6 Council moved to a split season if in fact we could
7 meet the restriction necessary to achieve an
8 allocation quota for black sea bass. And we tasked
9 staff to develop recreational measures in
10 conformance with that and those dates. And in fact,
11 that's what that letter does indicate.

12 We then forwarded onto Pat Kurkul,
13 the Regional Administrator, the motion that was
14 made, and we then sent the total spec package on the
15 23rd of February and on March 4th we sent the
16 clarifying package related to black sea bass.

17 Again, we'll be talking about that on
18 Thursday at 10:30. So, we'll be covering both those
19 issues that were consequences of our last meeting.

20 We get to the green tab, everything
21 before that green tab related to motions at our last
22 meeting. These are follow-up now items that weren't
23 formally made as motions, but were actions that came
24 out of the meeting.

1 We've already had Jim talk about the
2 counterpart omnibus amendment for New England.
3 There are a couple emails changes there trying to
4 get that set for June Council meeting. It would
5 appear that it is more likely now going to be the
6 August meeting. The next page is a request for more
7 observer days as Dr. Weinberg pointed out they did
8 receive that comment letter which was sent on
9 February 26th, you'll see a letter going to Dr.
10 Thompson, the Science Director, indicating our
11 request for consideration of those additional days
12 for fisheries in the Mid-Atlantic.

13 Following that is a tasking to Kathy
14 with regards to getting out annual brochure out
15 relating to our regulation for commercial and
16 recreational. At this meeting this brochure is out
17 on the table. If you have any need for additional
18 please contact Kathy. I think we did run 2,000 of
19 these, Kathy, is that right? Do you recall? 1400?

20 OK. We distributed them to all the coastal states
21 and different organizations that deal with us --
22 kind of a short summary. And there is a disclaimer
23 on there that even though this is what we say, it's
24 best to check the regulations.

1 Following that is an exchange I had
2 with our Chairman related to Amendment 10, and our
3 position; again we'll be getting to that tomorrow.
4 Just a couple of letters in there, the same issue
5 related to Amendment 10. And that kind of concludes
6 the information between the two green tabs. The
7 last tab is just press releases that have gone out
8 since our last meeting.

9 With that Mr. Chairman that concludes
10 my report.

11 COUNCIL CHAIRMAN RICHARD ROBINS: Any
12 questions for Dan? Rich.

13 _____
14 STATUS OF MAFMC'S FMPS

15 RICHARD SEAGRAVES: Thank you Mr.
16 Chairman. The status report is behind tab 8. The
17 first 2 tables review the status of Council Specs
18 and I think these Amendment and Frameworks -- and no
19 significant action there since our last meeting.

20 The next item is the annual work
21 plan, if you turn to page 2 of that you'll see
22 following -- I'll give you an update on what's
23 coming up following this meeting. In April Spiney
24 Dogfish FMAT has a meeting scheduled, but the major

1 items are the meeting -- or the SSC Monitoring
2 Committees that we talked about a little bit
3 earlier. There will be a WEBINAR held April 28th,
4 and that's -- so basically we are putting in the pie
5 the operational aspects that you agree to last year
6 in Ocean City to have a pre-meeting WEBINAR to allow
7 some communication between the SSC and the
8 Monitoring Committees. We will be setting
9 specification for ocean quahog and surfclams,
10 atlantic mackerel, butterfish, and the 3 squids in
11 June; so the SSC making the recommendations based on
12 their meeting in April. The 11th through the 13th,
13 and that will be followed by the Monitoring
14 Committee of the Atlantic Mackerel, Squid and
15 Butterfish Committee.

16 Also unless there are any -- there
17 has been a decision to hold a 3rd National SSC
18 Workshop, and that's on page 3; and that will be
19 held the week of the 18th to the 21st in Charleston
20 South Carolina.

21 Turning to the next item, Small
22 Entity Compliance Guide dated February 9th. And
23 that just gives a summary of the action to increase
24 the TAL for black sea bass -- that's been discussed

1 from 2.3 to 3.7 million pounds.

2 All right, the next item is Small
3 Entity Compliance Guide outlining the final
4 specifications for 2010 for Atlantic mackerel, squid
5 and butterfish -- three pages. The next item is a
6 letter to gillnet vessel owner/operators dated
7 February 19th, announcing the amended harbor
8 porpoise take reduction plan to become effective
9 March 22nd. And this was in response to increases
10 in takes of harbor porpoise and the need to revise
11 the requirements in that take reduction plan -- in
12 the outline there.

13 And the next letter to permit
14 holders, March 16th, basically notifying them -- the
15 hardware for the pingers, so we will -- (some words
16 lost).

17 Another Small Entity Compliance Guide
18 outlining the measures included in Amendment 10 that
19 was approved October 9th, 2009. And that's mesh
20 size increases scheduled for September 2010; and the
21 butterfish mortality cap --

22 (Next 2 minutes were garbled.)

23 COUNCIL CHAIRMAN RICHARD ROBINS: --
24 and they released the results of the winter blue

1 crab dredge survey and the report reads Chesapeake
2 Bay blue crab population booms to the highest level
3 since 1997, 60 percent increase from last year. The
4 winter state survey shows by-state management
5 actions are working.

6 So, this is something Virginia and
7 Maryland have been heavily engaged in for the last
8 few years and very encouraging news, so --

9 With that, why don't we take a break
10 and come back at 11 o'clock to take up the monkfish
11 amendment.

12 (BREAK: 10:42 a.m. to 11:07 a.m.)

13 COUNCIL CHAIRMAN RICHARD ROBINS: Why
14 don't we go ahead and come back to our seats so we
15 can get started with the Monkfish Amendment 5. We
16 will need the full Council for the action.

17
18 APPROVAL OF MONKFISH AMENDMENT 5

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Today we're joined by Terry Stockwell from the New
21 England Council. Terry is the Chair of the Monkfish
22 Committee. We also have members on that joint
23 committee from our Council and Howard King has been
24 leading that from the Mid-Atlantic perspective; but

1 with that, we'll go ahead and look to Jim Armstrong
2 with the presentation.

3 Howard, go ahead.

4 HOWARD KING: Yeah, I just wanted to
5 preface this. In addition to myself, Erling Berg
6 and Pete Himchak attend the meetings. We're the
7 liaison for the Mid-Atlantic Council.

8 The purpose of the Joint Monkfish
9 Oversight Committee meeting was to make final
10 recommendations for Amendment 5 to the Monkfish FMP,
11 and the oversight committee had the benefit of
12 having had the AP meet the previous day, and the AP
13 wrestled out some decisions and recommendations.

14 So, we had the benefit of that
15 information going into our meeting. And so I just
16 wanted to say there was very much consensus on a lot
17 of the option recommendations between the AP and the
18 oversight committee, and I think that will be
19 obvious to you as Jim goes through the decision
20 table here.

21 So, Jim, thank you.

22 JAMES ARMSTRONG: Thanks, Howard.
23 Last June, Phil Haring at our meeting in New York
24 went over the amendment, and so -- and there was an

1 opportunity for public comment at our Cambridge
2 meeting. So, in terms of how we're going to do
3 this, what I thought we'd do is just take each set
4 of alternatives at a time.

5 I can -- I'll describe them and then
6 what I've given Jan -- she's got the presentation,
7 control over the presentation back there. Pete
8 Himchak brought to the oversight committee meeting a
9 list of motions, and that was used by -- at that
10 meeting and -- you know, the results of the
11 committee vote were just appended onto that.

12 So, what I've done is I've scrubbed
13 the results off, but I have the motions which -- and
14 then I think -- so I'll describe the alternatives
15 and then I guess Howard will probably be making a
16 motion on behalf of the committee. And there will
17 be opportunities for discussion at that point.

18 So, if that's all right, we could go
19 about it that way. We're in the Tab 9. Behind the
20 agenda, you have the -- basically what's up on the
21 screen, and this is a decision table that has been
22 part of the amendment development throughout --
23 throughout the development of the amendment.

24 And what's been added to that are the

1 -- are comments based on the public comment period
2 and then also the results of the advisory panel and
3 the oversight committee discussion, their positions
4 basically on each alternative.

5 So, the first set of alternatives
6 that we have, this -- this amendment by the way is
7 basically to bring the FMP into compliance with the
8 new Magnuson Act requirements with regard to ACLs
9 and AMs. Also, addresses some other issues,
10 specifically specification of TACs, days-at-sea --
11 and corresponding days-at-sea and trip limits for
12 the next three fishing years. And those fishing
13 years are 2011, 2012 and 2013.

14 So, the implementation date for the
15 amendment is the 2011 fishing year, and for monkfish
16 the fishing year is -- it's like our spiny dogfish
17 fishing year. It's a May 1 through April 30 fishing
18 year. All right? So, this will be going into
19 effect May 1 of next year.

20 And what we have, if you look at Page
21 1, behind the agenda, the first section in the
22 amendment deals with biological management reference
23 points and basically you have a choice of no action
24 versus the reference points that are -- bring the

1 FMP into compliance.

2 And essentially the no action
3 alternative here is kind of in violation of the new
4 Magnuson requirements. And so, there's been no
5 controversy on translating and adding those
6 requirements into the FMP. And the description of
7 that is given there.

8 There's a northern and a southern
9 fishery management area, and so every reference
10 point reflects that difference in say MSY,
11 overfishing limit, allowable biological catch,
12 optimum yield definition. Those all are management
13 area specific.

14 I'm going to stop there and ask --
15 Jan, if you want to -- I don't know if you want to
16 put the motions up now or -- Howard?

17 HOWARD KING: Jim, on each one of
18 those reference points, the values listed for the
19 northern stock were higher than the -- for the
20 southern stock were higher than the northern stock,
21 except for the ABC which is lower. Can -- what's
22 the explanation for that?

23 JAMES ARMSTRONG: Well, as you can
24 see, the definition for ABC is the product of the

1 average exploitation rate, and current biomass. So,
2 while B current you can see is -- results in a
3 higher number for the south than the north in the
4 definition of overfishing limit, when you add that
5 exponent of average exploitation rate, it's been a
6 higher average exploitation rate in the south. And
7 so your -- so, that explains it.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Howard, do you have a motion?

10 HOWARD KING: The motion is up on the
11 board. I'll read it. In Section 3.1, Biological
12 and Management Reference Points, move to recommend
13 for adoption Alternative 2.

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 It's for the committee and does not require a second
16 then? Okay. Discussion on the motion?

17 (No response audible.)

18 COUNCIL CHAIRMAN RICHARD ROBINS: Are
19 there any questions or discussion on the motion?

20 (No response audible.)

21 COUNCIL CHAIRMAN RICHARD ROBINS: Is
22 the Council ready for the question?

23 (Motion as voted.)

24 {In Section 3.1, Biological and Management

1 Reference Points, move to recommend for adoption
2 Alternative 2.}

3 COUNCIL CHAIR RICK ROBINS: All those
4 in favor, please raise your hand.

5 (Response.)

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Fifteen. Opposed, like sign?

8 (No response.)

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Abstentions, like sign?

11 (No response.)

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 No abstentions. The motion carries. All right,
14 Jim.

15 JAMES ARMSTRONG: Okay. Next we have
16 the section, Section 3.2, which is on Page 2, and
17 that addresses the actual ACLs and AMs that would
18 follow the -- and be a function of the reference
19 points, to some extent.

20 You can see here that there's a
21 higher -- I'm sorry, that there are two options
22 within each alternative, and with Option 2 in each
23 case being a higher value.

24 These are proactive activity

1 accountability measures and the idea here is that
2 what these do is they provide a buffer, a sizeable
3 buffer, between the OFL and what would be set as the
4 ACT and what would be used to calculate the
5 corresponding days-at-sea and trip limits.

6 And the reason -- and that approach
7 was used basically in order to try to avoid the need
8 for reactive AMS, paybacks, something like that.
9 So, these are -- so, a large buffer is built into
10 this.

11 With regard to the northern fishery
12 management area, after advisory panel and oversight
13 committee discussion, it was recommended that a
14 third option be added, and that that option would be
15 80 percent of the ACL. And so there was support for
16 that. However, it's not part of the document now
17 and so the days-at-sea trip limits haven't been
18 calculated.

19 So, sort of a provisional
20 recommendation was made for Option 2 but with a
21 preference for Option 3 and -- and here we get into
22 a little bit of the -- some of the problems that may
23 arise because this is a joint plan, if there's -- in
24 any case, if there's disagreement between the

1 Councils, then it negates the action.

2 So, in other words, if there's a
3 choice of a no action alternative and an action
4 alternative and there's disagreement on that, then
5 the no action alternative prevails.

6 And in this case I think that the
7 advice -- maybe Terry can help me out here, but the
8 advice that we've gotten would be for -- while the
9 details of Option 2 -- 3 are being worked out, that
10 the Mid-Atlantic Council is being asked to sort of
11 endorse that -- you know -- endorse whatever the New
12 England Council eventually settles on. And you
13 know, this affects -- it doesn't really affect
14 stakeholders in the Mid-Atlantic region.

15 And so just to facilitate the
16 process, sort of being asked to support New England
17 -- the New England choice, which is kind of pending
18 further analysis.

19 With regard to the south, there's a
20 lot of support for Option 2, which basically is a
21 higher increase from the status quo TAC and there's
22 a stock assessment workshop going on this week,
23 which is why Phil Haring is not here, he's at that
24 workshop, and I don't think I'm wrong in

1 characterizing the preference for the higher
2 percentage as being kind of a worry that the status
3 of the stock isn't going to be as optimistic as
4 maybe it was when it went through the data poor
5 workshop.

6 So, if there's a reduction, then the
7 percentage here actually prevails. The number --
8 the exact number that corresponds to these options
9 would change, but the percentage increase from the
10 TAC would prevail. All right?

11 UNIDENTIFIED: Absolutely correct.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Howard.

14 HOWARD KING: So, Jan, if you could
15 put the next motion up and I would like to -- I
16 would like to substitute -- well, that's not a
17 motion of this Council at this point, so this refers
18 to the third option under that section for the
19 northern management area. So, what I would do -- I
20 would like to make another motion. And can you
21 write the motion as I make it? I will go slow.

22 It would be: In Section 3.2, the
23 Mid-Atlantic Fishery Management Council would defer
24 to the New England Fisheries Management Council for

1 final adoption of a preferred option for the NMA.

2 JAN BRYANT: MNA?

3 HOWARD KING: For the NMA. Terry
4 and/or Jim or Pete, would that cover that?

5 TERRY STOCKWELL: Yeah, I think it
6 will, Howard. What it will do, it will allow the
7 New England Council to deliberate in a couple weeks.

8 And if they do decide to move forward with this
9 option, it would still allow this Council to make
10 all its decisions, but remand that option back to
11 the PDT and there'd be no final action until the
12 June meeting.

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 George, does that pose any difficulties that you're
15 aware of, for us to defer to the New England Council
16 on that question, since that is just for the
17 northern management area?

18 GEORGE DARCY: I don't think it
19 would, unless -- I don't know if Joel's here. It's
20 probably more a legal question, but I think that's
21 probably acceptable.

22 COUNCIL CHAIRMAN RICHARD ROBINS:

23 Well, I think we're basically affirming concurrence
24 with their future action on that specific question.

1 Okay.

2 So, is there a second to the motion?

3 Second by Pete, Pete Himchak. Discussion on the
4 motion?

5 (No response audible.)

6 COUNCIL CHAIRMAN RICHARD ROBINS: Is
7 the Council ready for the question?

8 (Motion as voted.)

9 {Move in Section 3.2, the MAFMC would defer to the
10 NEFMC for final adoption of a preferred option for
11 the NMA.}

12 COUNCIL CHAIR RICK ROBINS: All those
13 in favor, please raise your hand.

14 (Response.)

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 Fifteen. Opposed, like sign?

17 (No response.)

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Abstentions, like sign?

20 (Response.)

21 COUNCIL CHAIRMAN RICHARD ROBINS: One
22 abstention. The motion carries. Thank you. Jim.
23 Or Howard, are you ready to go on to the southern?

24 HOWARD KING: Yeah. Then, Jan, if

1 you could put the next motion up. Jim previously
2 mentioned that in Section 3.2 for the southern area
3 there is a recommended option and so I would like to
4 move for the committee that in Section 3.2, annual
5 catch limits and accountability measures, move to
6 recommend for adoption Alternative 2, Option 2 for
7 the southern fishery management area.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Okay. It doesn't require a second. Discussion on
10 the motion?

11 (No response audible.)

12 COUNCIL CHAIRMAN RICHARD ROBINS: All
13 right. Motion is for Alternative 2, Option 2, in
14 Section 3.2 for the southern management area.

15 (Motion as voted.)

16 {In Section 3.2, Annual Catch Limits and
17 Accountability Measures, move to recommend for
18 adoption Alternative 2, Option 2 for the Southern
19 Fishery Management Area.}

20 COUNCIL CHAIR RICK ROBINS: All those
21 in favor, please raise your hand.

22 (Response.)

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Fifteen. Opposed, like sign?

1 (No response.)

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Abstentions, like sign?

4 (Response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 One abstention. Thank you. The motion carries.

7 Jim.

8 JAMES ARMSTRONG: Thank you. On Page

9 3, you'll see that the days-at-sea and trip limits

10 that --

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Sorry -- George.

13 GEORGE DARCY: Yeah, I'm sorry. I

14 must have missed something, don't you need to vote

15 on the ACL and the reactive AMs, as well as the

16 options under the AMs? Aren't they part of that

17 alternative, as well?

18 COUNCIL CHAIRMAN RICHARD ROBINS: The

19 reactive AMs and the ACL for Alternative --

20 Alternative 2?

21 GEORGE DARCY: Yes. I think they are

22 different from the no action alternative, so they

23 would need --

24 COUNCIL CHAIRMAN RICHARD ROBINS: I

1 think you're -- well, I think you're right. Howard,
2 can we confirm that that wasn't covered in the first
3 motion? Because the first motion was specific to
4 the southern FMA and then the second motion was
5 specific to the -- or the first one to the northern,
6 the second to the southern, so we still have ACL
7 definition under Alternative 2 and then the reactive
8 AMs under Alternative 2.

9 HOWARD KING: Thank you, Mr.
10 Chairman. I don't believe that was covered at the
11 oversight committee meeting either, and I can only
12 guess that it's covered under if the Councils do not
13 take appropriate action, the Regional Administrator
14 will use formulaic approach to adjust days-at-sea.

15 Do you think that's correct?

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Terry, do you have a comment?

18 TERRY STOCKWELL: Howard, it was -- I
19 think Alternative 2 it was implicit that it would be
20 all of Alternative 2 with the separate options for
21 each of the different management areas.

22 HOWARD KING: Terry, can you look at
23 the motion and be specific? Jan, could you put that
24 motion back up there?

1 (Pause.)

2 HOWARD KING: Yeah, I don't think
3 it's covered, even though the oversight committee's
4 action may have been implicit. So, we probably
5 should cover that.

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Yeah, I think George has raised a good point. So,
8 Alternative 1 was no action. Alternative 2 defines
9 ACL as being equal to ABC and then establishes a
10 reactive AM mechanism. So, it seems we would need a
11 motion to approve Alternative 2 -- the ACL and
12 reactive AM options in Alternative 2.

13 HOWARD KING: Yeah, before I do that,
14 let me confer with my counterparts.

15 (Pause.)

16 HOWARD KING: We're ready. All
17 right. This would be a motion of the Mid-Atlantic
18 Council, because it might be implicit but there was
19 nothing specific here direct us from the New England
20 Council.

21 So, for the Mid-Atlantic Council,
22 it's moved to adopt under Section 3.2, Reactive AMs,
23 the option to deduct ACL overage weight from ACT;
24 and adjust management measures in second year after

1 overage year.

2 Again, that would be to deduct ACL
3 average weight from ACT, semicolon, and I'll correct
4 that after it's up there.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Howard, do you want to include the ACL definition in
7 this, as well, which is a line above that, or do you
8 want to -- do you want to fold that in?

9 HOWARD KING: If you think that's
10 necessary, then I'll --

11 COUNCIL CHAIRMAN RICHARD ROBINS: I
12 think that ACL construction is probably --

13 HOWARD KING: Yes, I'll add that at
14 the end. And so -- all right. And Jan, we'll do
15 the word-check in a minute, but after the period
16 after action, include in capital letters ACL equals
17 ABC, period.

18 At the very end, after a period,
19 after action. Then in capitals, ACL equals ABC.

20 And then if you'll go back to the top
21 of that motion, it's the -- in the third line, it's
22 -- after options to deduct, then it's ACL -- after
23 deduct, it's capital ACL and then it's overage --
24 overage instead of average -- weight. So, you can

1 strike -- okay. Then it's -- after weight, it's
2 from ACT, that's correct, and then adjust management
3 measures in second year, yep. Okay.

4 All right. I think that's correct.
5 Let me read that. For the Mid-Atlantic Fisheries
6 Management Council, it's moved to adopt under
7 Section 3.2 Reactive AMs, the options to deduct ACL
8 overage weight from ACT, adjust management measures
9 in second year after overage year. If Councils do
10 not take appropriate action, RA will formulate -- RA
11 will use formulaic approach to adjust DAS and trip
12 limits and implement by Notice action, period. ACL
13 equals ABC, period.

14 Jim, do you have a comment?

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Jim.

17 JAMES ARMSTRONG: Well, I think if
18 you say that the Council is adopting -- is moving to
19 adopt Alternative 2 under Section 3.2, then
20 everything that's in there is taken care of, and we
21 don't have to detail the -- that.

22 But you do have to specify which
23 options under Alternative 2. Those are the only
24 places where there's need for further specification.

1 So, Alternative 2 just by itself defines ACL as
2 equal to ABC and the -- describes the deduction
3 process for reactive AMs. It's just a shorter way
4 to do it, and -- so I'm just suggesting ...

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Peter.

7 PETER HIMCHAK: Yes, Mr. Chairman.

8 Yeah, prior to George's comment on this, I thought
9 this was more streamlined where -- essentially,
10 yeah, we're going with Option 2 for proactive AMs
11 and implied in that is -- I guess according to his
12 motion, we're going to have reactive and proactive
13 Ams on the same ACT.

14 HOWARD KING: I would prefer if

15 George would comment on that, and we'll follow your
16 advice.

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 George.

19 GEORGE DARCY: Okay. I think you

20 want to vote up Alternative 2 as a package, and you
21 kind of started off with the detail rather than the
22 big picture and worked down to the detail. So now
23 you're going back and trying to flesh out the whole
24 thing.

1 So, I think what you really want to
2 do -- and I think this does it, but is to adopt
3 Alternative 2 with the two options that you've
4 already passed in previous motions. You do want to
5 set the ACL equal to ABC -- well, I think you do,
6 and you do want to establish reactive AMs and you've
7 already established the proactive AMs for north and
8 south.

9 So, I think with this you'll complete
10 the whole package of Alternative 2. It's not an
11 either/or. It's the whole bundle you want; right?

12 COUNCIL CHAIRMAN RICHARD ROBINS: But
13 George, this -- by passing this final detail, this
14 completes the package; right?

15 GEORGE DARCY: It completes
16 Alternative 2 package, yes. Yes. The bundle.

17 COUNCIL CHAIRMAN RICHARD ROBINS: All
18 right. Dan.

19 DANIEL FURLONG: Thank you, Mr.
20 Chairman. Just for clarification, I don't
21 understand the language adjust management measures
22 in second year after overage year.

23 If the overages occur in 2010, then
24 are we talking 2012 as the year in which the

1 adjustment is made?

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Jim.

4 JAMES ARMSTRONG: That's -- that's in
5 there because the landings -- it's not a quota-
6 managed fishery. There's calculations of days-at-
7 sea and there's a bit of a lag in when the
8 information becomes available. So, it might be
9 several months into the year before the final
10 tallying up of a given year's -- of the previous
11 year's landings are known. And so that's why there
12 is -- the adjustment is made in a second year rather
13 than the subsequent year.

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Terry.

16 TERRY STOCKWELL: Yeah, thank you,
17 Mr. Chairman. Let me try to untangle the
18 committee's thought process for all of you.

19 The committee was pretty clear in
20 wanting to have some stability for industry, which
21 is why it supported the ACT approach in looking down
22 the road of having some large buffers that can make
23 a three-year business plan with their spec package,
24 but also recognizing that there's a stock assessment

1 coming up and there might be changes need to be made
2 and they want to ensure that the RA had the
3 authority to apply accountability measures should
4 the ACT not be viably operational.

5 And this is the ACL and
6 accountability measure component. So, the two
7 definitions are needed to be in the alternative and
8 I think -- you know, so pardon me, I think in the
9 beginning there, Howard, for not helping the thought
10 process. It really was Alternative 2 to include all
11 these, which is why I mentioned it was implicit.
12 But the specific options are -- that you folks are
13 supporting Option 2 was for the southern management
14 area.

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Chris.

17 CHRISTOPHER ZEMAN: I just have -- I
18 just wanted to point this out, and I'm not sure if I
19 understand this, but it seems like your proposed ABC
20 is actually -- it exceeds the MSY by 800,000 pounds.
21 Roughly 800,000 pounds in the northern area?

22 COUNCIL CHAIRMAN RICHARD ROBINS:

23 Jim, can you comment on that? Chris, can you point
24 out what figures you're referencing?

1 CHRISTOPHER ZEMAN: Yeah, on Page 1,
2 Alternative 2, proposed reference points. This is
3 Section 3.1.

4 COUNCIL CHAIRMAN RICHARD ROBINS:
5 Right.

6 CHRISTOPHER ZEMAN: If you look at
7 ABC, it's -- for northern area it's 17,485 metric
8 tons, and MSY is determined as -- for the northern
9 area was 17,053 metric tons. It's not a significant
10 amount, but just technically I don't think you want
11 to set your ABC above MSY. And it could just be a
12 correction.

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Jim.

15 JAMES ARMSTRONG: Yeah, I mean what
16 that does is it reflects the status of the stock. B
17 current is above BMSY, and MSY is -- B target is
18 BMSY. So, that's why it's higher. So, basically
19 there's more than enough monkfish out there
20 according to the assessment -- the last assessment.

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Okay. We're back to a motion that Howard made. Is
23 there -- Howard, are you done with the motion?

24 HOWARD KING: Yes, I am. I'd like to

1 leave it this way.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Okay.

4 HOWARD KING: We need a second.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Right. Is there a second to the motion? Peter
7 Himchak, thank you. Discussion on the motion?

8 (No response audible.)

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Council ready for the question?

11 (Motion as voted.)

12 {For the MAFMC it is moved to adopt under Section
13 3.2 reactive AMS, the option to deduct ACL overage
14 weight from ACT; adjust management measures in
15 second year after overage year, if Councils do not
16 take appropriate action, RA will use formulaic
17 approach to adjust DAS and trip limits and
18 implement by notice action. ACL=ABC.}

19 COUNCIL CHAIR RICK ROBINS: Please
20 raise your hand, in favor?

21 (Response.)

22 COUNCIL CHAIRMAN RICHARD ROBINS:

23 Fourteen. Opposed, like sign?

24 (No response.)

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Abstentions, like sign?

3 (Response.)

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Two abstentions. The motion carries. Thank you.

6 Jim.

7 JAMES ARMSTRONG: The next page is
8 Page 3 and it characterizes Section -- the options
9 and alternatives under Section -- I'm sorry, the
10 options and alternatives that address the days-at-
11 sea and trip limits associated with the ACTs that
12 were part of the previous alternative.

13 So, given that the -- given that the
14 Council has already endorsed the option, Option 2 --
15 well, for the southern management area, Option 2, in
16 the previous section, then that gives the range of
17 options for days-at-sea and trip limits that are
18 associated with that. So, that would be the 2A, B
19 and C in that -- the bottom table under Alternative
20 2.

21 So, the action here, the choice here
22 is a no action alternative, which would maintain
23 status quo days-at-sea and trip limits, and a
24 potential increase -- well, an increase in the days-

1 at-sea and trip limits given that the TAC has gone
2 up.

3 So, basically, the -- at the
4 oversight committee meeting, because there was the
5 third ACT -- a request for a third ACT option in the
6 northern management area, and the work hadn't been
7 done to figure out the days-at-sea and trip limits
8 for that, that's why that's not in the -- on that
9 table for the northern management area.

10 So, if the Council is supporting the
11 New England Council's preference for Option 3, then
12 I believe the Council would also -- it would be
13 consistent to also support their preference for the
14 days-at-sea and trip limits that go with that.

15 And for the southern management area,
16 the Option 2B was the one that provided -- or that
17 had the most support. And the trip limits, you may
18 notice, if you compare the trip limits in 2B to the
19 status quo trip limits in the top table under the no
20 action alternative, you'll see that they're the
21 same. But what's gone up is the number of days.
22 And there was a preference for -- preference for
23 having more days rather than higher trip limits,
24 essentially.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Peter.

3 PETER HIMCHAK: Just for sake of
4 consistency here, do we not have to pass a motion
5 essentially deferring to the northern -- to the New
6 England Fishery Management Council their selection
7 of options under either 1A through -- on your days-
8 at-sea and trip limit options, and then we would
9 have a motion specific to the southern management
10 area for 2B?

11 COUNCIL CHAIRMAN RICHARD ROBINS: I
12 think that makes sense.

13 PETER HIMCHAK: Okay. In that sense,
14 I'll -- Jan, if you put up the prior motion where we
15 deferred to the New England Council, we'll just
16 change the language of the section. Let's see.

17 COUNCIL CHAIRMAN RICHARD ROBINS: It
18 will be for Section 3.3.1, DAS and Trip Limit
19 Options.

20 PETER HIMCHAK: Yes. Final adoption.

21 (Pause.)

22 PETER HIMCHAK: No, it identifies the
23 section. You could put in 3.3.1, comma, days-at-sea
24 and trip limits. It's a little more descriptive,

1 but -- but essentially, yeah, we're allowing the
2 northern management area to essentially decide their
3 own days-at-sea and trip limit after they come up
4 with their own preference for an ACT.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Jan, you might just put and, I would suggest, in
7 between DAS and trip limits.

8 Does that motion look okay to you,
9 Peter?

10 PETER HIMCHAK: Yes.

11 COUNCIL CHAIRMAN RICHARD ROBINS: Is
12 there a second to the motion? Howard. Second by
13 Howard King. Discussion on the motion?

14 (No response audible.)

15 COUNCIL CHAIRMAN RICHARD ROBINS: Is
16 the Council ready for the question?

17 (Motion as voted.)

18 {Move in Section 3.3.1, DAS and trip limits, the
19 MAFMC would defer to the NEFMC for final adoption
20 of a preferred option for the NMA.}

21 COUNCIL CHAIR RICK ROBINS: All those
22 in favor, please raise your hand.

23 (Response.)

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Sixteen. Opposed, like sign?

2 (No response.)

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Abstentions, like sign?

5 (Response.)

6 COUNCIL CHAIRMAN RICHARD ROBINS: One
7 abstention. The motion carries. Thank you.

8 Howard, are you ready for the balance
9 of the question?

10 HOWARD KING: Yes. Jan, if you would
11 put up the motion that you already have that refers
12 to the southern management area, it would be -- no,
13 if you scroll up, we'll get to it. Okay, hold.
14 Okay.

15 In Section 3.3.1, Specification of
16 Days-at-Sea and Trip Limits, move to recommend for
17 adoption of Alternative 2, SMA, specify Option 2B.

18 And that would be for the committee.

19 And this should all move pretty quickly now.

20 COUNCIL CHAIRMAN RICHARD ROBINS: All
21 right. The motion does not require a second. So,
22 this is a motion for Option 2B under Alternative 2
23 for the southern management area DAS and trip limits
24 options.

1 Any questions or comments on the
2 motion?

3 (No response audible.)

4 COUNCIL CHAIRMAN RICHARD ROBINS: Is
5 the Council ready for the question?

6 (Motion as voted.)

7 {In Section 3.3.1, Specifications of Days-at-Sea
8 and Trip Limits, move to recommend for adoption of
9 Alternative 2, SMA, specify Option 2B.}

10 COUNCIL CHAIR RICK ROBINS: All those
11 in favor, please raise your hand.

12 (Response.)

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Fifteen. Sixteen. Opposed, like sign?

15 (No response.)

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Abstentions, like sign?

18 (Response.)

19 COUNCIL CHAIRMAN RICHARD ROBINS: One
20 abstention. The Motion carries, 16, zero to one.
21 Thank you.

22 Howard, do you have the next one or
23 does Jim have a presentation? Jim?

24 JAMES ARMSTRONG: Well, what I did --

1 I noticed this, so I hopped out in the hall because
2 I'm just a little concerned with the use of the
3 choice of deferring to the New England Council. And
4 I think that in order for the amendment to move
5 ahead or -- on any specific action, that there needs
6 to be support for that action by both Councils. And
7 so if we defer and since we're kind of saying -- I'm
8 just a little worried that that will be interpreted
9 as only one Council is in support, and we need both.

10 So, I asked Joel and -- to weigh in
11 on that.

12 JOEL MACDONALD: I agree. In this
13 process, I think it's both Councils are best served
14 by an affirmative action by each Council, rather
15 than just deferring to the other Council. So, my
16 advice is that you take a vote in support of -- you
17 know, what the New England Council wants to do, as I
18 understand it, rather than just deferring to it.

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Well, Joel, I think one of the issues here is that
21 the option hasn't been fully developed. In other
22 words, it's been recommended by the oversight
23 committee that they establish an ACT at a certain
24 percentage and those corresponding catch level

1 options haven't been fully developed here in the
2 document.

3 So, is it possible for us to affirm
4 the future action of the New England Council, as
5 opposed to simply saying that we'll support an
6 option that's not yet fully developed?

7 JOEL MACDONALD: Is the New England
8 Council going to have these options fully developed
9 when they vote or --

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Terry.

12 TERRY STOCKWELL: The New England
13 Council is going to consider whether or not they
14 want to request the PDT to develop that between the
15 April and the June meeting.

16 JOEL MACDONALD: So, they're going to
17 vote on an undeveloped -- possibly vote on an
18 undeveloped option, as well?

19 TERRY STOCKWELL: No, they may table
20 final action on the amendment until this alternative
21 is developed, which would take a convening of the
22 PDT and probably another meeting of the committee,
23 and of the time period between the April meeting
24 that's scheduled and the June meeting that's

1 scheduled. So, final action by the New England
2 Council would then be in June.

3 JOEL MACDONALD: You know, I find it
4 difficult to say look -- you know, we should defer
5 or support something that isn't fully developed,
6 particularly when -- you know, the New England
7 Council may actually ask the PDT to develop this
8 option and take action at a later date, that being
9 their June meeting.

10 I'm not sure what the timing of the
11 June meeting is, but we have a June meeting early --
12 I want to say around the -- what week is it?

13 COUNCIL CHAIRMAN RICHARD ROBINS: The
14 second week of June.

15 JOEL MACDONALD: Is it before the New
16 England Council? Would it be possible that the
17 option would be developed in time for our June
18 meeting? And if that is the case, what I would
19 recommend is let's postpone -- you know, voting on
20 this until we have the full record in front of us,
21 as -- you know, the New England is probably going to
22 do.

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Terry.

1 TERRY STOCKWELL: This was a -- for
2 lack of better words, a Hail Mary out of the AP and
3 oversight committee at our last meeting, and we
4 don't know what the -- I don't know what the full
5 Council -- how they're going to react to it, whether
6 or not they'll endorse it and move it on to the --
7 request it goes to the PDT or whether they'll vote
8 it down and move the amendment ahead as it's
9 currently structured.

10 COUNCIL CHAIRMAN RICHARD ROBINS:

11 Howard.

12 HOWARD KING: Can we show Joel the
13 language of the motion that we passed?

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Sure. And again, Joel, these are just for the
16 northern management areas. There are two actions
17 that were specific to the northern management areas
18 that we deferred on, but ...

19 JOEL MACDONALD: But my recollection
20 is that the process requires that the Councils --
21 each Council -- you know, submit some sort of
22 action. And by deferring -- you know, you could
23 argue that indeed, as Jim points out, this is not
24 Council action. We're merely letting one Council

1 make the decision, when in fact the process calls
2 for two.

3 But I see the -- obviously I see the
4 dilemma in that we don't have something that we
5 should have to vote on, because our decision on the
6 alternative will not necessarily be informed.

7 So, I'm sort of looking for a way out
8 of this. Now, the timing probably is such that we
9 can't defer this action until we do have whatever
10 the PDT comes up with.

11 UNIDENTIFIED (No microphone):

12 Correct.

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 Peter.

15 PETER HIMCHAK: Yes, I see this as a
16 matter of semantics maybe, and the deferring -- I
17 understand the implications of the word, but could
18 it -- would it suffice to say that the Mid-Atlantic
19 Council instead of defers to the New England Council
20 for the selection of their days-at-sea and trip
21 limits, which is really their backyard and they
22 should select it, we would support the selection of
23 the option that they pick. Is that more appropriate
24 language than deferring?

1 JOEL MACDONALD: Right, because
2 that's an affirmative action --

3 PETER HIMCHAK: Yes.

4 JOEL MACDONALD: -- on the part of
5 this Council, to support them rather than just
6 saying oh, make whatever decision you want.

7 PETER HIMCHAK: Right. So, in the
8 two motions that we passed on the issue that relate
9 to the northern unit's management area, we would
10 change the word defer to support the actions taken
11 by the New England Council.

12 JOEL MACDONALD: Now, what you have
13 to -- what you have to keep in mind when I give an
14 answer, this is not merely semantics. What I'm
15 trying to prevent is if somebody wants to challenge
16 -- you know, whatever we come out with finally, they
17 will look at any avenue to do that; and I don't want
18 to have a procedural error that they could exploit,
19 and that's why I'm suggesting that it's better --
20 you know, may simply be semantics at this point, but
21 it's better for the Council to come out with some
22 action that looks like it's an affirmative action --
23 you know, something that the Council considered and
24 made a final decision on, rather than just saying

1 okay, we're going to hand the ball over to the other
2 Council. That, I can run with in court much better
3 than just deferring.

4 HOWARD KING: What steps do we have
5 to take to rework those two motions?

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Well, reconsider -- we can reconsider the question,
8 if you want to amend those motions.

9 HOWARD KING: We do. Then with
10 Joel's advice, we will amend these motions. Would
11 you suggest the wording?

12 JOEL MACDONALD: Pete said it -- you
13 know, replace the word defer with support, if that
14 reads -- would -- you know, supports --

15 HOWARD KING: Okay. The Mid-Atlantic
16 --

17 JOEL MACDONALD: Would defer and just
18 say supports --

19 HOWARD KING: Would support the New
20 England Fisheries Management Council's --

21 JOEL MACDONALD: I would take the
22 subjunctive out. I would say supports.

23 HOWARD KING: Would support --

24 JOEL MACDONALD: Right. No, take

1 would.

2 HOWARD KING: Oh.

3 JOEL MACDONALD: Right, we do
4 support, so --

5 HOWARD KING: So, supports?

6 JOEL MACDONALD: Yeah, supports.

7 HOWARD KING: Okay. Can you finish
8 it for us?

9 JOEL MACDONALD: Supports the action,
10 right.

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Joel, do we need a motion to reconsider the question
13 to do that?

14 JOEL MACDONALD: I don't think so.

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 Okay. Is there any objection to amending these --
17 both of these motions to reflect this change?

18 UNIDENTIFIED (No microphone):
19 (Inaudible) change the other one, too?

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Yes, we need to change the other motion, as well.

22 HOWARD KING: Yes, we go back to
23 Section 3.2 motion and change that similarly.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Dan.

2 DANIEL FURLONG: Yeah, just
3 grammatically again, Joel, you took the subjunctive
4 out, but the way it reads, it says supports actions
5 taken and they haven't been taken, so should it be
6 to be taken?

7 JOEL MACDONALD: Technically, yes --
8 you know, technically -- taken -- to be taken.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Okay. So, based on the advice of counsel, we've
11 modified both of these motions to reflect our
12 positive and affirmative support for the future
13 action to be taken by the New England Council on
14 Section 3.3.1 and Section 3.2 as they relate to the
15 northern management area.

16 (Motion as voted.)

17 {Move in Section 3.2 the MAFMC supports the action
18 to be taken by the NEFMC for final adoption of a
19 preferred option for the NMA.}

20 {In Section 3.3.1, Specifications of Days-at-Sea
21 and Trip Limits, the MAFMC for final adoption of a
22 preferred option for the NMA.}

23 COUNCIL CHAIR RICK ROBINS:

24 Again, I'd ask is there any objection

1 to making those modifications?

2 (No response audible.)

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Seeing none, they're done by consent. Thank you.

5 Joel, thank you.

6 HOWARD KING: Mr. Chairman, and Jim,
7 there are half a dozen additional motions. Is there
8 any way that we would want to group those and vote
9 on them --

10 COUNCIL CHAIRMAN RICHARD ROBINS: Is
11 there any -- has there been any contention or debate
12 on those motions?

13 HOWARD KING: No, you don't have it
14 in front of you, but most of the motions passed
15 unanimately. I would look for some backup from
16 Terry on that.

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Harley.

19 HARLEY SPEIR (No microphone)
20 (Inaudible.)

21 (Pause.)

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Howard, if you want to group the remaining motions,
24 that would be fine.

1 HOWARD KING: Jan, do you have the
2 remaining motions there? What we could do, Jim, if
3 you could just touch briefly on each one and if
4 there's no objection on the part of the Council, we
5 could take those as a group and adopt them for the
6 Mid-Atlantic Council.

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 Terry.

9 TERRY STOCKWELL: Yeah, thank you,
10 Mr. Chair. Following Howard's statement, he was
11 absolutely -- it was absolutely certain that each
12 one of them was unanimous -- unanimously supported
13 by both the AP and the committee. All the rest of
14 them. We've just stumbled through the two sticky
15 ones.

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Thanks for that clarification.

18 Jim, did you want to give us a quick
19 overview?

20 JAMES ARMSTRONG: Sure. Really
21 quickly, there is support for automatic days-at-sea
22 trip limit overage. The -- well, the option under
23 that that was supported -- basically this -- if
24 there's an overage of a trip limit, this -- then a

1 certain number of -- a certain amount of time is
2 charged to the account -- the vessel. And right now
3 under no action, if you've got more than your trip
4 limit, you either throw back the excess -- or --
5 which results in waste, or you have to steam around
6 until the clock says you can come in.

7 And so what this would do is allow
8 for landings above the trip limit, the daily trip
9 limit, and there is -- there are options that
10 address how the account would be charged. And the
11 one that was unanimously supported was Option 3,
12 where 24 hours and one minute would be charged.
13 Okay? Would be deducted, I'm sorry.

14 Okay? So, the next one reflects how
15 groundfish days-at-sea and monkfish days-at-sea
16 interact. And under the no action alternative,
17 which was the one that received unanimous support,
18 at least from the AP and the oversight committee,
19 the allocation of -- or the -- oh, I'm just going to
20 read it to you, because it's weird.

21 Vessels holding a Monkfish Category C
22 or D permit and a multispecies permit are charged a
23 multispecies Category A day-at-sea for every
24 monkfish day-at-sea used. If the vessel's

1 allocation of multispecies Category A days-at-sea is
2 fewer than the monkfish day-at-sea allocation, the
3 vessel may fish the difference as monkfish-only
4 days-at-sea, but only after all multispecies
5 Category A days-at-sea have been used.

6 Not the way we do business, but --
7 anyway, if you -- so, the action alternative to that
8 would basically allow more flexibility in when those
9 monkfish days-at-sea are used. Right? They either
10 use them at the front end or at the back end.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Jim, were you suggesting that input controls are
13 complicated? Okay.

14 JAMES ARMSTRONG: Yes.

15 COUNCIL CHAIRMAN RICHARD ROBINS: Any
16 questions for Jim? Chris.

17 CHRISTOPHER ZEMAN: I'm just trying
18 to understand like is this -- do we usually get like
19 the actual FMP amendment? Are we at an earlier
20 process now, or is there a time line, deadline, that
21 we're trying to get? Because there's not really --
22 you know, we're really looking at just like AP and
23 oversight committee comments. We're not seeing sort
24 of any evaluation or like analysis or like SSC

1 review or concurrence or -- is there a reason why
2 we're not seeing that right now?

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Well, the SSC wouldn't review the FMP itself, just
5 the specifications. Right? But Terry, do you want
6 to comment on the document development?

7 TERRY STOCKWELL: This document has
8 been under development for the better part of two
9 years, and it's to meet the ACL/AM requirements that
10 we have to incorporate. And hugely important to a
11 lot of the monkfishermen is that we did split this
12 amendment and separated the catch share component
13 out of it. And that is going to be undertaken come
14 fall, once this amendment is finally done, both
15 Councils vote on it, and it's -- it goes through the
16 agency. So, with the anticipation sometime probably
17 September to start the next amendment.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Further comments?

20 (No response audible.)

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Jim, do you want to go ahead and touch on these
23 other questions?

24 JAMES ARMSTRONG: This next section,

1 3.3.2.3, is similar to the previous alternative
2 except that it applies to groundfish sectors. And
3 essentially the action alternative would allow for
4 vessels in those groundfish sectors to sort of defer
5 their monkfish days-at-sea. They wouldn't have to
6 use them when they're -- yes, okay. So, they could
7 defer them.

8 When the sector allocation is
9 reached, then they would have monkfish days-at-sea,
10 and this was a worrisome -- this had a lot of
11 shifting of effort potentially happening by this
12 accumulation of days-at-sea -- monkfish days-at-sea
13 of northern vessels maybe coming into the southern
14 management area to spend their monkfish days-at-sea.

15 So, there was a lot of -- during the
16 public comment period and scoping and all that,
17 there was a lot of support for the no action
18 alternative.

19 As I described in this joint plan, in
20 this amendment, if there's disagreement between the
21 Councils on a given alternative, then the no action
22 alternative prevails. So, from the southern
23 management area's perspective, if the New England
24 Council was to prefer the action alternative here

1 and we don't, then for our stakeholders anyway, if
2 that's the preferred -- if no action is preferred,
3 then we win in that sort of contest.

4 So -- but the AP and the oversight
5 committee, which has representation by -- from both
6 management areas, all supported the no action
7 alternative in this case.

8 The next issue is a --

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Jim, if you can hang on one second, Peter had a
11 question.

12 PETER HIMCHAK: I just had a comment.

13 The last two issues that Jim has gone through, I
14 believe they were the two most contentious issues
15 leading up to the meeting; and again, it was the
16 fear of redirected effort into the southern unit
17 management area.

18 And the advisory panel essentially
19 hammered this out and saved us the need to debate
20 this. And so they came out in unity for the no
21 action alternatives on these two particular aspects
22 of Amendment 5, and we're going through a few
23 hiccups here today, but Chris, trust me, this was
24 one of the smoothest-run meetings I've ever been at,

1 where we're all in agreement on picking options and
2 moving forward with an amendment. Thank you.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Jim.

5 JAMES ARMSTRONG: On Page 7, Section
6 3.4.1 dealt with -- reflects the days-at-sea
7 carryover provision for the research set-aside. So,
8 if the research set-aside days are not used, then
9 they're carried over.

10 However, this -- there's been a
11 technical amendment by the Service to address
12 research set-asides and the -- although there was a
13 lot of support for allowing the rollover of days,
14 apparently that's no longer an issue.

15 Terry, do you know if -- well, so
16 whether or not we support this, it's already been
17 taken care of. So, I don't think we need to even
18 have any position on this.

19 TERRY STOCKWELL: The committee
20 dropped it because it's been taken care of by the
21 agency.

22 JAMES ARMSTRONG: Everybody get that?
23 So, this is -- has been taken care of through a
24 technical amendment. Okay.

1 In Section 3.4.2, it would simply
2 allow a framework -- the framework adjustment
3 process to be used to make changes to the RSA
4 program rather than the more lengthy and
5 administratively burdensome amendment process. There
6 was support unanimously for that.

7 For monkfish vessels that don't --
8 that aren't scallop vessels or multispecies vessels,
9 so they've got a monkfish permit only, they're not
10 required to have VMS. A lot of them do because they
11 have those other permits, but the action
12 alternatives under Section 3.5, Page 9, would --
13 have various options for a requirement for VMS for
14 monkfish-only vessels. And there was unanimous
15 support for not adding that -- not having mandatory
16 VMS. As you might expect.

17 For vessels that do have VMS, the
18 monkfish permitted vessels are not addressed in the
19 power-down provisions, and so -- so they kind of
20 have to have the units operating even while -- you
21 know, for weeks at a time while in port.

22 And the power-down provision, Page
23 10, would just add language to the existing power-
24 down options to include the -- include monkfish

1 vessels and allow them to turn off their VMS. There
2 was support for that. So, that would be an action
3 alternative there.

4 And finally, this got added -- I
5 don't believe it was in there when we looked at the
6 amendment last June, Page 11, Section 3.6, allowing
7 the landing of monkfish heads.

8 Monkfish are processed at-sea to a
9 great extent because the tails and the livers are
10 the valuable part of the fish, and there are raising
11 factors when -- certain amounts of pounds of tails
12 or livers are landed and there's an algorithm for
13 how many whole fish that corresponds to.

14 And -- but there's been a -- I guess
15 monkfish heads are an alternative for lobster bait,
16 and they're currently not allowed to be landed by
17 themselves. And this would -- the action
18 alternative would allow that to occur, and there was
19 universal support for that. And that's all.

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Thank you, Jim. Howard.

22 HOWARD KING: If there are no
23 questions, then I'll make a motion to approve these.

24 COUNCIL CHAIRMAN RICHARD ROBINS: Are

1 there any questions from the Council?

2 (No response audible.)

3 COUNCIL CHAIRMAN RICHARD ROBINS: All
4 right. Seeing none, go ahead, Howard.

5 HOWARD KING: For the committee, it
6 is moved that the Council adopt the motions -- and I
7 am going to have to put these numbers in, the
8 motions addressing Section 3.3.2.1, comma, 3.3 --
9 can you follow me, Jan? This will be a motion to
10 adopt these as a group.

11 COUNCIL CHAIRMAN RICHARD ROBINS: So,
12 there's a separate motion below all of these?

13 HOWARD KING: Yes.

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Howard, why don't you make this motion and then go
16 back through and we'll just read through each one of
17 these so we have it in the record?

18 HOWARD KING: I will. Are you
19 waiting for me? Okay. It might be better -- it
20 might be better to put it on the top. That way, I
21 can follow it down.

22 Or I'm going to ask Joel, would it be
23 better if I actually read each one and then we just
24 relatively quickly approved each one? Because there

1 is no specific itemization or enumeration of these?

2 JOEL MACDONALD: You could do it
3 either way. The main point is that it's clear on
4 what motions the Council is approving. For example,
5 you could say -- you know, I hereby move that we
6 adopt the motions beginning with the one on 3.3.2.1
7 on Page 2 of the summary draft of the Monkfish
8 Oversight Committee meeting, and ending with that
9 last motion, which is motion to move the decision
10 document as amended -- let's see, no, allow -- the
11 one before that?

12 UNIDENTIFIED: 3.6

13 JOEL MACDONALD: Right. You could do
14 it that way.

15 HOWARD KING: Okay. All right.
16 Thank you. I think I would just prefer to quickly
17 read each one, and then we'll adopt it.

18 So, Jan, you can forget the small
19 print up there and let me read that for the
20 committee, and then I'm going to read these, and
21 then I think at the end of that, then we could have
22 the vote and approve these.

23 So, for the committee, in Section
24 3.3.2.1, Automatic Adjustments for Trip Limit

1 Overage, move to recommend for adoption Alternative
2 2, Option 3.

3 In Section 3.3.2.2, Permit Category C
4 and D Groundfish DAS Usage, move to recommend for
5 adoption Alternative 1.

6 In Section 3.3.2.3, Monkfish Vessels
7 and Groundfish Sectors, Groundfish DAS Usage, move
8 to recommend for adoption Alternative 1.

9 In Section 3.4.2, Allow Changes to
10 RSA Program by Framework Adjustment, move to
11 recommend for adoption Alternative 2.

12 In Section 3.5, Mandatory VMS, move
13 to recommend for adoption Alternative 1.

14 In Section 3.6, Allow Landing of
15 Monkfish Heads, move to recommend for adoption
16 Alternative 2.

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Thank you, Howard, and those are on behalf of the
19 committee and don't require a second. Frank.

20 FRANK BLOUNT: I think they do
21 require a second, because once you group them, it's
22 not a committee motion. So, Howard can -- may need
23 a second, and then you can still do it as a group.
24 But they were all individually voted on at the

1 committee.

2 COUNCIL CHAIRMAN RICHARD ROBINS: All
3 right. Is there a second? Thanks. Second by Peter
4 Himchak. Discussion on the motion?

5 (No response audible.)

6 COUNCIL CHAIRMAN RICHARD ROBINS: Is
7 the Council ready for the question?

8 (Motion as voted.)

9 {For the committee:

10 In Section 3.3.2.1, Automatic
11 Adjustments for Trip Limit Overage, move to
12 recommend for adoption Alternative 2, Option 3.

13 In Section 3.3.2.2, Permit Category C
14 & D Groundfish DAS Usage, move to recommend for
15 adoption Alternative 1.

16 In Section 3.3.2.3, Monkfish Vessels
17 and Groundfish Sectors-Groundfish DAS Usage, move
18 to recommend for adoption Alternative 1.

19 In Section 3.4.2, Allow Changes to
20 RSA Program by Framework Adjustment, move to
21 recommend for adoption Alternative 2.

22 In Section 3.5, Mandatory VMS, move
23 to recommend for adoption Alternative 1.

24 In Section 3.6, Allow Landing of

1 Monkfish Heads, move to recommend for adoption
2 Alternative 2.}**

3 COUNCIL CHAIR RICK ROBINS: All those
4 in favor, please raise your hand.

5 (Response.)

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Seventeen. Opposed, like sign?

8 (No response.)

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Abstentions, like sign?

11 (Response.)

12 COUNCIL CHAIRMAN RICHARD ROBINS: One
13 abstention. The motion carries. Thank you, Howard.
14 Howard.

15 HOWARD KING: I'd like to thank the
16 Council for their patience.

17 COUNCIL CHAIRMAN RICHARD ROBINS: I'd
18 like to thank the committee for their work on this.

19 TERRY STOCKWELL: And I'd like to
20 thank the Mid for welcoming me and for all your
21 endorsement of our work.

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Thank you, Terry. Is there anything else to come
24 before us on this issue?

1 (No response audible.)

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Okay. Seeing none, let's go ahead and take an hour
4 and -- why don't we take an hour and 15 minutes for
5 lunch. Come back at 1:30.

6 (Lunch break, 12:15 to 1:32 p.m.)
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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 26th, day of May, 2010.

PAUL T. WALLACE. Notary Public
My Commission Expires

October 8, 2015

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Pages: 1-211

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

COUNCIL MEETING

14-15 APRIL 2010

at

The Sanderling Hotel
1461 Duck Road
Duck, North Carolina 27949

(Afternoon Session.)

WEDNESDAY, APRIL 14, 2010

I N D E X

TOPIC	PAGE
INTRODUCTIONS AND ANNOUNCEMENTS RICHARD ROBINS	3
APPROVAL OF PUBLIC HEARING DOCUMENT FOR ACL/AM OMNIBUS AMENDMENT JESSICA COAKLEY	3
THE DERIVATION AND OPERATION OF A COUNCIL RISK POLICY LEE ANDERSON	57
Motion - Alternative 2C	
Jack Travelstead	119
Vote - (passed)	125

1 [1:32 p.m.]

2
3 INTRODUCTIONS AND ANNOUNCEMENTS

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Let's go ahead and take our seats, if you would.

6 Terry, thanks again.

7 All right. Let's go ahead and get
8 started, if we could. We're going to be operating
9 behind Tab 10 this afternoon, and we set aside the
10 rest of the afternoon to go through the ACL/AM
11 Omnibus Public Hearing Document, which we would hope
12 to amend and approve later today.

13 With that, we'll go ahead and welcome
14 Jessica, who drove down this morning, and look
15 forward to the omnibus presentation.

16
17 APPROVAL OF PUBLIC HEARING DOCUMENT

18 FOR ACL/AM OMNIBUS AMENDMENT

19 JESSICA COAKLEY: Good afternoon,
20 everyone. As Rick pointed out, the information
21 we'll be talking about is behind Tab 10. There are
22 three items behind that tab. The first item is a
23 Federal Register Notice. This notice was put out to
24 downgrade the omnibus ACL/AM action from an

1 Environmental Impact Statement, an EIS, to an
2 Environmental Assessment.

3 It became clear to the FMAT as we
4 worked through the development process that the
5 alternatives that the Council has been looking to
6 put forward are very process-oriented. They're
7 descriptive of the processes that will be applied to
8 address either scientific or management uncertainty.

9 However, the actual catch levels that might be
10 associated with those types of -- following those
11 processes would be things that would be analyzed
12 when those actions are actually taken at some later
13 point.

14 So, you have the Federal Register
15 Notice first. There is a letter that had come in
16 from a few environmental groups commenting on that
17 notice to downgrade the omnibus from an EIS to an
18 EA. And then behind that, you have a public hearing
19 document for the omnibus amendment to amend -- one,
20 two, three -- six of our fishery FMPs to be
21 consistent with the MSA and the new requirements.

22 I just want to highlight that the
23 public hearing document itself, it is not the full
24 Environmental Assessment at this point. It's a bulk

1 of the alternatives, a little bit of discussion
2 about the types of analyses -- type of impact
3 analysis that's going to take place; but prior to
4 the Council meeting in August, a full Environmental
5 Assessment will be built, inclusive of the impact
6 Assessment, the FONSI, all the applicable laws and
7 all that introductory material, so that this
8 document is heavily focused on the alternatives
9 themselves, which at this point it's 70 pages of
10 just that without all the other information.

11 In addition to what's behind the tab,
12 we've got a couple of handouts that I'll be going
13 through. One handout is Management Uncertainty in
14 the Mid-Atlantic, Things to Consider. It's another
15 in a series of things to know or things to consider
16 that I've handed out before.

17 If this is something that the Council
18 members like, we can take this out when we do the
19 public hearing process and use it as another tool to
20 help inform the public about the types of things
21 we're going to be talking about.

22 In addition, there's a summer
23 flounder hypothetical ACL/AM application that was
24 passed out as a handout. I'll go over that when we

1 get to the summer flounder section. It is
2 hypothetical, it doesn't represent any decision-
3 making by either the SSC or the Council in terms of
4 the values that appear in that.

5 Yet another handout. We've got a
6 correction to Page 61. In the ocean quahog section,
7 the ocean quahog terms, OFL, ABC, that table of
8 terms is not the ocean quahog table of terms.
9 Excuse me. It's the ocean quahog table of terms in
10 the Atlantic surfclam section. So, basically, take
11 this new table. It's exactly the same table you saw
12 in December, pull out page 61, stick this one in,
13 and it's all good.

14 Last item, I handed out a set of ten
15 flow charts. These are the same flow charts that
16 are in the document, but when you're referencing the
17 tech sections I like to have the flow chart out, so
18 I figured I'd save people -- since I was printing
19 myself a set, I'd save you all tearing them out from
20 your books and you can have a separate set to look
21 at as we go through for easy reference.

22 So, unless there are any other
23 questions, I'm going to move right on with an update
24 on our time line.

1 We're here to go over the public
2 hearing document today. If the Council does approve
3 this public hearing document, then three hearings
4 would occur in the month of May. I've already gone
5 ahead and lined those hearings up because the first
6 hearing would occur about 20 days from Friday. So,
7 we would need to get notices out right away after
8 the Council decides to take action.

9 So, we would have one centrally
10 located on May 3rd at the -- in the evening at the
11 Atlantic States Marine Fisheries Commission meeting.

12 One on May 10th in the south, Virginia Marine
13 Resources Commission. And one on May 12th, a
14 northern hearing, at the New York State DEC, their
15 conference room. So, those would be three.

16 In addition, in order to engage the
17 industry advisors in this process, given our very
18 constraining time line, I've talked to -- we've
19 talked among staff and with the Council leadership
20 and agreed that engaging the industry advisors at
21 those hearings would be a good way to bring their
22 input into the process.

23 So, each industry advisory panel, if
24 you agree to take this out for hearings, would be

1 invited to their nearest hearing, so that that would
2 guarantee -- would also guarantee good attendance.
3 Sometimes we have a low attendance at our hearings,
4 so hopefully we'll have a good turnout, we'll have
5 our industry advisors, we can go through that
6 information with them and then come back in June,
7 bring all those comments back so you can go through
8 those.

9 The complete EA, including that
10 impact analysis and all that introductory material
11 that is not in the public hearing document right
12 now, would be in the document for the August 2010
13 Council meeting, including a description of the
14 process; and at that point, if a FONSI is
15 supportable, which at this point it appears it would
16 be supportable, the Council could vote at that point
17 to submit it for Secretarial approval.

18 One issue that has come up in
19 discussions, with the FMAT, and I know a lot of
20 other people, what does this time line mean for 2011
21 -- sorry -- 2011 specification setting for the
22 upcoming fishing year, because if -- I know that
23 Squid, Mackerel, Butterfish, Surfclam Ocean Quahog,
24 they're already starting their spec-setting cycles

1 at this point -- so this document won't be ready at
2 that point.

3 And there are a couple different ways
4 this can play out, and I would look to the Service
5 or Counsel to chime in, but one way to tackle this
6 may be to have the omnibus amendment go early on the
7 August agenda, give you the opportunity to review
8 that and decide if that is in fact something that
9 you want to submit.

10 And then if that's the case, then
11 that August spec-setting cycle you could look to
12 take action consistent with what you've gone ahead
13 and submitted for approval at that point.

14 So, that may be one way to handle
15 that, and then this document would go through --
16 which as the Service told you, five months is a
17 short time line to get this through by January 1.
18 It may take a little bit longer, so it would be
19 early in 2011 when this document would probably go
20 to final rule.

21 So, that's one possible way of
22 tackling this and letting those August specs species
23 be sort of the first ones out of the gate to start
24 applying these types of approaches.

1 And other than that, I don't have a
2 heck of a lot of other options that we've talked
3 about. That's one way that that might work.

4 So, the public hearing draft that's
5 behind Tab 10 got all the alternatives under
6 consideration. It's broken into five sections. I'm
7 going to go ahead and present these are modules.
8 We'll have discussion after each section. Bearing
9 in mind that the section numbers are -- it's going
10 to be restructured for the final document, because
11 we're going to have a lot of introductory material
12 that's going to be built into it. So, the sections
13 you hear might be Section 5 in the final document;
14 we'll be doing a little reorganizing.

15 So, unless there are any questions or
16 discussion you'd like to have on time line, I can
17 move on to ABC -- the ABC framework, which starts on
18 Page 13.

19 CHRISTOPHER ZEMAN: Just one
20 regarding the meetings. I was wondering is there
21 any chance that we could have a meeting in like
22 southern Jersey or around that area? Because it
23 seems like the meetings are located in Virginia and
24 then Long Island, New York.

1 JESSICA COAKLEY: Well, when we
2 scheduled these and when I talked to Dan, we
3 followed the same pattern we did for the scoping
4 hearings, where we picked three, with the Commission
5 meeting being more centrally located at this point,
6 and then a northern and a southern hearing. Okay?

7 All right. Unless there are any
8 other questions, I'll move on with the ABC
9 Framework.

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Jessica, let me just ask Dan. Those meetings --
12 have those meetings already been noticed, the
13 hearings? And is there a deadline on noticing
14 those?

15 DANIEL FURLONG: You know, I think --
16 I don't recall. I think we did put up a notice, but
17 the Washington, D.C. meeting is Alexandria, that's
18 the central one with the Commission. But yeah, I
19 think we did put the notice up for it. I'm almost
20 sure. Do you know, Jessica?

21 JESSICA COAKLEY: We haven't sent the
22 notice out. It would go out right after this
23 meeting, because --

24 DANIEL FURLONG: Yeah, we're in that

1 20 --

2 JESSICA COAKLEY: -- we started
3 working on all the paperwork and the reason we've
4 had all these things lined up is because as soon as
5 we come out of this meeting we have to pull the
6 trigger on putting this document up on the website,
7 getting those notices into the Federal Register, and
8 getting moving very quickly.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Well, and part of the rationale, I think, behind the
11 selection of the Alexandria meeting was to have an
12 overlap with the ASMFC, and obviously a lot of our
13 constituents will be there at that meeting, as well.

14 But that will give the ASMFC members a chance, too,
15 to be involved.

16 DANIEL FURLONG: Jessica said it
17 well. They're drafted and ready to go -- that was
18 my recall -- I know we'd done them. They haven't
19 been signed off because we're waiting for the
20 Council to take action.

21 JESSICA COAKLEY: Okay. On Page 13,
22 ABC framework, the Science and Statistical Committee
23 took the lead on development of this option. There
24 are four levels that are contained within this

1 option for this ABC framework. And it's a tier-
2 based approach. I know we talked earlier on in the
3 Spring -- the scoping process about the different
4 approaches, and this is a tiered-based approach that
5 would be overarching and applied to all of the
6 stocks.

7 There are specific criteria for each
8 of these four levels. And the SSC at the time that
9 they go through their ABC -- ABC recommendation
10 process would determine to which level stuff
11 belongs, based on the stock assessment information
12 that's available to them at the time. And that's
13 something that would be provided along with their
14 ABC recommendation.

15 Now, this ABC framework, the top
16 three levels utilize an explicit combination of an
17 overfishing limit distribution and a probability of
18 overfishing, which is something that would be
19 informed from a Council risk policy. And you've
20 heard that term PStar, that would be the probability
21 of overfishing.

22 So, I've thrown this slide up again.
23 I know you saw this in February, but you saw it in
24 February without me. So -- although I heard Rich

1 did a really, really great job, just to say that. I
2 see John giving thumbs up, but I really heard he did
3 a great job presenting this on my behalf.

4 So, you got the distribution. This
5 has a coefficient of variation of 35 percent, log
6 normal distribution, it leans a little bit to the
7 right-hand side.

8 And in this distribution, the
9 overfishing limit is a hundred million pounds. So,
10 that's basically the midpoint estimate. 50 percent
11 of that distribution is to the right of that
12 overfishing limit, 50 percent is to the left of that
13 overfishing limit.

14 So then once you figured out sort of
15 the spread around your OFL, which is how uncertain
16 you are about that point estimate, you identify that
17 probability of overfishing and then on this curve,
18 in this case I've used 25 percent probability, you
19 look at where 25 percent of the distribution is
20 under the curve. And that's basically where that
21 purple line sits. So, that would be an ABC of a
22 little over 70 million pounds.

23 So, what this says is if you set your
24 ABC at that level, 75 percent of the time you'll be

1 successful about not going over your overfishing
2 limit. And 25 percent of the time we fail. 25
3 percent failure rate at that point.

4 So, these top three levels
5 incorporate those two components, one, the
6 uncertainty characterization coming from the SSC,
7 and then the probability of overfishing that's
8 acceptable. That's something that would come from
9 the Council in the risk policy.

10 So, the first level, Level 1, this is
11 the highest level. All important sources of
12 uncertainty are fully captured in the assessment and
13 the overfishing limit distribution. The overfishing
14 limit distribution can be taken directly from the
15 stock assessment. They put everything together,
16 they considered all those sources of uncertainty
17 that are important and that are relevant, and they
18 come up with this distribution. It's already put
19 together. It can be taken directly from there.

20 The ABC would then be determined from
21 that OFL distribution and then the risk of
22 overfishing from the Council's risk policy, you find
23 where you are on that distribution, figure out what
24 that line is, then that's your ABC.

1 The criteria in brief, which this is
2 me shorthanding what's in the document -- I would
3 say -- you know, for the best detail, you need to
4 read through that Level 1, but overall the model
5 structure and the data treatment includes all the
6 necessary details.

7 Estimation of stock status and
8 reference points are fully integrated. That means
9 that when you calculate your biological reference
10 points, it's done within the model that you're using
11 to estimate biomass and estimate fishing mortality
12 rates and all those other components. They're all
13 done together in one model. That's the most ideal
14 situation.

15 It's a little different than for some
16 of our other stocks. Some of you are -- I'm most
17 familiar with summer flounder, which is one of mine,
18 where we estimate biomass, fishing mortality, things
19 like that in the ASAP model, but we do our fishing
20 mortality rate reference points using yield per
21 recruit analysis, which is outside of that model.
22 It's a separate analysis that's done.

23 So, in this case, summer flounder
24 would fail on that criteria, because it wouldn't be

1 fully integrated.

2 All the relevant quantities are
3 estimated for a stock assessment under Level 1. The
4 FMSY, OFL, BMSY, stock status and all the
5 uncertainties that need to be addressed are there,
6 and there's no substantial retrospective pattern.

7 This is the ideal situation, the
8 situation that you would strive to with your stock
9 assessments. At this point, it's extremely unlikely
10 that any of our stocks would fall into this
11 category.

12 Now, Level 2 has greater uncertainty
13 than Level 1. The distribution of that overfishing
14 limit is missing some important sources of
15 uncertainty. The Stock Assessment Workgroup would
16 need to use some expert judgment when they prepare
17 the assessment and the overfishing limit
18 distribution, because some of those pieces are
19 missing. But the distribution when it comes out of
20 the assessment, the SSC is comfortable with that and
21 the way that the assessment workgroup has treated
22 that, and they deem that distribution to be best
23 available science.

24 So, again, under Level 2, you take

1 the ABC and it would be determined from that
2 distribution that has -- that's coming out of the
3 stock assessment but has had some additional special
4 treatment during the stock assessment to
5 characterize these other sources of uncertainty and
6 take your risk of overfishing and combine those to
7 come up with what that ABC is going to be.

8 Those criteria and key features in
9 the biology of the fishery or data are missing from
10 the stock assessment. So, there's definitely some
11 components we have missing, less than the ideal
12 situation.

13 The estimation of the relevant
14 quantities are there. We have stock status
15 estimates, biological reference points and
16 uncertainties, but some are missing or aren't fully
17 promulgated through the model. So, maybe either
18 there, but they haven't been addressed in
19 calculations of reference points, they haven't been
20 carried all the way through in terms of what you get
21 for final estimates.

22 The estimates of precision around
23 biomass, fishing mortality rate and biological
24 reference points are provided. And the accuracy of

1 the maximum fishing mortality threshold and future
2 biomass projections are done using ad hoc types of
3 methods.

4 So, there -- the bottom line is there
5 are some pieces that are missing here in terms of
6 the uncertainty that's not being carried all the way
7 through in terms of calculating where you are in
8 terms of biomass, where you are in terms of fishing
9 mortality or your reference points.

10 Now, Level 3 is basically the same as
11 Level 2. You have some of those things that are
12 missing and the same criteria would apply. However,
13 the assessment does not contain an overfishing limit
14 or overfishing limit distribution or it's not
15 considered to be best available science by the SSC.

16 So, you may have an overfishing limit
17 that the Stock Assessment Workgroup has prepared,
18 but when the SSC looks at it, they say well, you
19 haven't really handled the uncertainty correctly
20 here, we're not real comfortable with that, that's
21 not best available science. It may over or
22 underestimate the accuracy of the overfishing limit.

23 So, at that point the SSC would take
24 that distribution and they would need to adjust it

1 to come up with a final overfishing limit
2 distribution.

3 And that distribution -- this
4 modified distribution can again be used in
5 conjunction with the Council's risk policy, whatever
6 that upper limit on your tolerance for overfishing
7 would be, and find where on that distribution that
8 would sit and then you'd get your ABC.

9 So, Levels 1, 2 and 3 all are a
10 variation on that theme of OFL distribution,
11 probability of overfishing from the risk policy.

12 Level 4 is a little bit different.
13 Level 4 is for the problem assessments. Reliable
14 estimates of trend or abundance -- excuse me --
15 reliable estimates of trend in abundance or catch
16 are available, but absolute estimates of abundance,
17 such as biomass, fishing mortality or biological
18 reference points, are suspect or absent.

19 So, you may be able to tell in
20 general well, maybe the stock is going up, maybe the
21 stock was going down, but in terms of where you are
22 really in terms of the magnitude of those numbers,
23 you may not be really sure.

24 Stocks in this level may not have

1 point estimates or distributions for the overfishing
2 limit. They'd likely fail peer review or are deemed
3 highly uncertain, and for these stocks, simply
4 control rules based on biomass or catch history and
5 the risk policy from the Council would need to be
6 applied. So, these are sort of ad hoc type
7 approaches, and it's going to depend on what
8 information is available that is reliable that would
9 help -- excuse me -- help drive selection of those
10 control rules.

11 You know, one example would be if it
12 goes through a stock assessment and it's rejected
13 because the indices of abundance are not reflective
14 of what's going on with the stock, then maybe using
15 indices of abundance to come up with your control
16 rule is not a really good idea.

17 But maybe the catch is more reliable.
18 So, maybe using the catch series to come out with a
19 control rule for ABC would make more sense if you're
20 confident that your catch is being accurately
21 collected.

22 So, this is the place where those
23 assessments that are not doing very well, we have
24 limited information, may end up.

1 As I said before, Level 1, it's
2 unlikely any of our stocks would fall into that
3 category at this point. So, most of them would be
4 in that -- it would likely be in that Level 2, Level
5 3 or Level 4 area.

6 Oh, well, I forgot my Level 4
7 criteria, but -- I've got the -- you've got the gist
8 in terms of this.

9 And the only other thing I left out,
10 the retrospective pattern issue. Level 4, stocks
11 that have larger retrospective patterns, you get a
12 retrospective pattern because the assessment is
13 doing a poor job of characterizing something in that
14 model. So, those may end up in that category, as
15 well.

16 Okay. So, that's an overview of the
17 ABC framework option that's been developed in the
18 document. Hopefully I did a good job describing
19 that. If I didn't, if John has anything to add or
20 comment on in terms of those levels, by all means go
21 ahead and I'll open it up.

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Questions for Jessica? Jim.

24 JAMES WEINBERG: Over here, Jess.

1 Hi. When you were talking about Level 3, one thing
2 struck me as -- it just stuck out, that bullet where
3 it says or the probability distribution provided is
4 not considered best available science by the SSC,
5 that seems to me to be kind of a different -- have a
6 whole different flavor, because if the -- it's
7 implying that some science that they are presented
8 with, they found something wrong with the science,
9 which is -- I mean why wouldn't you apply that
10 across the board to everything in an assessment? It
11 seems like a different animal than -- I'm having a
12 little trouble describing it, but I guess in general
13 this is saying to me something they've been provided
14 by someone else that is supposedly like a scientific
15 result, they're disagreeing with it. And you know,
16 concluding that it's wrong.

17 And what I'm saying is if that's
18 wrong, then that should apply to all of the science
19 that's provided. So, I don't see why you focus on
20 the PDF of the OFL.

21 JESSICA COAKLEY: I'm going to go
22 ahead and punt this one over to John to respond to
23 that.

24 JOHN BOREMAN: Thank you. This was

1 kind of a later development. We had originally four
2 levels, as you know, and we had a lot more
3 difference in the criteria between Level 2 and Level
4 3. But the more that the sun subcommittee and the
5 full SSC talked about it, the more we realized the
6 difference between Level 2 and Level 3 boiled down
7 to how we're going to characterize the overfishing
8 level in the future.

9 And at first we thought well, that
10 should be something the SSC should do based on the
11 assessment information, but then we decided well,
12 maybe we're not in the best position. The best
13 people in the position to do that are the people
14 doing the assessment itself. They're the most
15 familiar with the databases.

16 So, we're asking the Center or
17 whomever is doing the assessments to incorporate
18 that future projection to what OFL might look like
19 in the future, the distribution of OFL into the
20 assessments, knowing that it's -- it's not a
21 formulaic approach. They're going to have to use
22 some ad hoc methods to do that or some methods
23 outside the current assessment modeling.

24 So, it boils down to if we agree with

1 the method that's chosen by the assessment people to
2 do those projections, then it will be a Level 2. If
3 -- and we had a lot of discussion on this and
4 there'd be instances where we have just a scientific
5 disagreement. And we feel that there might be a
6 better approach out there and we use that, we ought
7 to take the task on ourselves as opposed to leaving
8 it up to the stock assessment people and try a
9 different approach. Then it would be a Level 3,
10 because it would be -- should be a lower tier level,
11 since -- you know, we're not a hundred percent
12 familiar with all the data and underpinnings, just
13 that we disagree with the approach used by the
14 Center.

15 So, that's why we're singling that
16 out as an important key factor in between Level 2
17 and Level 3. Sure, we can look at all the other
18 information and make a judgment on whether we're
19 being provided best available science or not.
20 That's going to happen anyway. But in this case, we
21 considered this to be critical enough that it
22 deserves its own tier level.

23 COUNCIL CHAIRMAN RICHARD ROBINS: I
24 think there was another question. Peter.

1 PETER DEFUR: I have two. One of
2 them was Jessica -- I was going to ask Jessica if
3 she'd give us an example of one of our current
4 stocks that might be in assessment Level 4.

5 And then -- I don't know whether -- I
6 don't know whether this is better for Jessica or
7 John or both, but it was going to be about this
8 question on Level 3 about not considered to be the
9 best available science. Is that -- I'm cogitating
10 on John's answer there, which is why I'm sort of
11 hesitating here. Is that the right phrase for what
12 you just said?

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Well, I think -- Peter, I think part of it is
15 whether or not the probability density function that
16 is going with the OFL estimate fully accounts for
17 the uncertainty in the estimate of the OFL. I think
18 that's -- that's part of the question --

19 PETER DEFUR: Yeah.

20 COUNCIL CHAIRMAN RICHARD ROBINS: --
21 that the SSC is grappling with. Because you know,
22 what's contemplated here is a probalistic approach
23 to account for uncertainty.

24 PETER DEFUR: Oh, yeah. That's just

1 the phrasing. Do we have an example, Jessica, of
2 Assessment Level 4?

3 JESSICA COAKLEY: Well --

4 UNIDENTIFIED (No microphone):

5 (Inaudible.)

6 JESSICA COAKLEY: Yeah, I mean I have
7 -- been hearing rumors about butterfish and how
8 things are going and it may end up in there. So,
9 that would be one example. You know, thinking of
10 other examples for people who were around before we
11 had an analytical assessment for scup and sea bass,
12 when we were doing index-based approaches for those
13 stocks, where we had a reference point was index-
14 based, or figuring out where we were in our current
15 year was based on the index that was available.

16 We definitely wouldn't have an OFL
17 distribution or anything close to that coming out of
18 that type of assessment. So, those would be
19 examples of those that are the problem children that
20 may end up in Level 4.

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Other questions for Jessica? John.

23 JOHN BOREMAN: Just to add to that,
24 there's probably very few of the species that would

1 not wind up in Level 4. Summer flounder or dogfish
2 may be a 2 or 3. There's probably no stock right
3 now being assessed anywhere in the world that would
4 be a Level 1. It's just the way it is.

5 We have excellent data on summer
6 flounder, dogfish, what Dr. Rago described
7 yesterday. We probably have enough information to
8 put it into a Level 2 or a Level 3. But most of the
9 other stocks will be in Level 4 at some -- some part
10 of Level 4. So, that reverts to the risk policy at
11 that stage.

12 COUNCIL CHAIRMAN RICHARD ROBINS: Any
13 other questions for Jessica before we move on?

14 (No response audible.)

15 COUNCIL CHAIRMAN RICHARD ROBINS: All
16 right. Jessica.

17 JESSICA COAKLEY: Okay. Well, the
18 next section I'm going to move on to is dealing with
19 the Council risk policy. The information for this
20 starts on Page 16. After I've gone through my
21 information for the discussion section, Lee Anderson
22 has some slides that he'd like to pull up for
23 discussion, as well. So, we'll switch cords once I
24 get through what's presently in the document.

1 The risk policy is part of the ABC
2 development process; and as you saw, it fits into --
3 it's a necessary component of all four of those
4 levels to help the SSC determine what those ABCs are
5 going to be.

6 The risk options express the
7 tolerance for overfishing, that Council tolerance,
8 and it would express what that upper limit would be.
9 So, if you set an upper limit at a certain value,
10 once you implement -- you know, ACLs and some of
11 those other things, operationally it may end up a
12 little bit lower than that level, but that would be
13 -- you know, your -- the higher level -- highest
14 level of tolerance you would have for overfishing
15 when that ABC is being sent.

16 The overfishing limit -- oh, I
17 already said that. The Council chose to approach
18 risk policy with a formal overarching policy that
19 would be -- that would apply to all of the stocks
20 for which these requirements are going to be needed.

21 And we've walked through a series of steps. I
22 think we started this discussion last April is when
23 we started -- started the discussion of risk and we
24 worked through all of that to the options that are

1 in the document right now.

2 So, again, setting risk, looking at
3 that distribution of the overfishing limit, and that
4 point estimate in the middle, which at this point is
5 a hundred million pounds of catch. If you have a
6 narrow distribution, a narrow level of uncertainty
7 that's characterized by the SSC and you set your
8 probability of overfishing -- in this case, for
9 example, is 25 percent, that would result in a
10 little over 86 or 87 million pounds for your ABC.

11 However, that same probability of
12 overfishing has a different meaning when you have a
13 larger OFL distribution, where you have more
14 uncertainty where you have to account for that.

15 In this case, this is a log normal
16 distribution. It's got a CV of 35 percent. So,
17 it's a much wider spread. And with that same 25
18 percent probability of overfishing, an ABC a little
19 over 71 million pounds would be consistent with
20 that.

21 So, that really is the interplay of
22 what you choose for that probability of overfishing
23 and how that fits with how the scientific
24 uncertainty is being characterized when either of

1 these distributions are being applied or those ad
2 hoc type control rules might be applied in that
3 Level 4 category.

4 There are a lot of elements that are
5 in the options that are in this document. Clearly,
6 there's an interplay between those two components.
7 One of the options that's in there is a constant
8 probability of overfishing. That's basically -- has
9 no elements that are included. You just say I've --
10 it's going to be 25 percent all the time, all
11 species, it doesn't matter if it's overfished, not
12 overfishing, where the stock is, any of those other
13 types of conditions.

14 The New England Fishery Management
15 Council, they have applied a fixed value of P_{star} 25
16 percent for some of their stocks as those plans have
17 started going through.

18 Other Councils have taken different
19 approaches, like South Atlantic Fishery Management
20 Council. They specified a range for the
21 probabilities of overfishing from 10 percent to 40
22 percent, and they essentially asked that the SSC,
23 when they come up with their ABC control rules, come
24 up with values within that range that are consistent

1 essentially with 10 to 40 percent, which is the
2 Council's risk policy.

3 So, that first one is a constant
4 fixed value. Important criteria you might want to
5 consider:

6 A stock status, assessment level,
7 which is either that Level 1, 2, 3 or 4 from the ABC
8 framework.

9 A stock history, has it been
10 overfished previously? Has it never been overfished
11 before, which may indicate that there may be a lot
12 of interest. If it has been overfished before,
13 previously, there may be a lot of effort on it,
14 interest in it. It may be one of those that may be
15 more susceptible to becoming overfished again.

16 And then life history, does it have a
17 typical or atypical life history pattern. And you
18 know, looking at things like dogfish that has --
19 there are extremely long-lived, don't reproduce very
20 early. That may be something you want to take into
21 account, because the consequences of overfishing
22 something like that, which has such a long -- an
23 unusual life history, may be that it takes you 30,
24 40 years to rebuild the stock if you end up

1 overfishing it. So, that may influence your
2 tolerances. And you can express these as either
3 continuous functions or categorical options.

4 Under all of the alternatives, based
5 on what you looked at in February, these general
6 provisions would apply. For stocks under rebuilding
7 plans, the upper limit on that probability of
8 exceeding the rebuilding F would be 50 percent,
9 unless modified to a lesser value through a
10 rebuilding plan amendment.

11 Essentially, this is what we've been
12 doing now with our rebuilding stocks. So, this
13 isn't inconsistent with that. It just sort of
14 reiterates this aspect of the policy and what would
15 be done under the rebuilding plan. And if you want
16 to do something different, you can do that during
17 the plan amendment.

18 And one example would be bluefish.
19 Bluefish -- basically, when their rebuilding plan
20 was structured, you either fished at the rebuilding
21 F or the prior year F , whichever is less. And it
22 was worded that way so if it turns out your F is
23 coming in lower, than you would maintain that lower
24 F .

1 So, you could essentially, as you're
2 rebuilding, scroll that F downwards until you get
3 the desired effect in terms of the stock increasing.

4 So, doing something like that would
5 be a little different than this, and the Council
6 would have that ability to do those kinds of things
7 in the rebuilding plans, but that you would stick to
8 not going over that 50 percent probability of that
9 rebuilding F.

10 In addition, if no overfishing
11 definition is available for a stock, which means we
12 don't have an FMSY or FMSY proxy, which means we
13 can't tell if we're overfishing or we're not
14 overfishing, then an upper limit, a cap on allowable
15 increases in catch levels would be established.

16 And those catch levels couldn't be
17 increased until an appropriate FMSY or FMSY proxy
18 has been identified.

19 And basically, this general provision
20 would be a backstop against not having an
21 overfishing definition come out of the SARC and not
22 having an overfishing limit that comes out of the
23 SSC specifying the ABC.

24 So, it's really we have zero criteria

1 in terms of whether overfishing is or is not
2 occurring. This would be extremely unlikely to
3 happen, and I know that right now butterfish -- some
4 of these others -- there are issues in terms of what
5 the overfishing limits and those reference points
6 are going to be for that stock, but in this case,
7 I'm sure that that's something the SSC is going to
8 be talking about looking at what the overfishing
9 limit should be.

10 So, in that case, this provision
11 wouldn't kick in. But if, for example, the SSC met,
12 you have no overfishing definition coming out of the
13 SARC and they can't agree on what an overfishing
14 limit should be, and then -- so the Council isn't
15 being guided there, and then you come to the Council
16 meeting and need to make a decision that basically
17 your position would be okay, we're not going to
18 increase catch until we figure out what those things
19 need to be.

20 So, these were presented to you back
21 in February, and both that and the rebuilding one
22 were included as general provisions that are
23 described for all the alternatives.

24 The first alternative that you had

1 agreed to include in February was the constant
2 probability. This is that 25 percent under any/all
3 circumstances, the universal value.

4 Another alternative that's included
5 in the document, this is an alternative that would
6 include both stock status and assessment level,
7 depending on the ABC framework. And it has my
8 correction from 1.49 to 1.99, which is now reflected
9 in the document, that insidious little typo.

10 So, based on this alternative, if you
11 were in the worst assessment level category, which
12 would be that Category 4, and the stock had dropped
13 below .5 BBMSY, which means you've gone below the
14 rebuilding trigger, until a rebuilding plan kicks
15 into place, which we know can take up to two years,
16 to come up with that probability on -- the upper
17 limit on that probability of overfishing that would
18 be acceptable would be 14 percent.

19 So, that means about 85 percent of
20 the time, you'd set -- catch would be set at a level
21 so that about 85 percent of the time you would not
22 be overfishing.

23 And going all the way up to far right
24 category, if the stock is double BMSY, essentially,

1 out past 2 and beyond, so the stock size is quite
2 large and you're in that ideal assessment category.

3 The probability of overfishing in this case would
4 be a 50 percent probability, which is that 50/50 --
5 50/50 in terms of whether you're overfishing or not
6 overfishing when you've set it at that catch level.

7 All of these alternatives were put in
8 front of the SSC when they met in February -- well,
9 actually, excuse me, I think it was early -- was it
10 early March? It was early March when the SSC met.

11 And there were a couple of things
12 they were asked about. One of the things they were
13 asked about was the assessment level issue, and is
14 it or is it not a double application of uncertainty
15 by including the assessment level in the risk policy
16 as well as in the ABC framework, as well.

17 And the response from the SSC wasn't
18 definitive. Mike Wilberg at that meeting had
19 pointed out that this is something that SSC's have
20 discussed at a national level, and they were
21 debating that at the national level, whether it was
22 or wasn't appropriate to include that.

23 And you know, Tom Miller had spoken
24 up and said well, it may depend on how much

1 flexibility you have in the ABC framework and how
2 much flexibility you have in the risk policy.

3 Because there's really an interplay
4 that they're going to fit together as two pieces,
5 and if you have more flexibility in one, maybe you
6 don't need as much flexibility in the other.

7 So, I wish I had some definitive
8 advice on that, but I don't at this point in terms
9 of -- in terms of inclusion of that. And even Rich
10 and I debated this before we came in the meeting.

11 I didn't think it was an issue to
12 include it and Rich didn't think it was appropriate
13 to include assessment models. So, that will tell
14 kind of how -- it all depends on how you look at
15 this.

16 So, that's something that the Council
17 is going to -- you're going to need to think about
18 and decide how you feel about whether or not
19 assessment levels should be included.

20 Another alternative, 2D that's
21 included in the document, this includes both stock
22 status, includes assessment level, but it also
23 includes a stock replenishment threshold when BBMSY
24 drops extremely low to like .10, so that would be --

1 you know, ten percent of BMSY, way down below your
2 rebuilding threshold of one half BMSY.

3 And the idea is once you get down
4 that low, you would try to reduce mortality as much
5 as possible. You don't want to have -- at that
6 point you're dealing with sort of stock jeopardy as
7 to whether you're going to drive the stock down to a
8 level from which you can't recover. So, that was
9 included in this.

10 One thing that was debated also at
11 the SSC meeting was something that was raised, was
12 the idea of where the inflection point should be.
13 Should the inflection point for these risk policies
14 sit at BMSY, sit at a ratio of one, should it be at
15 one and a half, should it be at two. Is one and a
16 half arbitrary?

17 And again, I don't have a definitive
18 answer coming out from the SSC on this. However,
19 just -- I'll put my sort of perspective on this, and
20 the way I thought of it with inclusion.

21 When you're thinking of stock status
22 and where you sit and where that inflection point
23 should be for that probability of overfishing, I
24 look at it as how comfortable am I with where the

1 stock is in terms of its levels to be fishing at a
2 higher probability of overfishing?

3 And for me -- you know, if you're
4 going to go up to 50 percent or 45 percent
5 probability of overfishing, which has a high
6 probability of success -- of failure associated with
7 it, as well, I want to be pretty comfortable that my
8 stock size is high enough that if we set for some of
9 our stocks multi-years, if you set that for three
10 years, that you're not going to drive the stock down
11 below half BMSY and we're going to have to initiate
12 a rebuilding plan.

13 You know, if you're going to apply
14 that kind of probability of over - you want to be
15 confident you're way out to the right. So, that's
16 sort of my view on that. But again, it's your
17 tolerances that need to be reflected here, so I
18 think you need to think about should this be at 1.0
19 -- you know, which would be BMSY. 2.0 is equated to
20 being about where K should be, carrying capacity.
21 One and a half ended up in here because it's kind of
22 splitting the difference between the two of those,
23 because I wasn't real sure, should it be at one,
24 should it be at one and a half.

1 But it needs to reflect your
2 tolerance for that. So, as you look at these
3 options, think about that, as well.

4 Alternative 2E that's included in the
5 document, this includes stock status, this includes
6 assessment level. It has that stock replenishment
7 threshold in there. But it has two inflection
8 points, one at that 1.0, which is BMSY when your
9 biomass is at that level, and one is at 2.0. So,
10 really you're not going to fish at those higher
11 probabilities until you're out to where you think K
12 might be.

13 The last alternative that's in here
14 is Alternative 2F. It's a categorical type
15 approach. And again, you can pick continuous, you
16 can pick categorical, and if there are things that
17 you like that are continuous that you want to see as
18 a categorical, that can be done, too.

19 In this case, the criteria are stock
20 history -- has the stock been previously overfished?

21 And that could be it's overfished right now or it
22 was overfished in the past. Or has it never been
23 overfished? What the life history pattern is,
24 typical or atypical; and what the assessment level

1 is.

2 So, the probabilities of overfishing
3 in this range from 10 percent in the sort of worst
4 case where you've got an atypical -- an atypical
5 life history, it's been overfished before, and it's
6 in the lowest lowest assessment level, to all the
7 way up to 50 percent if you've got a typical life
8 history, something that we think stock assessments
9 are able to characterize what's going on with that -
10 - with those stock dynamics. We're in the highest
11 assessment level, we characterized everything we
12 possibly could in terms of uncertainty, and it's
13 never been overfished. So, the stock should be in
14 good condition.

15 So, that's the range of those options
16 included in the document. Oh, yes, go ahead.

17 PETER DEFUR: Mr. Chairman? Lee?

18 COUNCIL VICE CHAIR LEE ANDERSON: Go
19 ahead.

20 PETER DEFUR: That's you. Thank you
21 very much, Mr. Chairman. Maybe the SSC addressed
22 this question, but after we saw this -- in February,
23 right?

24 JESSICA COAKLEY: Mm-hm.

1 PETER DEFUR: Yeah. I began to think
2 and wonder whether or not the life history pattern
3 and the overfishing history are considered in the
4 assessment level. So, you brought it up about
5 whether or not there's a double-counting of
6 uncertainty, but does this double-count the stock
7 status and the life history pattern and the biology
8 of it?

9 And I'm asking out of ignorance,
10 because I couldn't see -- you know, in all my
11 reading, it wasn't clear to me that it was or wasn't
12 double considering it. So, maybe you and John have
13 thought about that, or maybe the SSC has or --

14 JESSICA COAKLEY: Well, I'll chime in
15 and then I'll let John follow up after and hopefully
16 we'll kind of answer this.

17 The SSC didn't explicitly comment on
18 this when we met in early March, but part of the
19 basis for including that typical versus atypical, it
20 is something that they're going to look at when they
21 look at the stock assessments and how that
22 information is being characterized, how
23 representative the assessment is of the biology of
24 the stock.

1 But the way I view it here is it's
2 not simply the biology of the stock. It also
3 relates to the consequences of overfishing that
4 stock.

5 So, in my mind, when I think of
6 typical and atypical, I think of like dogfish are
7 like west coast groundfish, where they have like
8 100-year rebuilding plans for some of their stocks.

9 What are the economic consequences of driving
10 something down and having to be under rebuilding
11 plan for a hundred years?

12 That's very different than something
13 with a shorter life history that if you drove it
14 down it may be able to recover in five years.

15 So, when I looked at this, it didn't
16 necessarily just relate to how the stock assessment
17 is characterizing its life history, because I think
18 that's on that ABC framework side. I think this
19 relates to the consequences of -- the consequences
20 of that life history pattern and what those social
21 and economic -- all those other impacts might be.

22 So -- and that's the same thing as
23 you look at this -- in terms of your tolerance, I
24 think those kinds of things are going to drive your

1 tolerances for what those probabilities should be.

2 So, I'm going to pass off to John, if
3 he has anything else to add, and hopefully that was
4 helpful.

5 JOHN BOREMAN: What Jessica describes
6 is one way to look at it.

7 UNIDENTIFIED: And now for another
8 way.

9 JOHN BOREMAN: Well, this is another
10 way to look at it. In essence, you're right, many
11 stock assessment models already take into account
12 atypical life history patterns and not so much the
13 history of the fishing though in terms of how many
14 times has it been declared overfished? How do you
15 factor that into an assessment model? You can't.

16 And that's just if it happened often
17 in the past, it's probably going to -- likely to
18 happen often again in the future, because it's that
19 type of a stock that's very variable. Depending on
20 the definition that's chosen by the Council for what
21 is overfishing for that particular stock.

22 But the atypical here, what I have in
23 mind is those life history traits that aren't picked
24 up in the stock assessment modeling. I'm thinking

1 of black sea bass, where you have a species that
2 changes sex when it turns to be four years old.

3 They're just starting to do that now,
4 putting in a differential natural mortality rates
5 for males and females in certain ages to account for
6 the sex change. But in the South Atlantic, with the
7 groupers, other reef fishes, you see this more
8 often. But that -- the typical -- the stock
9 assessment models in the toolbox can't handle that
10 at this point in time, those type of life history
11 traits.

12 So, that would be atypical to what
13 the models can handle. And in that case, you may
14 want to have a special allowance in your risk
15 tolerance for those traits that you know were there,
16 that are happening, but they're probably not being
17 picked up in the modeling or in the projections.

18 Removing all the large males from an
19 area of the bottom of black sea bass could be
20 devastating to the population. But for a typical
21 life history, you may not be as worried about it,
22 but here you have to worry about the sex change,
23 females developing into males and the added
24 mortality or stress on the population that would

1 cause.

2 So, you can't -- you can't quantify
3 it like you can in the stock assessment, but you
4 know it's happening and it's probably causing some
5 stress that you need to account for in some way.

6 JESSICA COAKLEY: Okay. Is someone
7 else's hand up? Oh, Jim. Jim.

8 JAMES WEINBERG: Jessica, could you
9 go back to the table -- it was similar to this ,but
10 an earlier one. That one, yeah.

11 I think there's -- it's a little --
12 there's a lot behind this that isn't obvious, like
13 when you're in a tier 1 and it makes perfect sense
14 if you can calculate the PDF of the overfishing
15 level. You can actually use that to get an exact
16 value of probability of overfishing. Going across
17 the top right, you can select the catch that
18 represents a particular probability of overfishing
19 at 20, 30, 40 or 50.

20 But if you get down to Tier 4, where
21 you don't have a PDF of your OFL, then all you have
22 if you're lucky is a point estimate of the
23 overfishing -- of the proxy for FMSY. And in that
24 case, you're talking about a very different sort of

1 analysis to determine the probability of
2 overfishing. It would be like a projection where
3 you'd do some sort of projection and you'd see what
4 fraction of the catches go above the proxy for FMSY.

5 And that's how you would be determining that.

6 So, even though you might think that
7 you're -- you know, selecting 14 percent or 21,
8 according to the bottom row, it's really based on an
9 entirely different sort of analysis, as I see it.

10 So, it's a little -- it's a little
11 misleading to think that the bottom row is going to
12 give you probabilities in the same sense that the
13 upper row will, because they're really developed by
14 two completely different methods because of the
15 information that you have.

16 JESSICA COAKLEY: Yeah, no, I think
17 that's a really good point, and -- for those upper
18 three levels, like you said, you're going to have an
19 OFL distribution either straight out of the stock
20 assessment that's perfect in Level 1 or some
21 modified version of that.

22 But in this bottom row, really it's
23 -- you're informing your tolerance for overfishing,
24 but there's going to be a lot more work involved in

1 coming up with what that ABC should be and this
2 would at least provide guidance to the SSC when
3 they're developing that. These are what your
4 tolerances are and they can respond back whether
5 what they're developing is consistent or
6 inconsistent with these values in that lower level.

7 So, it's actually -- it's sort of a
8 -- not necessary, but the policy is -- it's sort of
9 an imperfect application of how you're going to work
10 through that lowest level. But no, I think that was
11 a good point.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Peter.

14 PETER DEFUR: Thank you, Mr.

15 Chairman. In this particular case, and I guess John
16 is probably the one I'm asking this question of,
17 without an empirically-based quantitative
18 probability density function, what does the SSC do?

19 I mean Jim was just talking about a point estimate.

20 Do they make an assumption about what the curve
21 might look like, or do they -- or is it on a case by
22 case basis or -- what does the SSC do on that?

23 COUNCIL CHAIRMAN RICHARD ROBINS: I

24 think in Tier 4 they're covering an entire range of

1 ad hoc methods; right, John?

2 JOHN BOREMAN: Yeah, we could take a
3 stab at -- as you said -- you know, what the PDF
4 might look like. Or you know, it's probably wide --
5 very wide and very imprecise. Or we can go to other
6 methods.

7 I mean, if we're just totally
8 uncomfortable with even trying to derive some PDF
9 proxy, we might go to just look at recent catch
10 history or the catch history related to when the
11 stock was growing or declining in the past and what
12 levels of catch supported that, like we did with the
13 black sea bass. Picked a level that looked like it
14 was a safe level that the catch at that level had --
15 the stock was increasing or maintaining a good size.

16 So, there's a number of different
17 methods that can be used, so -- yeah, you're right.

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Rich, you want to follow up?

20 RICHARD SEAGRAVES: Yeah. Well, it's
21 actually even worse than that. One of the things of
22 the Tier 4 is you don't have an OFL. How can you
23 have a PDF around the OFL? So, it is more than
24 likely going to be primarily -- you may have a

1 proxy, you may not even be able to come up with a
2 proxy, but the -- I think Jessica's answer is yes,
3 it's relative between the tiers how you would treat
4 them, but in fact you're almost lying in the dark in
5 Tier 4.

6 So, probability numbers there are --
7 relative utility, but in absolute terms probably not
8 very good.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Jim.

11 JAMES WEINBERG: Yeah, and then just
12 to come back to my point, I think what I was trying
13 to say was then to look at that bottom row and say
14 14, 21, 28, you're kind of -- have a false sense of
15 precision here.

16 In the upper row, you truly do know
17 that it's 50 percent or 40 percent; but in that
18 bottom row to say 14 percent, you're kind of fooling
19 yourself to think you really have that.

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Pat.

22 PAT AUGUSTINE: Thank you, Mr.
23 Chairman. I'm fighting to stay awake. We've gotten
24 so deep into this, it's at a point in time where I'm

1 not sure who's really understanding where we're
2 going with this.

3 And just based on the last three
4 comments, and John nodding your head to what Ricks
5 had to say and what Dr. Weinberg had to say, why do
6 we have Level 4 there if it's a non-entity?

7 It just seems that all the things
8 that Jessica has put out here are very relevant to
9 what it is we're trying to accomplish; but again,
10 comes across so complex that when it's time for a
11 vote, I have a sense that we're going to be looking
12 at each other saying which way are you going to
13 vote. And it's just gotten complex to that point in
14 time.

15 I'm not sure how we can simplify
16 where we're going and have the same accomplishment.
17 I think this is most important, but it's just way
18 out there. And if I were a fisherman having to deal
19 with this, I probably would have fallen asleep. And
20 a couple of them were sleeping out in the back.

21 But I'm not -- my message is how do
22 we bring this down to a little more simplistic form
23 and still have the control that we're trying to put
24 into this? And I don't have an answer. I'm just

1 throwing that out as a question. Whether there's an
2 answer or not, I don't know, but -- I could use some
3 help, Mr. Chairman.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Pat, it may be in the end that we end up with a
6 single risk policy function that's not tiered
7 necessarily, and is frankly a little bit more easy
8 to apply.

9 I think, as Jessica said, the
10 discussion in the SSC was not definitive, but I
11 think there are questions mechanically about whether
12 you want to account for the -- whether the
13 uncertainty is adequately accounted for in the PDF
14 itself or whether you want to change your Pstar at a
15 different tier. And you know, I think arguably you
16 could use a single control function to do that. And
17 if you do that, you have a much simpler function at
18 the end of the day.

19 Lee has a presentation on risk that's
20 going to follow Jessica, and I think that will be
21 helpful to us. And at that point we can have a
22 broader range of discussion on this, I think.

23 But I saw a couple other hands up.
24 Vince.

1 PAT AUGUSTINE: Before Vince, thank
2 you very much for that clarification. It helps a
3 great deal.

4 VINCE O'SHEA: Yeah, if you're going
5 to have a broader discussion, I'll save my comment
6 till then. Thanks.

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 Pete.

9 PETER HIMCHAK: Yes, thank you, Mr.
10 Chairman. Yeah, I'm trying to follow and make sure
11 that I'm correct in all my assumptions here, and
12 what I see that may really be helpful today is when
13 we go through the summer flounder hypothetical
14 example, because I'm trying to figure out all the
15 percentages and essentially the way I understand it
16 right now, we will pick a level of assessment from 1
17 to 4. And then if you look at the five and a half
18 million pounds that comes off of the OFL, I think
19 it's coming from this -- the 17 percent is coming
20 from this table. But that's -- you know, if we had
21 an example to go through where we could see these in
22 operation, I think that would help.

23 COUNCIL CHAIRMAN RICHARD ROBINS: All
24 right, Pete. Jessica.

1 JESSICA COAKLEY: Okay. Just the
2 quick answer on this hypothetical is the step
3 between going from the OFL, that 34 million pounds,
4 to that ABC, that 5.5, would be a combination of
5 taking scientific uncertainty account, whatever that
6 distribution is, and then whatever level of risk of
7 overfishing that the Council applies here. Those
8 would be combined to figure out what that amount is.

9 And this example it happens to be 5.5
10 million pounds. So, these first two sections would
11 essentially be the step above the black line on the
12 hypothetical. Okay?

13 All right. But I'll get to the
14 hypothetical when we get to summer flounder, because
15 it will take a little while to roll through the
16 whole thing.

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Gene.

19 EUGENE KRAY: The thing that concerns
20 me, and I'm sort of agreeing with Pat, that if this
21 is a public hearing document and we who have been
22 doing this stuff for a bunch of years have -- are
23 having trouble following it, how is a Joe Fisherman
24 public going to be able to absorb this? And I think

1 we just have to come to some -- a simpler way or a
2 way that -- we have to dumb it down is maybe what
3 I'm saying, so they understand what's --

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Gene, why don't we -- why don't we hold that thought
6 and see if we can't achieve that after Lee talks.

7 Jessica, do you still have more in
8 this section?

9 JESSICA COAKLEY: No, no. I'm done
10 with that -- this section. I can give the cord to
11 Lee if he wants to connect.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Okay. Jim, why don't we get to you after Lee, okay?

14 COUNCIL VICE CHAIR LEE ANDERSON:

15 While Jason is hooking me up, I have to say a few
16 introductory remarks. One is Gene and Pat say
17 they're already going to sleep and they're confused
18 and -- so, this is really a good setting for me to
19 start in. I'm motivated as hell now. Try to get
20 everybody going.

21 Let me tell you the motivation for
22 this. When we passed this motion that set this
23 thing up at the Maryland meeting -- and
24 unfortunately, Jessica wasn't there, so you didn't

1 have the benefit of her helping getting that going,
2 I was a little worried that the five we chose
3 weren't necessarily the best, that we really looked
4 at it. But they're good. I have no problem with
5 that. But I'm concerned that did we really --
6 somebody's stealing my notes now. Where did they
7 go? That will help.

8 (Pause.)

9 PRESENTATION BY VICE CHAIRMAN LEE ANDERSON:

10 THE DERIVATION AND OPERATION

11 OF A COUNCIL RISK POLICY

12 COUNCIL VICE CHAIR LEE ANDERSON: All
13 right. I'll have to add we're set -- okay, I don't
14 want -- I won't start there. I won't start there.

15 But I was concerned about this, and
16 so John and I and Rick started talking about
17 information display, are we getting this information
18 across in the right way?

19 We started talking about -- we had a
20 little discussion of this at the SSC and we went on.

21 And then when Jessica came out with the public
22 hearing draft, I started reading it, Rick and I
23 started reading and say is there some sort of a way
24 that we can work to make it easier?

1 But I'll tell you, this ain't -- this
2 may not be rocket science, but it's the next thing.
3 It's hard. So, we can -- you can't dumb it down and
4 really do it. So, we'll try to do the best.

5 And one thing I want to say is that
6 if you look at the public hearing draft, everybody
7 should take off their hat and jump -- and bow to
8 Jessica because this is a very tough document, and
9 you read that thing and it's hard writing this, and
10 it's sometimes hard reading it.

11 And you look at it, I did anyway, I
12 looked at it anyway and said boy, this is tough, but
13 there's -- then you look back at it and say she did
14 a great job because I don't know how I could have
15 done it easier in the context of covering all of the
16 issues.

17 So, again I appreciate what Jessica
18 has done and I will say that in this discussion,
19 Rick and I and Jessica and John Boreman a little,
20 have done some talking about this.

21 So, what I'm going to try and do is
22 to go through some of the things that are implicit
23 in the document, not the document itself, because
24 the document truly betrays what -- betrays -- shows

1 what we've done. I need to get into my PowerPoint.

2 DANIEL FURLONG: Was that portrays or
3 betrays? What was that?

4 COUNCIL VICE CHAIR LEE ANDERSON:
5 Betrays. Portrays. Whatever. Thank you.

6 This has been a hell of a day for me
7 because I'm sitting here working on this and you saw
8 Jason running around, my battery thing just went
9 down. So, I'm running around saying what's going to
10 happen when I try to get up there.

11 So, they finally hooked me up with
12 the PowerPoint and let's go ahead.

13 What I'd like to do is talk about the
14 derivation and operation of a Council risk policy,
15 and it's part 1 and part 2. I want to talk about
16 ways that we can look at the information in that
17 probability distribution function that Jessica has
18 used.

19 I think there's ways that we can look
20 at that that are -- make it easier to understand.
21 The way that it's done is the typical way it's done
22 in every other Council, but I think there are ways
23 that we can take that same information, shift it
24 around and make it a little easier.

1 And then I want to look at some of
2 the Council risk policy. And to summarize where
3 we're going, I think the Council did a good job. We
4 chose five options and she explained them and you
5 saw them.

6 But there are an infinite number of
7 things that can be considered in this, and what I'm
8 worried about is the five options that are in there
9 may not cover all of the things that are -- we want
10 to look at, and in retrospect may not focus
11 specifically on the important issues.

12 So, these are the things that I'm --
13 I want to talk about and I'm sorry that people are
14 tired already, because this could take a while, and
15 I ask you to bear with me.

16 So, let's flip first at the ABC
17 determination. The thing that we're really looking
18 at here is the size of the ABC and the probability
19 of overfishing. Those are the key elements. And my
20 view is that we need to look -- understand the
21 relationship between them. We've seen some graphs,
22 but we've never seen those two things on the same
23 graph. If we could put them in relationship to one
24 another, we may be able to understand it. In fact,

1 I say may; I think we can.

2 And we talk about a PDF and you've
3 seen them here and you've seen a number through the
4 meeting, and I'm glad that Jessica did the little
5 bit on here, but what do we really mean when we use
6 the PDF?

7 I was looking around, too, because I
8 was -- I've talked to the guys on the SSC and
9 sometimes I wonder if the guys on the Council really
10 know what that PDF means. Do you understand what's
11 on the horizontal axis, what's on the vertical axis,
12 or do you not?

13 So, it might be worthwhile looking at
14 this. And this is the same thing that Jessica put
15 on. It's the -- if you've notice, it's got the same
16 numbers, a hundred and everything else. It's a
17 hypothetical one.

18 But what have we really got? What
19 are we talking about? We've got a catch level on
20 the horizontal axis, goes from zero up to something,
21 and then we say for a given stock size that we have
22 now, we want to know the probability that the catch
23 at every one of these levels equals the catch at the
24 maximum fishing mortality threshold.

1 And you don't -- that's another
2 definition, but I mean it's a real overfishing.
3 That's the definition of overfishing, according to
4 the Magnuson Act.

5 So, if you have this thing here, the
6 one that Jessica is using, you pick a number there,
7 you go over to the vertical axis and that will tell
8 you the particular probability that that catch, 80,
9 is -- will lead you to be overfishing. Okay?

10 Now, the thing of it is if you get to
11 that 80, that covers everything less than 80. So,
12 if you really want to know the probability of
13 overfishing, you can't everything to the left of
14 that. That's exactly what Jessica's told you,
15 perfectly straight way to interpret it, but that's
16 what it means.

17 So, you've got a point on the
18 horizontal axis and behind all of this is the given
19 stock size and the science that was done to do the
20 stock assessment.

21 And as Jessica said, the OFL occurs
22 at the point where there is -- that 50 percent of
23 that area is to the left of the line, which means
24 that there's a 50 percent probability that a catch

1 of a hundred in this case is greater than or equal
2 to the maximum fishing mortality threshold level,
3 which means greater than -- oh, you're overfishing.

4 That's -- that's the main thing. And that's
5 important because we're going to use that later.
6 That 50 percent shows up elsewhere.

7 And what does that 50 percent really
8 mean? I can remember back in the olden days when
9 the people from the Science Center came down and
10 they would say -- they'd give you a point estimate
11 of a TAC. What's this? What's the TAC you want?
12 They give a point estimate.

13 Where do they get the point estimate?

14 They pick the point that's 50 percent. And then --
15 you know, they would know the distribution and
16 things, but sometimes it didn't come out.

17 But now I think the great step is
18 that this -- that no one really believes in the
19 point estimate, we're trying to get more of these
20 distributions, but I want to make sure that you
21 understand where that comes from and what it means.

22 But the 50 percent may sound kind of
23 funny. There's only a 50 percent chance of doing it
24 right? No, that's the point estimate that we've

1 used all along.

2 Okay. Let me -- I'll switch here and
3 say that we can display the same information as on
4 that probability distribution by using what is known
5 as a cumulative probability distribution. And some
6 of you know what that is, some of you don't. But
7 really what it means, it takes the same information
8 that you have there and translates it into a number.

9 So, you don't have to read the area
10 under the curve. If we go up here and find that .80
11 again, that would -- this point right here is the
12 sum of that area under the curve.

13 But what -- if you have it in this
14 way, we don't have to worry about looking at areas
15 under the curve. We can look at this probability
16 and say what the probability of overfishing is.

17 And again, in this case, OFL, the
18 overfishing limit is defined with a probability of
19 overfishing is equal to 50 percent. There's the --
20 there's that line.

21 Okay. Now, one thing that's
22 important -- and Jessica has explained this with
23 respect to the PDF, but I want you to understand we
24 talk about different ranges of uncertainty, and this

1 line I say it's critical to show the range from the
2 origin to the OFL line. We want to know all of this
3 when we're looking at it; and in particular -- can
4 we see this? What we really want to know is -- if
5 you notice here, this says the probability of
6 overfishing is zero at this point right here. If
7 this is the OFL, we set a catch equal to 25,
8 probability of overfishing is zero. It doesn't
9 become positive until we get out in this range here.

10 Which that means that you can have --
11 and I want to stress this because it shows up later
12 in the policy analysis -- is that you can have a
13 probability of overfishing equal to zero, which will
14 have a positive ABC. It doesn't mean you can't
15 fish. It just means that you're so low relative to
16 where everything is that according to the estimates
17 you're going to have a low probability -- a zero
18 probability of overfishing.

19 And now here's -- this is the other
20 thing that's important. You get different types of
21 probability functions. And they don't come out of
22 the blue. These things, if we get them, they come
23 out of the stock assessments. And there's been
24 papers that have been done -- I've just seen one

1 that came out where they derived this for tilefish.

2 One of our fisheries. And you can derive this
3 thing.

4 But the issue is here, look at the
5 difference in where that curve starts to slope up
6 here and here. Here it says you have a pretty low
7 catch level relative to that hundred, and the
8 probability of overfishing is positive.

9 Here's one where you don't know that
10 much about the stock. Here you know a little more
11 about the stock. So, the uncertainty level is lower
12 here, and that's an important thing to understand.
13 And if we're going to understand that, I hope that
14 our Council -- we see these things, you see the
15 total range, so you know what that range of
16 uncertainty is.

17 All right. Now, I'm going to switch
18 -- I'm going to take some information that comes
19 right from the cumulative probability distribution.
20 Big words and everything, but the cumulative
21 probability distribution is -- shows exactly the
22 same information that's in the probability
23 distribution. It just shows it differently.

24 Now, see this box here? On the next

1 slide I'm going to drop everything else out of
2 there, because this is really all we need to know.
3 I want to make sure I got the OFL level. I want to
4 make sure I have the 50 percent level. But that's
5 all we need.

6 So, to clean things up, I'm going to
7 cut the rest of that part out. And so here we have
8 it now. We have -- here's the OFL level, the 50
9 percent level, and you can see the line across there
10 that says there's the 50 percent level. And then
11 this shows the probability of overfishing.

12 And I think on the next slide I show
13 this. Yes. And what this means then, if we know
14 the maximum level of uncertainty that we're willing
15 to accept -- that's called the Pstar that we've
16 talked about forever -- we can choose or we can
17 determine what our ABC should be, just by looking at
18 this curve.

19 This is the cumulative probability
20 distribution cut off at a range, but I'm calling it
21 the ABC determination function, because if you know
22 what that probability that you're willing to accept,
23 you know what the ABC is. All you do is go over
24 here and read off of that.

1 So, if you say the highest
2 probability that we're willing to accept of failure
3 is 30 percent, what should our ABC be if we have
4 this information that's right there? And so the
5 buffer is automatically determined.

6 And what we're saying -- if we really
7 know all this stuff, this setting the ABC is easy.
8 Scientists, give us the probability distribution.
9 Council, give us a number. We don't -- then bang,
10 we've got it, we can go home.

11 And it's funny because I presented
12 this thing at an SSC where Fred Serchuk was there.
13 He looked at it and he says holy smokes, Lee, you
14 believe this stuff even more than we do.

15 And I says, no, come on, look at all
16 these NRC studies that says this is the best science
17 around. I believe that. And it is the best
18 science. But this must be treated with care. This
19 is a starting point. If we -- even in the best
20 case, we're going to get a point like that.

21 Remember, all of this is uncertain;
22 so, does that mean that we want the SSC to pick that
23 point and go home, not do any more thinking? I
24 don't think so. But at least now we have a starting

1 point for the SSC to say what do we think the ABC
2 should be? And if they say look, I know what these
3 numbers show, but I know a little bit more about
4 what goes beyond it that we could be somewhere
5 around in there.

6 But in a -- that's a starting point
7 for determining the SSC and -- or sorry, determining
8 the ABC, and if we really -- if we mean this, this
9 stuff that we've been talking about with Jessica's
10 statement, all of those Pstars, it's got to mean
11 something. We just don't want to know some
12 probability. We've got to be able to interpret it.

13 But I'm saying if you look at this,
14 these are the critical elements, that probability of
15 overfishing, the ABC, they're all together on one
16 slide. You can look at it and interpret it. You
17 can interpret different types of fisheries, because
18 these -- those curves will be -- will be different,
19 depending upon the level of uncertainty.

20 All right. The only thing that this
21 shows is -- the other curve was in terms of absolute
22 catch; but if we're going to be looking at what I
23 call the ABC determination function, which follows
24 from the cumulative probability distribution, we

1 want to look at it in a consistent way.

2 So, if we look at the one for summer
3 flounder or whatever, we know we're operating on the
4 same things. So, on this thing I'm not having
5 catch, per se, I'm having ABC as a percent of the
6 overfishing level. Perfectly legit. You just
7 divide one by there -- and it shows the same
8 information, but it says a percentage. So,
9 therefore, when we see this curve for different
10 species, we have some sort of a comparison. It's
11 not the absolute risk that's important.

12 And I think this is an interesting
13 number, too, because in a way it kind of shows if
14 this is the ABC or the OFL, what percent of that OFL
15 is it necessary to give up -- and I mean this, it's
16 necessary to give up to reduce the uncertainty in
17 order to accept that probability of overfishing.
18 And that's going to vary depending upon where this
19 -- what shape the curve is.

20 But that's the whole thing. What are
21 we -- what are we doing to have a risk averse
22 policy? What are we doing to make sure that we
23 don't overfish? We are reducing -- reducing the
24 OFL. And we have to do it more where there's more

1 uncertainty.

2 Go ahead, I think.

3 GREG DIDOMENICO: Oh, I can wait,
4 Lee.

5 COUNCIL VICE CHAIR LEE ANDERSON: All
6 right, good. That's better. You'll confuse me and
7 get me going on another thing here.

8 All right. That's the first part. I
9 hope that -- when I started thinking about this,
10 that -- the presentation of that -- the idea of
11 having that ABC determination function helps me.
12 The crucial variables that we have to decide are
13 what our ABC is going to be and we're concerned
14 about the probability of overfishing. That just
15 gave you a curve that showed them both on the same
16 axis so you can distribute them.

17 Let's talk about now the risk policy
18 curve. If we have this thing, and you know this,
19 but let me just start out this thing. If we're
20 going to use this, we have to have a policy to come
21 up with what's the probability of overfishing that
22 we want to use? Okay? And that's -- that's what I
23 want you to think. That's what we're trying to
24 determine now, what is the probability that we think

1 is safe to use, or we're willing to accept.

2 And I stress, this is a policy call,
3 it says so in the Magnuson Act. That's what we set.

4 But if we're going to set it, I think it's
5 important that we look at the important aspects of
6 the argument to talk about this.

7 Pat, are you awake?

8 PAT AUGUSTINE: Now I am.

9 COUNCIL VICE CHAIR LEE ANDERSON:

10 Okay. I just wanted to make sure, because one thing
11 I don't want to do is to put you guys -- and I'm
12 serious. I know I lecture all the time, you go on
13 for a long time, you --

14 UNIDENTIFIED: (Inaudible.)

15 COUNCIL VICE CHAIR LEE ANDERSON:

16 Yes. Question of clarification.

17 DANIEL FURLONG: Bit of both. When
18 you use the term we, the we that you're talking
19 about is the SSC. This is the SSC's job to set the
20 ABC. And they're the stock assessment scientists
21 who based on whatever comes out of the SAW/SARC
22 process review what the OFL is, if that information
23 is available, and they review the F rate that -- you
24 know, would -- you know, be such that when they

1 recommend an ABC to the Council that it has at least
2 a 50 percent likelihood of not causing overfishing.

3 That's all done by the SSC; correct?

4 COUNCIL VICE CHAIR LEE ANDERSON: No,
5 I beg to differ with you. We're talking -- maybe
6 I'm misunderstanding. I'm talking about a different
7 thing.

8 The policy call is what we're talking
9 bout is setting the risk policy curve. That's --
10 we're the one who sets that Pstar and then they use
11 that.

12 DANIEL FURLONG: Yes. Yes, but --
13 and you just introduced a subject -- I'm saying
14 everything you said thus far, though, is the
15 responsibility of the SSC.

16 COUNCIL VICE CHAIR LEE ANDERSON: The
17 curve before, that's right. The SSC, the stock
18 assessment, that cumulative -- that probability
19 distribution function all comes out of the stock
20 assessment. That's science. We don't make it up.
21 And so I'm just saying my first part of my
22 presentation, Dan, was to talk about ways that we
23 can display the information that comes in a way
24 that's easier to interpret.

1 My point there was it's easier to
2 interpret if it we look at that curve that we had
3 before, which was this. We had the probability of
4 overfishing, we had the catch level. That comes out
5 -- that is a given from the stock assessment.

6 DANIEL FURLONG: Yeah, and that's my
7 point is that the information you've provided thus
8 far really is in the area of the SSC's
9 responsibility to grasp and understand and -- you
10 know, analyze.

11 Where you're moving to now is the
12 Council's role in providing the guidance to the SSC,
13 as it relates to risk.

14 COUNCIL VICE CHAIR LEE ANDERSON:
15 Thanks.

16 DANIEL FURLONG: Correct? Okay. But
17 one last thing. The risk policy is not a statutory
18 thing. That's part of the National Standard 1
19 Guidelines in terms of the control rule. Okay?
20 It's not the Magnuson Act. It's --

21 COUNCIL VICE CHAIR LEE ANDERSON: I
22 may have misspoken there.

23 DANIEL FURLONG: Yeah, okay. Just an
24 observation.

1 COUNCIL VICE CHAIR LEE ANDERSON:

2 Okay. I would rather keep this to questions of
3 clarification, because I can see we're going around,
4 but -- do you have a short one?

5 PETER DEFUR: Yeah, this is a
6 clarification. I'm not asking to ask the same
7 thing. Would you explain why that curve is
8 different in different cases, the overfishing limit
9 curve, the PDF. Yeah. When we have better data,
10 worse data, when we know, when we don't.

11 COUNCIL VICE CHAIR LEE ANDERSON:

12 Right. I mean the way the PDFs are generated is if
13 they cut -- they're due to the uncertainty in the
14 vessel elements and if you have less -- you have a
15 wider range of understanding say pick anything. The
16 natural mortality rate by cohorts.

17 If there's some places that's a very
18 narrow distribution on that and they go in and they
19 generate this. Then you're going to have a curve
20 that is closer to this line.

21 If the information they have is a
22 wider range on that or any of the other millions of
23 potential parameters in there, it's going to be
24 wider. So, it's -- this -- it all is summarized --

1 this kind of summarizes the uncertainty in terms of
2 all of the information we get from the stock
3 assessments.

4 Pat? All right. Again, I'm -- okay.
5 So now what we're trying to do is set the Council
6 risk policy. And -- well, maybe I went back too
7 far. Let me go back up here.

8 We need a Council risk policy to make
9 that. And the Council risk policy is -- you know,
10 what's the highest probability of overfishing that
11 the Council is willing to accept? Call it Pstar. I
12 think Rick has re -- everybody refers to it. It's
13 the highest probability of overfishing that the
14 Council is willing to accept.

15 And more generally, the Council risk
16 policy can be specified as a relationship between
17 Pstar and some selected variable. Because we don't
18 -- we can't have a constant win, and that's one of
19 the ones that Jessica set out. But we may want to
20 have that Pstar vary with different levels.

21 For example, this is one where the
22 policy variable is the current stock size relative
23 to the maximum -- the stock size that gives MSY.
24 And you can see that in this case it's zero down

1 here. If the stock is low, our Pstar is going to be
2 zero. And remember, that may not mean zero catch.
3 It just means the probability is overfishing. That
4 may mean a catch that is really low relative to the
5 OFL.

6 In this range here, we're going to
7 have a probability of overfishing that is lower, and
8 even up in here, the case I've written here, it's --
9 we've kept the lower than this 50 percent which is
10 the standard that falls out.

11 The point is what we want to do in
12 setting a risk policy in simple terms is set the
13 shape of that curve. And that means where does it
14 intersect the horizontal axis? Where is this point
15 of inflection? What are we going to measure along
16 this line? Do we want to have the continuous
17 variable like the relative size of the B over BMSY?

18 Do we want to have the tiers?

19 Do we want to have the other things
20 that Jessica mentioned? Never been fished -- never
21 been overfished. Never been overfished. Any of
22 those things you can have down there to specify
23 that.

24 When I get away from the mike, can

1 you still hear me? Okay. I'm a loud guy, so ...

2 Now, here's another way that you can
3 do it, is you can still use a continuous thing, but
4 have ranges. And Jessica and the Council picked one
5 of these before and said that -- you know, we're
6 going to treat everything in this range as the same,
7 have a probability here, and so that's just -- no,
8 it doesn't have to be a completely downward sloping
9 line. You can have ranges in that continuous line.

10 You can have straight categorical
11 ranges where this is the probability that you're
12 going to have if you got a Tier 1 curve stock, Tier
13 2 and Tier 3. And these are hypothetical, but those
14 are just other things that we can select.

15 And to get you to anticipate where
16 I'm going is -- there are an infinite number of ways
17 that you can arrange these things. So, I'm trying
18 to say can we think of a way to analyze this
19 information, set it up ahead of time so that we have
20 a straight way to think about it?

21 And now here's just -- as I go along
22 here, here's a categorical thing that's only
23 categorical. So, we could pick that -- and this is
24 me speaking, this is my opinion, you may disagree

1 with me, fine, and when we set up a conclusion we
2 can look at it. But I would say this may not be a
3 good way to go because if you have information on
4 relative stock size, because do you want to throw
5 away the information on relative stock size and only
6 look at a category?

7 So, there may be an infinite number
8 of them, but some of them we can say this one may be
9 one that we can push aside and look at the other
10 smaller infinite number of them.

11 Okay. Here's another one that we
12 used. It's a continuous one with a different curve
13 for each -- for each tier. So, the dark black line
14 is the Tier 1, et cetera. And we have -- we have
15 one of those in here.

16 Again, I think just to get you
17 thinking about some other ways -- and there are some
18 different views on this -- this may not be a good
19 way to look at it, as well. And that's because of
20 the -- what I call the double-whammy phenomenon,
21 which is that you're saying we're going to use a
22 different P_{star} when we move to different tiers.

23 But if you have a different tier,
24 you've got a different type of probability function.

1 And if -- does the change in the probability
2 function capture all the change and the uncertainty
3 that you need to look at? That's a relevant
4 question. I think Jessica and -- you guys were
5 talking about it earlier.

6 Let's look at an example. Here's a
7 -- say that the Tier 1 and Tier 2 ones look like
8 this. This is the one with less uncertainty. This
9 is the one with more uncertainty. And if we use
10 this -- let $P_{star 1}$ be the probability of P_{star} for
11 the Tier 1, P_2 is for the Tier 2. We're going to
12 say we're going to use different P_{stars} for the
13 different tiers.

14 But if there -- in addition, when you
15 change tiers you change from this sort of -- from
16 this curve to that curve, then -- if I go too fast,
17 say shut up, Lee, and start again -- do it again. I
18 have to tell my students that, because I have a
19 tendency to go fast.

20 I'll explain it again. But if this
21 is the ABC that follows from using P_{star} with the
22 Tier 1, this is the ABC that follows from using
23 $P_{star 2}$ with the different curve. And you can break
24 that decrease down from ABC 1 to ABC into two

1 components.

2 This one is the reduction due to the
3 change in tier, because the same probability we have
4 a lower ABC.

5 This change right here is a reduction
6 that is due to the change in the Pstar. That's the
7 double-whammy. Okay? You got two things.

8 Now, the issue is is it bad or good
9 to have a double-whammy? And I'm not sure. I would
10 tend to think that the double-whammy would mean that
11 you don't want to change the Pstar -- have a
12 different Pstar for different tiers.

13 I know John and I have had some
14 conversations and he's said well, maybe there's
15 cases where you want to. So, that's fine. I'm
16 pointing it out and I think when we go to a public
17 hearing document we should include options like this
18 so that people can consider it. We're going to get
19 people's input from them and get more information on
20 it. That's the whole purpose of looking at these
21 different ranges of things.

22 Okay. So, I have -- the double-
23 whammy is that there are two reductions, and is it
24 bad? I'm not -- I think it is, but others may not.

1 We can go on.

2 Okay. I'm not sure how -- if we're
3 not going to use different Pstars for different
4 tiers and if straight categorical has some problems
5 because you ignore the information, I would say that
6 most likely what we want to do is to use something
7 that is based on this -- based on this continuous
8 thing. Most likely.

9 I think it's good that the Council
10 has a range of other things, but if I were to just
11 give you my little feelings right now, I would say
12 that's kind of where you want to go.

13 And -- but I'm not proposing that
14 when we go to public hearing that's all we look at.

15 I'm saying that you want to look at them, but you
16 want to know did some of them have -- you might
17 believe that they would be stronger than others.

18 Okay. One of my concerns with what
19 the Council did before -- and I take full
20 responsibility for it, because I was sitting in
21 Maryland, I voted the same way that you did, but as
22 I got thinking about it and we put those ranges up
23 there, I'm thinking that we're going to go to a
24 public hearing that's not going to -- that's going

1 to have five options, five out of an infinite
2 possible number, that may not address all of the
3 things that we want to address, especially as
4 specifically as possible.

5 Now, I think that one of the things
6 that we really want to address is what is the
7 highest possible Pstar that we can use? You notice
8 in -- well -- and we have some guidance on that.

9 Here's -- and my research assistant,
10 Rick, looked all these up for me. I told him to
11 give me some stuff, and he did, so -- Rick came up
12 with all these -- all these quotes, and this is --
13 comes out of the National Standard guidance. And
14 you know, it talks in here -- it says determination
15 of ABC should be based where possible on the
16 probability that catch is equal to the stock's ABC
17 would result in overfishing -- that's what that
18 curve said -- and that probability cannot exceed 50
19 percent and should be lower.

20 So, that's from the guidance. So,
21 when you ask the question what's the highest
22 possible Pstar? 50 percent. If we're going to have
23 a risk policy, we cannot have a Pstar that's higher
24 than 50 percent. That one that's in the median.

1 Another quote -- Rich, Rich, do you
2 have a question? I was just wondering, because you
3 know, you're -- okay.

4 I do that to my students, too. The
5 bad students --

6 UNIDENTIFIED: We're still stuck
7 about ten slides ago, still discussing the points
8 there. So, we're trying to catch up with you, Lee.

9 COUNCIL VICE CHAIR LEE ANDERSON:
10 Okay. Other guidance we get from the National
11 Standards and I'm trying to think now which one this
12 is.

13 Okay. This is the one that talks
14 about ABC must be reduced from OFL. The guidance is
15 clear and -- so that this says the ABC must be
16 reduced from OFL. There's no other -- there's
17 nothing there. And so if we believe this quote,
18 what's the highest possible Pstar? It's got to be
19 less than 50 percent. Does that mean 49.999? I
20 don't know. But the guidance says less than 50
21 percent.

22 Now, if you're anything of a Talmud
23 scholar or something, you know you can go back to
24 the Talmud and you can find something that's a

1 little different. If you don't like the stuff --
2 you don't like this, let's go back to the National
3 Standard and see if we can find a quote that more
4 matches -- that gives a different interpretation.

5 And here's another quote where
6 they're talking about ABC, OFL and ACL. And what
7 they say is that they're going to make a presumption
8 that if you set your ABC and your OFL and your ACL
9 the same, which means that every one of them is
10 going to be at -- where the probability of fishing
11 is 50 percent, they're going to say we are going to
12 assume that that would not prevent overfishing
13 unless there is sufficient analysis and
14 justification for that.

15 So, what that means is what's the
16 highest possible Pstar? That's the other -- the
17 question we're asking. Pstar can be equal -- if you
18 believe this quote -- can be equal to 50 percent
19 only with sufficient analysis and justification.

20 I think that's -- that's fair. There
21 are cases. Let me give you a case. We got a
22 continuous -- and Jessica mentioned it earlier, and
23 other folks -- say we've got a stock that -- just to
24 make it really an easy one that most of you would

1 agree with.

2 Say we had a stock that the ratio of
3 B to BMSY is 25. Okay? Big number. Are we there?

4 No. But if you found one -- this is a hypothetical
5 question. If you found one, do you think that is
6 justification for saying that we're going to have a
7 Pstar equal to .5?

8 I would go out on a limb and say yep,
9 that's okay, because Jessica gave the analysis.
10 Even if you set a three-year -- uh-oh, I got John
11 going. If you set the three-year quota, what are
12 you going to do to the stock? You're going to go
13 from 50 times over to 25 times over, and I think I
14 know your answer, but go ahead.

15 JOHN BOREMAN: My answer is if you
16 know that ratio of 25, you know it with --

17 COUNCIL VICE CHAIR LEE ANDERSON:
18 Certainty.

19 JOHN BOREMAN: -- absolute certainty.

20 COUNCIL VICE CHAIR LEE ANDERSON:
21 That's correct.

22 JOHN BOREMAN: And if you don't -- if
23 you're highly uncertain, it might be a Tier 4.

24 COUNCIL VICE CHAIR LEE ANDERSON:

1 That's right, so -- and that's why the justification
2 that -- sure, if -- I don't argue with that. The
3 point I am trying to make is they give grounds for
4 saying -- and I'm not necessarily arguing for it.
5 I'm just trying to say let's look at the boundaries
6 we set up that -- it is possible according to the
7 Guidelines to have a Pstar as high as 50 percent
8 with sufficient analysis and justification. That's
9 the point I want to make. Pat.

10 PAT AUGUSTINE: I'm awake. I'm awake
11 big time.

12 COUNCIL VICE CHAIR LEE ANDERSON:
13 Well, I'll judge that after I hear your question.

14 PAT AUGUSTINE: Taking that statement
15 right there, the Council really ends up with no
16 decision other than presenting and agreeing with
17 recommendations from the SSC that will not put you
18 at a 50 percent level of possibly doing that.

19 Because the last sentence says if you
20 accept 50 percent, it goes on to say, the Secretary
21 may presume that the proposal would not prevent
22 overfishing and in the absence of sufficient
23 analysis and justification for that approach, would
24 find you out of compliance or would be rejected.

1 Am I right or wrong? I got you.

2 COUNCIL VICE CHAIR LEE ANDERSON: I
3 don't know what you said.

4 PAT AUGUSTINE: What I'm saying,
5 according to that statement -- according to that
6 statement -- the National Standards are written and
7 constructed in such a way that with I think rarely
8 if any exceptions will a Council ever be able to
9 honestly set the Pstar at 50 percent or even close
10 to it.

11 COUNCIL VICE CHAIR LEE ANDERSON: And
12 that's --

13 PAT AUGUSTINE: So, that's a given,
14 so --

15 COUNCIL VICE CHAIR LEE ANDERSON:
16 Remember we're not talking about a specific thing.
17 We're setting about the Pstar. Dan.

18 DANIEL FURLONG: Let me go back to
19 the Talmud, okay? Because you could blow this off.

20 Now, at a meeting -- some meetings ago, you talked
21 about a new spirit of cooperation -- you know, which
22 I'm all for. But what it says after Guidelines,
23 under National Standard, it says the Secretary shall
24 establish advisory guidelines which shall not have

1 the force and effect of law.

2 COUNCIL VICE CHAIR LEE ANDERSON: I
3 knew somebody was going to bring up the force and
4 effect of law.

5 DANIEL FURLONG: Based on the
6 National Standards to assist in the development of
7 fishery management plans, and I'll parenthetically
8 put in and amendments.

9 My point is is that 50 percent is
10 what the agency wants us to do. That's their
11 policy. If we were to go beyond that, I don't think
12 the document would fly.

13 But the Council, in my opinion, could
14 put it at 80 percent if they wanted to. I don't
15 think it would ever fly.

16 My point is -- in support of what
17 Pat's raising -- is the idea that -- you know, this
18 guideline, okay, is the Secretary's policy. And in
19 a policy sense, the Council does have license to go
20 on its own. That's all.

21 COUNCIL VICE CHAIR LEE ANDERSON: We
22 get this -- I mean, I hear this all the time, it's
23 policy, it's not binding in law. You want my
24 philosophy? If it's guidance, I'm going to stick

1 with it. And I do believe in the spirit of
2 cooperation, and I think it makes sense to stick
3 with it.

4 Yeah, if -- it doesn't mean they're
5 always right or they're always wrong. In some cases,
6 you may want to push the envelope. This is not a
7 case where I want to push the envelope. I'm happy
8 to live with the guidance and say that -- I think it
9 would make sense -- I'm talking -- my opinion is
10 that we can set it as high as 50 percent if we have
11 sufficient analysis and justification.

12 And I think if we get into all these
13 nickel dime -- sorry, smaller arguments about the
14 Talmud, we may miss the point. Let's go on.

15 Do you want to make -- ask a question
16 now?

17 GREG DIDOMENICO: I'm just glad I'm
18 not chewing gum. I figured you'd call me out.
19 Quick question, Lee, and maybe a series of
20 questions.

21 For the options that are currently in
22 the omnibus amendment and for the series of
23 interpretations that you've displayed here today,
24 have you performed an analysis on a particular

1 species that we manage here in the Mid-Atlantic, and
2 looked at the outcome?

3 UNIDENTIFIED: Do we have an example?

4 COUNCIL VICE CHAIR LEE ANDERSON:

5 There is an example in the Prager and -- what's that
6 article? I can never pronounce his name. Prager
7 and Schutzker, is that -- Prager and Schutzker, they
8 did some work. And one of them was tilefish. They
9 came up with the curve that was equivalent to the
10 ABC determination rule.

11 They're biologists and so they've got
12 their graphs all wrong, and they didn't show the
13 whole origin and everything. But it's the same
14 thing. I mean the -- yeah. So, I say yes, they can
15 and I -- we don't have it for all of them. We don't
16 have it for Tier 1. But I think we can get that and
17 what I would say to the SSC when they sent their
18 TORs back is say when we do a stock assessment, one
19 of the things we want now is that probability
20 distribution function.

21 And we may not get it for everyone.
22 We may not get it the first time. But I have
23 confidence in my colleagues -- in the spirit of
24 cooperation up there -- that if we tell them this is

1 the kind of stuff we need, that over time that those
2 things will be put on the agenda and we will start
3 to get there.

4 It's possible to get them. Some NMFS
5 scientists have done it already for tilefish and
6 other species.

7 GREG DIDOMENICO: According to your
8 perception of the policy or your interpretation?

9 COUNCIL VICE CHAIR LEE ANDERSON:
10 Yeah. I mean, this -- that probability distribution
11 function is not my interpretation. That's just a
12 probability distribution. There's a cumulative
13 distribution that comes out of there.

14 I'm just reading off of that curb.
15 That is basic statistics. That's all that is.

16 GREG DIDOMENICO: And obviously, Lee
17 -- you know, the reason I ask is because -- you
18 know, we're not overfishing species here in the Mid-
19 Atlantic and we're going to --

20 COUNCIL VICE CHAIR LEE ANDERSON:
21 Okay. No, I'm not --

22 GREG DIDOMENICO: Going to redo it.
23 So we're not overfishing again.

24 COUNCIL VICE CHAIR LEE ANDERSON: All

1 right. Can I -- can we avoid these arguments about
2 that at this point? Because what I want to do --
3 I'm just talking about -- can I give information so
4 that we can help set the stage so we can set a risk
5 policy. And it may be exactly like we've had
6 before. I agree with Dan when he says that we're
7 doing well here. It doesn't mean that this is going
8 to change that. It says that we're going to put it
9 -- we're going to put that same stuff in the law
10 according to what we've been asked to do. Okay?

11 GREG DIDOMENICO: Thanks.

12 COUNCIL VICE CHAIR LEE ANDERSON: All
13 right. Where are we? So, that's as far as --
14 that's the conclusion I --

15 UNIDENTIFIED: A delinquent in the
16 back of the room has a question.

17 DANIEL FURLONG: One more
18 interruption, because someone did ask me about this.
19 Where did the 50 percent come from? And Joel can
20 correct me on this, but our summer flounder plan was
21 challenged by NRDC when it was Secretary Daley, and
22 this became the case law precedent for the rest of
23 the country.

24 And basically, what that case said

1 was that were you to have a quota-managed species
2 and that species is under a rebuilding plan, you
3 have to set your F rate such that it has the 50
4 percent likelihood of allowing that plan to hit its
5 rebuilding target in the time specified.

6 So, that's a very narrow kind of
7 construction. You have to --

8 COUNCIL VICE CHAIR LEE ANDERSON:

9 Okay, Dan, I'm going to interrupt because I think
10 that you may be -- I know the Gonzo ruling which is
11 that --

12 DANIEL FURLONG: Bizarro. Bizarro.

13 COUNCIL VICE CHAIR LEE ANDERSON:

14 Bizarro. Gonzo Bizarro. Whatever.

15 DANIEL FURLONG: That's close.

16 COUNCIL VICE CHAIR LEE ANDERSON: The
17 Bizarro ruling. But I think that 50 percent -- and
18 I'm looking to Nancy and Jim back there to say that
19 I -- that OFL comes from -- that's essentially the
20 midpoint of the distribution. And when they used to
21 give us point estimates, that's what they would
22 give.

23 I would say that 50 percent's been
24 around a long time before we had the Bizarro or the

1 Gonzo or whatever the thing. It's a way to do it.

2 Now, if I'm wrong --

3 UNIDENTIFIED (No microphone):

4 (Inaudible.)

5 COUNCIL VICE CHAIR LEE ANDERSON:

6 Yeah, I'm wrong?

7 JAMES WEINBERG: You're not wrong.

8 It was just they would use the argument that if you
9 choose a value higher than 50 percent, then you have
10 a pretty high probability of overfishing. So that
11 they just said do you want to be on either neutral
12 or on the safe side.

13 COUNCIL VICE CHAIR LEE ANDERSON: So,
14 no, I'm serious that if -- I know -- I understand
15 that ruling, but that's not where this came from. I
16 mean, if you get a probability distribution and you
17 say I want to have a point estimate for a TAC, the
18 50 percent rule is a good place to have a point
19 estimate.

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Lee, we have a lot of ground to cover; so, why don't
22 we hold on questions.

23 COUNCIL VICE CHAIR LEE ANDERSON:

24 Okay.

1 COUNCIL CHAIRMAN RICHARD ROBINS: Why
2 don't we hold any questions until you're done --

3 COUNCIL VICE CHAIR LEE ANDERSON: I
4 have been commanded by the Chair not to entertain
5 any other questions.

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Well, when you get done, we'll take a break and then
8 we'll come back.

9 COUNCIL VICE CHAIR LEE ANDERSON:
10 Okay. No, I think that's fair and I --

11 UNIDENTIFIED (No microphone):
12 (Inaudible.)

13 COUNCIL VICE CHAIR LEE ANDERSON:
14 That's not the purpose. We're learning.

15 All right. So, in terms of this
16 thing right here, the questions become can this
17 curve ever touch the 50 percent probability line?
18 Okay? There is the 50 percent probability line.
19 Can it ever touch that? And if so, at what B over
20 BMSY ratio? And I'll call this -- for -- I'll use
21 it later on. That's B over BMSY star. Okay?

22 Those are the two points. And this
23 is what I think -- if we're going to set this -- and
24 we want to set this out to public hearing, we want

1 the Council to focus on the questions. We want to
2 focus on those questions. Can it ever touch that 50
3 percent line; and if so, at what level? And I will
4 suggest below that we need to specifically address
5 this in the public hearing draft.

6 All right. Another point -- another
7 critical point that I think is useful to consider --
8 and Jessica coined this term, I like it, that the
9 stock replenishment function or the stock
10 replenishment B over BMSY ratio.

11 And what that says is we're going to
12 have a point where we say if your stock gets that
13 low, we're going to say because we're concerned
14 about stock replenishment, we're going to have the
15 probability of overfishing be zero.

16 And remember, that doesn't mean ABC
17 is zero necessarily. But so that's just another way
18 of saying that's another question we want to address
19 in the system. And you know if we fix that point
20 right there we get this point which is a point of
21 inflection and that -- we're done. We set the point
22 where it intersects the horizontal axis, pick the
23 point that -- the point of inflection and we've got
24 the curve. It's more complicated than that, but

1 basically we can make these choices and -- see,
2 here's one where it intersects the -- the origin
3 goes up to 50 percent.

4 The other ranges are here it
5 intersects at a positive horizontal intersection and
6 doesn't go up to 50 percent.

7 We could also possibly have a non-
8 linear curve. Okay? The curve could look like
9 this. It's really hard to come up with a rule and I
10 guess you're going to -- if you go to a public
11 hearing draft with that, you're going to have to say
12 that the function -- give the equation for that
13 curve.

14 We could also have a -- possible to
15 have a curve that has more than one point of
16 inflection, so that we say for here it goes up
17 pretty fast, but then when it gets to this point --
18 and this may be -- you know, this may be 35 or 40,
19 then it goes up to 50 percent, but rather slowly.
20 So, there's a number of -- there's a lot of those
21 curves that we can have.

22 And so, again, I say in actuality
23 there is an infinite number of possible choices, and
24 we can -- we just want to address that and say there

1 are an infinite number of possible choices, can we
2 rule out the number of possible choices that we're
3 going to look at, or can we have an organized way of
4 looking at the question so that we can come up with
5 a rule?

6 Mr. Chairman, could you help get
7 these unruly students in line over here or --

8 UNIDENTIFIED (No microphone): We
9 were commiserating.

10 COUNCIL VICE CHAIR LEE ANDERSON:

11 Okay. Let's look at the choices that are in the
12 public hearing draft. Jessica's already gone over
13 them. But here's what we have so far, the 25
14 percent rule. Is P ever equal to the 50 star -- the
15 50 percent? No.

16 Is there a stock replenishment
17 threshold? No. This is one case -- you know, and
18 it's perfectly legit to have one, but according to
19 -- how it answers those specific questions, that's
20 how we'd answer it.

21 Here is the categorical range that --
22 Alternative 2C. And what I've done is just take the
23 information here and put it in graphical form so
24 that we have lines for each tier and the tiers will

1 -- you know, here's between zero and five, .5. And
2 you can do anything graphically that you can do in
3 the box here.

4 Here is Pstar ever equal to 50
5 percent in this range? Did we pick one where it's
6 up at the max and, according to the law, we've got
7 to got justification and sufficient data and stuff,
8 yes. In Tier 1, where stock is above two, that
9 policy would say yeah, it can be the maximum.

10 Okay. Here's the other one where we
11 have -- what have we got here? It's the stock
12 replenishment where we have a different curve. It's
13 a continuous curve and there's a different curve for
14 each tier level. And is Pstar ever equal to 50
15 percent? Yes. Here it's at 1.5.

16 Now, one time we have an option there
17 that says two, now we've got an option that says
18 1.5. Is -- but there are other things that are
19 different. I would like to have a system we can
20 make that consistent choice whether we want 1.5 or 2
21 or 10 should be made independently of the type of --
22 the curve we have.

23 But here we've got one that -- in the
24 range. We've got one of them that says no, you can

1 never be there. Other one that says you can, but it
2 -- only at 1.5 and 2.

3 Here's another one where we do the
4 same thing: Is P ever equal to 50 percent? Yes.
5 But again, only for the Tier 1 only, and here again
6 it's back up to 2.

7 And then here's the confusing box --
8 I think it's an interesting way that we have the
9 categorical. We have a stock history, previously
10 been overfished, not been overfished, typical and
11 atypical, and we get all these different patterns.

12 I'm not really sure that we want to
13 go over this, she's already done it, but here again,
14 is P ever equal to 50 percent? Yes. And in fact in
15 this case, if you have a space where we had a
16 typical lifestyle, never been overfished, but
17 there's no stock replenishment threshold.

18 Okay. This is only about five out of
19 an infinite number of possible choices, and it's my
20 belief that we can -- they do not give enough
21 information that we can make a rational choice.
22 We've got five. I'm not sure that there's variance
23 among all the parameters that we can look at. So,
24 we're going to -- I would say we try another

1 approach.

2 Mr. Chairman, I sense the audience
3 are getting restless. Can we have a break before I
4 continue on or what is your desire?

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Well, Lee, we're running a little bit short of time.

7 I would suggest that you go ahead and press through
8 the rest of this and then we'll take a break.

9 COUNCIL VICE CHAIR LEE ANDERSON: All
10 right.

11 COUNCIL CHAIRMAN RICHARD ROBINS: But
12 I would go ahead and wrap it up.

13 PRESTON PATE: Are we at a point
14 where we can discuss it now, Lee? Because I mean I
15 just had a couple of observations that I wanted to
16 make about your information.

17 COUNCIL VICE CHAIR LEE ANDERSON:

18 Okay. What I'm going to do -- let me finish this,
19 and what I'm going to do now is suggest a way that
20 we can have an organized way of looking at this.
21 And this is something that Rick and I have been
22 battling over, not each other, but the concepts of
23 how do we organize this in such a way that we can
24 come up with an organized way of looking at things.

1 And what we've come up with is we can
2 do this in the same way that the Squid, Mackerel,
3 Butterfish Plan was organized. We just went over it
4 yesterday morning. There's a bunch of alternative
5 sets. Remember? There's Alternative Set 1. You
6 pick a number out of there, pick a number out of
7 Alternative Set 2, 3, 4, pretty soon we have the
8 tiers and everything else collected.

9 So, we can do this in the same way if
10 we look at these different sorts of alternative
11 sets. And here they are. Choice of the maximum
12 Pstar. Choice of the policy variables. Choice of a
13 chop stop (phonetic) replenishment threshold. And
14 then choice of the -- if we have this continuous --
15 at what level of B over BMSY are we going to set
16 before Pstar can equal the max P that we have
17 selected? Okay? Max P could be 32, could be 25.
18 But we want -- we want to pick one.

19 And then there's some other
20 alternatives that we want to look at. The choice of
21 the slope of the line between the stock
22 replenishment level and -- where you can equal
23 Pstar. In Alternative Set 6, choice of the number of
24 continuous sub-ranges. Choice -- alternative set

1 Pstar. If we do have categorical policy variables,
2 what is the Pstar we're going to use for that?

3 So, without even -- what I want you
4 to think about is without even going in and looking,
5 what we need to do is to set some different ranges,
6 set it up so that you can pick numbers in each of
7 those policies.

8 So, here is Alternative Set 1.
9 Choice of the maximum Pstar that will be acceptable.

10 We're going to have 50 percent, 45, 40? I don't
11 know where you want to put it, but that's one that
12 we would put in there. So, we can -- we put that
13 out and you make a pick on that.

14 Alternative Set 2, choice of policy
15 variables, and you may have more than one, and it
16 looks like we're kind of off the stage here, but --
17 here are the different possibilities, and I can go
18 through and read them and it may be -- I can do it,
19 but what I'm saying is that in general it probably
20 makes sense to have stock status as that -- one that
21 you're going to use, because that gives you a lot of
22 information, although you may want to use some
23 categorical specifications.

24 So, we can either have stock status

1 with the continuous -- that was the case I used
2 mostly. We could have stock status with sub-ranges,
3 so you have the step function. We have a constant
4 feed. We have categorical specifications using the
5 ABC tier framework. We have categorical
6 specifications using life history. Categorical
7 specification using stock history. These are the
8 ones that Jessica came up with for her category
9 *areas, and there may be more.

10 And then there's another one that we
11 can use is you can combine either one of this or
12 this with some categories.

13 Okay. And then once you pick your
14 Pstar, it's a matter of filling in the rest of the
15 blanks. If Alternative 2A is chosen, they -- which
16 is this one, where you have continuous
17 specification, if you -- if you have that, then
18 we've got to pick some between 3, 4 and 5. Here's
19 Alternative Set 3 and 5. We're going to have that
20 stock replenishment ratio we're concerned with, and
21 I don't know that these numbers are the ones, but
22 we've got -- we've got the numbers there.

23 Alternative Set 4 is where are we
24 going to -- if we are going to be able to have a

1 Pstar over max, where is it going to be? Here's
2 .20. We had 1-5 and 2-0 in there. You may want to
3 go up to the 25 if you really want to be --

4 Alternative Set 6 -- or 5, what's the
5 choice of the slope? We used a linear. I showed
6 you a non-linear curve. We could also have a
7 segmented linear curve with one or more interior
8 points of inflection.

9 Now, if one of these are chosen, it
10 will be necessary to specify a range of functional
11 forms. I don't have that yet. I -- but I think if
12 we decide to do that, that would be a matter that we
13 could -- Jessica and I -- Jessica and herself -- we
14 could sit down and come up with some range that
15 would make -- you know, what coefficient do you want
16 of the slope of the curve. But that would have to
17 be determined if that's where we want to go.

18 If Alternative B -- 2B is chosen,
19 which is the step-wise function, then you've got to
20 do the same choices between 3 and 4, but you also
21 have to go back in and say how many continuous sub-
22 ranges do you want, one, two, three or four.

23 Now, it's impossible to show all
24 these graphs at the same time, but what we're doing

1 is just going through a process so that we can look
2 at all of those issues.

3 Now, if Alternative 2C is chosen,
4 which is a constant probability, then we just have a
5 choice between what do we want the constant
6 probability to be. And so there's a range. And my
7 typing wasn't too much in order here, but we could -
8 - there's a range that you can pick from.

9 And if Alternative 2E, 2E, F or 2D, E
10 or F are chosen, which are those categorical ones,
11 okay, then you've got to go back to the same
12 alternative here and say for each of those
13 categories which one of these do you want to pick?
14 It sounds confusing, but if you go to category --
15 you are going to have to choose that constant
16 probability.

17 And then if the last one is chosen,
18 the 2G, which would be having the continuous form,
19 but you're going to specify by categories, that is
20 you're going to specify it by tier, that's one of
21 the ones that is in our situation, what you have to
22 do is to set -- go back and go through Questions 3,
23 4 and 5 for each of the tiers so you get three
24 curves.

1 And I can -- I have some other
2 examples, but I can tell we're running late, that
3 basically that's it and I -- we can entertain
4 questions, go back more about what are those range
5 of alternatives.

6 Mr. Chair, I'll turn it over to you.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Well, we can take a couple real quick and then we'll
9 take a 15-minute break. Pres.

10 PRESTON PATE: Thank you, Mr.

11 Chairman. Not so much a question as it is a point
12 and observation, Lee. One point that you made in
13 your presentation went by pretty quickly, but to me
14 it's fundamental to our ability to make a selection
15 based on any of those alternatives or any
16 alternatives that are above us, and that was your
17 double-whammy discussion.

18 I've been wondering for a while
19 whether there were -- how many whammies are in the
20 process. I think you've identified the two that are
21 most obvious, but there may be some more subtle ones
22 there that have had the same effect of accumulating
23 the consideration of uncertainty and consciously or
24 unconsciously setting some level of risk at each one

1 of those -- level of risk decision at each one of
2 those decision points.

3 And I think it would be very helpful
4 for us to have some more direct discussion about
5 that before we move forward. And they may be the
6 only two points. And if they are, we need to get
7 those out on the table and identify them, because we
8 certainly want to make sure that we do what's
9 responsible in not exceeding the 50 percent limits
10 and what's necessary for conservation, but not be
11 overly -- unconsciously overly conservative because
12 of the accumulation of those risk assessments that
13 preceded the decisions that we have to make.

14 COUNCIL VICE CHAIR LEE ANDERSON: If
15 I may make one point on that. I agree with you, but
16 I would say no, let's go ahead to public hearing and
17 put those out there. That's one of the reasons
18 we're going to have that discussion. But before we
19 make a final decision, we need more discussion on
20 that and the final decision should be based on
21 whether we think from the best advice of our folks
22 whether the double-whammy thing is an accurate
23 phenomenon or not.

24 PRESTON PATE: And I agree with the

1 timing.

2 COUNCIL VICE CHAIR LEE ANDERSON:

3 Okay.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Peter.

6 PETER HIMCHAK: Yes. Thank you, Mr.
7 Chairman. Now, I don't mean to be sarcastic about
8 this, but my first experience with the Mid-Atlantic
9 Council I was thrown into the Port Jefferson meeting
10 in 2008 where the discussion was in setting the TAL
11 and the TAC on summer flounder and the debate was
12 well, do we set it at the 75 percent probability of
13 reaching the target SSB or the 50 percent
14 probability, and the retrospective pattern suggests
15 that we go to the 75 and -- but we went to the 50.

16 And then the following year, we took
17 an average of the two. So, what -- I mean, what I
18 see in these risk analyses and everything is that
19 we're doing the same thing in a much more
20 sophisticated, formulaic manner. We're actually --
21 we're calculating a percentage reduction of OFL to
22 ABC and I feel very uncomfortable when you take in
23 -- well, how do you -- you're going to take the
24 overfishing level and reduce it by X percent. That

1 includes the scientific uncertainty that comes from
2 the SSC and the risk of overfishing, which I guess
3 is where our input is. So --

4 COUNCIL VICE CHAIR LEE ANDERSON:

5 That comes from the stock assessment.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Jessica. I think it's -- Pete, I think what this is
8 is this is where the uncertainty that's captured in
9 the PDF intersects with the risk policy. And so the
10 mean estimate of that OFL distribution is -- is the
11 OFL and the risk policy is simply being applied to
12 the PDF, and that's what the reduction is. But you
13 know, it's not a -- I don't think it's a double
14 step. Jessica.

15 JESSICA COAKLEY: No, no. It isn't.

16 I was just going to say that the SSC is going to do
17 the calculation for what the ABC is going to be.
18 What this risk policy is is your way to express your
19 tolerances for overfishing under certain conditions.

20 It's your ability to communicate that
21 to them and say hey, if the stock is at this level,
22 we don't consider it acceptable to go above a 45
23 percent probability of overfishing or 40 percent,
24 whatever your value is, you're saying that's our

1 value judgment, in effect. That you're putting
2 value on that, because -- you know, there's risk of
3 overfishing has risk to conservation, but then
4 there's tradeoffs that if you set it too low that
5 you're giving something up.

6 So, you identify what your tolerance
7 is there, give that to the SSC through your risk
8 policy; and then when they go through spec-setting
9 process, they take the science, they say okay, this
10 is how we're characterizing the uncertainty, and oh
11 yeah, the Council said they don't want any ABC
12 that's going to come up with something higher than a
13 45 percent risk of overfishing if we end up in one
14 of those levels.

15 So, they do intersect, but I also
16 think you kind of have to separate the two when you
17 think about what your tolerance is going to be for
18 that.

19 And you're right. In a summer
20 flounder case -- you know, in the past we set -- we
21 had an overfishing limit and there was a target.
22 The target F was .255 and the overfishing limit was
23 .31, and the Council -- and the SSC and the Council
24 had recommended going with that target F with the 50

1 percent probability that you would hit that target
2 F.

3 But the target F has a distribution
4 about it. And that if you fished at that target F,
5 based on the preliminary projections that had been
6 done, it said that you had like a seven percent
7 probability of overfishing associated with it.

8 Now, it didn't take all the sources
9 of uncertainty into it, but -- so the probability of
10 hitting your target F was different than that
11 probability of overfishing. If -- I don't -- I may
12 have just confused you more. I was trying to
13 clarify and --

14 PETER HIMCHAK: I'm just trying to
15 figure out where the risk policy comes in. So,
16 we're actually -- our risk policy is a guidance tool
17 for the SSC --

18 JESSICA COAKLEY: Exactly.

19 PETER HIMCHAK: -- in setting the
20 ABC.

21 JESSICA COAKLEY: Exactly. It's you
22 communicating your opinions and tolerances on the
23 probability of overfishing and what is acceptable
24 under certain conditions. So -- and the guidelines

1 have been pretty clear that that's your purview to
2 develop that, and the SSC has made it clear that
3 they're going to be looking to you to provide that,
4 so that when they go through characterizing the
5 uncertainty, that helps them specify the ABC.

6 So, that's how -- so, when you were
7 looking at your example of that bump-down from the
8 OFL to the ABC, it's really those two pieces coming
9 together to figure out what that offset is going to
10 be.

11 PETER HIMCHAK: Okay. This helps
12 immensely. I think we work through an example here
13 because the issue of the double-whammy and stuff,
14 it's kind of like these are all concepts but I'm
15 trying to figure out where -- where these
16 percentages are coming in and how they interact.

17 COUNCIL VICE CHAIR LEE ANDERSON: I
18 can't resist making one comment, and Peter, you said
19 you -- when you -- you're going to do this. And no,
20 the Council is going to do this. I may be the
21 messenger, but what I'm saying is what I think we
22 should consider.

23 And I also want to stress again the
24 point that Jessica said. They're separated. We set

1 that Pstar. But the SSC has something to start with
2 given they have that probability distribution,
3 because from that they can get the cumulative one,
4 and when they apply that Pstar to the cumulative
5 probability function, there will be an ABC.

6 Now, I'm not saying that we should
7 specify exactly what they do. That's where the
8 discussion starts about where to go. So, it's -- we
9 don't just say 50 percent and say SSC go look. We
10 know that they have something to start with or a way
11 of organizing. And I know that's the way the SSC is
12 doing it, because I've been sitting in on their
13 meeting.

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 I've got Rich and then let's take a 15-minute break.

16 RICHARD SEAGRAVES: Thanks for
17 recognizing me, Mr. Chairman. I guess we'll have to
18 go to break, because contrary to your comment, Dr.
19 Anderson, I am a good student and I have an infinite
20 number of questions. So, I think we're going to
21 have to go to break.

22 (Break: 3:50 p.m. to 4:22 p.m.)

23 COUNCIL CHAIRMAN RICHARD ROBINS: All
24 right. With no further ado, why don't we go ahead

1 and resume our discussions. So, having had some
2 sidebars with legal counsel, Lee had suggested at
3 the end of this talk that we consider basically a
4 menu-driven approach in order to create a broader
5 universe of possibilities or to give the Council
6 sort of a full range of flexibility as it selects a
7 risk policy. But -- and we can discuss this
8 further, but it's been suggested that that would
9 definitely delay the development of the document.
10 And I think that's probably a cost that we cannot
11 afford to incur at this point, given the fact that
12 we're already trying to finalize this action in
13 August for the 2011 fishing year.

14 But I think Lee's talk raised a
15 number of important points. One of them was the
16 potential, at least, that there's a double counting
17 in these tiered options that we've sort of focused
18 on in the document.

19 And in speaking further with Jessica,
20 she suggested that if we were to swap out an option,
21 that that would be the easiest way for her
22 administratively to make a small modification to the
23 document, still get it out on time.

24 But this issue of double counting is

1 one that -- you know, it's a question as to whether
2 or not you're actually double counting for
3 uncertainty by looking at the tiered approach. But
4 we don't have in there a good single continuous
5 function that would be a single Pstar curve, so to
6 speak, that the Council would adopt as a risk policy
7 that would then be applied to all tiers and all
8 fisheries.

9 And so one way forward might be to
10 swap out one of those categorical options with a
11 simple continuous function. And then if we want to
12 debate the point of inflection at the point that we
13 take final action -- you know, then I think that
14 would be fine, but we would at least have in the
15 document a simple, continuous function type option.

16 And that would give us a choice then of whether we
17 wanted to go with the tiered options that are in
18 here or just go with a single continuous function.

19 But I ask Jessica to put one up there
20 and she's done that. And that's just a simple
21 function. It's got a replenishment threshold of
22 .10. It's got a max Pstar of .40, which is
23 approaching 50 percent but not at it. And it does
24 that at one times biomass.

1 And again, I think I would just
2 suggest that we consider adding a simple function
3 like that so that we can think about moving forward
4 with the document.

5 But I think Lee's idea of having a
6 menu-driven approach was basically a desire to have
7 a full range of options, but I think since that
8 would delay the development of the document, this
9 might be a way forward.

10 COUNCIL VICE CHAIR LEE ANDERSON:

11 Rick?

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Yes.

14 COUNCIL VICE CHAIR LEE ANDERSON: I

15 would say I think this is an excellent idea, because
16 that does give you the option later on -- and I
17 think when we -- when you think about possibly
18 changing it, you want to ask the same questions that
19 I brought up anyway and saying where do you want to
20 go and how much do you want to change it?

21 So, I think the Council understands
22 the things that we talked about and uses it to think
23 about possible changes in that curve, I think we're
24 -- we're ahead of where we were in -- before.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Jack.

3 JACK TRAVELSTEAD: Do you need a
4 motion to alter the alternatives, Mr. Chairman?

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Yes, we would.

7 JACK TRAVELSTEAD: I mean, going into
8 this prior to the discussion today, I was quite
9 happy with the alternatives that were in the
10 document. I thought they captured enough of a
11 variety of options to give the public something to
12 comment on and allow the Council to come back and
13 tweak one to satisfy what we needed.

14 But I agree with your recommendation,
15 that we need something rather simple like this
16 continuous function. And as you said, we can come
17 back after the public hearing process and change
18 that inflection point or whatever we think we need
19 to do.

20 So, I would move that we substitute
21 this simple continuous function for -- I guess it's
22 Alternative 2C, which is the table on top of 17 --
23 Page 17.

24 And the reason I suggest substituting

1 that one is I think 2C was not a whole lot different
2 than some of the other functions that we see as
3 alternatives.

4 So, that would be my motion, to
5 substitute this continuous function for 2C.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Is
7 there a second to the motion? Pat Augustine with
8 the second. Okay.

9 So, the motion is to substitute the
10 option on the board, which is a single continuous
11 Pstar function with a point of inflection at .10 and
12 a maximum Pstar of .40 at one times biomass for
13 Alternative 2C.

14 Discussion on the motion? Dan.

15 DANIEL FURLONG: Just a question for
16 the maximum being set at .40. If you can have one
17 at .5, why wouldn't you set it at .5? You can
18 always come down.

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Well, you could come down, but I think the theme
21 pretty consistently in NS1 Guidelines indicates that
22 it ought to be less than 50 percent, and I think
23 this gets back to the overall construction that
24 we've adopted thus far in the document. Because

1 when you consider how we've set ABC and ACL, we set
2 ACL at ABC. And if the ABC were going to be 50
3 percent of the OFL estimate, then OFL would equal
4 ABC would equal ACL, which is the situation in the
5 Guidelines that's indicated to be avoided because it
6 would presume that overfishing would occur.

7 So, I think it's fair to say that the
8 maximum value ought to be below 50 percent, but
9 again we could come back and -- if the Council wants
10 to go to 45 percent in the end, we'd go to 45
11 percent. But go ahead, Pat.

12 PAT AUGUSTINE: Yeah, Mr. Chairman, I
13 was actually going to amend it to go to 49,
14 primarily because 50 is the trigger. And if 50 is
15 the trigger that will cause a lot of red flags to go
16 up at the next level up, including the Regional
17 Office, before it gets to the Secretary of Commerce,
18 quite frankly the experience that I've had here I
19 doubt that we're going to push the envelope to 49
20 anyway. I think we're going to probably work around
21 40 most of the time, because we need that cushion.
22 Every single species, we need that cushion.

23 So, that's what I would do, amend the
24 motion to go to 49, if that's acceptable.

1 COUNCIL CHAIRMAN RICHARD ROBINS: I
2 don't know that that would be a friendly amendment.
3 I mean, I think --

4 PAT AUGUSTINE: However Jack wants to
5 call it. It can be a friendly or it can be
6 arbitrary.

7 COUNCIL CHAIRMAN RICHARD ROBINS: Are
8 you moving to amend to 49?

9 PAT AUGUSTINE: Moving to amend if
10 the maker of the motion does not want to go there.

11 COUNCIL CHAIRMAN RICHARD ROBINS: Is
12 there a second to the motion to amend?

13 (No response audible.)

14 PAT AUGUSTINE: That was easy.

15 COUNCIL CHAIRMAN RICHARD ROBINS: Is
16 there a second to the motion to amend?

17 (No response audible.)

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Seeing none, the motion to amend fails for lack of
20 second. Pat. Further discussion on the motion?
21 Peter.

22 PETER DEFUR: I like the curve and I
23 wonder if it is -- would be valuable or instructive
24 to have more than one as options, because as you

1 said we can pick something other than 40 and an
2 inflection point other than one.

3 Is that -- would that be too
4 confusing to go to public hearing with? So, for
5 example, you could go to an inflection point of 1.5
6 with a dashed line. You could put in -- putting too
7 many different options on there makes it confusing
8 to go to public hearing, I agree with that.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Well, the only reason for having a single option was
11 in response to Jessica's concern administratively
12 about how to keep the document intact and be able to
13 turn this around quickly to get it out on the
14 scheduled time line, but I would ask Jessica if
15 that's --

16 PETER DEFUR: I mean, does that
17 confuse things or change the picture too much?

18 JESSICA COAKLEY: Well, as Rick said,
19 my idea for subbing something in is because then I
20 wouldn't have to restructure the document, since
21 this has to go up on websites on Friday to -- if you
22 decide to go out to public hearing, so that people
23 have time to access it and read it.

24 Now, if -- I would think it would be

1 easy enough, though, if you decide like you want .4
2 and inflection at one, within the alternatives to
3 say that you're considering other type -- you know,
4 types of approaches, which may include this, this is
5 a variation on that. Maybe I could even do like
6 split graphs or something that kind of show it. I
7 mean, I've got to go to the office and figure that
8 out. But we could work that into that for when it
9 goes out.

10 PETER DEFUR: I guess that would be a
11 request as a friendly amendment, to either in the
12 text or the explanation somehow indicate that this
13 could be -- that options are being considered such
14 as the different inflection points.

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 Jack.

17 JACK TRAVELSTEAD: I have no
18 objection with that at all. I think we present one
19 specific example of the continuous function that --
20 and then within the discussion ask the public to
21 comment on is this the appropriate slope of the
22 curve or the infection point or whatever. I don't
23 have any problem with that at all.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Sounds like a good approach. Further discussion on
2 the motion?

3 (No response audible.)

4 COUNCIL CHAIRMAN RICHARD ROBINS: Is
5 Council ready for the question?

6 (Motion as voted.)

7 {Move to substitute the continuous, reduced maximum
8 probability, inflection at 1.0 with Alternative 2C,
9 to add different inflection points.}

10 COUNCIL CHAIR RICK ROBINS: All those
11 in favor, please raise your hand.

12 (Response.)

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Eighteen. Opposed, like sign?

15 (No response.)

16 COUNCIL CHAIRMAN RICHARD ROBINS: The
17 motion carries. Abstentions?

18 (No response.)

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Okay. The motion carries without abstention. All
21 right, Jessica. Do you want to go on to Section
22 3.0?

23 JESSICA COAKLEY: Yes. Okay. Just
24 give me one second here to find my slides. Okay.

1 So, starting on Page 22 we have alternatives for
2 annual catch limits and accountability frameworks.
3 Turn to that page.

4 And you might want to grab the flow
5 charts to put next to the text, just for reference.

6 That helps me as I walk through this exercise.

7 So, in the case of Atlantic mackerel,
8 you'll recall very similar to what we looked at in
9 December, there is a Canadian catch that's
10 incorporated into the specification of -- or
11 specification of the ABC and the OFL.

12 So, essentially the ABC would be
13 equal to the OFL minus scientific uncertainty. So,
14 you would come up with a universal ABC and then that
15 ABC minus Canadian catch would be equal to a
16 domestic ABC.

17 And when the Council reviewed this
18 back in July and back in December, you suggested
19 setting ACL equal to that domestic ABC, and using
20 annual catch targets to -- as a means to deal with
21 management uncertainty.

22 So, as well, that ACL evaluation as
23 to whether you have gone over your ACL would be
24 based on a single year of observed catch. So, the

1 year that you're in, you would take the ACL that
2 you've specified, compare it to what your catch has
3 been to that year -- for that single year to
4 determine whether you've gone over or not. There
5 wasn't any rolling averages that were involved in
6 this.

7 So, Atlantic mackerel for
8 accountability measures has a few things that are
9 already in the FMP. They have a commercial fishery
10 closure that could occur if the DAH is projected to
11 be reached, and there are also trip limits -- trip
12 limit adjustments that can occur that are triggered
13 when 90 percent of the DAH is reached.

14 So, for proactive measures that are
15 proposed in the document, as I said, an ACT is a
16 proactive measure. Based on discussions I had
17 earlier on with Jason Didden and the coordinator and
18 the Regional Office and the FMAT, we looked at the
19 timing of the Amendment 11 process and our process
20 to determine in the case of part allocations for the
21 recreational fishery did it look like that was going
22 to come out the gate prior to the omnibus amendment
23 being approved. And it looked like that amendment
24 was moving forward.

1 Now, in that amendment they proposed
2 a hard recreational allocation. So, the option
3 that's explored in this document has a recreational
4 sector ACT and a commercial sector ACT, so that
5 would be consistent with that hard allocation.

6 I was not here this morning, but I
7 have talked to Jason and apparently the amendment
8 has been put on hold temporarily, so I just wanted
9 to make it clear that what's in the document right
10 now is consistent with the assumption that that rec
11 allocation was going to go forward in Amendment 11.

12 So, when we take a closer look at the
13 flow chart, we could talk about how we might want to
14 handle this, but I just wanted to point that out.

15 So, you have proactive use of the
16 annual catch targets. So, you have that one annual
17 catch limit. You've got these two annual catch
18 targets that you can look at on the flow chart. And
19 management uncertainty, the Council would establish
20 a process for addressing management uncertainty, and
21 that's where the monitoring committee would
22 recommend review all of the information that's
23 available and come up with methods to recommend if
24 an adjustment is necessary to address management

1 uncertainty when you set either your commercial
2 fishery ACT or the recreational fishery ACT. So,
3 they would look at that.

4 One of the difficulties that we had
5 as an FMAT is basically management -- there are a
6 lot of things that cause management uncertainty, and
7 those things change over time. It's not just a
8 static system. So, you know, it could be due to
9 discard estimation. It could be due to the way the
10 management measures are applied. They could be due
11 to a whole slew of things. And it's very hard to
12 figure out what that should be up front.

13 So, based on what the Council
14 indicated in December, the monitoring committee,
15 who's familiar with the fishery and familiar with
16 the limitation of the fisheries in their areas,
17 would evaluate that information and then make a
18 recommendation to the Council for what those ACTs
19 should be.

20 So, once those two ACTs have been
21 set, if you look at this Atlantic mackerel flow
22 chart, any RSA or discards would be taken -- taken
23 off the top to establish either the domestic annual
24 harvest, which is the DAH that's used to manage the

1 landings, or that recreational harvest limit, which
2 in this case would be assumed as a hard allocation.

3 For reactive measures, if the ACL is
4 exceeded within this flow chart, the commercial
5 and/or recreational landings overage deduction if a
6 specific -- why did I write my slide that way?
7 That's a horrible thing to say. So, let me step
8 back, because I've obviously not made that -- made
9 that very clear.

10 Basically, if the ACL is exceeded and
11 the landings -- the landings side of these
12 components are responsible, there is an overage
13 deduction that would occur. So, it would either
14 occur at the commercial -- for commercial landings
15 that overage deduction would occur at the DAH. For
16 the recreational harvest limit, if the ACL is
17 exceeded and that recreational fishery is
18 responsible, that overage -- that deduction would
19 occur for that fishery, as well.

20 Now, if the ACL is exceeded and there
21 is an overage due to -- yeah, I've done a terrible
22 job of this. Okay. I had two of the same slides.
23 This is not good. Oh, okay. All right. This was
24 the slide I meant. I left an old slide in there,

1 and that's why it was confusing. My apology.

2 So, if the ACL is exceeded, the
3 commercial DAH and/or the recreational harvest
4 limit, which is that landings component, would be
5 deducted by the sector responsible. Now, these are
6 landings components, so that would address the
7 landings component of the catch. And this is again
8 -- it's an if/then. It's triggered if the ACL is
9 exceeded.

10 There are some rec in-season measures
11 that we've listed out -- this is on Section 23 after
12 we talk about these reactive measures -- that are
13 lumped with that reactive discussion. But that are
14 basically proactive type measures, but I lumped them
15 all together because I figured as you're reading
16 through it and it made sense to have sort of all
17 that recreational accountability to be together in
18 that section.

19 So, we've got both of those sectors
20 responsible for their landings. As a proactive
21 measure for the recreational fishery, there's an
22 option for general in-season closure authority. And
23 that would be something that's discretionary. It
24 wouldn't be linked to specific triggers. That would

1 be defined in the plan. It's basically for those
2 sort of unforeseen circumstances when data indicates
3 that something -- that the fishery may need to be
4 closed. However -- for this fishery, however
5 unlikely that that may be.

6 Other in-season measures, the FMAT
7 talked about those, because the Council tasked us
8 with discussing that.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Jessica, excuse me. Pat.

11 PAT AUGUSTINE: Yeah, thank you, Mr.
12 Chairman. I was just listening to you, but I was
13 going by the flow chart. And in the flow chart that
14 you handed out, it shows that research set-aside
15 and/or discards separated between the recreational
16 fishery ACT and the commercial fishery annual catch
17 target.

18 Is there an inference here that
19 whatever the -- I'm not sure what the inference is.

20 It sounds like you end up research set-aside
21 projects or programs that could be conducted on
22 behalf of recreational that that amount of quota
23 would be taken out of the recreational side. Or
24 conversely, that if the projects that are approved

1 for research set-aside are from the commercial
2 sector, that the research set-aside would come out
3 of the commercial quota.

4 I'm not sure that these RSAs should
5 be in this box and RSAs should be in that box, and
6 that RSA quota or the future quota should be up
7 somewhere else, taken out of the overall quota. Do
8 I understand that correctly?

9 JESSICA COAKLEY: Yeah, we took the
10 RSA out at that level because first you may have an
11 adjustment for management uncertainty when you're
12 setting the ACT. So, that may be a percentage-based
13 adjustment which gets you to the ACT.

14 The equivalent of that ACT, which I
15 believe is the IOY, is what the three percent of the
16 RSA was linked up to in the Atlantic mackerel and --
17 Atlantic mackerel and butterfish. I don't know --
18 Jason, you're kind of nodding. I think that's where
19 it was linked up.

20 So, when we talked about this, it
21 made sense to go ahead and take the RSA off below
22 that, since that's where that three percent of RSA
23 is applied.

24 It wouldn't be specific to projects.

1 This is something that we do in a lot of the
2 fisheries like summer flounder when we go ahead and
3 figure out what the commercial quota is and the rec
4 harvest limit. We take the three percent of
5 whatever the -- using that summer flounder example I
6 have there. See, it's 750,000 pounds of RSA, and we
7 split it, because 60 percent of the quota goes to
8 the commercial fishery and 40 percent goes to the
9 recreational fishery.

10 So, we partition that RSA 60/40 and
11 subtract it when we set the commercial quotas and
12 rec harvest limits. So, all this does is it still
13 -- you're still taking three percent off the top.
14 It's just I'm not taking three percent all the way
15 off the top. I'm taking it from the parts further
16 down.

17 PAT AUGUSTINE: Follow-on, Mr.
18 Chairman. That appears to be a problem, though. If
19 we set the recreational harvest limit at 6.2 percent
20 that we just talked about yesterday, we're going to
21 take three percent off of that for research set-
22 aside. If we take the commercial quota, which is
23 now going to be 93 and a half percent, we're going
24 to take three percent off of that, that seems to be

1 somewhat of a disparity. Are my numbers --

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 It's proportional. It's not cut in half. It's
4 proportional. Yeah, Gene.

5 EUGENE KRAY: Thank you, Mr.

6 Chairman. I don't know how we're going to have
7 recreational discards. Basically, most people --
8 they catch mackerel for bait and they don't care
9 what size they are. They go out there with 55-
10 gallon drums.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Jessica.

13 JESSICA COAKLEY: Yeah, for a lot of

14 these, that discard may be zero. It's just you have
15 to have a process to account for all these sources
16 of mortality and in a lot of fisheries sometimes
17 discarding is zero, but then maybe something changes
18 in the management process, or maybe there's a
19 fishery that develops someplace else that suddenly
20 starts discarding large amounts of Atlantic
21 mackerel.

22 So, what we're trying to do in these
23 frameworks is lay out are all the sources -- are all
24 the catch components accounted for somewhere?

1 So, again -- in fact, I've talked to
2 Rich about this, that that discard for them is
3 probably zero and that that ACT and DAH are probably
4 going to be very close to one another, with the
5 exception of that RSA -- that small RSA deduction.

6 So, that's one of the things that as
7 we went through this as an FMAT was trying to go
8 through is everything accounted for. If any of
9 these components are exceeded, do we have a
10 mechanism to react to that? And do we have some
11 sort of proactive AMs built in this, either
12 proactive in terms of measures up front or proactive
13 in terms of a mechanism to deal with management
14 uncertainty, because there's going to be that
15 interplay between the two there that if you have
16 more proactive measures for your fishery, you may
17 not have as much management uncertainty. So, that
18 buffer may decrease. There's that interplay there.

19 So, basically, looking at flow chart,
20 you've got the RSA and/or discards that would come
21 off to specify the recreational harvest limit and
22 the domestic -- the DAH.

23 For other recreational in-season
24 measures, the FMAT did talk about this, and that

1 idea -- the idea of developing sort of these
2 prescriptive triggers to deal with things in the
3 recreational fishery, we've put it in here as
4 considered but rejected at this point. And it was
5 based on really there aren't management measures
6 that are in place to manage that fishery at this
7 point, and the recreational fishery, the amount
8 that's been allocated to that, hasn't gone over what
9 they've been allocated. So, we really don't have
10 anything to base an understanding of how the fishery
11 would respond to management measures on. So, it's
12 hard to come up with options for those proactive
13 measures in the absence of that.

14 So, that's one of the things we
15 talked about in length, and basically weren't able
16 to develop anything at that point and recommended
17 that that wasn't a viable option.

18 So, accountability for these other
19 catch components, and these could include discards
20 that would be in excess of the amount that you've
21 specified when you specify the ACLs or ACTs. Or in
22 the very, very unlikely event that maybe for some
23 reason RSA went way over what they were apportioned,
24 which again pretty unlikely that would happen, but

1 it's sort of a catch-all for those other things.

2 The sector specific ACTs would be
3 adjusted a subsequent year in response to those
4 other catch components, other than landings, not
5 being accounted for.

6 So, basically in this framework
7 you've got -- if the ACL is exceeded by either the
8 recreational harvest limit or the domestic annual
9 harvest, if those were called for you've got an
10 adjustment to those landings components. If it's
11 exceeded by those other components that are not
12 landings-based, you would adjust that ACT in
13 response to it.

14 So, those are reactive AMs. One of
15 the things we have talked about at length with other
16 FMAT members, I know I've talked with Mike about it
17 and we've talked with Toni about this, is the
18 difficulty in coming up with proactive AMs for many
19 of these fisheries, that we've got our reactive AMs
20 most of the bases covered. If you look through any
21 of these frameworks, there is a response if the ACL
22 is exceeded for each of these catch components. But
23 on the proactive side, other than addressing the
24 management uncertainty adjustment to account for

1 those kinds of things, that that's been one of the
2 most challenging things for the FMAT staff to
3 develop for you.

4 So, that's pretty much an overview of
5 Atlantic mackerel. One thing that did come up in
6 the discussions -- actually, between Jason and Joel
7 and myself, we talked about the Amendment 11 issue
8 and the fact that it has been temporarily put on
9 hold and therefore if that allocation issue didn't
10 move forward in Amendment 11, but this amendment
11 moved forward, what we have in it would be
12 inconsistent because this is -- what we have in here
13 is based on the assumption that we're going to have
14 a hard allocation for the recreational fishery for
15 mackerel.

16 One solution that we've talked about
17 is the possibility of moving the allocation issue
18 for setting that hard target into the omnibus public
19 hearing draft. Having it in there and basically
20 saying if -- if in June or the next time that you
21 revisit this amendment the allocation issue does not
22 move forward and it's the Council's intent to have
23 this structure, that issue could move forward in the
24 omnibus document and these are the options that are

1 being considered under that. And that could be
2 something that we could basically paste into the
3 public hearing document and take out with us as we
4 go.

5 There are other -- there are issues
6 relating to that, however. There is a possibility
7 that by including that allocation issue in the
8 omnibus document it may elevate it again to an EIS.

9 So, that would have impacts and implications in
10 terms of the time line of document preparation.

11 Another way to look at this, as well,
12 is -- you know, maybe you don't want to deal with
13 that allocation issue in here and you want to decide
14 that it's later in June when you talk about this.
15 Maybe it's better not to have a separate ACT for the
16 rec fishery or to have that allocation and to just
17 go forward with the idea that we're not going to do
18 that.

19 Based on the conversations that I've
20 had with Joel and Jason, trying to come up with a
21 reasonable staff resolution, we thought pasting that
22 allocation concept into here and going out to public
23 hearings with it would be reasonable; and then, in
24 the meanwhile, we can sort out between now and June

1 whether -- whether it would in fact elevate this
2 document to an EIS and what the implications of that
3 time line would be, and bring that forward in June,
4 which is when you'd also be discussing what you'd
5 like to do with Amendment 11, so those decisions
6 could be made in conjunction. So, we can decide how
7 best to handle it if it's -- if you need to move it
8 here or you don't. If 11 is going to move forward,
9 it may not be an issue. It may be consistent with
10 what's in the document at that point. So, that's
11 pretty much the options at this point.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Thank you, Jessica. Pat.

14 PAT AUGUSTINE: Yes, Mr. Chairman. To
15 that point, would we not risk the possibility of
16 then further delay of moving the omnibus forward if
17 we were to try to encompass or include that quota
18 business on recreational? I mean, any risk --

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 Well --

21 PAT AUGUSTINE: Yeah, any risk might
22 be detrimental.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Joel, could you possibly comment? I mean, is this

1 going to automatically kick it up to an EIS, or is
2 that an open -- is this an open question?

3 JOEL MACDONALD: That's not a
4 foregone conclusion. We're going to discuss that.
5 But I think the timing involved here suggests that
6 we include this in the omnibus and move forward and
7 see whether -- you know, what shakes out.

8 I've got a call into the NEPA folks.
9 Unfortunately, the one I want to speak with isn't
10 going to be available till next Monday, so we should
11 know in short order where we stand with respect to
12 the EIS/EA issue.

13 PAT AUGUSTINE: Thank you.

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Chris.

16 CHRISTOPHER ZEMAN: In terms of this
17 chart, where are we taking out non-target fishery
18 discards?

19 JESSICA COAKLEY: Oh, non-target
20 fishery discards?

21 CHRISTOPHER ZEMAN: Yeah.

22 JESSICA COAKLEY: Those would be
23 included in -- say in the commercial fishery, that
24 would include directed discard -- discarding that

1 occurs on directed mackerel trips or discarding that
2 occurs in other fisheries fishing for other species
3 but discarding mackerel?

4 CHRISTOPHER ZEMAN: Right.

5 JESSICA COAKLEY: Yes.

6 CHRISTOPHER ZEMAN: Where does that
7 come in? Does that come in above in terms of
8 management uncertainty or --

9 JESSICA COAKLEY: Well, discards are
10 carried through the flow chart. So, all of those
11 discards, whether they're in the directed fishery or
12 non-directed, would be included when they do the
13 stock assessment. And when they come up with
14 figuring out the ABC, the OFL and the ABC would be,
15 those catch levels, those are going to -- those are
16 catch levels. They include both landings and
17 discards.

18 And then as you go ahead and parse
19 this down, the ones from the commercial fishery that
20 discarding activity would end up on that right-hand
21 side. So, when you set your ACL, that includes both
22 landings and discards. So, those would be a part of
23 it.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Chris, are you referring to mackerel discards or
2 other species discarded in the mackerel fishery?

3 CHRISTOPHER ZEMAN: It would be
4 mackerel discards.

5 COUNCIL CHAIRMAN RICHARD ROBINS:
6 Mackerel.

7 CHRISTOPHER ZEMAN: Discarded in
8 other fisheries. And so basically you're saying
9 that it's done by the SSC at the -- above the ABC
10 level, more like -- even before Canadian mortality?
11 Is that --

12 JESSICA COAKLEY: Well, the discards
13 are going to be carried through, because these are
14 all catch limits, so they've got both of those. So,
15 when they do the stock assessment, they're going to
16 take into account dead discards from other
17 fisheries, all dead discards. That's all sources of
18 mortality is what they're going to be addressing in
19 the stock assessment.

20 So then they're going to go ahead,
21 they're going to do projections, pool that
22 scientific information together, and then that's
23 going to be carried through when they set the OFL
24 and the ABC. So, when you subtract that Canadian

1 mortality, that's going to include Canadian landings
2 and Canadian dead discards are going to come off.
3 But you're still going to have the U.S. components
4 of landings and discards in that domestic ABC.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Pat. Sorry, Chris.

7 CHRISTOPHER ZEMAN: I'm sorry. One
8 more follow-up.

9 JESSICA COAKLEY: That's fine.

10 CHRISTOPHER ZEMAN: Now, in terms of
11 -- let's say you have a situation where you don't
12 have any data on discards, so it really goes into
13 yes -- I mean, in a lot of cases -- and I've seen
14 this in SARCs and -- where basically there is really
15 no evaluation of other fisheries discards, because
16 basically there's no data of that.

17 Now, is that -- and in a lot of cases
18 in the Mid-Atlantic, that's going to probably still
19 be the case, because we still have very low observer
20 coverage and so there's this -- it's -- I just want
21 to make sure this is not missed. It's either
22 addressed in management uncertainty or it's
23 specifically addressed in non-target fishery
24 discards.

1 But I mean -- and I reviewed SSC
2 reports and -- you know, the approaches they use is
3 -- at least in the past. You know, I haven't really
4 seen that sort of -- it seemed to me more of an
5 analysis that was a single species or a single
6 fishery analysis of discards.

7 And the way you have this presented
8 here is how I sort of see that happening. Because
9 you set the ACT and then you apportion a portion of
10 that to discards and then you end up with a DAH,
11 which is sort of what we do now. We say this is
12 your recreational harvest, this is what we estimate
13 this -- your fishery will result as discards, and
14 then -- and therefore, your actual catch is reduced
15 by your discards. And that's how this is laid out.

16 If we -- any sort of non-target
17 mortality discards should be above that ACT, or
18 should be specifically addressed as management
19 uncertainty. But I don't think we have a process to
20 really specify that.

21 JESSICA COAKLEY: I think you do, and
22 what -- basically, what you have -- and I'm going to
23 have to go to my summer flounder example, which is
24 always my easiest example, just because I'm working

1 with it all the time. And you know what? We can
2 pull out the hypothetical example that I have,
3 because maybe this will help, because this actually
4 has numbers included.

5 So, when we go through and do the
6 stock assessment, there are -- the directed landings
7 and discards are taken into account, but there are
8 also specific analyses that take place to address
9 discarding in other fisheries.

10 So, scallops is one fishery that
11 discards a lot of summer flounder. It lands some
12 summer flounder; they discard them, as well. And
13 those are explicitly taken into account during the
14 stock assessment when we calculate all the catch
15 components that go into the stock assessment. It
16 feeds into that catch at age matrix.

17 So, when we're going to make
18 recommendations for the upcoming fishing year, we're
19 going to project out what those discards -- what we
20 think they're going to be in the next year. And
21 what the catch might be in the next year that's
22 associated with the fishing level that we want to
23 see.

24 So, in this case, the overfishing

1 limit, we take FMSY, which is .310, and we project
2 forward a year and say well, what catch levels are
3 going to give us FMSY. And in this case, it gave us
4 30 million pounds of landings, four million pounds
5 of discards. And that includes -- this is all
6 sources of mortality, so it's going to include
7 landings from the rec fishery, landings from the
8 commercial fishery, discards from those fisheries,
9 dead discards, but discards from fisheries that
10 weren't directing on them, like the scallop fishery
11 or other trawl gears that are discarding summer
12 flounder. That's all part of that four million
13 pounds.

14 So then, when an adjustment is made -
15 - in this case, the SSC -- you know, looks at the
16 Council's risk policy, looks at the uncertainty and
17 makes an adjustment to address that. They come up
18 with the ABC. And in this case, it's reduced by
19 five and a half million pounds, that 28.5 million
20 pounds. 25 million pounds of that is landings.
21 Three and a half million pounds of that is discards.

22 So then those discards, when we go
23 through the next step to set the sector specific
24 ACTs, we're going to partition them. And in this

1 case, 20 percent of the discards that occur are from
2 the commercial fishery, dead discards. And 80
3 percent are from the recreational fishery. But that
4 ACT, those dead discards, those are discards from
5 all sources.

6 So, that gets carried through when we
7 set the ACT. And then you can move through those
8 subsequent steps. And those discards are later
9 taken off, after the annual catch target to set the
10 landings levels that's going to be our operational
11 unit for when we set management measures.

12 Now, you mentioned sources -- having
13 sources of mortality or discarding that's poorly
14 characterized, and that may be something that the
15 SSC chooses to deal with when they deal with
16 scientific uncertainty. It's a big thing, like say
17 scup it was a big deal. For a long time, we had
18 really poor estimates of scup discards, and that was
19 one of the things that was preventing it from going
20 through the assessment.

21 So, it may be something -- you know,
22 if they have an aspect of -- a discarding that's
23 occurring that's poorly characterized or they have
24 no information about it, but we know that it's

1 occurring and we try to quantify that in some way,
2 it could be dealt with at that scientific
3 uncertainty level.

4 If it isn't dealt there -- with
5 there, I could see reasons where maybe the Council
6 wants to deal with it at the management uncertainty
7 level, because maybe they think it's causing
8 imprecision with their observed catch.

9 But I think within this framework
10 we've got -- we've got the mechanisms to deal with
11 these things in different places, but dead discards
12 from other fisheries definitely gets incorporated
13 when we -- at the science level up front when we
14 deal with projecting what this OFL is going to be
15 and when the SSC is going to go and figure out what
16 that ABC is going to be.

17 So, I hope -- was that helpful?

18 CHRISTOPHER ZEMAN: Yes. Yes. So,
19 it's incorporated at the OFL level here.

20 JESSICA COAKLEY: Mm-hm.

21 CHRISTOPHER ZEMAN: It's not -- it's
22 not down here, after you set -- you know -- after
23 you -- it's not -- when you say discards here,
24 that's not -- that's not where we're incorporating

1 it. We're incorporating it up here.

2 JESSICA COAKLEY: Yeah, and it's just
3 getting sort of carried through -- through that
4 catch framework as we figure out -- as we get down
5 to our operational terms with the commercial quotas,
6 rec harvest limits, those kinds of things, we're
7 landings-based.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Pat.

10 PATRICIA KURKUL: Thanks. I wanted
11 to go back a little bit to the EIS discussion and
12 just make sure that people understand that the EA is
13 not a foregone conclusion, that that's what we're
14 targeting. But we will never quite know until
15 everything's in there whether or not we can go with
16 an EA or go through an EIS. And I just want to make
17 sure people understood.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Thanks for that clarification. John.

20 JOHN MCMURRAY: Thanks, Rick.

21 Jessica, after the December meeting, we exchanged a
22 few emails regarding where mackerel, butterfish and
23 squid fit into the ACL/AM process as a forage fish
24 in a part of the -- as an ecosystem component. And

1 I received a sufficient explanation from both Rick
2 and Dan on that, but it was my understanding that we
3 were going to try to make that clear in the
4 narrative, and I don't see it there. Can you
5 clarify where that is, if it does exist?

6 JESSICA COAKLEY: Well, if you go in
7 on Page 26 and Page 27, in the tables of terms, and
8 at the bottom of the table on Page 26 -- or excuse
9 me, actually in the middle where you talk about
10 initial optimum yield. In this case, it relates
11 that to the terms that you use, recreational ACT and
12 commercial ACT, sector specific ACTs that you've
13 identified, and that's where in your flow chart that
14 RSA usually comes off of that IOY, three percent of
15 the IOY. So, that's why that RSA comes up -- comes
16 off after that point in terms of your framework.

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Jessica, to this point, the language in the
19 narrative in that definition says that IOY is a
20 modification of ABC based on social and economic
21 factors. Shouldn't that also say ecological
22 factors.

23 JESSICA COAKLEY: Ecological, mm-hm.

24 COUNCIL CHAIRMAN RICHARD ROBINS: Is

1 that an adequate --

2 JOHN MCMURRAY: That would be
3 adequate.

4 COUNCIL CHAIRMAN RICHARD ROBINS: --
5 notation?

6 JOHN MCMURRAY: Thank you. Yeah.

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 Okay. Jessica?

9 JESSICA COAKLEY: Okay. Unless there
10 are any other questions about Atlantic mackerel, I'm
11 going to move on to butterfish. And now I'm
12 slightly disorganized. Let me get my butterfish
13 flow chart out.

14 Okay. So, butterfish is a much
15 simpler framework than we just discussed. Based on
16 the guidance the Council has given in July and in
17 December, the ACL is set equal to the ABC. And the
18 ACL evaluation, similar to mackerel, would be based
19 on a single-year evaluation.

20 In terms of the ACT, there's a single
21 ACT that would be set as an annual catch target, and
22 below that, the butterfish cap -- the landings cap
23 and those other catch components would operate.

24 RSA in this flow chart is deducted

1 from the IOY, as I pointed out, which could be equal
2 to the ACT for this fishery depending on how that
3 IOY has been set.

4 So, in terms of things that are
5 already in the FMP, the FMP does have commercial
6 fishery closure when the domestic annual harvest is
7 reached with incidental trip limits. So, that's a
8 proactive measure to address those landings.

9 An ACT is a proactive measure and in
10 the document the Council would propose a process by
11 which management uncertainty could be addressed, and
12 that the monitoring committee would look at the
13 information, the data, the methods and put forward a
14 recommendation to the Council for -- if an
15 adjustment is needed, what the important sources of
16 management uncertainty are, and what a potential
17 adjustment might be to address that.

18 For this fishery, fishery level
19 accountability would take place, and this means if
20 the ACL is exceeded by any of those catch
21 components, then the ACL would be adjusted in a
22 subsequent year.

23 So, you would have your butterfish
24 cap, those landings, discards in the directed

1 fishery, discards occurring in other fisheries, all
2 of those catch components that those observed
3 catches would be compared to your ACL. If you go
4 over that, that would be adjusted then the
5 subsequent year in response to that.

6 The group did discuss potential --
7 the FMAT did discuss potential corrective measures,
8 but at this point there are multiple sources of
9 mortality for this fishery, many of which are non-
10 directed. So, figuring out what those proactive
11 measures should be would be very complicated, and it
12 wasn't very clear how those should be addressed.

13 In addition, in December, when we
14 discussed this, the Council was looking for fishery-
15 level accountability, and that's what this reactive
16 AM is. The sum of all parts go over, then you could
17 address that.

18 But bear in mind there is that
19 management uncertainty buffer, so you would be
20 setting an ACT. And the ACT would in effect be a
21 soft target from those reactive measures, if all
22 those catch components go over the ACT, but don't go
23 over the ACL, an adjustment wouldn't be necessary.

24 So, that is basically butterflyfish.

1 So, if there are any questions --

2 COUNCIL CHAIRMAN RICHARD ROBINS: And
3 Jessica, the -- can you just -- let's see. I'm
4 looking at the text, I mean the butterfish cap is --
5 how does that tie into the ACL/AM package? That's
6 essentially the proactive AM? The butterfish
7 mortality cap for the loligo fishery is essentially
8 the part of the proactive AM package for butterfish?

9 JESSICA COAKLEY: Well, it -- it's
10 not explicitly laid out as a proactive AM here, and
11 I don't know -- has the butterfish cap gone to final
12 rule at this point? That has gone to final rule at
13 this point. Okay. Well, that would basically all
14 occur underneath that ACT in terms of how the
15 landings -- landings and discard portions of those
16 fisheries would be managed. The management measures
17 below that.

18 All right. Moving on to bluefish,
19 let me just get my bluefish flow chart out here.
20 Okay. Bluefish is a little bit more complicated
21 than butterfish. And it's a precursor for fluke,
22 scup, sea bass, when we get to that, as well. Very
23 similar structure. One major difference is the
24 transfer issue for the bluefish fishery.

1 So, similar structure, ACL would be
2 set equal to ABC. The ACL evaluation, the way it's
3 described in this document, would be based on a
4 single-year evaluation.

5 One of the things that Council tasked
6 the FMAT with in December was to talk about whether
7 or not for the recreational fishery a three-year
8 rolling average could be used for accountability for
9 that fishery. The FMAT did discuss this and
10 determined that because of the transfer issue that
11 complicates your ability to do those types of
12 comparisons and that it would either be appropriate
13 to have single-year comparisons for both the
14 commercial and recreational fishery or have three-
15 year comparisons for the commercial fishery and for
16 the recreational fishery, which would be a departure
17 from the current process for the commercial fishery
18 because we have commercial landings, overage
19 deductions that are already part of the FMP that
20 occur -- that are already occurring or could occur
21 regardless of what we're doing in this document.

22 So, the recommendation for the three-
23 year moving average was considered but rejected by
24 the FMAT. So, I'm putting that forward for you to

1 consider it, as well. But it was the transfer issue
2 and trying to separate how to deal with the
3 accountability and where you are relative to your
4 ACLs, which would really confound that issue.

5 The structure of the flow chart is
6 based on sector specific ACTs, and if you look at
7 the flow chart you'll see ABC equal ACL. However,
8 because of the transfer issue, management
9 uncertainty would be addressed in a single step
10 prior to setting the recreational annual catch
11 target and the commercial catch target.

12 And again, that's because of the
13 confounding issue of what are your sources of
14 management uncertainty, and that transfer is an
15 issue, as well, because if you transfer too much
16 from the recreational fishery to the commercial
17 fishery and that results in the recreational fishery
18 going over -- you know, that's again another source
19 of overages, potential source of uncertainty. So,
20 that would be addressed in a single step.

21 Things that are already in the FMP,
22 as I pointed out, the commercial landings overage
23 deduction is already something that the plan has and
24 that occurs irrespective of whether the ACLs or ACTs

1 are exceeded. That's something that's already in
2 place.

3 There's also already commercial
4 fishery closure authority. This can happen for
5 individual states or for the EEZ if all those states
6 go over. And there is that transfer factor that
7 complicates this one.

8 Again, that proactive use of ACTs,
9 these are sector specific ACTs, and this document
10 would establish the process for the monitoring
11 committee to make those recommendations to the
12 Council.

13 And that management uncertainty must
14 be addressed in one step for both of those sectors,
15 based on the transfer issue. You'll see when I get
16 to summer flounder, scup and black sea bass, because
17 that transfer isn't there, it's easier to
18 compartmentalize how to deal with management
19 uncertainty and accountability. It really is
20 compartmentalized by each sector, but for bluefish,
21 this one is a bit complicated.

22 Okay. So, I'm going to recommend we
23 go to Page 32 of the document, because I think it
24 would be easier to walk through the reactive AMs

1 that are listed in there. Okay.

2 So, for reactive AMs, if the ACL is
3 exceeded and the commercial fishery is responsible
4 for the overage, it's the commercial landings, then
5 commercial pound for pound repayment already takes
6 place.

7 Now, there's a couple of other
8 options for how to deal with in the event that the
9 ACL is exceeded, and the recreational fishery is
10 responsible for the overage in a year when no
11 transfer has occurred.

12 Then you could have a recreational
13 harvest limit overage deduction. Landings in excess
14 of the recreational harvest limit would be deducted
15 in the following year.

16 So, basically you're saying
17 commercial fishery is already accountable for its
18 landings, irrespective of what happens, but if the
19 ACL is exceeded and no transfer has occurred, that
20 the recreational fishery would be accountable for
21 exceeding those landings limits.

22 Now, the next issue that I've got a
23 series of sub-options for, there's three sub-
24 options, is in the event the ACL is exceeded, the

1 recreational fishery is responsible for the overage
2 when a transfer has occurred from the recreational
3 fishery to the commercial fishery.

4 So, the FMAT -- we talked through
5 three ways of tackling this, and it's really a
6 policy preference for what you would like to do.

7 The first would be the recreational
8 harvest limit overage deduction. That would be --
9 that would be applied just as if no transfer had
10 occurred. So, even though you transferred that
11 amount over, recreational fishery is still
12 responsible for keeping constrained to that lower
13 target, and that overage deduction would occur
14 anyway.

15 Suboption B would be accountability
16 for the recreational overage would occur at the
17 fishery level, and the ACL would be reduced in the
18 subsequent year. So, essentially what this would do
19 is make both fisheries responsible for the overage
20 that occurred in the year -- an overage that
21 occurred when that -- in a year when that transfer
22 took place.

23 So, rec fishery transfers a bunch of
24 fish over to the commercial fishery, turns out that

1 they go over, they transferred too much, maybe the
2 measures weren't effective, lots of fish available,
3 not really sure why, but they go over; next year,
4 before you go through the process of setting all of
5 your ACTs, that overage would come right off the
6 top. So, both sectors would pay for that overage.

7 Suboption C is a little variation on
8 that, and it would be that accountability for the
9 recreational overage would occur at the fishery
10 level; however, there would be a reduction in the
11 subsequent year to the amount of transfer that would
12 be allowed.

13 So, if you chose to transfer the next
14 year, if you went over by -- you know, 20 percent,
15 the prior year because you transferred too much,
16 then that next year you would need to transfer less.

17 So, that's the third sub-option
18 there. Again, these are policy choices. I see
19 people nodding, grimacing, at different ones, and it
20 really is -- the FMAT -- it's not our choice for
21 which is most appropriate. Any of these would work
22 in terms of accountability. It's a matter of you
23 identifying your preferences.

24 In addition, for recreational in-

1 season accountability, there's a couple of options
2 in here. General recreational closure authority --
3 this is one of the things the Council talked about
4 in December and had suggested be added within the
5 document.

6 And basically, that closure authority
7 wouldn't be linked to specific triggers. It would
8 be based on looking at the information, the
9 situation, at the time that the Regional
10 Administrator would need to make a determination of
11 action to close as necessary.

12 Considered but rejected from further
13 analysis, the FMAT did look at recreational landings
14 information and harvest limits from 2000 to 2008 to
15 try to figure out if there was a way to develop in-
16 season measures that had prescribed triggers. So,
17 you know, an example would be if you hit -- landed X
18 amount of your harvest limit by WAVE 3 -- you know,
19 if it's a good predictor that an overage might
20 occur, then that might trigger a fishery closure on
21 a certain specific date based on that information.
22 But for the bluefish fishery, there really isn't a
23 lot of information to base those types of analyses
24 on.

1 There's only been one overage that's
2 occurred in the most recent nine years. That
3 overage was six percent. So, it wasn't a
4 substantial overage. And in terms of the possession
5 limits that have been applied to the bluefish
6 fishery, because I think they're operating just on
7 possession limit. Right now for the recreational
8 fishery. I don't know that they've ever changed
9 those as long as I've been around. And I see Jim
10 shaking his head.

11 So, we didn't have a history to look
12 at whether there was a trigger that we could set
13 that would be effective. There just wasn't the
14 information to figure out what that might be.

15 And then in terms of coming up with
16 sort of adjustments to management measures, like
17 maybe trying to slow the landings down, thinking --
18 you know, maybe making an adjustment to the
19 possession limit or seasons or size limits,
20 something like that, to slow the influx of landings
21 in season. Again, in the bluefish case, there's no
22 information really to base that. We have no
23 information for how the fishery responds to changing
24 management measurements in that recreational

1 fishery.

2 So, for those proactive AMs, the FMAT
3 did look at this. But again, it's recommended
4 considered but rejected from analysis at this point.

5 We really couldn't develop viable options for
6 bluefish. We will look -- talk a little bit more
7 about summer flounder, scup and black sea bass,
8 though, because we do have a little more information
9 for those.

10 Last option in the document, fishery
11 level accountability. Basically, the landings
12 components are being addressed through either the
13 commercial landings overages or it could be
14 addressed through either Suboption A, Suboption B or
15 Suboption C, depending on what this Council decides
16 in terms of recreational landings overages exceeding
17 that recreational harvest limit.

18 But accountability for those
19 remaining catch components, reactive accountability
20 is addressed in this last issue or last option. So,
21 if things other than commercial and recreational
22 landings, like discards or in the unlikely event RSA
23 is exceeded, things like that, if the ACL is
24 exceeded, then the ACL would be adjusted in the

1 subsequent year in proportion to that.

2 So, the landings pieces are addressed
3 at that ACT level -- or excuse me, at the ACL level,
4 and these other components are also addressed at
5 that ACL level. And again, that's because of the
6 moving around the quotas and things. That's what
7 the FMAT had recommended in developing this.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Chris.

10 CHRISTOPHER ZEMAN: Simply kind of
11 overarching point again. You know, if we are
12 addressing non-target discards via the SSC and
13 they're providing us that information, then I would
14 just recommend or request that the SSC provides us
15 specific information as to where the discards are
16 occurring. Because -- and this is like I guess my
17 fundamental issue with this approach is that as a
18 fishery manager I kind of see myself as protecting
19 directed fisheries that we manage, and all I see
20 here is that in terms of our options we're really
21 limited to just reducing directed fishing levels.
22 And we sort of -- non-target discards, which may be
23 significant, which may not be significant -- you
24 know, but I'm trying to look in the future and I

1 have to be cognizant of the fact that there are tens
2 of thousands of fishing grips going on every year
3 that are not related to this specific fishery.

4 So, I'd like to be a little -- I'd
5 like to have a system here that's more active on
6 dealing with non-target discards. So, I'd like to
7 know where they're coming from and I'd like to have
8 the option of addressing those and regulating those,
9 as well. Because I really don't have that here.

10 And time and time again, what we see
11 with directed fisheries is that our toolbox is just
12 limited to shutting down that fishery. We're seeing
13 that with river herring. It's not at our level, but
14 it's at the ASMFC level, where really we're seeing
15 bycatch occurring offshore that's totally unrelated
16 to those directed fisheries that might be fishing
17 for river herring or -- you know, recreational
18 fisheries, but then what's the option of the ASMFC,
19 shut down all directed fishing for river herring.

20 And I see that as a trend. I've seen
21 that in New England where these traditional directed
22 fisheries are the first ones to go because that's --
23 because of limited toolboxes that fail to account
24 for the fact that there are a lot of overlapping

1 fisheries here, all with impacts. So, I'd like to
2 see more active incorporation of dealing with
3 discards.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Chris, just to that point -- you know, we are
6 actively managing obviously a major interaction with
7 the action we developed under Amendment 10 on
8 butterfish. So, that's one interaction that's a
9 documented interaction that we developed an
10 amendment for specifically to directly manage.

11 But I think your point about wanting
12 more information about the extent of interaction
13 between the fisheries is a good point that we can
14 continue to try to build on and work with staff and
15 the SSC to get more information on.

16 CHRISTOPHER ZEMAN: And as I said,
17 just general overarching comment, so --

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Jessica.

20 JESSICA COAKLEY: Yeah, if I can just
21 add one more point to that, as well. And this is
22 something that we've talked about, again, with the
23 FMAT. You know, we're setting up these frameworks.

24 Obviously that discard component is coming off

1 there, and essentially as your -- results in reduced
2 catch limits.

3 Now, if you have expanding discard
4 issues that are developing in other fisheries where
5 discards are increasing in other fisheries, that's
6 going to show up in those discard deductions and
7 those things as you walk through this process. And
8 that may be where taking that information, trying to
9 identify what those sources of discards are, and
10 maybe at Council's discretion -- you know, we're not
11 viewing these frameworks as sort of the final
12 frameworks.

13 I think the Council has to look at
14 this as we're developing something to account for
15 these things. We're trying to be responsive to the
16 MSA. But these are going to need to evolve, and
17 there may be cases where ACTs need to be added to
18 address those types of things, or other types of AMs
19 may need to be incorporated into this. Because, as
20 I said, it's -- we're a little thread-bare on the
21 proactives on some of these -- for that reason,
22 because it's hard to figure out with these multiple
23 fisheries what all these sources of mortality are
24 and how to deal with them.

1 So, it's a starting point, I think,
2 from -- for where you're going and that we're trying
3 to be responsive to the fact that these are going to
4 have to be modified as you move forward.

5 CHRISTOPHER ZEMAN: I agree with you
6 in that this is a work in progress and we're moving
7 forward. And we have this opportunity now, which we
8 didn't really have in the past -- I mean, when I
9 started up in New England in 2000, there was no
10 observer coverage, and a lot of the fishery
11 management measures assumed zero discards. And we
12 later find out -- you know, that that really is a
13 flawed approach because they're happening and we're
14 really just shifting -- we're really just causing
15 pain and we're really just shifting -- shifting
16 landing mortality to discard mortality and not
17 reporting it. And that's really what I'm trying to
18 avoid here.

19 But you know, again, we're really
20 making a lot of progress. It's amazing the progress
21 I've seen in the time I've been working with these
22 Councils. And now that we have this opportunity to
23 really address that and incorporate all sources of
24 mortality and make sure that our measures that --

1 you know, if we're putting -- you know, imposing
2 pain on a certain sector, that it's validated and
3 it's actually -- there is a conservation benefit
4 that goes with it. That's where I want to make sure
5 we're going.

6 JESSICA COAKLEY: All right. Next,
7 ACL structure is -- spiny dogfish. Spiny dogfish is
8 a simpler flow chart than what we had for bluefish.

9 Again, spiny dogfish has that Canadian catch issue,
10 so the Canadian catch comes off of the overarching
11 ABC to get us to a domestic ABC, which the Council
12 back in July or December recommended setting equal
13 to the ACL.

14 So, again, evaluation of your
15 performance relative to that ACL would be based on a
16 single year, and there would be a single ACT for
17 this fishery to address management uncertainty.

18 Things that we already have in the
19 FMPs, there are already trip limit adjustments.
20 There's also a commercial fishery closure authority,
21 a semiannual authority that's described for this
22 fishery.

23 An ACT is a proactive AM and the
24 Council would look to the monitoring committee to

1 develop the methods and approaches for addressing
2 management uncertainty and putting those
3 recommendations forward.

4 In terms of in-season -- excuse me,
5 in terms of proactive measures, proactive in-season
6 adjustments for the commercial fishery, this was one
7 of the things in December that the Council had
8 tasked the FMAT with taking a look at. We did
9 discuss this.

10 I also spoke at length with Jim
11 Armstrong on our staff to get a feel for what's
12 going on in terms of the fishery, what's going on
13 with the new amendment that's been proposed, and
14 what our options were in terms of effective in-
15 season type adjustments.

16 And if you look on Page 38, there's a
17 pretty lengthy paragraph. At this point, it's
18 recommended as a considered but rejected. Amendment
19 3 is in the development process and they're
20 contemplating transitioning from the current
21 management regime, the semi-annual approach, to a
22 regional allocation approach that may compliment the
23 Commission's plans.

24 So, it may make sense to wait to

1 develop those types of proactive measures until --
2 to develop those once those issues have been sorted
3 out and perhaps develop them in a complimentary way
4 to that new regional approach. So that is something
5 that could be tackled in Amendment 3.

6 A particular challenge for this
7 fishery is the federal and state fishery. About 90
8 percent of the landings are occurring in state
9 waters, and as you know, the ACLs and AMs, this
10 process is for the federal fisheries. So, in-season
11 type adjustments to trip limits may be extremely
12 ineffective at reducing landings. They would reduce
13 landings only for that portion of the fishery over
14 which we have authority. And 90 percent of those
15 landings are still occurring in state waters.

16 We also talked at length about one of
17 the common sources of overages is really disconnects
18 between the management for federal waters and state
19 waters, with quotas being state higher in state
20 waters, not necessarily imprecision in management
21 for the federal fishery in those trip limits.

22 So, for those reasons, it's listed as
23 considered but rejected for further analysis.

24 In terms of reactive AMs, this

1 fishery is relatively straightforward. If the ACL
2 is exceeded, then accountability would occur at the
3 fishery level and that ACL would be reduced in the
4 subsequent year.

5 So, any landings or discards, either
6 directed or nondirected, all those would be summed
7 up and then compared -- observed catch as compared
8 to the ACL to determine if it's been exceeded.

9 Looking at the flow chart real
10 quickly, one other point. It's footnoted at the
11 bottom at total allowable landings. RSA is being
12 contemplated in Amendment 3. So, if it is
13 contemplated and put into place, it would be
14 deducted from the TAL. That's just a little
15 footnote, that's not included in the full framework.

16 This is actually very similar to
17 butterfish in terms of the structure. Are there any
18 questions?

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 Questions?

21 (No response audible.)

22 COUNCIL CHAIRMAN RICHARD ROBINS: No.

23 All right.

24 JESSICA COAKLEY: All right. The

1 next species we're going to talk about is summer
2 flounder. Let me flip to the summer flounder flow
3 chart here. And summer flounder for -- this starts
4 on page 41. We're going to start freestyling off
5 the document, because it's getting more and more
6 complicated to put it all on the slides.

7 So, the sector specific ACL, the sum
8 of all of those would be set equal to the ABC. If
9 you look on Page 41 right after that equation,
10 there's a paragraph on annual catch limit
11 evaluation. And one of the things that you tasked
12 the FMAT with in December was taking a look at
13 whether a three-year rolling average for the
14 recreational fishery -- what that would look like
15 relative to a single-year comparison to the ACL.

16 And for the commercial fishery, we
17 were already considering a single-year comparison
18 that already links up with the current commercial
19 landings accountability, all of those components.

20 So, what the FMAT did was take a look
21 at the recreational harvest limit over the time
22 period from 2000 to 2008, taking the observed
23 landings and then using that recreational harvest
24 limit as the hard target, looking at what the effect

1 of adjustments for overages would be on subsequent
2 year recreational harvest limits.

3 So, the dotted gray line -- I hope
4 you can all see that -- see that well enough. The
5 dotted gray lines are the recreational harvest
6 limits that would be associated with a one-year
7 accountability measure adjustment.

8 The boxes are the three-year average
9 accountability adjustment. Now, I just want to
10 point out for the simplification of the analysis,
11 this is linked up to the RHL. The way that
12 accountability is built in, you have to exceed the
13 ACL or -- you know, a response to kick in. So, this
14 isn't completely consistent with that, but it gives
15 you a feel for what the effects may be.

16 So, if you look at this flow chart,
17 the three-year average adjustment over the earlier
18 part of this time series actually results in a lower
19 recreational harvest limit in subsequent years than
20 the one-year adjustment does.

21 And the reason for this, and I was
22 actually kind of surprised -- I guess I hadn't
23 thought through it carefully enough -- when there
24 are those substantial overages that occur, the one-

1 year adjustment is painful. If you take that hit in
2 the next year, if you have to make that adjustment.

3 But then the year after, you're fine, because you
4 took the hit in one year and now you're operating
5 off of your recreational harvest limit.

6 When you use the three-year average,
7 if you have those large overages that occur, it
8 dampens the effect in the next year, but you have to
9 carry that in your average for another two years.

10 So, actually, when I went and told
11 Dan about this, we were talking about this, he gave
12 a great example is -- you know, your college grades.

13 You go in to take your class, you get an F or a D
14 on your first exam. And it's really -- you've got
15 to work really hard to get that average back up --
16 in the subsequent years. I mean, you carry that
17 with you, you can't get rid of it.

18 So, that is one of the issues.
19 However, you know, if you also look at these two
20 lines, the one-year versus the three-year, the one-
21 year is a smoother line. It does tend to damp out a
22 little bit more of that variability in terms of
23 balancing up and down. I'm sorry, three-year
24 dampens -- is smoother than the one-year.

1 So, that's the tradeoff. And I know
2 that's one of the reasons people were interested in
3 looking at the three-year rolling average. And in
4 fisheries where you may not have these occasional
5 substantial overages occurring, it may be a much
6 smoother effect. But for summer flounder, scup and
7 black sea bass, we have had occasional significant
8 overages that have taken place.

9 And so that's -- that again is a
10 policy decision for how you would like to handle --
11 handle your comparison of the recreational catch.
12 Either way, it can be done, but it's a call as to
13 whether you'd prefer the one-year versus the three-
14 year.

15 And when I get to -- well, why don't
16 I just do scup and sea bass right now, so we'll get
17 that out of the way.

18 So, this is the scup one-year versus
19 three-year. So, again the dotted gray line, one-
20 year adjusted recreational harvest limit and the
21 black square is three-year adjusted, and you see
22 that effect -- in fact, you see that in the first
23 year, that 2001, there's a big adjustment that that
24 occurred there.

1 And then you see in 2004, between
2 2003 and 2004, there was a substantial adjustment
3 that's much bigger in the one-year adjustment. And
4 it's damped out in the three-year adjustment, it's
5 much smoother, but it's carried through, not just in
6 2004 in the three-year adjustment; it's carried
7 through in 2005 and 2006.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Pat.

10 PAT AUGUSTINE: Yeah. Thank you, Mr.
11 Chairman. I'm glad you have two options in there,
12 because most folks are going to say we'd rather take
13 the hit in one year when the stocks are fully
14 rebuilt as a possibility of getting larger quota.
15 But with the two options, we've working with the
16 single year now for an awful long time, ups and
17 downs about it, what they are. The three-year might
18 be a neat way to go. And I commend you for putting
19 both options in.

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Jessica.

22 JESSICA COAKLEY: Okay. All right.
23 And again, I'm just going to throw sea bass up, as
24 well. This way we don't have to do this when we get

1 to those species.

2 Gray line, one-year adjusted, and
3 then the three-year adjusted recreational harvest
4 limit. Not much of a difference later in the time
5 series, but later in the time series we didn't have
6 substantial overages. You'll recall, we were
7 adjusting management measures in response to the
8 quotas decreasing, but the landings in those years
9 didn't go through the harvest limit in that actual
10 year.

11 So, later in the time series, where
12 overages weren't occurring, they were about on par.

13 But there were overages earlier on in the time
14 series. So, you see that -- the three-year comes in
15 lower on average relative to the one-year.

16 Okay. Go back here. All right. So,
17 those two options are in there. That's something
18 that the Council is going to need to decide. We
19 need to specifically say -- you know, how we're
20 going to do that comparison in the document.

21 In terms of continuing on things that
22 are already in the FMP, there's already a commercial
23 landings overage deduction and a commercial fishery
24 closure provision when it's projected the commercial

1 fishery is going to hit the target, the fishery
2 could be closed.

3 For proactive AMs, the Council wanted
4 to compartmentalize the fishery when we discussed
5 this back in July and December. So, management
6 utility would be addressed either for the
7 recreational sector or for the commercial sector
8 specifically.

9 So, if you can pull up that flow
10 chart, you've got your recreational commercial
11 sector ACLs, the monitoring committee as a proactive
12 approach would recommend potential adjustment that
13 would be sector specific. And then the commercial
14 or recreational annual catch targets would be set in
15 response to that.

16 For the recreational fishery, there
17 are also in-season accountability that's considered.

18 There's general recreational closure authority
19 that's also put in this document and then there are
20 triggers. Based on our December discussion, the
21 Council wanted to see triggers for fishery closure
22 based on the landings -- how much of the harvest
23 limit has been achieved at a certain point in the
24 fishery. So, I'm going to go over this information,

1 as well.

2 So, the FMAT looked at some of this
3 information again, looking at 2000 to 2008 data,
4 took the recreational harvest limits and we looked
5 at the landings, millions of pounds, either through
6 WAVES 3 or 4, to look for is there something that's
7 predictive of an overage that we see either in WAVE
8 3 or WAVE 4 -- you know, the amount that's been
9 landed, that can be used as a trigger to close the
10 fishery at a subsequent point.

11 Both WAVES 3 and 4 were considered.
12 The group was leaning towards WAVE 3 because by WAVE
13 4 -- the WAVE 4 data is obviously lagged; so, we're
14 typically getting WAVE 4 information in October,
15 usually mid-October. This year it was actually late
16 October. And at that point, the ability to put
17 measures into place that are going to be effective
18 is really limited. You know, it's kind of too late
19 at that point. The bulk of the fishery has been
20 prosecuted.

21 So, looking at that WAVE 3
22 information, you'll see in 2000 70 percent of the
23 harvest limit was taken through WAVE 3. There was
24 220 percent of the harvest limit was taken overall.

1 In 2001, that was 73 percent; and it
2 resulted in 163 percent of the harvest limit. For
3 '03, it was 49 percent and then an overage occurred
4 over a hundred percent. And '06, '07 and '08, these
5 occurred at 42 percent, 59 percent and in 2008 33
6 percent, which shows that a lot of landings came in
7 in WAVE 4 in those subsequent WAVES.

8 So, looking at that information, 50
9 percent looked like a reasonable predictor. You
10 have that one exception in 2008, that 33 percent,
11 and in 2006 you have 42 percent, but in four of
12 those six years 50 percent of the landings through
13 WAVE 3 resulted in overages.

14 So, there is an option that was
15 drafted in here that says if 50 percent of the
16 harvest limit has been utilized by the end of MRFSS
17 WAVES 3, then the fishery would be closed on
18 September 1 for the remainder of the fishing season.
19 So, that would be a prescribed trigger that you
20 could consider.

21 It's a policy decision as to whether
22 accountability measures to close the fishery in-
23 season using data that may not be fully predictive
24 outweighs the potential types of reactive AMs that

1 may be required if the ACL is exceeded.

2 And I put that in there because it's
3 one of those things that it's a tradeoff. If you
4 don't have those types of measures, you may go over;
5 and if the ACL, the recreational ACL is exceeded,
6 there may need to be reactive AMs that kick in. At
7 the same time, the information is not fully
8 predictive, you may close a fishery in-season and
9 there's a chance that maybe it wouldn't have gone
10 over at that point.

11 So, we put that option in there and
12 this is the information we looked at when we
13 developed that. We did have Thomas McGee as part of
14 our FMAT, and we talked a lot about the MRFSS
15 information when we met, and if there were other
16 things in the MRFSS data, other than just landings,
17 that might be effective predictors, if there was
18 anything else we could use as a proxy in there, and
19 we didn't come up with a smoking gun in terms of
20 trying to use that other information.

21 The other issue to consider with
22 these in-season types of measures is these would
23 apply to federal waters. And for many of these
24 fisheries, a large portion of the landings occur in

1 state waters. In fact, for summer flounder, an
2 average of ten percent of the landings from 1999 to
3 2008 occurred in the EEZ.

4 So, that's the other thing that you
5 have to weigh, how effective will these in-season
6 measures be if there isn't a complimentary action on
7 the Commission side. It may -- you may put those in
8 place and it may have a minimal effect in terms of
9 the total outcome. So, again, that's pretty much
10 what we ended up there.

11 In addition, you tasked the FMAT with
12 looking at mechanisms to allow for in-season
13 adjustments to management measures in-season, fish
14 size, seasons, possession limits, those types of
15 triggers that could be built in.

16 And where we ended up with is the
17 timing of the data availability is really not
18 sufficient to adequately inform us how to adjust
19 those measures in-season. It's a difficult enough
20 task figuring out what those measures should be for
21 the upcoming fishing year, and I know you get the
22 assumptions that we always bring forward when we
23 develop that, we're assuming effort's going to be
24 the same, availability is going to be the same --

1 all those things when we pull that information
2 together and calculate what those management
3 measures should be.

4 And building these sorts of triggers
5 into that, it didn't seem that the data we have
6 available at this point supports that. In many
7 cases, the sample sizes we're dealing with to craft
8 management measures for the upcoming fishing year --
9 usually we have -- you know, four WAVES worth of
10 information, and we're -- you know, compiling
11 intercept data, sample sizes, you know, all those
12 kinds of things. In order to do these kinds of
13 things, you'd have to break those pieces down even
14 smaller.

15 So, again -- and adjustments to our
16 management measures without complimentary measures
17 in state waters, you need to weigh what the
18 effectiveness of those may be.

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 Jessica, would there be some economy to going ahead
21 and doing the same -- going through the same
22 presentation right now for scup and black sea bass,
23 or would that -- as far as the in-season measures,
24 or would that disrupt your flow?

1 JESSICA COAKLEY: No, I can do that,
2 if that's what you'd like to do. In fact, what we
3 can do --

4 COUNCIL CHAIRMAN RICHARD ROBINS: Do
5 you mind -- why don't we do that and then hold our
6 questions for these in-season issues until they're
7 all -- all three of them are done.

8 JESSICA COAKLEY: Okay. All right.
9 So, for scup, this is on page 48. In-season
10 adjustments. This is a bit more variable in terms
11 of the information. Again, just looking at WAVE 3,
12 in 2000 98 percent of the harvest limit was landed
13 by WAVE 3. That resulted in 439 percent of the
14 recreational harvest limit being landed. Big, big
15 overage.

16 For 2001, 2002, 2003, 2004, those
17 were all years that overages occurred. And as you
18 can see, it ranged from 16 percent to 98 percent of
19 the WAVE 3 landings for that year. In 2007 and
20 2008, those were both 28 and -- or 29 and 25 percent
21 occurred, and indicated there was an overage.

22 So, looking at that information, in
23 seven of the years in which overages occurred -- in
24 all of those years, 15 percent or more of the

1 recreational harvest limit had been utilized by WAVE
2 3. So, 15 percent was proposed as a trigger point
3 for this fishery.

4 And you see for '05 and '06, the only
5 two years that those overages didn't occur, the WAVE
6 3 landings were small up to that point.

7 So, that is the trigger that was
8 proposed for scup. And again, the same caveats.
9 You know, all of those issues that you need to
10 consider.

11 For black sea bass, there were three
12 years in which the overages had occurred. 51
13 percent, 38 percent and 70 percent are the landings
14 through WAVE 3 that basically predicted those
15 overages. So, the trigger for percent utilization
16 for black sea bass that's proposed would be 40
17 percent.

18 Now, you can look down that column
19 and also see -- it's not fully predictive -- in 2007
20 there was a 50 percent of the landings had been
21 taken through WAVE 3, but the total recreational
22 harvest limit had not been exceeded.

23 So, that's again -- you know,
24 something we've talked about. This information is

1 not fully predictive, and there are all these other
2 things that go into here -- you know, in terms of
3 angler behavior, effort, availability, all those
4 sort of other factors that influence whether or not
5 overages do or don't occur, beyond just what you set
6 your management measures for that year.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Pres, did you have a question?

9 PRESTON PATE: Yes. Jessica, what
10 are the percentage of landings of scup and black sea
11 bass in the EEZ?

12 JESSICA COAKLEY: Yeah, I do have
13 that. For black sea bass, an average of 73 percent
14 of the landings from '99 to 2008 occurred in the
15 EEZ. And for scup -- I put them in the document
16 itself. I thought it was an important point to
17 make.

18 Hold on. I know it's in here. For
19 -- it's 6.1 percent of the landings for scup
20 occurred in the EEZ.

21 PRESTON PATE: Follow-up, Mr.
22 Chairman?

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Yes.

1 PRESTON PATE: What level of
2 discussion did you have with the FMAT about the
3 mechanism that the Commission will use for
4 responding to an EEZ closure? Are they working on
5 some comparable measures for their authority or
6 that's something that's yet to be determined?

7 JESSICA COAKLEY: Well, at this
8 point, and Vince should -- can correct me if I'm
9 wrong, my understanding was that the Commission -- I
10 guess it's the Policy Board, had said they would
11 deal with sort of these ACL/AM type issues on a
12 case-by-case basis.

13 But there isn't any action at this
14 point on the Commission end to develop complimentary
15 measures in conjunction with these. So, that's sort
16 of limited us. And specifically, like for rec
17 measures, for summer flounder and for scup,
18 different measures are being set in state waters,
19 different management measures. So, even if we had
20 sort of triggers to close fisheries in-season, it's
21 not sure -- it's not clear how those would fit with
22 the state-by-state -- with those other processes,
23 like maybe with scup. Maybe their fisheries are
24 already closed or maybe their fisheries just

1 continue to operate without complimentary measures.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Pat
3 Augustine, you had a question?

4 PAT AUGUSTINE: Yes, I did, Mr.
5 Chairman. I just -- a note under the proactive AMS,
6 I'm -- for both the Summer Flounder, Scup and Black
7 Sea Bass, I think you had a note in there at the
8 bottom, use of a separate ACT for the party/charter
9 component was considered but rejected from further
10 analysis based on whatever.

11 Can we do that -- could we do that
12 anyway without an FMP amendment? I thought that was
13 not one of the options that was in the document --
14 in the FMP now.

15 I know we started with Amendment 12.
16 That was one of the issues of the 28 we started
17 with. So, just as an aside, I mean, the rationale
18 in here is one thing, but that doesn't agree with
19 the FMP, I don't think.

20 JESSICA COAKLEY: Well, it's the
21 concept of having a separate ACT for its considered
22 but rejected because there is no allocation to the
23 party/charter fishery.

24 So, without a hard allocation, we

1 can't link up accountability to that component. And
2 that's similar to this mackerel issue right now. If
3 their hard allocation doesn't go through, right now
4 we have an ACT written in that's inconsistent --

5 PAT AUGUSTINE: Clarification, Mr.
6 Chairman. That's not the question. The question is
7 is the FMP written in such a way that if we the
8 Council decided that we wanted to create a
9 party/charter boat sector, as it had been discussed
10 three or four years in a row, that the recreational
11 community felt that they were harvesting roughly 18
12 percent of the recreational quota. And as I recall,
13 the Boatmen fellas and some others from New Jersey
14 were going forward with that.

15 And then that died. So, it leaves me with
16 the impression that even if we could split the
17 recreational sector or the commercial sector, that
18 that wouldn't be a viable option now because we
19 don't have the authority to do it within the context
20 of the FMP.

21 COUNCIL CHAIRMAN RICHARD ROBINS: I
22 think that has to be done by amendment. Go ahead.

23 JESSICA COAKLEY: Yeah, it would need
24 to be done by amendment. But at this point the --

1 what was -- what used to be Amendment 15, which
2 would now be Amendment 17, because I think this
3 one's going to be 16 and we forgot to count SBRM.
4 You recall in 15 we forgot about SBRM. So, we had a
5 little renumbering.

6 That was postponed. So, has not died.

7 It's postponed, to be revisited after submission of
8 this document for Secretarial approval. And that
9 issue was included as the list of issues that this
10 Council wanted to address.

11 PAT AUGUSTINE: Thank you.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Other questions on this trigger? Rich.

14 RICHARD SEAGRAVES: Yeah, thank you,
15 Mr. Chairman. Yeah, Jess, when we get into this
16 business of in-season closures in the recreational
17 fishery, was there any discussion -- two questions.
18 One is we're talking about relative to the landings.

19 So, if you say close the fishery at -- say you pick
20 the 50 percent trigger in one of your examples,
21 ultimately -- so there's a payback or the control of
22 the landings issue, whether or not they go over and
23 if they'd have to pay it back.

24 But there's also the issue that

1 you're trying to make sure that you don't exceed
2 your catch limit. So, there would be a dynamic
3 between if you close the season prematurely and then
4 your assumed discards that fed into the calculation
5 of the landing limit to begin with.

6 So, there's that issue in terms of
7 you may have -- it could be that you just have
8 discards that continue, and discard mortality --
9 ultimately, your total mortality doesn't change.

10 Or it could be that if you close the
11 fishery prematurely, the dynamic changes completely.

12 People will fish for something else. And that you
13 come under -- so, you have two scenarios. One is
14 your discards may be much less, so your harvest
15 limit could have been higher. So, that's kind of a
16 compounding problem.

17 The other issue is if you came under
18 -- and let's say the other thing you talked about
19 was closing prematurely, and then at the end you
20 find out that we've got 30 percent of the RHL still
21 on the table.

22 Was there any consideration to that
23 being carried over or -- like credit being given for
24 that or how would that work?

1 JESSICA COAKLEY: No, and those are
2 both two points and potential scenarios that you
3 laid out for what could happen, because it is --
4 we're trying to control this landings piece, but it
5 really is the sum of the two parts, landings and
6 discards, that could result in you going over.

7 Council has discussed previously the
8 concepts of rolling over underages to subsequent
9 years, and that has been rejected multiple times in
10 terms of discussion because with these F-based
11 quota-based type management, rolling that over has
12 biological consequences in the subsequent year that
13 may be different than your current year.

14 So, if you start rolling landings
15 into future years and it turns out that the stock is
16 going down and catch levels should be lowered, and
17 you're rolling that into the next year, it has
18 consequences in terms of F rates.

19 COUNCIL CHAIRMAN RICHARD ROBINS: All
20 right. Jessica.

21 JESSICA COAKLEY: Okay. All right.
22 Well, that's what I had for those in-season ideas.
23 I think I should go back to summer flounder now and
24 go through just the remaining AMs and then I'd like

1 to go through the hypothetical example for summer
2 flounder, as well.

3 So, we've gone through all the in-
4 season concepts, which also includes that general
5 recreational in-season closure authority.

6 In terms of reactive AMs, if the
7 commercial sector ACL is exceeded, then the
8 provisions that are currently in the FMP would be
9 applied, which are those landings deductions.

10 Accountability for overages that
11 result in the ACLs being exceeded, the sector
12 specific ACLs, either the recreational ACL or the
13 commercial ACL, those would be overages of that
14 would be compartmentalized. So, if the recreational
15 sector ACL is exceeded and needs to be adjusted,
16 then that recreational ACL would be adjusted in the
17 subsequent year.

18 And similarly, on that commercial
19 side, the commercial sector ACL would be adjusted in
20 a subsequent year to account for things that hadn't
21 already been accounted for, like that landing
22 overage deduction that was already dealt with.

23 Also, one other thing that this group
24 recommended to be added is the idea that if the

1 ASMFC implements commercial quotas and recreational
2 harvest limits that are different from the Council,
3 that administrative action be taken if practicable
4 to reconvene the group at earliest convenience to
5 revisit their recommendations.

6 So, that's an administrative clause
7 that's in there to try to address differences in
8 terms of quotas. But as you know, there's federal
9 authority and state authority and this is -- what
10 was developed to try to address that and bring
11 everyone to the table.

12 Okay. So, through this framework,
13 basically all the components for each sector are
14 addressed. The landings components, the discard
15 components -- you know, RSA, if there are overages
16 that occur. Those would be accounted for underneath
17 each of those sector-specific ACLs.

18 So, if you'd pull out quickly the
19 hypothetical ACL/AM example, I'm going to walk
20 through this. This is hypothetical. The numbers
21 are made up, kind of. I used values that are
22 reasonable, we're under rebuilding plan, it looks
23 like -- you know, our catch levels are probably
24 going to go up. I looked at how we've applied the

1 FMSY, the overfishing level and the fishing targets
2 in the past to figure out maybe what some of these
3 adjustments are, and discards, I've apportioned them
4 similar to what we see in the assessment, which is
5 about 20 percent coming from the commercial fishery
6 dead discards and about 80 percent from the
7 recreational.

8 So, the overfishing limit. This is
9 something that would come out of the process, the
10 stock assessment process and the process with the
11 SSC. They're going to look at scientific
12 uncertainty, try to characterize that uncertainty
13 when they develop that probability distribution
14 function, that distribution around the OFL, and
15 they're going to look at the Council risk policy for
16 their tolerance for overfishing, to figure out what
17 that ABC should be.

18 In this example, there's a 5.5
19 million pound reduction from the overfishing limit
20 to the ABC level.

21 Now, that 28.5 million pounds, that's
22 25 million pounds of landings and 3 and a half
23 million pounds of discards. That has to be
24 apportioned to each of the sectors, the recreational

1 sector and the commercial sector.

2 Our 60/40 allocation is based on
3 landings. It's a landings time series used to
4 figure out what that 60/40 split should be.

5 So, when setting these ACLs, 60
6 percent of that landings portion went to the
7 commercial sector and 40 percent of that landings
8 went to the recreational sector.

9 In terms of those three and a half
10 million pounds of discards, 20 percent of the
11 discards, about 20 percent, are produced by the
12 commercial fishery, about 80 percent of those
13 produced by the recreational fishery. So, those are
14 apportioned to each of those ACLs.

15 So, you end up with a recreational
16 sector ACL of 12.8 million pounds and a commercial
17 sector ACL of 15.7 million pounds.

18 Then the monitoring committee is
19 going to review all the information and make
20 recommendations for how management uncertainty
21 should be addressed. In this example, I've put a
22 ten percent adjustment for the recreational fishery
23 and a one percent adjustment for the commercial
24 fishery. I don't know what those numbers should be.

1 I made these up.

2 But you know, thinking about it, it
3 seems clear performance-wise, the recreational
4 fishery has not performed as well relative to its
5 targets as the commercial fishery. However, at the
6 same time, when you set these ACLs, like for the
7 commercial fishery, you're going to -- you're
8 assuming a certain amount of discards. So, maybe
9 your discards come in a little bit higher than
10 expected. Maybe some late dealer reports are
11 submitted. So, when you projected, you were going
12 to hit your harvest target, you come in a little bit
13 over. It may be appropriate to have an adjustment
14 there.

15 So, taking those percentages off, you
16 get a rec ACT of 11.5 million pounds and a
17 commercial ACT of 15.5 million pounds.

18 Then the discards are taken away to
19 get you down to a landings level, and at that
20 landings level, which is probably the most similar
21 to our TAL, our operational TAL, I mean our TAC is
22 up by the ABC, but that would be our TAL. And then
23 we take the RSA. That would be deducted at that
24 point, because the three percent is applied to the

1 TAL.

2 That three percent total is
3 apportioned 60/40, so it's an even percentage
4 applied to each of those fisheries, and then that
5 gets you down to your recreational harvest limit of
6 8.4 million pounds and a commercial quota of 14.35
7 million pounds. And then the commercial quotas can
8 then be allocated to the individual states.

9 And in this case, if conservation
10 equivalency is implemented, that recreational
11 harvest limit would be converted to numbers of fish
12 and allocated to the individual states to develop
13 their recreational management measures. If not,
14 that would be the basis for developing coastwide
15 measures. for the fishery.

16 So, that's sort of an overview of how
17 some of these numbers might play out in terms of
18 this process of setting all these catch levels.

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 Pat.

21 PAT AUGUSTINE: Just a quick
22 question, Mr. Chairman. Just tell me where to find
23 this answer and then you won't have to respond to
24 it. I tried to look through all our documents to

1 find out when we decided -- when we made the
2 decision to take the research set-aside off of each
3 side after we had been divided between 60/40. And
4 this happens to be summer flounder.

5 As I recall, over all the years that
6 we've been involved with this research set-aside,
7 it's always come off the overall quota. So, just
8 somebody can tell me what meeting we had, I'll go
9 back to my briefing book and try to find it. I
10 cannot remember that motion was made.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Pat, it's still effectively coming off the top. I
13 think the issue here is that -- you're breaking down
14 -- I mean, at this point we're operationally
15 breaking down the quota into the ACTs and ACLs. And
16 accounting for it off of the actual landings level.

17 But it's still three percent overall and that's
18 just being divided 60/40. Is that --

19 JESSICA COAKLEY: It is. And
20 actually you can check the number. Take the
21 recreational landings level, 8.7 plus the 14.8, and
22 multiply that by three percent.

23 PAT AUGUSTINE: Okay.

24 JESSICA COAKLEY: And then you're

1 going to get .30 million RSA plus .45. So, it's
2 750,000 fish.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 It's still three percent --

5 JESSICA COAKLEY: You'll get the same
6 number.

7 PAT AUGUSTINE: Thank you. Thank you.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Pres.

10 PRESTON PATE: Thank you, Mr.

11 Chairman. Jessica, I hadn't done the math, but I'm
12 assuming that those bottom two numbers are not 60/40
13 because of the differential management uncertainty
14 percentage that's assigned to those two sectors. Is
15 that correct?

16 JESSICA COAKLEY: That's correct, and
17 I did do the math and I think the recreational
18 harvest limit was about 37 percent, and the other
19 was 63 percent.

20 PRESTON PATE: I think we need --

21 JESSICA COAKLEY: Is that worked out
22 to be.

23 PRESTON PATE: We need to keep that
24 in mind as we go forward. That could be an element

1 of pushback from the recreational sector. Not that
2 I disagree with it, but that that is a point of
3 controversy.

4 COUNCIL CHAIRMAN RICHARD ROBINS: All
5 right, Jessica. Jessica, we've got -- I'm just
6 looking at the clock. And we've got -- when you
7 finish summer flounder and scup, black sea bass,
8 we've got tilefish, the two clams and then the
9 procedures. How long would you expect that that
10 would take so that we can decide if we want to wrap
11 up or press on? Is that 40 more minutes or what
12 would you estimate?

13 JESSICA COAKLEY: I think it may be a
14 little longer than that, because we're going to need
15 to talk at the end. I mean, the last few, tilefish,
16 surfclam and ocean quahog, I should be able to get
17 through relatively quickly. But I think the Council
18 really needs to weigh in on what you want your
19 review process to be, performance review for how
20 this system is working. And we should talk through
21 the process for modifying some of these aspects of
22 the document, how to address that. Because I think
23 that's an important part of the flexibility here, to
24 make sure that when these things go in place, we're

1 going to have the ability to be adaptive and be
2 responsive and make changes as needed.

3 So, maybe an hour and a half, two
4 hours.

5 COUNCIL CHAIRMAN RICHARD ROBINS: Oh,
6 wow. Okay. In that case, why don't we wrap up
7 these species and we'll adjourn for the evening and
8 take them up in the morning. If we can meet at
9 eight o'clock in the morning. If everybody's
10 amenable to that. All right. Jessica.

11 JESSICA COAKLEY: Okay. Continuing
12 on through, the next one would be scup. And I will
13 roll through these much quicker. The scup framework
14 is very similar to the summer flounder framework.
15 Basically, the Council proposed -- this is on page
16 47, setting sector specific ACLs equal to the ABC.

17 And in terms of that ACL/AM -- or
18 excuse me, in terms of the ACL evaluation as to
19 whether catch has exceeded that, for the commercial
20 fishery it would be based on a one-year comparison.

21 For the recreational fishery, there are two
22 suboptions in here, one for the single-year option,
23 one for the three-year option.

24 Things that are already in the FMP

1 include an overage deduction mechanism for the
2 commercial fishery landings. There's also a
3 rollover provision that occurs from Winter 1 to
4 Winter 2 for the fishery, and a trip limit
5 adjustment that occurs when 80 percent of the Winter
6 1 quota has been attained.

7 The existing allocations in the FMP
8 would be maintained when specifying the ACT. In
9 this case, it's a catch-based allocation, scup
10 allocation, included discards. So, it would be
11 based directly on that allocation, which was the
12 78/22 split between those two fisheries.

13 Similar to summer flounder, there
14 would be a recommendation from the monitoring
15 committee where they review the information
16 available, including the ABC that the SCC
17 recommended and make an adjustment to management
18 uncertainty. They could recommend an adjustment to
19 set the -- either the recreational or the commercial
20 sector specific ACTs.

21 For in-season accountability, again
22 similar issues to what we discussed. The in-season
23 fishery -- general in-season closure authority is
24 included in the document, and there's an option for

1 in-season fishery closure at 15 percent utilization.

2 For reactive measures, these reactive
3 measures would be very similar to summer flounder.

4 If the ACL is exceeded and the recreational harvest
5 limit was responsible for that, that landings
6 repayment would occur and the ACT would be adjusted
7 at a subsequent year. That's if the ACL is
8 exceeded, so it's not if the recreational harvest
9 limit would be exceeded.

10 Other catch components not accounted
11 for in those landings adjustments that occur in the
12 individual sectors. They're sector specific. If
13 that ACL is exceeded, then the sector specific ACL
14 would be adjusted in a subsequent year.

15 And similar to summer flounder,
16 there's a provision that if there's a disconnect
17 between quotas and harvest limits, the Council and
18 Commission would be convened at earliest
19 convenience.

20 So, as you can see, flow chart,
21 basically looks identical to summer flounder, except
22 the commercial quota would be allocated to quota
23 periods.

24 For black sea bass, again similar

1 flow chart, nearly identical, only difference at the
2 bottom is the commercial quota would go to
3 individual state quotas. The allocation for sea
4 bass is landings-based, so similar to the summer
5 flounder example. The landings would be allocated
6 to each sector based on that allocation and then
7 discards would be allocated based on the stock
8 assessment information that suggests what portion
9 each fishery is responsible for.

10 For sea bass, ACL equal ABC. You'll
11 need to decide for the recreational fishery if the
12 comparison is based on a single-year or three-year
13 comparison. For the commercial fishery it would be
14 based on a single-year comparison.

15 Accountability, we already have.
16 There's a pound for pound repayment. That's a
17 coastwide repayment for the commercial fishery. And
18 there is closure authority for the commercial
19 fishery when it's projected the allocation is going
20 to be reached.

21 Similar types of recreational in-
22 season measures considered, general in-season
23 closure authority and then fishery closure, an
24 option for fishery closure when 40 percent of the

1 WAVE 3 landings result in the harvest limit --
2 excuse me, 40 percent of the harvest limit is
3 utilized by WAVE 3. So that is also in there.

4 Reactive accountability is again
5 similar. There's landings-based accountability for
6 the commercial fishery, which is already in the FMP.

7 If the ACL is exceeded and the recreational harvest
8 limit is responsible for the overage that would be
9 deducted; and for all other sources of mortality
10 that aren't accounted for there, such as discards,
11 if the ACL is exceeded, then the sector specific ACL
12 would be adjusted that subsequent year. And the
13 same provision to deal with disconnects between the
14 two fisheries.

15 All right. Moving on to surfclams,
16 Atlantic surfclams flow chart. Very
17 straightforward.

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Jessica, we're going to -- if you're done with that,
20 I think we're going to go ahead and break here.

21 JESSICA COAKLEY: Break?

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Yeah, and we'll take up the clams in the morning.
24 And the procedures. And so we have both clams and

1 the tilefish, and adjustment procedures. Right?

2 JESSICA COAKLEY: Yes.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Okay. With that, why don't we go ahead and adjourn
5 for the evening. We'll reconvene at eight o'clock,
6 and hope to finalize the omnibus in the morning and
7 go from there.

8 Dan, did you have an announcement?

9 DANIEL FURLONG: Yeah, there is no
10 hospitality tonight. So, reinforce, be here
11 tomorrow morning at 8:00.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Thank you. Thank you, all.

14
15 WHEREUPON:

16
17 THE MEETING WAS SUSPENDED AT 6:16 P.M.
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 26th, day of May, 2010.

PAUL T. WALLACE. Notary Public
My Commission Expires

October 8, 2015

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Pages: 1-242

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

COUNCIL MEETING

14-15 APRIL 2010

at

The Sanderling Hotel
1461 Duck Road
Duck, North Carolina 27949

THURSDAY, APRIL 15, 2010

I N D E X

TOPIC	PAGE
INTRODUCTIONS AND ANNOUNCEMENTS RICHARD ROBINS	4
APPROVAL OF PUBLIC HEARING DOCUMENT FOR ACL/AM OMNIBUS AMENDMENT JESSICA COAKLEY	4
Motion - Approve Document	
Pat Augustine	64
Vote - (passed)	72
UPDATE ON ENDANGERED SPECIES ACT LISTING STATUS OF LOGGERHEAD SEA TURTLES JAMES LECKY	75
HIGHLY MIGRATORY SPECIES (HMS) COMMITTEE REPORT PAT AUGUSTINE	117
SCIENTIFIC AND STATISTICAL COMMITTEE REPORT JOHN BOREMAN	121
SQUID, MACKEREL, BUTTERFISH COMMITTEE REPORT ERLING BERG	128
Motion - Amendment 11	
Erling Berg	129
Motion To Amend	
Peter Himchak	132
Vote - (passed)	133
Vote - (passed)	134
Motion - Option 1K	
Peter Himchak	135
Vote - (failed)	139
Motion - Option 1L	
Peter Himchak	140
Vote - (failed)	142
Motion - Option 5C	
Peter Himchak	142
Motion To Amend	
Preston Pate	145
Vote - (passed)	147
Vote - (passed)	147

Motion - Alternative 6C	
Erling Berg	148
Vote - (passed)	148
Motion - Alternative 7A	
Erling Berg	149
Vote - (passed)	149
Motion - Amendment 14	
Erling Berg	150
Vote - (passed)	152
Motion - Adopt Amendment 14	
Erling Berg	152
Vote - (passed)	153
 DOGFISH COMMITTEE REPORT	
RED MUNDEN	154
 RESEARCH SET-ASIDE COMMITTEE REPORT	
PRESTON PATE	157
 EXECUTIVE COMMITTEE REPORT	
RICHARD ROBINS	163
Motion - B2 to SOPPS	
Richard Robins	165
Vote - (passed)	166
 STATUS OF 2010 BLACK SEA BASS REC MEASURES	
JESSICA COAKLEY	169
Motion - Letter	
Howard King	187
Vote - (passed)	188
 PRESENTATION OF SAW/SARC 49 BUTTERFISH	
ROBERT LATOUR	192

1 [8:14 a.m.]

2 _____
3 INTRODUCTIONS AND ANNOUNCEMENTS

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Let's go ahead and take our seats so we can get
6 started. We have some unfinished business left from
7 yesterday that we want to conclude first this
8 morning going to through the Omnibus Amendment.
9 We'll go ahead and let Jessica take up where she
10 left off and we'll conclude that.

11 And then we're going to have a
12 presentation on the potential uplisting of
13 loggerhead turtles by Jim Lecky from the Protected
14 Resources Division of the service.

15 _____
16 APPROVAL OF PUBLIC HEARING DOCUMENT

17 FOR ACL/AM OMNIBUS AMENDMENT

18 JESSICA COAKLEY: All right. Good
19 morning, everyone. I'm going to start out by going
20 over Atlantic surfclam ACL's and AM's. That starts
21 on Page 59 in the public hearing document and the
22 briefing book. I've put the Atlantic surfclam
23 flowchart up on the screen. Just a reminder that at
24 Page 61 there was a replacement table because the

1 ocean quahog table was pasted into the Atlantic
2 surfclam section. So, the one that appears in the
3 briefing book needs to be replaced.

4 So, for the ACL, the Council wanted
5 to describe this as ACL set equal to ABC.
6 Accountability measures for this are a little bit
7 different. The Council chose not to use an ACT in
8 this case. They chose to specify a TAL, total
9 allowable landings level. However, there still is
10 going to be a process to address management
11 uncertainty when setting the total allowable
12 landings.

13 The Mid-Atlantic Council staff, when
14 preparing their quota paper for the SSC and for the
15 Council, would also include information on
16 management uncertainty and if there are any methods
17 that are needed to address uncertainty in that
18 fishery such as discard issues that may develop
19 because of species identification or other issues
20 that do come up.

21 In terms of reactive accountability.

22 Really straight forward. This is an ITQ permit
23 fishery; so accountability, reactive accountability
24 is going to be on an ITQ-by-ITQ basis. If a permit

1 holder goes over what they've been allocated,
2 basically, it would be a bushel-by-bushel deduction
3 the next year. So, that is Atlantic surfclam.

4 I'm going to move on now to ocean
5 quahog unless there are any questions on Atlantic
6 surfclam.

7 COUNCIL CHAIRMAN RICHARD ROBINS: Any
8 questions for Jessica? All right.

9 JESSICA COAKLEY: Okay. All right.
10 Atlantic surfclam. Excuse me. Ocean quahog. Ocean
11 quahog. Let me get the flowchart up on the screen
12 for everyone. Okay. Here we go.

13 Ocean quahog. The structure of this
14 is a little bit different from the Atlantic
15 surfclam. Again, the Council has opted to set ACL
16 equal to ABC. And in this case, use ACT's for
17 specification of either the non-Maine fishery, which
18 would be all the parts of the ocean quahog fishery
19 other than Maine, and a separate ACT for the Maine
20 fishery.

21 The Maine fishery receives an
22 allocation of I believe it's a hundred thousand
23 bushels from the overall TAC, that overall
24 allocation, but they also do some leasing from the

1 non-Maine fishery so they may land more than that
2 hundred thousand bushels.

3 Again, in this structure, management
4 uncertainty would be accounted for when specifying
5 the ACT's. The Mid-Atlantic Council staff, when
6 preparing their quota paper, would make
7 recommendations on management uncertainty. Reactive
8 AM's would be for each of those ACT's. If the ACL
9 is exceeded and that non-Maine fishery is
10 responsible for the overage, the individual ITQ
11 permits would be reduced in the subsequent year.
12 So, it would be ITQ permit accountability if that
13 component of the fishery is responsible for that
14 overage.

15 If the ACL is exceeded and the Maine
16 fishery is responsible for the overage, then the
17 Maine fishery ACT would be adjusted in the
18 subsequent year to account for that.

19 So, each fishery, in effect, is
20 responsible for those overages if the ACL is
21 exceeded and would be accountable for that
22 component. That management uncertainty could also
23 be used to address things like discards, other
24 developing issues that may occur in the future.

1 However, both for the Atlantic surfclam and the
2 ocean quahog fishery, these are ITQ fisheries.
3 There's a lot of information used to track those and
4 they typically don't have a lot of overages that
5 occur in those fisheries.

6 Are there any questions about ocean
7 quahog before I move on to tilefish? Okay.

8 Let me just put the tilefish
9 flowchart up here. Okay. All right. Taking a look
10 at tilefish. Similar structure. The Council has
11 opted for the ACL being set equal to ABC and using
12 an annual catch target as a proactive AM to address
13 management uncertainty.

14 The Tilefish Monitoring Committee
15 would be responsible for evaluating management
16 uncertainty and making recommendations -- and
17 recommendations for methods if there is a reduction
18 that's necessary for that fishery.

19 From the annual catch target,
20 discards could be deducted to get you to your total
21 allowable landings level. And then based on the
22 current allocation precepts in the FMP, 95 percent
23 of that would go to an IFQ fishery and then a 5
24 percent of that goes to the incidental category

1 fishery.

2 One of the things that the FMAT
3 talked about in detail was the recreational fishery
4 for tilefish. It's something that there is a
5 discussion of this in the document. It's something
6 that appears to be a small fishery. Tilefish are a
7 rare event in the MRFFS sampling. However, it's
8 currently not accounted for anywhere in this -- the
9 structure or in the stock assessment at this point.

10 So, one of the things that we've highlighted as an
11 FMAT is, if it's not accommodated under scientific
12 uncertainty, it's something that could be
13 accommodated under management uncertainty. I think
14 as an FMAT we felt that the most appropriate place
15 to deal with a source of mortality on the stock
16 would be under that scientific uncertainty
17 component, but it could be something that you'd
18 chose to consider under management uncertainty if
19 the stock assessment does not incorporate that or
20 does not address that issue to your satisfaction.

21 I know that recreational fishery
22 issue was raised in -- this was raised in December.

23 It was also raised for dogfish in December as well
24 where the recreational fisheries accounted for it.

1 And we do mention that in the document for dogfish
2 that the stock assessment does take the recreational
3 fishery mortality into account when the projections
4 for the upcoming year are (inaudible) -- part of
5 that. So, in that case it's sort of a non-issue.
6 But in this case it's not necessarily being
7 accounted for anywhere. Okay. All right.

8 In terms of things that are currently
9 in the FMP. There's already a mechanism to adjust
10 the incidental trip limits for the tilefish fishery.

11 So, if they -- that 5 percent allocation, if
12 there's an overage in an individual year, that trip
13 limit could be adjusted in the subsequent year.

14 And one of the things that we
15 discussed in December and the Council asked be done
16 was an evaluation of trip limit either triggers or
17 thresholds for in-season adjustments to trip limits
18 if that was possible. That's something that's in
19 the works right now. The FMAT had started working
20 on that and Eric Thunberg from the Science Center,
21 he's one of their economists, is working on pulling
22 a model together to evaluate that.

23 And it's important really in two
24 places. One, it's important to look at that as a

1 proactive AM, but it's also important to look at it
2 to determine how effective those trip limits
3 actually are. And that would help the FMAT in terms
4 of coming up with recommendations for what to do
5 with the incident category if the ACL is exceeded
6 and that category is responsible. Because if the
7 trip limits aren't really effective and the ACL is
8 exceeded, that category is responsible -- you know,
9 making an adjustment percent reduction to the
10 allocation to that category may not really do
11 anything. Or, adjusting -- you know, having a
12 reactive AM that adjusts that trip limit, if the
13 trip limits aren't really effective, that doesn't do
14 anything either to resolve that issue. So, that's
15 still an outstanding issue and we should have that
16 information available to you in June to have the
17 Council look at that. If we have something together
18 earlier, we may be able to get it out earlier and
19 distribute it to people, but we should definitely
20 have it done by June.

21 So, the reactive accountability for
22 the fishery. If the ACL is exceeded and the
23 directed IFQ fishery is responsible, there would be
24 an ITQ permit level accountability. And again, if

1 that incidental fishery is responsible, then we're
2 looking at two different ways of tackling this. You
3 know, there may be a way to adjust the proportion
4 that's allocated to that incidental category. But
5 maybe if those trip limits aren't effective, they go
6 over instead of giving the incidental category 5
7 percent, maybe they should get 6 percent to allocate
8 more for those incidental encounters. Or whether
9 that category should be adjusted downwards. So,
10 we'll have more information for you and more details
11 for that when we get -- when we get closer to June.

12 Okay. So those are -- are there any
13 questions on tilefish at this point?

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Yes, Jessica. You talked about the recreational
16 catch not being in the chart. And did you say that
17 we could account for that -- would it be possible to
18 have a step in there where we account for that under
19 management uncertainty so that it is taken into
20 account? Because it seems to me that that -- you
21 know, it still may not be a significant overall
22 percentage, but that fishery has evolved quite a bit
23 in the last decade and it seems to me that we don't
24 want to leave that out there as a loose end. I

1 mean, can we simply say that we're going to account
2 for that at least under management uncertainty or
3 are there other ways that we might incorporate that?

4 JESSICA COAKLEY: Well, you could do
5 that. It could be accounted for in either place.
6 Either the stock assessment through their process,
7 they could look at that recreational information and
8 account for it on that end. It could be accounted
9 for in the step where the ABC is set. One of the
10 issues because it's a rare event encounter species,
11 we don't have estimates for that recreational
12 fishery for every year. Some years it just comes up
13 as zero in the MRFSS estimates. Some years it comes
14 up as a low number. Some years it's a little bit
15 higher. It's hard to get a handle using that data
16 on what the magnitude of that is, but it's clear
17 that there is a fishery going on and that people are
18 targeting tilefish recreationally. So, you know, if
19 it's the Council's preference to try to deal with
20 that under management uncertainty, I think that you
21 could do that. But, you know, the SSC -- you
22 wouldn't want to double-count. The SSC takes that
23 into account when they address scientific
24 uncertainty as a proven unaccounted for source of

1 mortality that isn't being incorporated, then you
2 wouldn't necessarily need to deal with it under
3 management uncertainty.

4 COUNCIL CHAIRMAN RICHARD ROBINS: I
5 guess that we ought to be explicit though in terms
6 of where that's going to fall. Because I don't want
7 us to find ourselves in a situation where -- you
8 know, two years from now we get some landings
9 information and people say this is an unauthorized
10 or unaccounted for fishery. In fact, I think we
11 just need to spell out where that's going to be
12 accounted for. And our focus in the tilefish
13 management plan is on the commercial ITQ fishery,
14 but obviously there is a recreational component out
15 there that we're familiar with.

16 Jack, did you have a comment?

17 JACK TRAVELSTEAD: Sub-option B on
18 Page 66. You know, the way I read that, it's as if
19 we're punishing the ITQ holders because the
20 incidental fishery has exceeded its share of the
21 quota. That just seems so onerous to me. I mean,
22 one of the purposes of an ITQ is to sort of provide
23 some levelness in the fishery where people can plan
24 their businesses and anticipate -- you know, I

1 recognize there might be changes biologically in the
2 quota and that's going to affect people's ITQ, but
3 now they would have to worry also about whether the
4 incidental fishery is going to exceed their quota
5 and as a result they're going to lose part of their
6 ITQ. It just seems so onerous to me, I'm surprised
7 we would even list it as an option in the public
8 hearing document. Maybe I'm missing something.

9 JESSICA COAKLEY: Well, the premise
10 behind that was, if you had the incidental category
11 -- I mean, it is an incidental fishery. People
12 carry these permits. They're fishing for other
13 species and encountering tilefish and keeping up a
14 certain amount. I think it's 300 pounds or 200
15 pounds, whatever that level is set at. Clearly
16 there isn't as much control there in terms of
17 dealing with what happens if they do go over. You
18 can address those trip limits downwards. I mean,
19 that's one option. But one of the things that we're
20 trying to evaluate is are those trip limits really
21 effective at this point. How effective they are and
22 if that would be a viable option. So, that would be
23 one other option is to address those trip limits
24 downwards in response to that and not address that

1 allocation issue. We bounced this idea around at
2 the FMAT that -- not thinking that you're
3 transferring a large amount, but if they go over by
4 a small amount, by a percent or so, that it may make
5 sense since it's sort of an incidental type fishery.

6 And if they aren't able to land that you're
7 converting that to discards, then it may make sense
8 to move a little bit more allocation over to that
9 fishery and allow those fish to be landed as opposed
10 to discarded.

11 COUNCIL CHAIRMAN RICHARD ROBINS: Do
12 you have further concerns, Jack.

13 JACK TRAVELSTEAD: I just don't see
14 much support for that option. It just seems to --
15 but, I mean, I don't have any problem with leaving
16 it in there to generate comment. It just seems to
17 me that the correct answer would be to lower trip
18 limits in the fishery.

19 COUNCIL CHAIRMAN RICHARD ROBINS: And
20 that would require adding another option? Or, is it
21 already in there?

22 JESSICA COAKLEY: Right now, already
23 in the FMP, if you go over, there's the ability to
24 adjust those trip limits downwards the next year.

1 So, that's not in here as an explicit option between
2 options as -- you know, as an Option C because
3 that's something that the plan already has the
4 ability to do.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Okay. Gene.

7 EUGENE KRAY: Thank you, Mr.

8 Chairman. On the recreational fishery, I think we
9 have to keep an eye on that because -- and I like
10 your idea of saying something about it -- because in
11 the past three or four years, I'm seeing more and
12 more action on fishing websites off New Jersey. You
13 know, the state record tilefish was caught a couple
14 of years ago. And more and more charter captains
15 are taking patrons out there. So, I think we have
16 to keep an eye. I don't know how large it is, but
17 I'm just hearing more noise is what I'm trying to
18 say.

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 Further comments? Peter.

21 PETER DEFUR: Yeah. Thank you, Mr.

22 Chairman. I agree with both of those because there
23 was something that came to me about tilefish
24 increasing, and I don't remember why it was, but I

1 got something about that as well. And I think Jack
2 is right about that Sub-option B. And the problem
3 that I saw was not quite the way Jack expressed it
4 but very similar. I think it weakens our ITQ
5 program to use that option. Not only do I see no
6 support for it, but I think we could get blasted for
7 it.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Thanks, Peter. Further comments? Pat.

10 PATRICIA KURKUL: Yeah. I think to
11 the point that you made, Mr. Chairman, about showing
12 this somehow in the flowchart. I think that's
13 critical. All of these flowcharts should pretty
14 much reflect -- should reflect all the sources of
15 mortality somewhere. I mean, just leaving the
16 flexibility to deal with it between management
17 uncertainty and scientific uncertainty is fine, but
18 I think it's important that the flowcharts specify
19 it

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Thanks, Pat. I'm keeping a running list of these
22 comments. And so, when we get to the end, we can go
23 back through these and consider adding them to the
24 document. Larry.

1 LARRY SIMNS: I agree with Jack, but
2 I don't think it should even be in there as an
3 option. Because you shouldn't be penalizing ITQ
4 people for somebody else's default. I think you
5 should find another way. I don't even think it
6 should be an option.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Rich.

9 RICHARD SEAGRAVES: Yeah. I think we
10 discussed this issue a meeting or two ago. And the
11 problem is, if it's a truly incidental fishery where
12 they're targeting other species and it's a bycatch,
13 it's unavoidable, then as Jessica has already
14 indicated, if you lower the trip limit and you don't
15 alter their fishing behavior, they're just going to
16 convert those as discards. So, the discard
17 estimates will go up. And then the next year, they
18 will be deducted prior to the TAL or TAC. So, in
19 essence, it's the same outcome. And I think at
20 least it recognizes in here -- you know, that it's
21 an issue.

22 COUNCIL CHAIRMAN RICHARD ROBINS:

23 Yeah. And these fish aren't going to survive
24 capture. They're coming out of extremely deep

1 water. A good point, Rich. Jessica.

2 JESSICA COAKLEY: All right. I think
3 that was all I had on tilefish.

4 There are a couple of other things
5 that I did want to touch on, just general issues for
6 all of these species. One issue in particular
7 relates to the scientific information, an input that
8 we're going to get into this process, because all of
9 these annual catch limit and accountability
10 frameworks now include a need to know what your
11 landings, your observed landings are for that year
12 as well as the discards are for that year so we can
13 evaluate our performance relative to the ACL. Up to
14 this point, most of the discard estimates that we've
15 been getting come out of the benchmark stock
16 assessments or the assessment updates annually when
17 those do occur.

18 And I know there's a lot of discussion that's
19 been happening with the Northeast Science Center's
20 group, workgroup they've initiated, the ACL/AM
21 working group, about how to deal with all of these
22 new data requirements for the New England Council
23 and Mid-Atlantic Council.

24 And with all of these new demands coming out,

1 one of the things that that workgroup has discussed
2 is eliminating or reducing the annual updates that
3 we're going to receive for many of these stocks.
4 So, I know for this year -- you know, for many of
5 them that we typically get updates for like fluke,
6 scup, sea bass, bluefish, we are going to get
7 updates. But it's not clear if after that point we
8 are going to get those any more. So, I think we
9 need to make sure we highlight the need for getting
10 those components of information annually even if a
11 benchmark stock assessment doesn't take place. So,
12 if we don't have a benchmark, we eliminate the
13 updates. We're still going to need a discard
14 estimate to feed into this process to sum with our
15 landings estimates and compare it to the ACL and see
16 how we've performed relative to that.

17 And the recreational discard
18 estimates for fluke, scup and seabass, there's also
19 methods that are applied at the Center as well to
20 get those product outputs because we get the
21 landings in numbers and weight out of the MRFSS
22 information. But when we get a discard information
23 for the rec. fishery, we apply a discard mortality
24 rate to that. Often we have to take a discard

1 length composition because they're all smaller than
2 the legal size. So, we have to take length
3 compositions, apply those, and convert all of that
4 to weight because our management processes operate
5 by weight. So, I just wanted to bring this issue
6 up, highlight this issue, because one of the major
7 FMAT concerns with implementing all of this is,
8 we're going to get out of the gate, we're going to
9 start implementing all of these things, and then
10 we're going to be scrambling for all of the pieces
11 to go ahead and evaluate how we're doing each year.

12 I see Jim's hand going up, so I know
13 he's going to -- I was hoping you guys were paying
14 attention even though your eyes were down.

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 They were just keeping their heads down on that
17 update issue. Jim.

18 JAMES WEINBERG: Yeah. I'd just like
19 to respond to a few of those points. We don't want
20 to leave you out of the gate and not supported, so,
21 what I would recommend is that since you know what
22 your requirements better than we do, it would be
23 appropriate to write down -- make a written request
24 clarifying what you need so that we can try to

1 support that -- you know, as best we can.

2 Regarding that working group that you
3 mentioned, were talking about what assessments can
4 be done and so forth. The Center was the Chair of
5 that group for quite a while. But we pretty much --
6 that committee went for about a year. And now Chris
7 Kellogg of the New England Council, he's the Chair
8 of that group. And it's been a very difficult
9 discussion between the councils and the Center
10 figuring out how much work we can do. And it's
11 still -- we haven't really reached any -- you know,
12 real conclusions on how to provide everyone with
13 what they need and also for the Center to do all the
14 updates. And also, I would say no final decisions
15 have been made on what will provided.

16 And the NRCC will be meeting this
17 spring and we'll probably be discussing some of
18 these issues there. And so, there is a schedule out
19 on which assessments are scheduled and which updates
20 are scheduled. But the NRCC revises that every six
21 months and it's a living sort of document, so the
22 fact that there are updates scheduled for this
23 spring, those will occur. There are none scheduled
24 for the subsequent year, but I would say that's up

1 for discussion; so, you shouldn't consider that as a
2 final decision at this point.

3 And I believe that's what I wanted to
4 say. Thanks.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Rich.

7 RICHARD SEAGRAVES: Just to follow up
8 a little bit. And I've been involved in that
9 working group. I think there are two issues.

10 One is the periodicity at which we
11 get benchmark assessments. There's some discussion
12 that there'd probably be a greater time interval
13 between when we get benchmark assessments relative
14 to the past. So, that increases the scientific
15 uncertainty probably from the SSC standpoint not
16 knowing when the next one is going to come along.

17 Then the second issue is the annual
18 update issue. And as Jessica has indicated,
19 probably the biggest problem -- or the two problems
20 there -- one is getting the annual discard estimates
21 she's already indicated. I think the other problem
22 is a resource personnel issue, whether or not
23 there's going to be people around. Because we could
24 update the model for an age length. The other issue

1 is aging. Typically the updates that Jessica gives
2 for summer flounder, scup, black seabass, there's
3 aging required update to catch an age matrix and
4 then turn the crank on the model. So, we wouldn't
5 probably be getting the aging data. We've got to
6 deal with that problem. But that might be -- we
7 could deal with that by borrowing other -- you know,
8 previous years or whatever. Maybe, maybe not. But
9 we definitely need the discard estimates as she's
10 already indicates. So, it's something we're working
11 on.

12 COUNCIL CHAIRMAN RICHARD ROBINS: Dr.
13 Thompson.

14 NANCY THOMPSON: Yeah. Let me be
15 clear about some of this. As far as the assessments
16 and benchmark assessments are concerned, I honestly
17 don't see much change relative to that.
18 Particularly for those stocks that obviously
19 everybody is very concerned about.

20 As far as the updates are concerned
21 as well. Again, as Jim indicated, it's up for
22 discussion. We have actually had discussion with
23 colleagues in other centers to compare how we do
24 updates, for example, with how they do updates. And

1 what we found is that our updates essentially are
2 benchmark assessments as compared to the updates
3 that are done by other centers. And in particular,
4 the Alaska Science Center. So, we're pursuing
5 obviously a whole range of options and possibilities
6 ensuring that we will provide the science advice
7 that is necessary obviously to make sure that you
8 guys are staying on track with ACL's and when AM's
9 need to go into effect.

10 So, the point is, that we're very
11 aware that there is a need for science advice. That
12 advice probably has to come faster than it has in
13 the past. And so, we're trying to figure out how to
14 do things smarter and more efficiently without
15 really losing any of the science advice or the
16 integrity of that science advice that we provided in
17 the past.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Thank you, Nancy. Jessica.

20 JESSICA COAKLEY: All right. On Page
21 69 in the document, this is a good segue speaking of
22 -- you know, evaluating performance of ACL's and
23 AM's to talk about performance review of this
24 process and what the requirements are and if the

1 Council would like to have sort of a structured
2 process for dealing with performance review.

3 The guidelines recommend that if an
4 ACL is exceeded more than 25 percent of the time,
5 they recommend the system of control rules of AM's
6 and ACL's be revisited to evaluate that performance.

7 So, what we've proposed in this document on Page 69
8 is, having a formal review process which would give
9 the SSC the opportunity when they meet to go over
10 the last few years of their ABC specification
11 setting for species and evaluate how well that's
12 performing relative to preventing overfishing as
13 well as having the Council evaluate on a routine
14 basis how their ACL's are working.

15 Now, with that 25 percent rule, if
16 you go over in two consecutive years and you're
17 looking at your prior three or four years, it's
18 pretty clear that you're already over 25 percent, so
19 that would need to trigger some sort of evaluation
20 of how this is performing.

21 But one of the things that we're
22 recommending in terms of the timing of these updates
23 that it's going to be largely dependent on the
24 frequency of the stock assessments. In many cases,

1 for specification setting, there's multi-year
2 setting that's going to need to happen for ABC's.
3 So, if there's a three-year spec. setting process
4 like ABC's for the tilefish plan or the surfclam
5 plan or for one of those, it may make sense at the
6 end of those three years to go through and have the
7 SSC and the Monitoring Committee review all that
8 information and they can provide recommendations to
9 the Council at that time for modifications to the
10 process or to the structure or to the way that we're
11 applying those ACT's to account for management
12 uncertainty or scientific uncertainty.

13 It's something that I'd recommend
14 that the timing of the reviews. Perhaps it's
15 something that staff should take a look at for the
16 individual species because it's going to be linked
17 up prior to the stock assessment process and make
18 recommendations for when that needs to be done and
19 perhaps highlight that. We could highlight that in
20 either Monitoring Committee memos or quota papers
21 when we get to that point.

22 So, there's two options in the
23 document. One is to really not have a formalized
24 process to review this stuff. The action

1 alternative is to have a process that the SSC and
2 the Monitoring Committee would make recommendations
3 to the Council. And my suggestion would be to have
4 the staff deal with sort of the figuring out what
5 the timing, the appropriate timing for those reviews
6 should be, being aware that if we hit that 25
7 percent trigger for two years in a row, we're
8 probably going to need to take a close look at the
9 performance of that system in the next year.

10 COUNCIL CHAIRMAN RICHARD ROBINS:

11 Jessica, excuse me.

12 JESSICA COAKLEY: Yeah.

13 COUNCIL CHAIRMAN RICHARD ROBINS: The
14 way we set this up just outside of this review
15 process, we have the Monitoring Committee engaged in
16 the recommendation of an ACT. And so, on an annual
17 basis in those fisheries where we're setting annual
18 specifications at least, we're also going to have
19 the Monitoring Committee evaluating fishery
20 performance every time we set specs. So, it seems
21 to me that that's sort of an additional layer of
22 review that's going to probably occur on an annual
23 basis; right?

24 JESSICA COAKLEY: Absolutely.

1 They're going to be looking at that each year. And
2 I think even with the multi-year, if there is multi-
3 year ABC setting, the SSC may look at what
4 information is available in that year -- you know,
5 if it's landings information, maybe survey indices,
6 or -- you know, whatever form of an update we might
7 get in that year and look at where that is relative
8 to their ABC. So, I think there's going to be
9 annual review of this happening each year. It's
10 just the idea that maybe every few years we should
11 sit down and take a closer look at, well, how has
12 the whole system worked over those prior few years.

13 Are we happy with the performance. Are we really
14 getting -- is it performing the way it should.
15 Should things be adjusted upwards, downwards, fine-
16 tuning basically. And I think it would be good to
17 every few years in addition to that annual review
18 take a much closer look at it and think about that.

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 Lee.

21 LEE ANDERSON: I think this is a good
22 thing and it's going to be mandated by the law. I
23 just have a technical question to make sure we're
24 okay. Because, if you read in here, it says the ABC

1 we're going to evaluate periodically. It didn't say
2 how often that's going to be and it doesn't say what
3 you're going to use. Now, you and I have had this
4 kind of a sidebar on this. And maybe that's a good
5 way to leave it that periodically is okay and let
6 the SSC determine it. But I want to make sure that
7 for approval purposes we've got enough in there to
8 make sure that we do comply. I don't know who can
9 answer this, but I would -- I'm thinking that --
10 remember, some of the other alternatives. We got so
11 many details in there. And this is just kind of
12 waving your hand and say we're going to do it.

13 Anybody have a response?

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Pat.

16 PATRICIA KURKUL: I don't remember
17 the specific requirements in the guidelines, but
18 there are requirements to -- if you exceed the ACL
19 for some period of time to revisit the ACL and to
20 make adjustments. I guess I assumed that we were
21 just agreeing conceptually at this point that the
22 final document would have the kind of details that
23 talk about the -- what triggers it, how often we're
24 doing this, and so forth. But I think it's -- I

1 think it's important to leave this in here.

2 COUNCIL CHAIRMAN RICHARD ROBINS: All
3 right. Jessica.

4 JESSICA COAKLEY: I mean, we can
5 tighten -- this language will be tightened up a
6 little bit more. This is in here to get a feel for
7 is this something that you would like to do. Are
8 you comfortable with the SSC and the Monitoring
9 Committee taking on that role of reviewing all that
10 information and making recommendations to the
11 Council for fine-tuning this process. As well as
12 the guideline suggest that it's a frequency -- if
13 you exceed the ACL more than once in four years is
14 what the guidelines -- I can't remember if it -- I
15 think it's in one of the response to comments it
16 states that. And so, you'd have to have a review
17 under this process that would trigger the need to do
18 a review if it's more than 25 percent of the time or
19 two consecutive years in a row. You would need to
20 sit down and have your Monitoring Committee and SSC
21 review that information. And if the group is
22 comfortable with that, we can move forward with
23 this. And there's going to be fine-tuning of the
24 language in the public hearing document prior to the

1 final version by the FMAT. We'll tighten these
2 things up.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Are
4 there any further concerns on this issue before we
5 move on? All right. Pres.

6 PRESTON PATE: Just a question
7 arising from lack of understanding of the respective
8 roles of the Review Committees that are mentioned in
9 this section.

10 I don't clearly understand how it was
11 chosen that the SSC was the primary source of review
12 of the effectiveness of the AM's and the Monitoring
13 Committee's roles was discretionary by the Council
14 upon request. Am I misreading that? It seems to me
15 that the Monitoring Committee would be closer to the
16 management of these species and have a better
17 perspective of the effective operation of the
18 accountability measures than the SSC. And it just
19 seems the Monitoring Committee, the way that this is
20 worded, is playing a subordinate role in this
21 process. That might be appropriate. I'm just
22 having a hard time figuring it out right now.

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Pres, as I see these two paragraphs, I think the --

1 as I understand it, the SSC is reviewing and
2 evaluating the ABC control rules, which they're
3 responsible for applying. And then the Monitoring
4 Committee is reviewing the AM's in that second
5 paragraph.

6 But Jessica, can you clarify that?

7 JESSICA COAKLEY: No. You're right.

8 That was the intent was to have the SSC look at the
9 performance of those control rules and their control
10 rule framework and they can make recommendations to
11 modify that framework to the Council. And that the
12 Monitoring Committee would look at the ACL/AM
13 structure, basically, everything in that
14 hypothetical example, below that black line, in
15 terms of management uncertainty and application of
16 those catch limits and can make recommendations to
17 the Council on revising those.

18 So, two different roles in terms of
19 what they're reviewing and recommending.

20 PRESTON PATE: Okay. Thank you.

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 That satisfy your concerns?

23 PRESTON PATE: Yeah. I was just
24 misreading it upon a quick read.

1 COUNCIL CHAIRMAN RICHARD ROBINS: I
2 think the SSC is handling the side that relates to
3 the scientific uncertainty and the risk policy and
4 how that's performing. And the Monitoring Committee
5 is handling the management side. So, I think this
6 is set up right. Pat.

7 PAT AUGUSTINE: Yeah. Thank you, Mr.
8 Chairman. I only have one question on that long
9 paragraph on Page 69 to determine that the ACL for
10 specific stock is exceeded. We go on to say that
11 the Council may or the ACL/AM may be reviewed by the
12 Council. Do we want to say may or do we want to say
13 shall? It seems to me may is just an option that we
14 could simply say no, we're not interested in doing
15 it now. But if you read the first sentence, it
16 says, with a frequency greater than 25 percent the
17 ACL control rules consistent with AM's may be
18 revisited by the Council. I would almost suggest we
19 change it to shall be as a requirement. I don't
20 know if we can allow it to slip. Your
21 interpretation, Mr. Chairman.

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Well, I think that might be more consistent with the
24 guidelines. But we'll look around the table to see

1 if there's any objection to requiring the review.

2 Lee.

3 LEE ANDERSON: To that point. Thank
4 you. This is a more general paragraph and it says
5 that the SSC and the Monitoring Committee's are
6 going to give a number of recommendations for review
7 and change. So, I'm kind of happy with the way
8 because sometimes we may listen to the SSC and may
9 listen to the Monitoring Committee and say no, we
10 choose not to do it. So, to me, it's okay. But
11 I'll listen to Pat. There are certain times you
12 have to if we're over four times or some, when it's
13 mandated by law, but I think we should have another
14 cushion in there to ask for more reviews, which we
15 may or may not want to take.

16 PAT AUGUSTINE: Fair enough.

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Pat.

19 PATRICIA KURKUL: Just want to make
20 sure I understand. So, it would say you shall
21 consistent with the guidelines, whatever that is,
22 and you may other times.

23 PAT AUGUSTINE: It doesn't matter,
24 one way or the other.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Yeah. I think the guidelines -- I mean, it's not a
3 legal requirement, but I think the guidelines
4 indicate that if we exceed the ACL more than one
5 year out of four that the Council would in fact
6 review the system. So, Pat, I think your point is
7 well taken.

8 PAT AUGUSTINE: Thank you, Mr.
9 Chairman.

10 COUNCIL CHAIRMAN RICHARD ROBINS:

11 Okay.

12 JESSICA COAKLEY: All right. The
13 last page in the public hearing document, Section 5,
14 has a description of the process to modify actions.

15 And this is something that we've been talking
16 through in a lot of detail with the FMAT and I've
17 talked at length with Joel MacDonald about this.

18 There's a couple of ways things can
19 be modified through our processes. Things are done
20 through the specifications process. Things can be
21 done through framework actions which require two
22 framework meetings in order to make -- to complete a
23 framework, and then it's submitted to the service to
24 go through the proposal final rule process on that

1 document. Frameworks -- I think the fastest
2 framework could be maybe six months. Most of them
3 take a little bit longer than that, sometimes seven
4 months, eight months, depending on how detailed they
5 are. And then there's the amendment process which
6 we know can be quite lengthy.

7 So, throughout this system and based
8 on our discussions it's clear that the catch levels
9 associated with implementing these processes, and so
10 those are whatever the ABC actually ends up being in
11 terms of a number. If it ends up being 30 million
12 pounds, what the ACL's are in terms of what they
13 are, can be implemented through -- would need to be
14 implemented through the specifications process.
15 Which is similar to what we do right now when we
16 specify the TAC's and the TAL's and all commercial
17 quotas, recreational harvest limits. Those go
18 through the specifications process. And things like
19 trip limits, trip limit triggers, that are
20 implemented through our plans, those all go through
21 the specifications process as well.

22 One of the things that we're
23 contemplating in this is this whole ACL/AM ABC ACL
24 AM framework is intended to be adaptive and I think

1 the guidelines view it that way in terms of
2 requiring -- you know, review processes to make sure
3 they're performing well and that requires changing
4 these things to make them perform better. So, if we
5 contemplate the idea that this is adaptive and that
6 we may need to make changes to the structures of
7 these frameworks, like maybe a discard fishery
8 fluctuates, for one of these stocks we need to set a
9 new ACT for that discard fishery and manage that
10 separately. Those types of things, if we
11 contemplate those, could be frameworkable, but we're
12 going to need to in this next stage of document
13 development go through a lot more work to describe
14 what types of things we think may need to be changed
15 and the types of things -- changes that we
16 anticipate.

17 In addition, I expect that the SSC
18 may find that their ABC framework isn't performing
19 exactly as expected or they find they need to add a
20 new level. Instead of four levels, maybe they need
21 a fifth level or maybe they find that four levels
22 are too many, they want three levels. They want to
23 change some of the criteria underneath those. Those
24 things may come up as we move forward. So, if we

1 contemplate those kinds of changes, we could try to
2 work those in to become frameworkable actions.

3 However, one of the things we are
4 discussing and I don't think we have a final answer
5 on this, the ACL's, addition of new ACL's. You
6 know, in this structure, adding an ACT or changing
7 some of those things, well, that may be
8 frameworkable. If you decided to add a whole new
9 ACL, that may not be frameworkable. That may be
10 something that elevates this to an amendment type
11 action, because that's a very substantial
12 modification to the structure. So, we're still
13 working through this with the FMAT, but the intent
14 is to try to come up with as flexible a process for
15 the Council as possible so that this really is truly
16 adaptive that when you do these performance reviews,
17 you have the ability to contemplate the kind of
18 changes that might be needed and hopefully implement
19 them in a timely way rather than having -- you know,
20 three, four years of amendments to make a change, to
21 improve performance.

22 There's one other issue that I think
23 we --

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Pres, go ahead.

2 PRESTON PATE: Jessica, that might be
3 very important for us to have a clear understanding
4 at the end, at the point of final decision making on
5 this. So, would it be possible to look at the
6 various components and potential areas of change in
7 this document and classify those according to what
8 could be done by framework and what could be done by
9 ACL? Even just a simple table listing of that. I
10 put some speculation on Joel's part maybe, but so
11 we'd have some general idea of how difficult it will
12 be to keep this a dynamic document in the future.

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 Joel.

15 JOEL MACDONALD: If I may. This sort
16 of involves the use of a crystal ball exercise to a
17 certain extent. On a number of occasions, I've
18 raised the limitations that were imposed upon the
19 use of frameworks. That was a result of a lawsuit
20 brought by (inaudible) Amendment 10 to the Scallop
21 FMP. And the judge essentially said, look, you
22 can't use a framework to introduce new concepts or
23 to remove concepts that were established by a
24 previous amendment or FMP. So, it comes down to

1 making adjustments to your existing program.

2 And that's why Jessica is saying,
3 look, if we can contemplate what changes might be
4 necessary in the future and why and forecast that
5 that may happen, then we could possibly use the
6 framework provision to establish those particular
7 new measures and not -- and they wouldn't be viewed
8 as entirely new because the underlying omnibus would
9 contemplate that this situation would arise in the
10 future and that we could react to it through a
11 framework process.

12 We could try and go through all the
13 iterations of what changes might be possible. In
14 fact, it's probably a good idea to do that and to
15 say okay we contemplate that we will possibly make
16 changes to different types of measures. We viewed
17 this as something that we should be able to do
18 through a framework provision. That's a whole
19 different situation than saying nothing. You know,
20 if a court looks at a document and it's completely
21 silent, then there's sort of a presumption against
22 the validity of a framework if it looks like it's
23 something brand new. But if the underlying document
24 talks about this possibility of change, then we're

1 much further ahead in being able to defend such an
2 action.

3 So, there may be situations that we
4 can't contemplate that would fall under the umbrella
5 of an amendment to the FMP. But if we can put our
6 heads together and take a look at all the different
7 components and see if we can't itemize them and
8 maybe forecast what changes might be made and as a
9 consequence see what would fit under a framework
10 action.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Pres, that's an excellent point. I think we're
13 going to want as much flexibility as we can and try
14 to cover as many issues as we can.

15 Jessica, when you talked about adding
16 an ACL, did you mean adding, for example, an ACL for
17 a sector to the existing FMP and that would require
18 an amendment. When you talked about adding an ACL,
19 would that be, for example, for the recreational
20 sector if it's not currently in this flowchart,
21 something like that, or charter party boat?

22 JESSICA COAKLEY: Yeah. Yeah. That
23 was what I was thinking. And in a lot of these
24 frameworks, we have an ABC quota ACL because we have

1 sort of a single commercial fishery. But it seems
2 that structurally adding a whole new sector to that
3 fishery with a whole new ACL linked up to all those
4 accountabilities when we discussed this that that
5 may be right on the boundary between modifying what
6 you currently have and introducing very new types of
7 concepts.

8 But like Joel said, this is something
9 that we've been trying to sort out at the FMAT
10 level. We have some ideas that we've put down on
11 Page 70 to just get the discussion started and get
12 an idea -- give everyone an idea of where we're
13 trying to go with the ability to modify these
14 documents. But we haven't sorted out all of the
15 details at this point and they're going to have to
16 be sorted out for the next step of document
17 development. I mean -- you know, we've been on a
18 very compressed time line for all of this activity
19 relating to the omnibus and we just haven't had a
20 chance to flesh all this out yet.

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Peter.

23 PETER DEFUR: Thank you, Mr.

24 Chairman. So, Jessica, what you and Joel are

1 telling us is that we've got until June? We've got
2 until June to come up with anything that we think is
3 really significant?

4 JESSICA COAKLEY: In June, if you
5 vote to take the document out for public hearing --

6 PETER DEFUR: Yeah.

7 JESSICA COAKLEY: -- we'll be taking
8 out for public hearings in May. We'll be bringing
9 those comments back in June. I can bring back the
10 tilefish trip limit analysis hopefully in June. And
11 if this is something that you'd like to see more
12 detail on when you meet in June, I think we can work
13 over the next month or so to sort some of these
14 issues out and give you more detail.

15 PETER DEFUR: And that's about as
16 late as we can go; right?

17 JESSICA COAKLEY: Hmm?

18 PETER DEFUR: And that's about as
19 late as we can make any of those substantive
20 changes?

21 JESSICA COAKLEY: Well, you'll have
22 that -- yes, we can talk about that in more detail
23 if there's changes that need to be made to either
24 that tilefish part or this part. But through May,

1 June and July, we're going to be building the full
2 EA, as well to have that in front of you in August.

3 PETER DEFUR: It's speak now or
4 forever hold your peace.

5 COUNCIL CHAIRMAN RICK ROBINS: Gene.

6 EUGENE KRAY: I think I follow what
7 Joel is saying and I can follow the logic in it, but
8 I'd like to use an example. Let's suppose that we
9 have a need to create a recreational sector in
10 tilefish, in the tilefish plan. If we said in this
11 document something to the effect that we have given
12 consideration to the recreational fishery for
13 tilefish. At this point, we're not ready to do
14 that, but we contemplate doing that in the future.
15 Words to that effect would help us maybe doing it by
16 a framework as opposed to an amendment. Is that
17 what you're saying, Joel?

18 JOEL MACDONALD: That's partially
19 what I'm saying. What I would contemplate further
20 is that we'd be a little more specific to the extent
21 that we can as to what types of measures we might
22 impose upon the recreational fishery so that we give
23 a sense of what type of program changes would need
24 to be made. If you just say, well, sometime in the

1 future, we think we might add a new sector without
2 further explanation and discussion, that really
3 doesn't forecast what type of change you're looking
4 at in the document and that might not go beyond that
5 line between the amendment and the framework.
6 That's what we're thinking of right now. And
7 Jessica and I were just talking. You know, before
8 we get out to public hearing, I think the staff will
9 have to come up with -- myself included here -- work
10 together and put some concepts in there as to what
11 types of actions we would contemplate in the future
12 and what types of changes may occur just to give the
13 public a sense of what we're thinking about and just
14 to get their input in that process.

15 COUNCIL CHAIRMAN RICK ROBINS:

16 Thanks, Joel. Dan.

17 DAN FURLONG: Thank you, Mr.

18 Chairman. Just to clarify Gene's question.

19 Remember, this is just -- this omnibus amendment
20 addresses a specification setting process. If we're
21 establishing a whole new sector within a plan, I
22 think we have to get back to the Species Committee
23 and have them address through an amendment action
24 the recognition of establishing - you know, a for-

1 hire sector within that plan. I don't think you can
2 just say well, we're going to framework it under our
3 specifications. I mean, that just --

4 PAT AUGUSTINE: You can't do it.

5 JOEL MACDONALD: There obviously will
6 not be -- there will be situations where we can't
7 framework it. It will involve so many new concepts
8 and measures that it will go beyond what you can
9 contemplate in a plan. In my response to Gene,
10 that's why I said if you can go beyond -- you know,
11 just conceptually identifying some area where you
12 might make a change and sort of develop what sort of
13 changes might be necessary, that's one thing.
14 That's the contemplation of the aspects the plan or
15 the new program are in the underlying document. I
16 think in your situation establishing a new sector
17 that's wholly new that has different considerations
18 than are forecast or contemplated in the underlying
19 document, that would fall beyond the line. That
20 would fall in an amendment. But these -- you know,
21 there's not a bright line right now. The Court has
22 given us some direction, but it doesn't establish a
23 bright line that tells us in every case well what
24 can you framework and what can you -- what do you

1 have to do as an amendment.

2 What I'm suggesting here in
3 conjunction with Jessica is let's see how -- I don't
4 want to say how far we can go -- but let's see what
5 we can develop in terms of possible changes that
6 would fall under a framework rather than be silent.

7 Because if we're silent -- you know, our ability to
8 use the framework process is going to be truncated.

9 And I think this process demands all the
10 flexibility that we can squeeze out of the law.
11 This is going to be a very dynamic process. We're
12 going to want to make changes. We're in the very
13 early stages of this whole process and it's a
14 learning curve. And I can guarantee you -- you
15 know, the decisions that we're making or your making
16 now are going to be subject to change probably in
17 short order because there are things that we didn't
18 contemplate. That's always the case with a new
19 program, at least in my experience.

20 COUNCIL CHAIRMAN RICK ROBINS: Lee.

21 LEE ANDERSON: Thank you, Mr.
22 Chairman. I have a specific point and a general
23 point. The specific point is on the list of things
24 that are to be changed in the bullets on Page 70,

1 the ABC rule is left out. There's a bullet for
2 other things. So, Jessica and Rich, I would ask you
3 to add that to your list that we need to say that
4 ABC control rule is one of them. We've got the
5 framework in there, and then the relationship
6 between ACL, but the ABC control rule isn't in
7 there, at least as I read it. And I think that
8 that's one that we do want to be able to framework.
9 That's the specific one.

10 But in general, I think this is the
11 most -- a very important part of this segment
12 because we are going to need change. I agree with
13 Joel. I think if we go -- we're going to find
14 something in a year and a year and two that we're
15 going to have to change and we just as well
16 acknowledge it and do the best we can now, but it's
17 going to have to be changed.

18 And I would also suggest that the
19 Council send to the staff -- and I'm sure they're
20 aware of it -- they know that -- but we need to back
21 them -- is that for the -- what do we call it -- the
22 control rule framework that's Section 1 -- and the
23 control rule itself -- we want to write that up so
24 that we can framework it up if at all possible.

1 Joel says that we can. The framework add another
2 tier. The control rule instead of having the point
3 of inflection be at 1.0, it's at 1.5. It seems to
4 me that that ought to be frameworkable if we have
5 those things in and we mention it. So, that's just
6 -- I hope that we can write it up to give us as much
7 flexibility. We're going to have to change it.
8 Let's hope that we can do it fast.

9 COUNCIL CHAIRMAN RICK ROBINS: Lee,
10 to that point. I mean, the control rule includes
11 two components right now. One in terms of the
12 application is the ABC control rule framework and
13 that's in here. And then the other part, the
14 operable part, is really the Council risk policy.
15 And that's identified below that paragraph. But
16 right now, that's in the -- and that's the next
17 question. I mean, that's in the document residing
18 in the SOPS, and I think that's still an outstanding
19 question because the guidelines indicate that the
20 control rule ought to fall -- ought to be in the
21 FMP. So, I think that's something that we're going
22 to determine where it ought to reside. Whether it
23 should be in the FMP or in the SOPS. And if it's in
24 the FMP, at least give us the flexibility to modify

1 it by framework.

2 LEE ANDERSON: That's what I'm
3 saying. Yes.

4 COUNCIL CHAIRMAN RICK ROBINS:
5 Jessica.

6 JESSICA COAKLEY: Well, I think at
7 this point it's sort of an outstanding issue as to
8 whether it should reside in the SOPS or whether it
9 should reside in the FMP. There are differing
10 reasons for putting it in either location. One view
11 is that the risk policy is a variable. Of the ABC
12 control rule framework, it's a component of that.
13 And that that does not necessarily need to -- it can
14 be referenced -- but does not necessarily need to
15 reside within the FMP. That would be one way to
16 view whether it should be in the SOPS. It could be
17 modified through the SOP process in a more flexible
18 way. It could be described in the FMP.
19 Alternatively -- you know, if you look in the
20 guidelines and one of the response to comments, it
21 specifically says that the risk policy is the ABC
22 control rule. And if you view it that way as a
23 specific component of that, there's other language
24 that says the ABC control rule must be established

1 in the FMP by the Council. And again, I'm
2 paraphrasing that. But that's basically what it
3 says. So, you could look at that and say well that
4 makes it clear, then it should reside in the FMP.

5 So, we're still a little up in the
6 air right now. You're right that the document says
7 -- as structured here that it could reside in the
8 SOPS. One of the things that Joel and I were just
9 talking about as a sidebar for the process to modify
10 actions, is that we've got to get this public
11 hearing draft out and up on websites tomorrow in
12 order to get out and do these hearing quickly. So,
13 he and I would work on this section tomorrow to get
14 more into the document what we need into the
15 document prior to taking this out for public
16 hearings.

17 Do you have anything you want to add
18 in terms of the SOP issue.

19 JOEL MACDONALD: No.

20 COUNCIL CHAIRMAN RICK ROBINS:

21 Jessica, just on this point. Would it be
22 appropriate then to have an option here where the
23 policy would reside in the SOPS or reside in the FMP
24 so that going forward we can make this

1 determination?

2 JOEL MACDONALD: We could do that
3 certainly, give the public something to focus on.
4 It's ultimately the Council's decision as to where
5 to put it. There are down-sides to putting it in
6 the SOPS particularly if you view this as part of
7 the ABC control rule. Somebody might say then the
8 FMP amendment is deficient. However, there is some
9 views that say that you could split it off and deal
10 with it separately. However, I think at this
11 juncture, what we're looking for is public comment
12 on what the Council is thinking about. And I think
13 the Council is at least entertaining the concept of
14 putting it in the amendment or the SOPS. Or it
15 makes sense just to put it out there for public
16 comment. It doesn't wed the Council to any
17 particular course of action. And you can make a
18 decision after we get public comment and come back
19 and revisit the issue.

20 COUNCIL CHAIRMAN RICK ROBINS: Right.

21 And you can give us some additional guidance
22 between now and then as well. So, perhaps that
23 would be beneficial.

24 DAN FURLONG: To this point.

1 COUNCIL CHAIRMAN RICK ROBINS: Dan.

2 DAN FURLONG: Mr. Chairman, at this
3 point, there is an initiative right now at
4 headquarters to develop a template if you will for
5 SOPS so that all eight councils follow the same
6 template for a national uniformity as relates to
7 council operations. Now to my knowledge, to the
8 best of my knowledge, they have not contemplated
9 incorporating this process, this ABC control rule,
10 into their SOPS. But this is something we can pick
11 up at the upcoming Council Chairman's meeting.

12 COUNCIL CHAIRMAN RICK ROBINS: Good
13 point, Dan. Thank you. I think it makes sense then
14 to include the option that we have included in the
15 FMP. Because as I read it, I think it's truly the
16 central part of the control rule that's being
17 applied. All right. Jessica, is that it?

18 JESSICA COAKLEY: Yep.

19 COUNCIL CHAIRMAN RICK ROBINS: Okay.

20 Jessica, I don't know if you can help me, but I've
21 been keeping a running list of those items that were
22 suggested for modification. And we did already take
23 one vote yesterday to add an option to the risk
24 policies. But I'll just run through this real quick

1 to give the Council a sense of the notes that I've
2 taken in response to Jessica's presentation. And
3 Jessica, if you can catch me if I've missed
4 anything.

5 But we had the mackerel allocation
6 issue. That is, whether to include the recreational
7 allocation to the mackerel fishery in this amendment
8 given the fact that Amendment 11 could be
9 potentially be on a different time line now.

10 The second issue was the fact that if
11 an RSA in the future is approved through Amendment 3
12 to the spiny dogfish FMP, that that RSA would come
13 off the TAL.

14 Third, John McMurray pointed out that
15 we had omitted ecological from the IRY definition on
16 the forage species so that would be amended in the
17 language, the text on mackerel and butterfish. At
18 Page 61, we had a replacement table for surfclams.
19 Let's see. We want to account explicitly in the
20 flowchart for the recreational catch on tilefish.
21 So, that even needs to be identified explicitly as a
22 step accounted for under management uncertainty or
23 scientific uncertainty. On Page 66, there was some
24 discussion about adjusting the tilefish trip limits

1 downward. But I think that discussion was resolved.

2 I think that's already in the FMP. Right, Jessica?

3 JESSICA COAKLEY: Yeah. Adjusting
4 the trip limits downwards was in the FMP. I wasn't
5 a hundred percent clear on that option for
6 transferring the potential to increase the
7 percentage allocated to the incidental category.
8 Was that something that the Council wanted taken out
9 of the do or just leave it in for the time being.

10 COUNCIL CHAIRMAN RICK ROBINS: I
11 think after Rich's explanation, I think that
12 addressed it. Certainly from my perspective. But
13 if there's additional interest in taking action on
14 that for right now, we can go out to the public with
15 both options and come back and revisit it in the
16 future. Okay.

17 Let's see. That was Suboption B on
18 tilefish. Okay. At Page 69, we had suggested that
19 the AM shall be revisited at Pat Augustine's
20 suggestion. And then finally here on Page 70, we
21 would have two options for the location of the risk
22 policy; one in the SOPS and one in the FMP itself.

23 Did I miss any edits, Jessica? I
24 think the proposed edits -- is there any objection

1 to making those minor modifications. The bigger
2 issue is going to be the recreational mackerel issue
3 and whether or not to include that. And I think we
4 discussed yesterday that we had several options.
5 Jessica, can you run us back through those, the
6 options that we had as to whether or not to include
7 the recreational mackerel allocation and what the
8 implications of that are? If we include it, I guess
9 the risk that we run is that we may have a higher
10 probability of requiring an EIS which could delay
11 final implementation of the action. We're not
12 assured right now that this will be an EA, but we're
13 operating, I think, under that assumption.

14 JESSICA COAKLEY: Yeah. That's
15 correct. Right now, the way that the issue is the
16 way the document is currently structured, it's
17 assuming that that allocation is going to go
18 through. So, we discussed yesterday that one of
19 those options was to take that allocation issue,
20 since it's unclear if it's going to move through
21 with Amendment 11, and bring that into the omnibus
22 document so that it would be consistent with the
23 ACL/AM approach that we're already looking at at
24 this point. But that could -- and again as Pat had

1 pointed out yesterday -- it's not a foregone
2 conclusion that the FONZI (phonetic) is going to be
3 supportable. It's just up to this point the types
4 of options we've seen in there, it looks like it may
5 be supportable. So, adding this additional option
6 into it may potentially elevate that to an EIS. If
7 the allocation issue isn't brought into the document
8 and it doesn't move forward in that Amendment 11,
9 then this structure that's in the document right now
10 would have to be modified.

11 We would need to take essentially
12 that right-hand bottom left box up on the screen,
13 where we're dealing with the recreational ACT away,
14 and you'd have to have a fishery level type
15 accountability like we have for some of the other
16 stocks where you're dealing with -- where that rec.
17 allocation is essentially part of the DAH that's
18 allocated to that fishery. So, you would have
19 accountability at that ACL level would be the way
20 that it would probably need to be modified to be
21 consistent with what you've done for other species.

22 So, we would need to make those changes. So, those
23 are the issues.

24 COUNCIL CHAIRMAN RICK ROBINS: Do we

1 need them to have a provisional option in there that
2 if Amendment 11 is finalized, then the flowchart
3 would remain unchanged. But if Amendment 11 is not
4 finalized that we would treat accountability on a
5 fishery wide basis? Pat, would that work? Is that
6 the easiest way to do it?

7 PATRICIA KURKUL: (Inaudible.)

8 COUNCIL CHAIRMAN RICK ROBINS: Gene.

9 EUGENE KRAY: Mr. Chairman, we've
10 gone all of these years without a recreational --
11 and I still believe it's fairly small number of
12 recreational catch. As I indicated yesterday, it's
13 predominantly a bait fishery. And I don't see the
14 harm in not including it in this if it's going to
15 delay this document. What I think would be better
16 is to put it back to Amendment 11. And if Amendment
17 11 goes by the boards, then we put it in Amendment
18 12. I mean, it's a relatively minor thing in my
19 opinion.

20 COUNCIL CHAIRMAN RICK ROBINS: Okay.

21 Pat, do you have a follow up on this, please.

22 PATRICIA KURKUL: Yeah. Well, of
23 course, the document right now anticipates or
24 includes recreational ACT, and without an allocation

1 you can't have a recreational ACT. So, you need to
2 decide whether you're going to -- let me take a step
3 back. So, giving the timing issues, this may not be
4 a feasible flowchart without the omnibus amendment.

5 So, I think the suggestion is we need to have a
6 flowchart that acknowledges that there is mortality
7 from a recreational fishing in the mackerel fishery
8 and includes it either without the allocation or in
9 anticipation that there is an allocation. And so, I
10 think Rick's suggestion is a good one that you
11 basically have a fallback position either way.

12 COUNCIL CHAIRMAN RICK ROBINS: Okay.

13 So, if that would be acceptable to the Council, we
14 could consider a provisional aspect here. That if
15 Amendment 11 is finalized, we'll go with this
16 flowchart. If the recreational -- if 11 is not
17 final, then we would have a fallback flowchart that
18 treats accountability on a fishery wide basis. And
19 at that point, we would be treating recreational --
20 would we be treating recreational mortality in the
21 same way that we're talking about dealing with it on
22 tilefish?

23 PATRICIA KURKUL: I think so. Yeah.

24 COUNCIL CHAIRMAN RICK ROBINS: Okay.

1 Jessica, is that workable?

2 JESSICA COAKLEY: Yeah. I think that
3 is. So, basically what you're saying is you're not
4 going to be moving that allocation issue into the
5 document because of the concerns about timing issues
6 and that we would have an alternative flowchart and
7 some redescribed AM's to do along with that that say
8 if that Amendment 11 allocation doesn't go through,
9 this is what would apply. And yes, it would be a
10 fishery wide issue. You'd have an AM, something
11 where if the ACL is exceeded then the ACL in the
12 subsequent year would be reduced proportionately,
13 something to that effect, as a reactive AM. Then we
14 can address the recreational part within that
15 flowchart as well.

16 COUNCIL CHAIRMAN RICK ROBINS: Thank
17 you, Jessica. All right. I think that covers the
18 edits that I had noted. Frank.

19 FRANK BLOUNT: I've got a question.
20 How to make changes and all that. I'm thinking
21 about spiny dogfish. And this is a joint plan,
22 spiny dogfish with New England. So, is New England
23 approving the spiny dogfish part of this or how do
24 we have dogfish which is jointly managed in the

1 omnibus amendment to begin with.

2 COUNCIL CHAIRMAN RICK ROBINS:

3 Jessica?

4 FRANK BLOUNT: And how do you make
5 changes in the future?

6 JESSICA COAKLEY: Well, they're doing
7 monkfish.

8 COUNCIL CHAIRMAN RICK ROBINS: She
9 said you're doing monkfish. It's just a question,
10 and a fair one, Frank.

11 PAT AUGUSTINE: And a good response.

12 JESSICA COAKLEY: Joel was saying
13 yes, they would need to vote on that.

14 COUNCIL CHAIRMAN RICK ROBINS: Frank,
15 you raise an excellent point. And we certainly
16 appreciate the opportunity to manage the species
17 with the New England on a joint basis. I just want
18 to take this opportunity to reiterate that publicly.
19 This will have to go before your Council for
20 approval as well on that joint species.

21 FRANK BLOUNT: For just changes or
22 for this part of the plan for the amendment?

23 COUNCIL CHAIRMAN RICK ROBINS: I
24 think for this part of the omnibus and any future

1 changes to the FMP. But Frank, again, I appreciate
2 the opportunity. I just don't want to get to the
3 endpoint and find we find out we missed a step.

4 LEE ANDERSON: We're coming after you
5 on monkfish.

6 COUNCIL CHAIRMAN RICK ROBINS: Okay.
7 Are there any additional proposed changes from the
8 Council members.

9 PAT AUGUSTINE: Move to approve.

10 COUNCIL CHAIRMAN RICK ROBINS: Is
11 there a motion to approve?

12 PAT AUGUSTINE: Move to approve.

13 COUNCIL CHAIRMAN RICK ROBINS: Motion
14 to approve the omnibus public hearing document with
15 the changes just discussed on the record by Pat
16 Augustine.

17 PAT AUGUSTINE: That's correct.
18 Thank you.

19 COUNCIL CHAIRMAN RICK ROBINS: Second
20 by Gene Kray. Thanks both of you. Discussion on
21 the motion. Pres.

22 PRESTON PATE: Just to make sure that
23 the reg. is entirely clear, your listing of
24 amendments didn't mention the change we made in the

1 earlier part of the document with the addition of
2 that one graph. You mentioned that.

3 COUNCIL CHAIRMAN RICK ROBINS: Thank
4 you. I did mention it yesterday. We had already
5 voted to include that option, but we'll just note
6 that again here on the record that we substituted I
7 believe Option 2C in the risk options. Yes. Option
8 2C was substituted with a single control rule that
9 would set a point of inflection or have a stock
10 replenishment threshold at .10 biomass and would
11 have a point of inflection at 1.0 with a maximum
12 Pstar at .40. Okay. Discussion on the motion.
13 Public comment on the motion. Adam.

14 ADAM NOWALSKI: Thank you, Mr.
15 Chairman. Adam Nowalski, Recreational Fishing
16 Alliance. First off, I just want to thank the
17 Council for going ahead and extending this into this
18 morning to give this adequate time to get through
19 all the issues here.

20 The Recreational Fishing Alliance
21 would not support the current motion for sending
22 this out as is. We would request that the following
23 changes be made:

24 First off, a hearing needs to take

1 place somewhere between Virginia and New York.

2 You're talking about a five-hour driving distance
3 between the two locations that are there right now.

4 Something that would be appropriate are Wilmington,
5 Philadelphia, Tom's River New Jersey, something that
6 would allow people to get there.

7 Additionally with regards to the
8 times of these, 7:00 p.m. requires people drive
9 through major metropolitan areas at rush hour times.

10 It's simply a time period. There needs to be at
11 least one more hearing. When this originally went
12 out for scoping, that was a shortcoming at that
13 point. I would hope that that could addressed at
14 this time by holding another hearing, again,
15 somewhere in the Wilmington, Philadelphia, Tom's
16 River New Jersey, would be appropriate for
17 addressing that concern.

18 Second additional concern would be
19 some examples in here. This was discussed down in
20 Cambridge, Maryland, specifically with regards for
21 the control rule and the assessment components. At
22 the very least with regards to the assessments, I
23 think it would be appropriate to provide a list of
24 the species that would fit into each stock

1 assessment level at the present time. And
2 specifically with regards to the control rules, to
3 provide two to three examples of species. One that
4 would be popular on the recreational side like
5 summer flounder. One that would be important on the
6 commercial side to go ahead and show what the
7 control rules would actually look like with a
8 specific species using data from a given year, 2008,
9 2009. I think that would be helpful given the
10 amount of conversation that took place yesterday,
11 when this goes out to public comment, to try to
12 improve the quality of that comment that you get
13 back.

14 The final component here for
15 conversation would be that with regard to the
16 recreational components on bluefish, summer
17 flounder, black sea bass and scup, the components
18 that are in there that refer to the reactive and
19 proactive measures, the proactive measure with
20 regards to an in-season shutdown on the 1st of
21 September at a given percentage for summer flounder,
22 black sea bass and scup. And the reactive component
23 that allows for a repayment component, those should
24 be clearly itemized as suboptions similar to the way

1 that the one-year or three-year average is. Right
2 now, I think that those are the important components
3 that the public is going to comment on are the
4 Recreational Fishing Alliance doesn't stand behind,
5 those options at all based on the issues with
6 regards to the marine recreational fishing
7 statistical survey, specifically that Magnuson has
8 mandated improvements to that system that have not
9 been made yet. So, if we're going to go ahead and
10 implement these changes mandated in Magnuson with
11 regards to ACL's and AM's and go ahead and continue
12 to use MRFSS at the level but not considering what
13 should have been changed already, that's a concern.

14 And again, I'll just ask that in this document
15 those be specifically listed as suboptions so people
16 can look at it, say okay this is specifically what
17 we're responding to. Specifically with regards
18 again to having those itemized as suboptions so they
19 can be clearly listed.

20 The final modification that I think
21 that's important here, perhaps not at the time of
22 going out for public comment, but with regards to
23 the fourth section here and for Alternative 4B with
24 the review of the control rules where it asked that

1 if they're performing as intended regarding
2 preventing and ending overfishing.

3 I'd also ask that in conjunction with
4 National Standard 1 that the achievement of OY on an
5 ongoing basis also be a grounds for consideration,
6 specifically for rebuilt stocks where you don't have
7 to worry about rebuilding at that time. If you're
8 going to go ahead and reconsider these on the basis
9 of overfishing, preventing it, you should also
10 consider it in the case where you're not achieving
11 OY to address the socio-economic impacts. And I
12 hope that the Council can make specifically the
13 hearing change is most important here. I think the
14 examples are very important both to Council members
15 and to public as they go out and by itemizing the
16 MRFSS segment of the reactive and proactive
17 component. These are all items that I think can fit
18 into the timeline, the desire to get this out for
19 public comment without impacting that. Thank you
20 very much.

21 COUNCIL CHAIRMAN RICK ROBINS: Adam,
22 I appreciate your raising this issue of the hearing.
23 Chris Zeman had raised it yesterday. I've just
24 spoken with Jessica. I think we should go ahead and

1 add one in New Jersey, if the maker of the motion is
2 amenable to that. But I think we could do it. We'd
3 have to notice it immediately, basically tomorrow,
4 in order to do that and have the notice out on time.

5 But I appreciate your raising that point.

6 Additional comment. Yes.

7 PAM LYONS: Thank you. Pam Lyons
8 Groman with the National Coalition for Marine
9 Conservation. In reviewing the document, and
10 particularly the flowcharts, I'm trying to reconcile
11 how this all works with the National Standard 1
12 guidelines regarding optimum yield. And those
13 guidelines, in summary, require us to look at the
14 ecological, social and economic factors as they
15 relate to OY, to review those, to quantify those if
16 possible, and even if we cannot quantify those, to
17 make sure they're addressed in our specifications.

18 When I look at these flowcharts, I
19 don't see inherently how OY is addressed. And you
20 can see OY is listed in some of the tables for some
21 species. In other species, it's not. With Atlantic
22 mackerel it looks like it equates to an ACT. But
23 then you look at butterfish and the initial optimum
24 yield is equal to the ACL which is equal to the ABC.

1 {Move to approve the public hearing document for
2 the ACL/AM Omnibus Amendment with changes as
3 discussed and to include a hearing in NJ.}

4 COUNCIL CHAIR RICK ROBINS: All those
5 in favor, please raise your hand.

6 DAN FURLONG: Can we specify what the
7 motion is, Mr. Chairman? Can we get it up on the
8 board?

9 COUNCIL CHAIRMAN RICK ROBINS: Sure.
10 The motion as Pat made it was to approve the
11 omnibus public hearing document reflecting the
12 amendments that were noted in the record and
13 including a hearing in New Jersey.

14 PAT AUGUSTINE: Yes.

15 COUNCIL CHAIRMAN RICK ROBINS: Second
16 was by Gene Kray. I'll wait a minute so they can
17 get it on the board. We did. We just want to
18 display it on the board, Joel, for the record.

19 JOEL MACDONALD: Thank you, Mr.
20 Chairman.

21 COUNCIL CHAIRMAN RICK ROBINS:
22 Absolutely. So, we have 20 votes in favor.
23 Opposed, like sign.

24 (No response.)

1 COUNCIL CHAIRMAN RICK ROBINS:

2 Abstentions, like sign.

3 (No response.)

4 COUNCIL CHAIRMAN RICK ROBINS: The
5 motion passes unanimously. I'd just like to take
6 this opportunity to thank Jessica. She's worked
7 around the clock on this amendment. I think the
8 full Council is aware of that, but a tremendous
9 amount of work has gone into that.

10 In light of some of the comments I
11 received last night and this morning, I think as we
12 go into the public hearing process, we would be
13 well-served by developing some additional
14 communication tools to communicate the issue of how
15 we're going to account for scientific uncertainty
16 and how the risk policy fits into that discussion.
17 And I think we'd be well-served by doing that
18 between now and the public hearings and now and the
19 June and August meetings.

20 But I think Adam's point about having
21 more examples of Council managed species and how the
22 actual ABC's might developed through the accounting
23 for uncertainty and applying the risk policy are
24 very good points and I think we can try to

1 incorporate that as we develop some additional
2 communication tools. Jessica.

3 JESSICA COAKLEY: Just one quick
4 comment because I see John is here. If I need to
5 develop tools on that scientific uncertainty side to
6 explain that better, if possible I think I would
7 need to work closely with John. For Adam's point,
8 identifying which levels to which these stocks would
9 belong and what control rules would look like. It's
10 very hard to anticipate that because the SSC hasn't
11 done that yet for all of the stocks. They're in the
12 process of going through their spec. cycles for some
13 of these species, but they haven't applied this
14 framework yet and gone through and identified to
15 which all those belong.

16 So, I'm a little hesitant to turn out
17 a list of species and where I think they belong when
18 I suspect that the SSC may look at that and place
19 those stocks differently using their expert
20 judgment. So, for those kinds of things, I don't
21 think we're going to be able to provide at this
22 point. That's something that's going to come out of
23 later steps in the process. But we can definitely
24 develop some better communication tools on

1 explaining uncertainty, how the risk policy fits
2 together with it. And other aspects that can be
3 included is handouts in the presentation.

4 COUNCIL CHAIRMAN RICK ROBINS: Thanks
5 again. All right. Why don't we go ahead and take a
6 ten-minute break and then we'll come back and take
7 up sea turtles. Thanks.

8 (Break: 9:35 a.m. to 9:55 a.m.)

9 COUNCIL CHAIRMAN RICK ROBINS: Let's
10 come back to the table so we can get started,
11 please.

12
13 UPDATE ON ENDANGERED SPECIES ACT

14 LISTING STATUS OF LOGGERHEAD SEA TURTLES

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 Let's come back to the table so we can get started,
17 please. All right. Jim, are you about ready? All
18 right. So, we're pleased to have Jim Lecky with us
19 today. Jim is the Director of the Office of
20 Protected Resources and he's going to be giving us a
21 update on the potential uplisting of the loggerhead
22 turtle.

23 JAMES LECKY: Okay. Thanks. So, I
24 am Jim Lecky with the Office of Protected Resources.

1 I'm going to stand up here for the presentation and
2 I'm going to sneak over there to answer some
3 questions. So, please start with the next slide,
4 please.

5 So, as I was looking at this
6 presentation last night, it dawned on me I had made
7 some assumptions about what you all know and don't
8 know about the Endangered Species Act that may or
9 may not accurate. So, let me give you a little bit
10 of background about the Endangered Species Act
11 first.

12 One, for all species that are listed,
13 it requires us to do a five-year check-in or sort of
14 an informal status review, if you will, just to make
15 sure that with current information the species is
16 appropriately listed, evaluate whether a change in
17 its status might be warranted, can be an uplisting,
18 downlisting, or a removal. We try and do those, but
19 we fall behind once and a while. We did a joint
20 review for all the sea turtles in 2007 with Fish and
21 Wildlife Service. We manage these species jointly
22 with Fish and Wildlife Service so we do most of
23 these kinds of decisions together.

24 In that review, we concluded that the

1 global listing of loggerheads was appropriate and
2 they should remain on the endangered species list so
3 that we could provide the protections of the statute
4 to them. But we looked at the population structure
5 and decided that it might be worth trying to break a
6 global listing up into more discreet units so that
7 we could do a better job of managing them and
8 facilitate drafting biological opinions for example.

9 The Endangered Species Act also
10 defines species as a biological species, a
11 taxonomically recognized species, a sub-species, or
12 for vertebrate populations a distinct population
13 segment. And we further define distinct population
14 segments as a group of animals within a species that
15 are discreet from other individuals in the species.

16 That's usually a genetic test if we have genetic
17 information, but it can be information that implies
18 a genetic distinction like adaptations to a unique
19 ecological environmental setting. For example, a
20 unique history living in a unique area could all
21 imply genetic discreetness, so we use that kind of
22 information to come up with this discreetness. And
23 that discreet population also has to be important to
24 the taxon as a whole. So, in this case, we're

1 looking mostly at ocean basins or major parts of
2 ocean basins. So, we think those are large enough
3 areas or populations that they are significant to
4 the population as a whole.

5 So, we went through our analysis and
6 decided it would be worth taking a hard look and
7 seeing if we couldn't divide that up.
8 Coincidentally, we got petitions from the Center for
9 Biological Diversity, Oceana, and some other
10 organizations, to specifically look at two areas for
11 identification of discreet population segments. And
12 those were first in the North Pacific and the
13 Northwest Atlantic. Of course, when you take a
14 global listing and pull something out of it, you
15 have to ask the question what's the rest of it. So,
16 we went ahead and did the review of the whole
17 species.

18 When we get a petition, we evaluate
19 it for its merit. And those were pretty robust
20 petitions. We accepted them. That triggers the
21 status review process formally under the statute.
22 And for a lot of species, we do convene biological
23 review teams or BRT's. Our biological review teams
24 are comprised of mostly federal experts, state

1 experts if we can find them. But we exclude
2 academics and the public because biological review
3 teams are not exempt from the Federal Advisory
4 Committee Act. So, we run into a pack of problems
5 if we bring other interests into our biological
6 review teams.

7 So, this team was mostly federal
8 biologists from NMFS, Fish and Wildlife Service,
9 USGS, and had two state representatives, one from
10 Florida and one from North Carolina.

11 They went through and did divide up
12 the global listing into nine distinct population
13 segments and presented us with their view of the
14 relative risk of extinction that each of those nine
15 units presented. Next slide, please.

16 The status review report the
17 biological review team is given to NMFS and we weigh
18 that in our decision on how to proceed with an
19 action. We're required to make our listing
20 proposals on the best available scientific
21 information and taking into consideration
22 conservation measures that are underway. So,
23 there's a little bit of weighing of conservation
24 measures and crystal balling, if you will, at the

1 proposed listing stage that we do as an agency. The
2 biological review team's report is just an input
3 into that decision.

4 So, in March of this year, we came
5 out with our proposed rule. We've got seven of the
6 nine DPS's we proposed for endangered. Note the
7 Northwest Atlantic is in that group. I'll talk a
8 little bit more about that later. And two are
9 threatened, South Atlantic and the Southwest Indian
10 Ocean. Next slide.

11 So, what we looked at in terms of the
12 status of Northwest Atlantic loggerheads -- and just
13 to focus on this one issue -- DPS because I suspect
14 it's the one that's of primary interest to this
15 group -- there have been declines in nesting females
16 over nearly two decades. And if you look at
17 basically the last decade, a decade and-a-half, it's
18 been a rather steep decline in the number of nesting
19 females on the index beaches and in particular in
20 the peninsula or Florida. But throughout the range
21 where there are monitoring of nesting females, we're
22 seeing declines in the number of nesting females on
23 beaches.

24 We've looked at information on

1 juveniles in the water, and it's equivocable. There
2 are areas where juveniles are increasing. There are
3 areas where they're decreasing. Areas where they're
4 stable. There's also information about changes in
5 parent age class of animals recruiting to the near-
6 shore environment. So, we don't know if that means
7 a foreshadowing of recruitment failure on the way or
8 if it just means environmental conditions are
9 different and animals are recruiting at a later
10 stage in their life cycle. So, we're trying to
11 figure that all out as part of this process.

12 Our biological review team used two
13 methods to predict levels of risk. One's called a
14 susceptibility to quasi-extinction, which is a
15 statistical method they use to look at models of
16 species persistence over time. And they run those
17 models many, many times and look at the proportion
18 of those models that predict extinction. And in
19 this case, there was a relatively high proportion of
20 those outcomes that did go to extinction. And so,
21 they weighed that in the case.

22 But they also did what's called a
23 risk matrix, which is large part an evaluation of
24 risks, magnitude of risks, and essentially

1 professional judgment about whether those are likely
2 to contribute to the extinction of the species and
3 over some time frame. So, a fair amount of
4 professional judgment from a biological review team
5 into those risk assessments is presented there. And
6 that just reflects lack of information. We have to
7 make decisions in the face of poor information a lot
8 of times in the ESA world.

9 But the ongoing threats that are
10 identified in those matrix assessments are bycatch
11 in commercial fisheries, recreational fisheries,
12 domestic fisheries, international fisheries. And
13 also competition for resources. For example, there
14 have been some studies on foraging habits of sea
15 turtles, loggerheads in Chesapeake Bay that have
16 documented changes in their diet over time that seem
17 to be correlated with various fishing pressures on
18 different species. Habit loss is an ongoing problem
19 throughout the range, and degradation inputs into
20 the marine environment contaminants, and things of
21 that nature are also contributing to habit loss.
22 So, it's always an ongoing battle to maintain the
23 existing rearing and nesting habitat. Beach erosion
24 measures to protect beaches from being eroded also

1 can have an adverse affect, those are things.

2 Our stranding network data over the
3 last couple of years or last decade or so has shown
4 a marked increase in propeller hits. So, vessel
5 strikes we think is an issue that these animals are
6 having to contend with in order to ensure their
7 survival. And then marine debris is a ubiquitous
8 problem around the globe for all the sea turtle
9 populations with the presence of plastics and things
10 in the marine environment. So, all that went
11 weighing into the decisions. Next slide.

12 So, that's just a graphic depiction
13 of the decline in nesting populations. You can see
14 that through the late 80's, early 90's. You can
15 make an argument the population was either
16 increasing or stable, but at least since the late
17 90's, it's been a pretty precipitous decline in
18 nesting females from the peninsula of Florida
19 corridor. Next slide.

20 So, here's the life cycle of turtles.

21 And here's where I guess that we're really in need
22 of more information. You can see in the bottom sort
23 of right part of that is the nesting phase. You can
24 see that females come to the beach to nest. They

1 nest more than once during a season. They don't
2 nest every season. So, the nesting index is not
3 necessarily a measure of the abundance of females.
4 But where the trend is downward for long periods of
5 time, it does provide at least an indication or a
6 concern, and I think our biological review team
7 acknowledged that they thought this decline was a
8 real decline in nesting females.

9 The juveniles. We don't know a lot
10 about the first couple of years of life. They
11 recruit into the oceanic phase and migrate long
12 distances where they're subject to all the things
13 we've just talked about, particularly bycatch in
14 high seas and international fisheries. And then of
15 course the reproductive phase occurs offshore and
16 then we get back into the cycle. So, we don't know
17 a lot about how many juveniles there are. And as I
18 mentioned, the trends on juvenile abundance in our
19 coastal waters are mixed. And we don't know much
20 about survival rates between the various age classes
21 of sea turtles. So, unlike our ability to pretty
22 precisely manage bycatch of marine mammals in
23 commercial fisheries, we don't have the information
24 to drive that kind of system here. Next slide.

1 And then this is just a graphic of
2 the annual migration -- not the annual migration --
3 but the life cycle migration of these turtles. And
4 you can see that they are not only subjected to
5 problems in our waters, but on the high seas and off
6 Europe and North Africa as well. And I didn't
7 include harvest or poaching as one of my risk
8 factors, but I guess I should have. Certainly that
9 happens in pretty much throughout the range, but is
10 more problematic in other areas.

11 So, the decision to propose them as
12 endangered was based in large part on not so much
13 the numbers, but the information on the persistent
14 declining trends in nesting beaches throughout the
15 range. Specific information on declining trends and
16 nesting beaches in the index areas that are
17 monitored pretty closely in Florida and sort of the
18 ubiquitous nature and high level of risk and threats
19 that exist, some of which are being addressed, some
20 of which are not being addressed adequately, and
21 some of which are not being addressed at all, sort
22 of weighs into our decision to want to change the
23 status of that species.

24 So, next steps. The rule is out for

1 public comment. The comment period is open until
2 June 14th. So, I would encourage you all to
3 participate in that process and give us any
4 information that you might have that we could weigh
5 in this decision. Typically, it takes us a year to
6 get from proposed to final. I expect that's
7 probably what will happen in this case. And that's
8 a statutory requirement to get to final within a
9 year, so we'll work real hard to make that happen.

10 Down the road, we will be designating
11 critical habitat if we go forward with redesignation
12 of these distinct population segments that is
13 treated as a new listing under the statute and will
14 therefore trigger the requirement in the statute
15 that we designate critical habitat, which again is a
16 proposed and comment rule making process we will go
17 through for that. And it also, that's one spot in
18 the statute where we can do an economic evaluation
19 to see if there are areas we want to exclude because
20 the benefit of excluding it would outweigh the
21 benefit of including in a critical habitat
22 designation.

23 Just a couple of questions I think
24 will probably come up is what about the existing

1 turtle rules. There are a number of rules in place
2 that affect various fisheries, require TEDs, tow
3 times and things of that nature. Those rules will
4 most likely remain in place because they're drafted
5 in a way that protect all the species of sea
6 turtles. And so, the other listings keep those
7 rules in place to continue to provide the benefit.
8 We may make an acknowledgement that there is
9 authority in the statute to write regulations for
10 endangered species as well as for threatened species
11 and we will probably look to clean that up sometime
12 in the future. But because the other turtle
13 listings are still in place and those rules apply,
14 those rules will remain in place.

15 Our existing biological opinions, new
16 listings or new entities and new information, so
17 we'll be going back and looking at biological
18 opinions that are in place and figuring out what the
19 best way to address the fact that we need to
20 reconsider those is. It could be simply saying that
21 the analysis is germane, relevant, and there is no
22 reason to reach a different conclusion and setting
23 it aside. Or, we may want to go back and look at
24 specific issues to reconsult on. That's going to be

1 something we have to figure out over the next year
2 as well.

3 So, that's kind of the end of the ESA
4 story. But I did want to put another reminder on.
5 So, if I can have the next slide.

6 We do have our Atlantic sea turtle
7 strategy in my office that's looking at trying to
8 deal with and address reduced bycatch in U.S.
9 domestic fisheries. And it's focusing on gear types
10 as opposed to fisheries. So, trawl fisheries, gill
11 net fisheries, and long-line gear are the areas that
12 we're looking at ways to develop technologies and
13 methodologies to reduce bycatch that we can employ
14 in our fisheries and also export to other areas
15 through our regional fishery management
16 organizations to reduce bycatch in international
17 fisheries as well. Next slide.

18 So, as part of this activity -- and I
19 know my office has at least met with the Endangered
20 Species Committee here and briefed on this before --
21 I think they might have even briefed the whole
22 Council -- but I just wanted to get this on your
23 plate that this is coming. So, we have issued an
24 advance notice of proposed rule making about using

1 TEDS. There are a number of TEDS that are
2 available. And we've identified a number of
3 fisheries that we would like to go forward with in
4 those in trying to expand the use of TEDS in those
5 fisheries. Next slide.

6 In 2009, we went out with a notice of
7 intent to prepare an environmental impact statement
8 to move that rule forward. And in that, we've
9 identified -- or as a result of the scoping session
10 on that, we got 14,000 comments, which for an ESA
11 rule is really not a lot surprisingly. Then we're
12 looking at identifying alternatives that would
13 include -- of course, status quo is a typical
14 alternative for NEPA document as you are all
15 familiar with looking at that potential for temporal
16 and spatial measures where we might try to segregate
17 turtles and fisheries that take them, closed areas
18 where turtles are prevalent and takes are high are
19 on the table, and simply just broader use of turtle
20 excluded devices in those fisheries. And where I'm
21 trying to get that EIS finished this summer and hope
22 we can have that proposed rule out in the fall of
23 this year so we can engage in the public process on
24 that as well. I think that's it. Thanks. I'm

1 going to go sit down and take questions.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Jim, thanks a lot for that presentation. I have a
4 question. I'm trying to get a sense of -- or wanted
5 to have a sense of how the potential listing and the
6 biological opinions would relate to each other.
7 Would there automatically be review of the existing
8 biops (phonetic) or would this trigger a new wave of
9 biological opinions on our existing fisheries. In
10 other words, what process exactly would be used to
11 look at those biops and would it be -- would it
12 dramatically change the likelihood of getting a no-
13 jeopardy finding on an existing biological opinion
14 if the status is changed from threatened to
15 endangered?

16 JAMES LECKY: (No microphone) I don't
17 think it would change the likelihood necessarily.
18 So, let me redesignate or break -- we, the last
19 couple of years, broke the Northern Right Whale
20 species into two species, North Atlantic and
21 (inaudible). And in going through that process with
22 advice from our general counsel's office was that if
23 we have a new entity that's listed, the old entity
24 no longer exists. And so, all the decisions and

1 analyses relative to that old entity no longer are
2 relevant. For the new entity, you need to go back
3 and look at that information. So, that's kind of
4 the same situation we're in here. We have new
5 things listed where we no longer have a global
6 species, but we have a smaller DPS. So, we're going
7 to have to go back and take a look at that. So, how
8 do we do that.

9 Typically, when we do our biological
10 opinion for a globally listed species, we look at
11 what is the component of that species that's
12 interacting with the federal actions. In this case,
13 of course, it's fishery interacting with the
14 Northwest Atlantic group of animals is what we
15 typically analyze. And if we think that that group
16 is likely to be jeopardized, we have to go and make
17 the argument that -- to the whole species and
18 therefore the whole species might be jeopardized.

19 The difference is we won't have to
20 close the loop at the global population and the
21 global species level in response to (inaudible).
22 But the level of risk and the analysis that you go
23 through to evaluate whether the Northwest Atlantic
24 population is likely to be jeopardized should be the

1 same as the analysis that we have been using
2 previously.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Would you mind turning that off. Thanks, Jim.
5 Pres.

6 PRESTON PATE: You mention in your
7 presentation an increase in the number of incidents
8 of boat strikes. I forgot exactly what that level
9 was. But do you have an estimate of what relative
10 percent of mortality occurs from boat strikes?

11 JAMES LECKY: (No microphone) No, I
12 don't. We're seeing an increase in the proportion
13 of stranded animals as far as propeller marks.
14 (inaudible.)

15 PRESTON PATE: It would be
16 interesting to look at how the growth in
17 recreational boating activity compares to the rate
18 of decline in the population. You didn't put up any
19 graph on the former because you probably don't have
20 it. But you did have one on the latter. And I
21 would speculate that those two are rising in
22 different proportions in the different directions
23 that are not consistent with the number of boat
24 strikes. And you would think if boating activity is

1 remaining fairly constant over time and the
2 population of turtles is going down, then the rate
3 of boat strikes would go down also. But you have a
4 steeply declining population of turtles and a less
5 gradual -- I'm guessing -- or increase in the number
6 of boats, but yet you have a disproportionate rise
7 in the number of boat strikes comparing those two
8 graphs. Just an observation and I was wondering if
9 anybody had ever thought about it or tried to run it
10 down.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Jim, did you have a response?

13 JAMES LECKY: Well, so, again, the
14 decline I put up there was a decline in nesting
15 females, not necessarily a measure of the total
16 population abundance. And so, we don't have a good
17 measure, as I indicated, of what the juvenile and
18 sub-adult population size is.

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 Red.

21 RED MUNDEN: Thank you, Mr. Chairman.

22 Dr. Thompson raised her hand. I didn't know if she
23 wanted to respond to the boat strike issue.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Nancy, was that on that issue or something else?

2 NANCY THOMPSON: No. It was just
3 correcting the population estimate decline. And in
4 fact, the data that are used relative to any kind of
5 decline are not really nesting females either. It's
6 the numbers of nests. And then the number of
7 nesting females is derived from that. So, just to
8 be clear on what the numbers are.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Thank you, Nancy. Red.

11 RED MUNDEN: The information that you
12 put up indicated that the number of nests in Florida
13 are down significantly. What about the number of
14 nestings from South Carolina through North Carolina
15 or Georgia to North Carolina? Are they also down
16 significantly?

17 JAMES LECKY: The index beaches are
18 the ones that are monitored regularly and provide
19 the best data. But I think we are -- our biological
20 review team reported that nesting pretty much is
21 down throughout its range.

22 RED MUNDEN: For loggerheads?

23 JAMES LECKY: Yes. Other species are
24 increasing in the Southeast.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Nancy.

3 NANCY THOMPSON: Just another piece
4 of information. I think a lot of people are
5 probably aware that we've been working with MMS,
6 Mineral Management Service, and the U.S. Navy to
7 basically develop a survey, a sampling program, to
8 actually count turtles. And that means counting not
9 just nests, which then is used to estimate nesting
10 females, but to actually count turtles in the water.

11 Very similar to what we had done as an agency
12 through the 1980's. And we've had some very good
13 discussions with these other agencies. And at this
14 point, we anticipate that we're going to actually
15 conduct that first aerial survey this summer. And
16 obviously I think this will provide at least a
17 comprehensive estimate for large juveniles through
18 the adult stages that we can compare to estimates
19 that we derived in the 1980's. So, just so that
20 people understand that we're trying very hard to get
21 numbers that really reflect the population as
22 opposed to simply the number of nests on the
23 beaches.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Nancy, is the Northeast Science Center going to be
2 handling that survey?

3 NANCY THOMPSON: Yeah. We're dealing
4 with the Southeast Center obviously as well because
5 it's for the entire Northwest Atlantic, at least
6 within U.S. waters. But yeah, we actually have the
7 lead for it. So, we're going to be conducting those
8 surveys starting this summer.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Thank you, Nancy. Red.

11 RED MUNDEN: Question for Nancy. A
12 couple of questions. What is the range of the
13 survey, the intended survey, and what species will
14 you be looking for?

15 NANCY THOMPSON: The range is
16 essentially from Maine, believe it or not, to
17 Florida. We're going to start on the east coast.
18 But we are going to include the Gulf of Mexico
19 obviously. And as far as species are concerned,
20 typically, what we are capable of observing and
21 counting are leatherbacks and loggerheads. The
22 other turtle species, ridleys, are rather small,
23 very difficult to see from an aerial platform. And
24 green turtles tend to be rather cryptic as well and

1 rather difficult to observe unless water is
2 incredibly clear, which means it's limited generally
3 to Florida. So, we will be developing estimate for
4 leatherbacks and loggerheads.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Rich.

7 RICHARD SEAGRAVES: Yeah. Thanks,
8 Mr. Chairman. And thanks Jim for coming today and
9 giving us a presentation. I have a couple of
10 questions. The first one relates to review of
11 information that led to your proposed change in the
12 status. You have a biological review team that
13 considered all sources of information, made its
14 recommendation, and then the Fish and Wildlife
15 Service and NMFS makes a determination. Is there
16 any additional peer review or what's the scientific
17 process after you've got the recommendations from
18 the review team to then making the decision in terms
19 of peer review of their findings or whatever?

20 JAMES LECKY: So, the biological
21 review team is peer reviewed and our proposal will
22 be peer reviewed as well. So, that's a pretty
23 typical part of our process.

24 RICHARD SEAGRAVES: And is that

1 publicly available, the peer review?

2 JAMES LECKY: Yeah, it should be.

3 RICHARD SEAGRAVES: I had one other
4 follow up if I may. The last part of your
5 presentation talked about the proposed sea turtle
6 conservation strategy that we've been briefed on,
7 we're aware of, we've commented on various parts of
8 it. But my question is, in the MMPA world, we have
9 a take-reduction team approach to dealing --
10 specifically with the fishery interaction reduction
11 -- and under the ESA process and sea turtle
12 interaction reduction strategies, that's lacking.
13 And I think it works extremely well in the marine
14 mammal area. You bring the fishermen in and it's a
15 cooperative approach to solve the problem based on
16 the knowledge of the fishermen and gear
17 technologists, etc, etc, and that seems to be
18 lacking. Is there any movement or any consideration
19 given to that sort of approach?

20 JAMES LECKY: So, thanks for that
21 question. I think the take reduction team approach
22 is the excellent approach. It does bring the
23 fishermen, the environmental community or scientist
24 or managers all sit around the table and brainstorm

1 solutions to fishery interaction problems. And it's
2 been -- well, I guess I would say it's had mixed
3 success. In some areas, it's been very successful.

4 In some areas, it's been quite cumbersome. But
5 generally, I think it's a good process.

6 Marine Mammal Act actually requires
7 that process. It specifies the membership of the
8 team and, therefore, gives us the ability to convene
9 that team. Outside of that legislative authority,
10 we run into the Federal Advisory Committee Act
11 problems, and so it's difficult for us to convene
12 those kinds of processes to come up with specific
13 management measures. And that's actually the
14 impediment that keeps us from going that way. But
15 that's certainly something that -- well, I don't
16 want to say if we get the statute amended because
17 that's not likely to happen and for a long, long
18 time, but certainly that kind of mechanism, if we
19 can figure out a way to implement it, would be
20 helpful.

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Gene.

23 EUGENE KRAY: Thank you, Mr.

24 Chairman. Jim, is it possible to give us a sense of

1 the magnitude of turtle interaction with
2 recreational fishing? Not necessarily boat strikes,
3 but actual accidentally catching them.

4 JAMES LECKY: Well, I don't have a
5 measure of the magnitude. We do know that it
6 happens because we get turtles that are stranded
7 that have monofilament line and fish hooks that
8 obviously came from recreational fishing effort.
9 So, we know there's an interaction. We know that
10 they -- it's like commercial fisheries, recreational
11 fishermen fish in areas that turtles inhabit and
12 occupy and so we know.

13 EUGENE KRAY: The reason I ask the
14 question is, about 16, 18 years ago, a friend was on
15 my boat and we were flounder fishing in the Delaware
16 Bay about three or four miles off Cape May, and he
17 hooked into a loggerhead. And got it into the boat.
18 Burned out his reel. The thing was about 250
19 pounds, something close to that anyway. And we
20 didn't know how to release it. We didn't know how
21 to -- I was frightened to try to take the hook out
22 of its mouth, so we wound up cutting the line as
23 close as we could to the hook to get rid of it. Are
24 there any methodology for removing a hook from a

1 turtle?

2 JAMES LECKY: Well, it depends on
3 where and how they're hooked. But if they're just
4 hooked in the bill, yeah, it's pretty easy to
5 release them. The long-line fisheries have
6 developed tools that allow them to essentially reach
7 down and tweak the hook out without getting their
8 fingers too close to the bill. So, yeah, there is.

9 And I think there are outreach materials,
10 educational materials that are available on that
11 technology. So, if they're hooked deep, they
12 swallow the hook in the gut, then about the best you
13 can do is cut the line close to the -- as close to
14 the turtle as you're willing to get and hope for the
15 best.

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Gene, will add one take to the official count.

18 JAMES LECKY: I already got it.

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Jim, is there any involvement of the regional
21 science centers on this biological review team?

22 JAMES LECKY: Well, yeah. There were
23 some. There were members on the team that work for
24 science centers. And of course, our science centers

1 are now engaged in looking at this rule and where --
2 as I tried to impress in my presentation, we don't
3 know a whole lot about juveniles. We're hearing
4 comments generally from the public and from some of
5 our scientists frankly that there are an awful lot
6 of juveniles out there that we should weigh. So,
7 we'll be sending letters to the state agencies about
8 this listing as well. And certainly to the extent
9 that there is information available that you think
10 we may not have considered or may not have weighed
11 appropriately, we'd sure appreciate hearing more
12 about that.

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 Pres.

15 PRESTON PATE: Are the conditions on
16 your index beaches stable over the time series? I
17 think you had some numbers showing declines from
18 1988, which is a pretty long period of time for
19 potential changes on any of the east coast ocean
20 beaches. And I was just curious. I know that
21 there's been some degradation of the nesting habitat
22 associated with some of those declines.

23 JAMES LECKY: Well, certainly over
24 that period, there's been an awful lot of coastal

1 development so I expect that -- as well as
2 hurricanes and a number of things that affect
3 habitat -- so, my guess is the answer is no. But
4 maybe Nancy knows more.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Nancy.

7 NANCY THOMPSON: The index beaches
8 are generally in Florida that we're talking about.
9 Of course, North Carolina has them as well. But the
10 bulk of the nesting obviously occurs in the
11 peninsula of Florida. And having taken a hard look
12 at those data over several years, it's clear that
13 the intention was to establish areas where people
14 could go out and get numbers of nests within some
15 relatively small areas compared to the total
16 available nesting beach in the State of Florida.
17 The answer is no, Jim's right. There are some
18 issues obviously as far as the sampling is
19 concerned, and I'm certainly not pointing fingers at
20 Florida. I mean, they did obviously what they felt
21 they needed to do in a way that they could do it
22 with the resources. But there are some questions
23 relative to the stability of the beaches. There's
24 questions relative to the movement of turtles

1 between index beach site and non-index beach sites.

2 So, the numbers that are presented for nesting have
3 wide confidence intervals quite frankly and it could
4 be that there is more and it could be that there is
5 -- it's unlikely there's fewer -- but there's a
6 greater likelihood that there are more turtles that
7 are nesting that in fact are being missed. So, in
8 short of doing a census, it's very difficult to --
9 and that's the problem is that we recognize that the
10 data that we have are for nests. And even to derive
11 an estimate for nesting females is not simple. As
12 you know. So, there are some clear questions about
13 those data as well.

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Other questions? All right. Shaun.

16 SHAUN GEHAN: Thank you, Mr. Chair.

17 Shaun Gehan. I'm here representing the Fishery
18 Survival Fund, representing the bulk of the full-
19 time limited access scallop fishermen. Thank you
20 very much for the presentation.

21 Just a couple of points of
22 information. Dr. Thompson had mentioned the aerial
23 survey. We met with Dr. Murawski and he informed us
24 about the -- we've also been meeting with folks at

1 the National Fish and Wildlife Foundation and
2 they're actually very interested. They actually may
3 be able to supply some additional resources for the
4 survey, because it's well-needed. We are talking
5 about a species that on average doesn't mature
6 sexually for 31 years, so our nesting surveys are
7 obviously looking at fish born in the 70's, beyond
8 that, a few in the 80's, primarily before most of
9 the real efforts, TEDS, circle hooks, bait research,
10 and frankly a huge decline in the shrimp pelagic
11 long-line fisheries have occurred.

12 So, we're looking for anything the
13 Survival Fund can do. We've done a lot of work in
14 tagging turtles and things like that to help to tune
15 a survey, figure out how much time they spend on the
16 surfaces or below. We're happy to help on that.

17 Just had a couple of questions. One
18 is just to help us with our comments. Is there
19 guidance on whether that's a NMFS or a Fish and
20 Wildlife Service guidance on what -- how to
21 implement the ESA's endanger of extinction. And
22 I've seen it. I have Fish and Wildlife Service on
23 what foreseeable future means in terms of a
24 threatened species. But guidance on what it means

1 to be an endangered species.

2 JAMES LECKY: So, the short answer is
3 no, there's not. We've struggled with -- so, the
4 difference in the language is, is endangered is
5 immediate risk of extinction. And threatened is, is
6 likely to become endangered in the foreseeable
7 future. So, there's a temporal distinction between
8 those two terms. But we recognize a lot of our
9 species are long-lived and risks, therefore, may not
10 be evident in the population response for a
11 considerable period of time. So, something could
12 actually be in (inaudible) of extinction even though
13 it won't go extinct for quite some time.

14 We have struggled with trying to come
15 up with criteria for what endangered means. But
16 when you consider we cover everything from insects
17 to whales under this statute, it's hard to define a
18 single criteria that will apply to all the species
19 with their different life histories.

20 SHAUN GEHAN: And yet, the law
21 requires some bounds. And I'm sure that general
22 counsel has been working on this issue. Although I
23 can't think of a circumstance where eminent can mean
24 a very long period of time. Which is actually one

1 of my questions.

2 I don't recall, I'm a lawyer, not a
3 scientist, but in the 2009 status review, what was
4 the time frame to quasi-extinction? The only place
5 I really see that clearly was in the scallop -- the
6 2008 -- help me here -- whatever the last Section 7
7 Council which said a zero percent chance of 75
8 years, and a one percent chance in a hundred.

9 JAMES LECKY: I think they looked at
10 three generations, which is roughly 90 to a hundred
11 years. But I would point out that it is possible.
12 Consider Right Whales. And consider that that
13 population could get down to maybe 50 animals.
14 There's a chance those animals would live for
15 hundreds of years. It's not a viable population.
16 It's in danger of extinction. So, it's possible to
17 have a long period of time before you get to
18 absolute extinction. It's even possible to have a
19 long period of time before you get to it. It just
20 depends on the species' life history and biology.
21 But those are some of the things we look at.

22 SHAUN GEHAN: And understood.
23 Although I heard there was some recent research on
24 Right Whales which suggested it never had been a

1 particularly large population.

2 And back to process. Is it a
3 possible outcome of this rule making right now that
4 there will be a decision -- that one possible
5 outcome is that there will be a decision not to
6 uplist because it will change the status of this
7 doc? And I'm all focused on Northwest Atlantic.

8 JAMES LECKY: Sure. Yeah. Well,
9 certainly, it's a proposal and it's out for public
10 comment. We're going to weigh all the comments we
11 get and those will go into the final decision on --
12 everything is on the table. Whether to recognize
13 the 9 DPS's and the status of each of those DPS's.

14 SHAUN GEHAN: And do you know what
15 percentage of the turtle population is -- the
16 nesting females comprised? I've seen it somewhere.
17 I could never find it again when we made our
18 comments on the status review.

19 JAMES LECKY: I don't know the answer
20 to that question.

21 SHAUN GEHAN: You don't know.
22 Although I will point out it was mentioned there are
23 peer reviews that are actually available on line
24 right now. You follow the same link I think to the

1 -- wherever you can find the status review itself on
2 protected resource species, the peer reviews are up
3 and I think there's seven of them.

4 Just one quick question for Dr.
5 Thompson. Was anyone from the Northeast Fisheries
6 Science Center involved in that 2009 status review?

7 NANCY THOMPSON: You mean the BRT
8 report that was --

9 SHAUN GEHAN: The August 2009?

10 NANCY THOMPSON: No.

11 SHAUN GEHAN: Do you know why?

12 NANCY THOMPSON: No.

13 COUNCIL CHAIRMAN RICHARD ROBINS: All
14 right. Thanks, Shaun.

15 SHAUN GEHAN: Yeah. Let me just say,
16 I'm going to give -- just a copy of the comments we
17 had made to make available to the Council members.
18 This was just on the biological review, but you may
19 find them helpful if people are looking to make
20 comments. Thank you, very much.

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Greg DiDomenico. Okay. Sean. Sean McKeon.

23 SEAN MCKEON: Sean. If you would,
24 just direct your questions to the Chair, please.

1 Thanks.

2 SEAN MCKEON: I'm sorry.

3 COUNCIL CHAIRMAN RICHARD ROBINS: I
4 said, if you would, please, direct your questions to
5 the Chair.

6 SEAN MCKEON: Direct them to you and
7 then you'll ask them?

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Sure.

10 SEAN MCKEON: Is that how we'll do
11 it? Okay. Sean McKeon. North Carolina Fisheries
12 Association.

13 I just have a couple of quick ones.
14 One question is prioritizing the threats. I know
15 I've seen some information statistics where they
16 have the threats that were on -- am I allowed to
17 look over there?

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Sure.

20 SEAN MCKEON: All right. Hi, Jim,
21 how are you.

22 In the presentation you had the
23 threats, boat strikes, bycatch, et cetera. Have
24 they been prioritized? I mean, which ones really

1 are at the top of that list? Have they prioritized
2 those in terms of numbers or in terms of which ones
3 of those threats are most likely to occur? Mr.
4 Chairman, could you ask him that for me.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Jim.

7 JAMES LECKY: Sure. Well, I don't
8 have a clear -- the answer is yes, these are all
9 laid out in our recovery -- each of these species
10 has a recovery plan or a recovery plan does analyze
11 threats and prioritizes -- actually prioritizes
12 recovery actions. So, perhaps that's the best way
13 to go at this. The priorities are based on risk.
14 There also is sort of a pragmatic which ones can be
15 implemented part of that as well.

16 On my list on the board, those were
17 not in priority order of any kind. They just sort
18 of followed the listing factors that we look at in
19 the statute.

20 SEAN MCKEON: The other question that
21 I have. Certainly we support, and have been for a
22 long time, an in-water survey. We think it's a
23 great idea and we'd do anything we could to help
24 move that along. I know Congressman Johnson, North

1 Carolina, has a bill he's got that will do that.

2 But the problem is, as I understand
3 it, the listing is a direct results as I think we
4 heard today. What would -- even if the aerial
5 surveys showed an unbelievable amount of turtles,
6 how would that affect the ESA listings at this
7 point?

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Jim.

10 JAMES LECKY: So, I guess I want to
11 correct the presumption behind that question that
12 the listing is based on nests. I mean, certainly
13 the nesting information, the number of nests
14 annually, is a driver -- that's debated (inaudible)
15 -- and it's apparent that that's going on in other
16 areas as well.

17 There's also information about the risks that
18 are out there in terms of bycatch and habitat loss
19 and marine debris. Those are probably the biggest
20 ones that are driving this. And the fact that those
21 are persistent and increasing are all the drivers.

22 We don't have, as we mentioned, a
23 total population abundance number and we are
24 supportive of getting his survey underway.

1 Hopefully, there will be some information available
2 in time to consider. I don't know if that's going
3 to actually happen.

4 So, the long and the short of it is,
5 if we do get new information or if there is
6 information provided to us that we hadn't previously
7 considered, that will weigh in in this final
8 decision. So, we are interested in trying to figure
9 out -- having a well-documented estimate of total
10 population abundance.

11 SEAN MCKEON: I understand and I
12 appreciate that answer. I'm looking at even in the
13 future if the numbers were -- if they were very high
14 numbers of loggerheads and etc. in the water, would
15 that also weigh in further on with perhaps the
16 delisting, which will get to my next question.

17 With respect to ESA and respect to
18 turtles, is there an end game? Is there a time that
19 we say this is the line we have to hit? And if we
20 hit it, we're successful? When will we call this
21 effort successful, if ever?

22 JIM LECKY: So, again, we have -- our
23 recovery plans do define criteria for moving from
24 threatened to endangered and from endangered to

1 threatened and from threatened off the list. Our
2 Kemp's Ridley plan probably is a relevant example of
3 that where we're approaching nesting numbers for
4 Kemp's Rيدleys that suggest there's been a rather
5 substantial recovery of that population and could be
6 conceivably downlisted to threatened.

7 So, those kinds of things will be --
8 we'll have to go back and update all our recovery
9 plans to reflect the DPS structure as a result of
10 these listings, but those plans will include those
11 provisions.

12 SEAN MCKEON: Thank you. Appreciate
13 it.

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Thank you, Sean. Any additional comments at this
16 point? Larry.

17 LARRY SIMNS: Yeah. My question is
18 on the nesting beaches, what kind of restriction do
19 you have about development or disturbing or ruining
20 that beach for nesting?

21 JIM LECKY: Well, the primary measure
22 we have is the prohibition against take. So, that's
23 hard to enforce as you might imagine. The other
24 mechanism we have is where there are federal dollars

1 or federal permits required for development, we do
2 engage in Section 7 interagency consultations to
3 ensure that those activities are not likely to
4 jeopardize the continued existence of turtles.

5 And as these listings go forward, we
6 will also add the critical habitat provisions so we
7 could address whether or not activities are likely
8 to adversely modify or destroy critical habitat.

9 So, having said that -- we can deal
10 with things like beach replenishment, beach
11 stabilization. Because typically, there's a Corp.
12 of Engineer's permit. So, it's a little bit more
13 difficult to deal with people letting their dogs run
14 free on the beach and dig up eggs.

15 And I note on most of these beaches,
16 you can drive your car on the beach. Although a lot
17 of the nests are marked pretty clearly so people can
18 avoid them, I assume there are accidents. So, the
19 level of ability to deal directly with the take
20 issue is troublesome.

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Jim, thanks again for this presentation. I thought
23 this would be highly important for our Council and
24 particularly state directors and their

1 representatives to hear because this could have very
2 significant implications for the fisheries in the
3 Mid-Atlantic region, particularly if it results in
4 new biological opinions and modifications to those,
5 it could have far-reaching implications.

6 I note that the comment deadline is
7 June 14th. And so, I would suggest that our Council
8 in response convene a meeting of the Protected
9 Resources Committee at the June Council meeting,
10 which would be the week prior to that, and develop
11 our formal comments at that point in time.

12 But I also appreciate the effort that
13 Nancy Thompson has detailed for us about the
14 Northeast Science Center developing an in-water
15 survey, because I think that will be a very
16 important component in the discussion as well.

17 JIM LECKY: Thank you for the
18 opportunity to comment. I appreciate the
19 opportunity to present to you and do look forward to
20 getting comments from the states and the Council as
21 well. So, thank you.

22 COUNCIL CHAIRMAN RICHARD ROBINS:

23 Jim, thanks again.

24 Okay. At this point, we've got the

1 committee reports. Pat, are you ready with the HMS
2 Committee?

4 HIGHLY MIGRATORY SPECIES (HMS) COMMITTEE REPORT

5 PAT AUGUSTINE: Yes, I am, Mr.
6 Chairman. If you'll go to Tab 12. I'm not going to
7 dwell on any of these sheets unless you have
8 specific questions. The first report is on the
9 large, medium, and giant bluefin tuna landings for
10 2009. The breakout by gear and so on.

11 The next one is the Atlantic
12 swordfish landings update. That was through
13 commercial and recreational in 2009 fishing year.

14 And then the following page is a
15 breakout of North Atlantic swordfish landings.
16 Dressed weight and so on. We've had some additional
17 increases in landings as we now have actively --
18 several of the pelagic long-liners are really short-
19 lines and they seem to be doing a very effective job
20 in not catching a lot of species that they shouldn't
21 be harvesting.

22 The next one is a Federal Register
23 notice scheduled for Atlantic shark identification
24 workshops and protected species safe-handling,

1 including turtles. The next is a NMFS announcement
2 changing the location of that workshop.

3 The next one is Atlantic shark
4 commercial fishery update. And as usual, the Gulf
5 of Mexico is catching more than their fair share of
6 (inaudible) sand and biologicals for sharks has been
7 a trend.

8 The next one is a strict limit
9 announces continued United States support for
10 international proposal to protect bluefin tuna. And
11 further on, a few more pages back, you'll see that
12 there has been a notice as to what the U.S. ended up
13 finally doing and what ICCAT decided.

14 NMFS announced the protected species
15 release disentanglement identification workshop.
16 And another one, following Atlantic shark
17 identification workshop. Those have been proven to
18 be very, very successful and informative and we've
19 not had any negative comments coming back from the
20 people that have participated. They appreciate the
21 effort that the highly migratory species folks have
22 put in.

23 The next is a Federal Register notice
24 on the same workshops. We put everything in here so

1 you wouldn't be asking a whole bunch of questions.
2 NMFS announced the decision to extend exempted
3 fishery permit to conduct pelagic long-line research
4 in the east Florida coast. We need to get more data
5 on swordfish in particular and how effective or
6 ineffective the pelagic long-line fishery has been.
7 And you'll notice that all deals with bycatch
8 reduction in closed areas.

9 The next one announced availability
10 of the final impact statement for Amendment 3 to the
11 consolidated HMS management plan of which our
12 Chairman wrote a letter to supporting those areas we
13 felt were appropriate.

14 The next is a draft agenda for the
15 2010 spring species working group meeting of the
16 advisory committee to the U.S. section of ICCAT.
17 That was April 7th through 9th. Most of the two
18 days was talking about confidential data and
19 confidential information that we as advisors
20 supplied to and shared with the committee that
21 participated and their staffs. And there will be a
22 report coming out within the next 30 to 45 days,
23 which is public information on the working groups
24 positions and recommendations to ICCAT for the 2010

1 meeting.

2 The last one -- the next one
3 announces the closure of the commercial non-bar
4 large coastal shark fishery in the Gulf of Mexico.
5 Next is Atlantic shark commercial fishery update.
6 That's pretty self-explanatory.

7 Next is the Atlantic swordfish
8 landings update, commercial, recreational list is
9 for the 2010 fishing year. There's been
10 considerable activity. The buoy gear appears to be
11 working very effectively. These folks now put out
12 anywhere between 20 and 30 buoys a night, single or
13 double hook, and they're catching a considerable
14 number of fish. Again, the quota remains very high.

15 If the recommendation from ICCAT goes into effect,
16 our overage -- our carryover, if you will, will be
17 reduced to 10 percent of what we actually are
18 harvesting.

19 Okay. And the next one is another
20 spreadsheet on the commercial North Atlantic group.

21 Another is the Atlantic bluefin tuna proposal, not
22 adopted after intense debate. This was the
23 discussion paper and notice saying that although it
24 looks as though it was important to do it, it didn't

1 happen. The bluefin tuna did not get listed.

2 The next one is a news release.

3 Again, the international community did not adopt the
4 proposal to protect rare red and pink corals. And
5 then CITES parties reject shark proposals by a
6 narrow margin. We had some push in effort to try to
7 get several of the species listed. Thresher was one
8 of them. Hammerhead and so on. And the hammerhead
9 shark was not adopted, nor were any of the others.
10 The final proposal for the Atlantic white tip shark
11 was also not adopted. Apparently, some of the
12 countries are using those species of fish to supply
13 their markets that they have. The U.S. disappointed
14 in the lack of protection for sharks.

15 And I think, Mr. Chairman, that's all
16 of it unless anyone has specific questions. Read to
17 your heart's content.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Thanks, Pat. Any questions for Pat Augustine? All
20 right. John, do you have a report from the SSC?

21
22 SCIENTIFIC AND STATISTICAL COMMITTEE REPORT

23 JOHN BOREMAN: Yes. Thank you, Mr.
24 Chairman. The SSC met on March 9th. We covered two

1 major topics. The first is the revisions to the
2 Standard Operating Practices and Procedures of the
3 SSC. And I made a presentation yesterday morning to
4 the Executive Board on the proposed changes. And I
5 think we'll be discussing that again when the
6 Executive Committee reports out following shortly.

7 The other item we discussed was
8 finalizing our proposed ABC control rules that you
9 have discussed yesterday again as part of the
10 omnibus amendment, so I won't go into those.

11 Our next meeting is scheduled for the
12 11th and 12th of May at BWI. We're going to be
13 working on specs. It's a two-day meeting. You
14 complimented us on the thoroughness of our black sea
15 bass WEBINAR that we had in January and that set a
16 standard. And I think because of that, we are going
17 to try to be as thorough with the other species as
18 well.

19 So, we set aside two days to handle
20 squid, mackerel, butterfish, clams and quahogs. And
21 that's going to be preceded on April 28th by an
22 WEBINAR which will involve the Monitoring Committee
23 and getting their input and have an interaction with
24 the SSC two weeks prior to our meeting at BWI.

1 And the minutes of our March 9th
2 meeting are contained behind Tab 12 as well as the
3 attachments to those minutes. So, that's my report.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Thank you, John. Any questions for John? And we
6 will cover the SOPS at the -- Adam.

7 ADAM NOWALSKI: Thank you. Adam
8 Nowalski. RFA. I wanted to know if the SSC has
9 made a determination or if they're waiting for the
10 ABC control rule. There was conversation about how
11 the assessment is being put into tiers would affect
12 the level of catch that would be recommended from
13 year to year. Previously, before the modifications
14 to the tiers that were here, the Tier 3 level was
15 referred to a constant catch level which spurred a
16 lot of the conversation about the modification to
17 the sea bass quota. So, I was inquiring about the
18 status of those catch terminations with regards to
19 the assessment levels as they're being discussed at
20 the present time. Thank you.

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 John.

23 JOHN BOREMAN: What we've been doing
24 is using -- well, the control rules have been

1 evolving over the past year or so. But, we've
2 basically taken our latest rendition of the control
3 role -- and of course when it goes out for public
4 hearing, we'll be using the most recent rendition as
5 guidance at this point, not necessarily to force our
6 discussion into just applying that control rule.
7 But it definitely will be a major factor as we
8 review these species and set specs in terms of
9 giving some guidance to ourselves. It will be a
10 learning experience, gives us a chance to apply the
11 proposed control rules, see how they work out. If
12 there's any warts that show up, we'll know about it.

13 But right now, we are using -- we will be basing
14 our specs on the proposed control rules generally as
15 our guidance.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Rich.

18 RICHARD SEAGRAVES: Thank you, Mr.
19 Chairman. This is a quick follow up. We are in a
20 period of transition just like we were last year.
21 The difference, as John has pointed out, is there
22 has been some evolution of this tiering in the ABC
23 control rule framework that we're basically trying
24 to consider. But technically, each of the FMP's

1 based on the '96 amendments SFA required a fishing
2 mortality rate control rule which defines an OFL,
3 overfishing level. And in some cases, we have a
4 target fishing mortality rate that is the basis for
5 the ABC.

6 So, we have those rules that are
7 currently in effect and they will form the initial
8 basis for discussion. Now, as we're moving into --
9 currently, of course, the reauthorized act has been
10 passed and so we're anticipating trying to fulfill
11 the requirements of that act as well to the extent
12 that we can. So, it's a transitional phase. But
13 the fallback position is, we would operate at a
14 minimum under the current rules of the current F
15 threshold and F targets if they exist.

16 And then the discussion that John is
17 talking about will be -- is say in the case of
18 Atlantic mackerel, we have a target F that's a basis
19 for ABC, it's defined in the FMP. The new ABC
20 control rules may modify that. And the question
21 will be, is the current F target the appropriate
22 buffer for scientific uncertainty to define ABC.
23 So, we are in a period of transition. And at a
24 minimum, we would be putting the current rules into

1 play.

2 ADAM NOWALSKI: If I could just
3 briefly follow up?

4 COUNCIL CHAIRMAN RICHARD ROBINS: Go
5 ahead, Adam, yeah.

6 ADAM NOWALSKI: Would it be
7 appropriate to provide comment on the document that
8 we approved earlier today with the July cycle coming
9 up, that's when the SSC and Monitoring Committee is
10 going to begin meeting for the recreational species
11 to set quotas ultimately in August. So, at that
12 time, the SSC is going to be discussing how to move
13 -- keep constant catch or -- the same discussion
14 that just took place. So, is there any opportunity
15 for comment now? Should there be comment now? Or
16 what would be the appropriate time for comment about
17 how the SSC is going to act in July with regards to
18 catch rates versus quota specifications that are
19 going to occur in July when the SSC meets?

20 RICHARD SEAGRAVES: Mr. Chairman.
21 Well, we're certainly always open to comment. And
22 again, it's somewhat of an ad hoc approach until we
23 get an approved document in the omnibus amendment.
24 So, I think there will be no requirement to use

1 whatever is proposed. And we won't know exactly
2 what the final outcome of the omnibus amendment is
3 until it's approved by the Council, submitted and
4 then approved by the Secretary of Commerce.

5 So, certainly your comments on what
6 you would like to see as part of the omnibus
7 amendment would be obviously -- that comment period
8 would be, I think, the appropriate place to comment
9 on how you feel about the various approaches. And
10 the actual implementation of whatever we do in July
11 will be at the discretion of the SSC given the
12 current rules and their professional judgment that
13 they can always put into play. So, we're always
14 open to comment. I don't know, John, if you had any
15 additional comments.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Rich, I would suggest too that we maybe have a
18 follow-up discussion about this at the June meeting.

19 ADAM NOWALSKI: That would be
20 fantastic.

21 COUNCIL CHAIRMAN RICHARD ROBINS: I
22 mean, I would suggest it as we -- when we have an
23 SSC report, we discuss that issue again at the June
24 meeting and just talk about where we are on the

1 track, because we are, as Rich says, on a
2 transitional period. And in one sense, if we
3 approve the omnibus as the first order of business
4 at the August meeting, then potentially we could
5 think about how to put it into practice. But I
6 think we need to address this transitional question.

7 ADAM NOWALSKI: That would be
8 fantastic. Obviously avoiding what we've gone
9 through over the last eight months, ten months now,
10 by working that out would be fantastic. Thank you.

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Thank you. Okay. Any other questions for John?
13 All right. Seeing none, Erling, are you ready for
14 squid, mackerel, butterfish?

15
16 SQUID, MACKEREL, BUTTERFISH COMMITTEE REPORT

17 ERLING BERG: Thank you, Mr.
18 Chairman. The Squid, Mackerel and Butterfish
19 Committee met last Tuesday morning, a couple of days
20 ago. And after some deliberation, there was a
21 motion put on the table. And Jan, if you can get
22 that up for me, please. Thank you. I'm going to
23 read the motion.

24 Move that the Squid, Mackerel,

1 Butterfish Committee delay selection of a preferred
2 action under Amendment 11, Purpose A, Cap capacity,
3 until the FMAT, the AP, and the Squid, Mackerel and
4 Butterfish Committee meet to participate and resolve
5 historical participation issues and other issues
6 raised by NERO and any other issues related to
7 Amendment 11.

8 It's also my understanding that Peter
9 Himchak would like to either add or change this
10 motion.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Okay. So, we have a motion on behalf of the
13 committee. It does not require a second.
14 Discussion on the motion? Peter.

15 PETER HIMCHAK: Yes. Thank you, Mr.
16 Chairman. Specific to the motion, I think the last
17 phrase "and any other issues related to Amendment
18 11" needs to be removed because at the committee
19 level we addressed all other issues related to
20 Amendment 11. I know the meeting went on at length
21 and it got a little -- you know, it got a little
22 awkward towards the end. So, to perfect the motion,
23 I think it's appropriate to remove that last phrase.

24 The other issue I would like to raise

1 on the motion is, the AP, the definition of the AP.

2 And again, at the time that the motion was made, I
3 understand there is an AP that was meeting
4 addressing Amendment 11 issues, but there's also
5 this other industry-specific mackerel advisory
6 panel. So, under AP, I think we need clarification
7 as to who is actually going to be involved in
8 addressing historical participation. And I'd look
9 for some help on that, maybe from Rich, because this
10 other industry-specific AP, we have a roster, but we
11 don't even know who is on it -- well, I don't
12 anyway.

13 COUNCIL CHAIRMAN RICHARD ROBINS: I
14 would just think that the existing SMB AP that's
15 participated in the development of the amendment
16 would be the party at this table. But that wouldn't
17 preclude additional public participation by any
18 means. But is the current mackerel group that was
19 discussed during the meeting, is that currently
20 populated?

21 UNIDENTIFIED SPEAKER: Yes.

22 PAT AUGUSTINE: It is, but they
23 haven't been called together.

24 DAN FURLONG: Yeah. That was

1 primarily set up to address mackerel issues in terms
2 of Canadian issues. They were to meet with Pat
3 Kurkul. I think they did have one meeting. No.
4 Greg, you shake your head. But I know members of
5 that group met with Pat to discuss Canadian issues.

6 I know there was one meeting with the Regional
7 Administrator.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Greg, if you'd speak on the record, please.

10 GREG DIDOMENICO: Yes. We'd actually
11 been to the Woods Hole office several times with
12 staff. I know Nancy Thompson was there. Several
13 other people. But, you're right. We did meet, but
14 that was part of our kind of industry working group.

15 This other industry working group that the Council
16 had, passed a motion to form to address those issues
17 had not yet met.

18 And you're entirely correct to say
19 that it was really formed to deal with the issues
20 that we have to deal with over the next couple of
21 months regarding the TRAC, regarding U.S./Canadian
22 negotiations, and the SSC issues. So, whatever we
23 could do to form that group, convene that group, so
24 we could have a unified position in regards to the

1 Canadian negotiations would be very helpful as we
2 need it.

3 COUNCIL CHAIRMAN RICHARD ROBINS: So,
4 Pete, that sounds like a separate issue to me. I
5 mean, I think in the interest of continuity, you'd
6 want to have the SMB AP that's been involved in the
7 development of the amendment at this table.

8 PETER HIMCHAK: Yes. I guess that
9 would be the appropriate course of action because
10 they've been involved already in Amendment 11. But
11 that would not preclude this other industry --

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 From attending the meeting.

14 PETER HIMCHAK: -- from attending the
15 meeting. Okay. That's fine.

16 COUNCIL CHAIRMAN RICHARD ROBINS: So,
17 do you want to make a motion to amend?

18 PETER HIMCHAK: I guess I would make
19 a motion to amend the committee motion to delete the
20 language "and any other issues related to Amendment
21 11".

22 LEE ANDERSON: Second.

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Second by Lee Anderson. Discussion on the motion to

1 amend? Pat.

2 PAT AUGUSTINE: Yeah. Thank you, Mr.
3 Chairman. Peter is absolutely correct. We did
4 address every other single issue. Just the only
5 outstanding one that really needs to be. And rather
6 open up a Pandora's Box for anything else that might
7 pop out, I think we should keep it as concise as
8 that and that's why I agree.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Any
10 additional comments on the motion to amend?

11 (No response audible.)

12 COUNCIL CHAIRMAN RICHARD ROBINS: Is
13 the Council ready for the question?

14 (Motion as voted.)

15 {Move to amend the Committee motion to delete the
16 language "and any other issues related to Amendment
17 11."}

18 COUNCIL CHAIR RICK ROBINS: All those
19 in favor of the motion to amend, please raise your
20 hand.

21 (Response.)

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Nineteen. Opposed, like sign?

24 (No response audible.)

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Abstentions, like sign?

3 (No response audible.)

4 COUNCIL CHAIRMAN RICHARD ROBINS: The
5 motion carries. And the amended motion is now the
6 main motion. Is Council ready for the question?

7 (Motion as voted.)

8 {Move that the Squid, Mackerel, Butterfish
9 Committee delay selection of a preferred action
10 under Amendment 11, purpose A: Cap Capacity, until
11 the FMAT, the AP, and the SMB Committee meet to
12 participate and resolve historical participation
13 issues and other issues raised by NERO.}

14 COUNCIL CHAIR RICK ROBINS:

15 All those in favor, please raise your
16 hand.

17 (Response.)

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Opposed, like sign?

20 (No response audible.)

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Abstentions, like sign?

23 (No response audible.)

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Nineteen. The motion carries. Pete.

2 PETER HIMCHAK: Yes. And a follow
3 up, if I may, Mr. Chairman. No. A separate issue.

4 I'm sorry. Not a follow up. I got a quick lesson
5 in the hall during the break on how the committee is
6 going to address this historical participation. And
7 I understand at this point that I can introduce two
8 options for consideration that staff would analyze
9 prior to the meeting of the Squid, Mackerel and
10 Butterfish Committee because we don't want to have
11 the meeting and then try and come up with, well,
12 what do we want to include as options.

13 So, at this point, and I'm sorry,
14 Jan, for not giving this to you earlier, but I'm
15 just -- I just made these up. I guess I would move
16 to add an alternative to the Cap capacity issue.

17 Move to add an alternative to the
18 Purpose A: Cap capacity. It would be Option 1K.
19 And 1K would read as follows: Implement a two-
20 tiered access system. Vessels would be grouped
21 based on the highest tier qualified for based on the
22 following thresholds:

23 Okay. Implement a two-tiered access
24 system. Vessels would be grouped based on the

1 highest tier qualified for based on the following
2 thresholds:

3 Tier 1. At least 400,000 pounds
4 landed in any one year, 1994 to 2005.

5 And Tier 2. At least 100,000 pounds
6 landed in any one year, 1994 to 2005.

7 So, this would be something that
8 staff would analyze prior to the committee meeting
9 and then we would know the vessels qualifying --
10 potential increase in capacity.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Pete, does that conclude your motion, or is there a
13 second option?

14 PETER HIMCHAK: No. I have a motion
15 for a second option. But maybe we should take this
16 one first.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Is
18 there a second to the motion.

19 ERLING BERG: I'll second it.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Seconded by Erling Berg. Discussion on the motion?
22 Go ahead.

23 JULE WHEATLY: How did we come up
24 with this, Pete. That's going to knock North

1 Carolina right out of the fishing season. They
2 won't be able to participate.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Pete.

5 PETER HIMCHAK: Joel, the second
6 motion that I have specifically addresses the North
7 Carolina historical participation. This is an
8 option within the range of what we currently have
9 that just needs to be specified so staff can do the
10 analysis. But my next motion is really intended to
11 address the historical participation which includes
12 the joint venture and the North Carolina boats.

13 COUNCIL CHAIRMAN RICHARD ROBINS: Is
14 there additional comment on the motion? Pat.

15 PATRICIA KURKUL: I oppose the
16 motion. It seems to me this is just more of what
17 we've got in there. And in fact, might even be more
18 liberal than the alternatives that led us to rethink
19 where we were. So, I can't see where we're going
20 with this. It seemed to me the point of the
21 committee's motion was to take a step back and think
22 about different ways of doing things, not continuing
23 to do the same thing in what I think is the wrong
24 way.

1 PETER HIMCHAK: Well, to Pat's
2 comment, this was an option brought up to me by
3 committee members that should be considered. She's
4 right insofar as my primary -- two days ago was the
5 historical participation that predates the 1997
6 period. I don't know how you want to look at this
7 either way, but I'm more focused on the next motion
8 than this one. I'm sorry.

9 COUNCIL CHAIRMAN RICHARD ROBINS: I
10 think also to Pat's comment, a look at alternative
11 models is on the table. I mean, I think that was
12 part of the issue that we're using a big tent model
13 and that not be as effective as some others that are
14 figuring out ways to bring that historical
15 participation in. So, I think the table is still
16 open for some of those other looks by the committee.
17 Further discussion on the motion? Lee.

18 LEE ANDERSON: I'm going along with
19 Pat's notion and the fact that the committee is
20 already looking at it, you've given this some
21 thought and we haven't seen the other one, but just
22 a suggestion, it may be appropriate to read into the
23 minutes those two motions so that when the committee
24 does the next thing, goes onto the steps that we

1 agreed to do before, your thoughts will be written
2 down and possibly considered by them as they take a
3 broader look so we can keep the discussion open.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Further discussion on the motion?

6 (No response audible.)

7 COUNCIL CHAIRMAN RICHARD ROBINS: Is
8 Council ready for the question?

9 (Motion as voted.)

10 {Move to add an alternative to the purpose A: cap
11 capacity Option 1K; implement a two tiered access
12 system. Vessels would be grouped based on the
13 highest tier qualified for on the following
14 thresholds; Tier 1- at least 400,000 lbs landed in
15 any one year, 1994-2005 and Tier 2- at least
16 100,000 lbs landed in any one year 1994-2005.}

17 COUNCIL CHAIR RICK ROBINS: All those
18 in favor, please raise your hand.

19 (Response.)

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Five. Opposed, like sign?

22 (Response.)

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Twelve. the motion fails. Peter.

1 PETER HIMCHAK: Thank you, Mr.
2 Chairman. I'd like to move -- Jan, we'll keep the
3 same language and just make some edits. So, we're
4 going to talk about:

5 Move to add an alternative to the
6 Purpose A: Cap capacity, which would be 1L.

7 This is the intent of my discussion
8 two days ago. And this is really I think the
9 challenge that the committee has. And it may be
10 unpopular, but I think it needs to be done. Okay.

11 Implement a two-tiered access system.
12 Vessels would be grouped based on the highest tier
13 qualified for on the following thresholds:

14 Tier 1. At least 1,000,000 pounds
15 landed in any one year, 1988-2007.

16 Tier 2. At least 250,000 pounds
17 landed in any one year, 1988-2007.

18 COUNCIL CHAIRMAN RICHARD ROBINS: Is
19 there a second to the motion?

20 JULE WHEATLY: Second.

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Second by Jule Wheatly. Discussion on the motion?
23 Pat.

24 PATRICIA KURKUL: Ditto. In

1 addition, it goes back to 1988, which we have
2 repeatedly said is problematic.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Is
4 there any discussion around the table? Howard.

5 HOWARD KING: Notwithstanding Pat's
6 comments, there is still the possibility that the
7 review teams could look at historical participation
8 back to 1988; correct?

9 COUNCIL CHAIRMAN RICHARD ROBINS: You
10 said the review team could consider historical -- I
11 think absolutely. I think the question is how do we
12 effectively get at that issue of participation. And
13 one of the points in the committee discussion was
14 whether there aren't alternative ways to bring those
15 folks into the fishery. But how do you do it
16 without increasing capacity? And how do you do it
17 in a way that's equitable given the disparate
18 quality of landings data that we believe is out
19 there from that era. So, I think these are some of
20 the things for the committee to contemplate.

21 Any additional discussion from the
22 committee or from the Council? Council ready for
23 the question?

24 (Motion as voted.)

1 {Move to add an alternative to the purpose A: cap
2 capacity Option 1L; implement a two tiered access
3 system. Vessels would be grouped based on the
4 highest tier qualified for on the following
5 thresholds; Tier 1- at least 1,000,000 lbs landed
6 in any one year, 1988-2007 and Tier 2- at least
7 250,000 lbs landed in any one year 1988-2007.}

8 COUNCIL CHAIR RICK ROBINS: All those
9 in favor, please raise your hand.

10 (Response.)

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Six. Opposed, like sign?

13 (Response.)

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Twelve. The motion fails.

16 Erling, did you have any additional
17 motions from the committee?

18 ERLING BERG: Yes, I did Mr.
19 Chairman. Thank you. The next motion.

20 Move to adopt Alternative 5C with the
21 adjustment that unknown species would be designated
22 at the 95 percent threshold for Amendment 11. This
23 deals with the essential habitat. And if you'd
24 like, I can read that particular part. That's at

1 the discretion of the Chair. Thank you.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 That's okay. I think we've got it in the briefing
4 book and it's on the board now as far as the motion.

5 Motions on behalf of the committee does not require
6 a second. Discussion on the motion? Go ahead,
7 please.

8 HARLEY SPEIR: I simply don't
9 understand the motion.

10 COUNCIL CHAIRMAN RICHARD ROBINS:

11 Okay. Erling, would you mind reading that section
12 then.

13 ERLING BERG: This is Section 5C.
14 Designate as EHF the area associated with 90 percent
15 of the cumulative geometric mean catches for each
16 MSB species life stage, except use 95 for overfished
17 species, currently butterfish, based on Northeast
18 Fisheries Science Center. There's more to it. I
19 can read it all if you like. But hopefully that
20 helps.

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Well, the unknown refers to the status of the stock.

23 So, if the stock status is unknown, you'd fish at
24 the -- or you'd select the EFH designation that

1 coincided with 95 percent?

2 ERLING BERG: This is on Page 164 of
3 the document, the big book.

4 COUNCIL CHAIRMAN RICHARD ROBINS:
5 Harley, is that clear? Jason, could I ask you to
6 clarify this for us.

7 JASON DIDDEN: Could you repeat the
8 clarification you're looking for.

9 DAN FURLONG: I can cover it.

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Okay. Go ahead, Dan.

12 DAN FURLONG: Harley, we have a
13 requirement to update our EFH section of the plan.
14 We have to identify and describe EFH and that's what
15 we're doing here. And we're changing the criteria
16 of what would be included in the identification and
17 description of EFH related to squid, mackerel,
18 butterfish. And this would be the threshold that
19 would trigger that, the 95 percent.

20 JASON DIDDEN: Essentially, this
21 recommendation is for five-year reviews, and I think
22 we're at maybe ten years since it was done last
23 time. So, this uses the trawl center data, state
24 survey data, MARMAP data to designate essentially

1 groups of ten-minute squares that has been
2 identified based on these thresholds as the highest
3 density catches of the different species.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Pres.

6 PRESTON PATE: It might be helpful
7 also to either put unknowns in quotes or change the
8 wording to say species with unknown status, because
9 that implies that you're adding species that we
10 don't know exist. That's a little confusing.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Pres, that's an excellent clarification. All right.

13 Well, we have the committee motion. So, Pres,
14 would you offer an amendment?

15 PRESTON PATE: Yes. I would propose
16 amending the language to say:

17 Move to adopt Alternative 5C with the
18 adjustment that species with unknown status would
19 also be designated at the 95 percent.

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Second to the motion? Second by Steve Heins.

22 Discussion on the motion to amend? Chris.

23 CHRISTOPHER ZEMAN: I would also
24 recommend just a friendly amendment to add with the

1 adjustment that EFH for unknown species would also
2 be designated at the 95 percent -- I think it's
3 population level -- or it's the 95 percent -- it's
4 not a threshold, it's a 95 percent abundance level.

5 JASON DIDDEN: It is a threshold
6 actually. Essentially, all the ten-minute squares
7 are ranked according to density. And we're taking
8 the ten-minute squares that account for 95 percent
9 of the catch in the trawl survey. So, it doesn't
10 have anything to do with the abundance. It's just
11 strictly you rank those squares, count up the ones
12 that -- and there are some log transform -- data
13 smoothing that goes on also, but they essentially
14 account for 95 percent of the catch in the trawl
15 survey. And state survey within this is, I think, a
16 10 percent frequency of occurrence. I have to read
17 through. But there's another threshold in there for
18 the state data, but it's just a threshold, not
19 abundance.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Jason, thanks for that clarification. Does that
22 address your concern, Chris?

23 CHRISTOPHER ZEMAN: Yes.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Okay. All right. Is the Council ready for the
2 question on the motion to amend?

3 (Motion as voted.)

4 {Move to adopt Alternative 5C, with the adjustment
5 that species with unknown status would also be
6 designated at the 95% threshold for Amendment 11.}

7 COUNCIL CHAIR RICK ROBINS:

8 All those in favor, please raise your
9 hand.

10 (Response.)

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Twenty. Opposed, like sign?

13 (No response audible.)

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Abstentions, like sign?

16 (No response audible.)

17 COUNCIL CHAIRMAN RICHARD ROBINS: The

18 motion carries.

19 The amended motion is now the main motion. Is
20 Council ready for the question?

21 All those in favor, please raise your
22 hand.

23 *Response.)

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Opposed, like sign.

2 (Response.)

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Nineteen. Abstentions, like sign.

5 (Response.)

6 COUNCIL CHAIRMAN RICHARD ROBINS: One

7 abstention. Nineteen. The motion carries.

8 Erling.

9 ERLING BERG: The next motion is --

10 I'll read it. Jan, you got it up there somewhere.

11 Okay. You got it.

12 Move to adopt Alternative 6C for

13 Amendment 11. This is the recreational allocation

14 at 6.2 percent.

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Okay. The motion is on behalf of the committee.

17 Discussion on the motion?

18 (No response audible.)

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 Council ready for the question?

21 (Motion as voted.)

22 {Move to adopt Alternative 6C for Amendment 11.}

23 COUNCIL CHAIR RICK ROBINS: All those

24 in favor, please raise your hand.

1 (Response.)

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Opposed, like sign.

4 (No response audible.)

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Abstention, like sign?

7 (Response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS: One
9 abstention. The motion carries. Erling.

10 ERLING BERG: Thank you, Mr.
11 Chairman. The next motion is move to adopt
12 Alternative 7A for Amendment 11. This is the at-sea
13 processing and this is no action.

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Okay. Discussion on the motion? Is Council ready
16 for the question?

17 (No response audible.)

18 (Motion as voted.)

19 {Move to adopt Alternative 7A for Amendment 11.}

20 COUNCIL CHAIR RICK ROBINS: All those
21 in favor, please raise your hand.

22 (Response.)

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Opposed, like sign?

1 (No response audible.)

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Abstentions, like sign?

4 (No response audible.)

5 COUNCIL CHAIRMAN RICHARD ROBINS: The
6 motion carries.

7 Erling.

8 ERLING BERG: The next one was not
9 actually a motion. It was consensus to add shad to
10 Amendment 14 for scoping.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 That was approved by consent. Would you offer such
13 a motion, please.

14 ERLING BERG: Well, I'll offer that
15 as a motion that we add this to Amendment 14.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Okay. Is there a second to the motion?

18 PAT AUGUSTINE: Sure.

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 Second by Pat Augustine. Discussion on the motion?

21 This was per the request of the ASMFC to add the
22 shad species to the scoping document as a bycatch
23 consideration?

24 RICHARD SEAGRAVES: Yeah. And it

1 relates to MERK and then hickory shad, and it's to
2 add to the scoping document to be considered for
3 Amendment 14.

4 PAT AUGUSTINE: That's right.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Peter.

7 PETER DEFUR: Thank you, Mr.

8 Chairman. Is it only those two species? Because we
9 don't specify that in the monk.

10 DAN FURLONG: That's what they agreed

11 to.

12 COUNCIL CHAIRMAN RICHARD ROBINS: I

13 think that's a matter of record at this point. That
14 was part of the committee discussion and Vince
15 clarified that for us.

16 ERLING BERG: River herring was

17 already in there, so this is was at the request of
18 the Commission.

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 Okay. Further discussion on the motion?

21 (No response audible.)

22 COUNCIL CHAIRMAN RICHARD ROBINS: Is

23 Council ready for the question?

24 (Motion as voted.)

1 {Move to add American and Hickory shads to be added
2 to the scoping document for consideration in
3 Amendment 14.}

4 COUNCIL CHAIR RICK ROBINS: All those
5 in favor, please raise your hand.

6 (Response.)

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 Opposed, like sign?

9 (No response audible.)

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Abstentions, like sign?

12 (No response audible.)

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Okay. The motion carries.

15 PAT AUGUSTINE: You want it for
16 consideration?

17 COUNCIL CHAIRMAN RICHARD ROBINS: For
18 consideration.

19 PAT AUGUSTINE: Thank you.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Thank you. Erling.

22 ERLING BERG: One more. Move to
23 adopt Amendment 14 scoping document.

24 COUNCIL CHAIRMAN RICHARD ROBINS: All

1 right. That's for the committee. Discussion on the
2 motion?

3 (No response audible.)

4 COUNCIL CHAIRMAN RICHARD ROBINS: Is
5 Council ready for the question?

6 (Motion as voted.)

7 {Move to adopt Amendment 14 scoping document.}

8 COUNCIL CHAIR RICK ROBINS: All those
9 in favor of the motion?

10 (Response.)

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Opposed, like sign?

13 (No response audible.)

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Abstentions, like sign?

16 (Response.)

17 COUNCIL CHAIRMAN RICHARD ROBINS: One
18 abstention. The motion carries, Nineteen, 0 to 1.

19 Erling, does that conclude your
20 motions?

21 ERLING BERG: That's all I have, Mr.
22 Chairman. Thank you.

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Thank you. Okay. Moving on to dogfish. Red, do

1 you have a report for the Dogfish Committee?

2 _____
3 DOGFISH COMMITTEE REPORT

4 RED MUNDEN: Thank you, Mr. Chairman.

5 The Dogfish Committee met Tuesday morning, the
6 13th. We didn't have any motions, but we had a
7 presentation by Dr. Paul Rago concerning the spiny
8 dogfish track result. And Dr. Rago nor the
9 Northeast Region could offer a recommendation as to
10 the quota because Dr. Rago's work has not been
11 reviewed. But the joint committee did direct the
12 staff to prepare a letter to the Northeast Regional
13 Administrator emphasizing our previous
14 recommendation that the quota for spiny dogfish be
15 set on the basis of the outcome from the track. So,
16 that was approved by the committee.

17 And then we had a brief discussion of
18 the final environmental impact statement for
19 Amendment 3 of the Highly Migratory Species FMP.
20 And the committee agreed for a letter to be written
21 by the staff to HMS expressing concern for product
22 quality of smooth dogfish if the removal of fins is
23 prohibited until the point of landing.

24 So, those were not motions, Mr.

1 Chairman, those were actions that were taken by the
2 committee.

3 COUNCIL CHAIRMAN RICHARD ROBINS: So,
4 we would be sending a comment letter on the smooth
5 dogfish issue as well as a follow-up comment letter
6 on the quota for spiny dogfish?

7 RED MUNDEN: That's correct, Mr.
8 Chairman.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Okay. Yes, Rich.

11 RICHARD SEAGRAVES: There was some
12 discussion about -- I mean, it was noted that -- I
13 think Pat said there wasn't really a lot for us to
14 do because the way the specs were set up, it said
15 pending track results that the quota could be set
16 between there and the target. But there was
17 subsequent discussion at the committee about the
18 concern -- and the question was ask by John
19 Pappalardo was whether or not we could get
20 projections in the near future with some sort of
21 constant harvest strategy and the desire of the
22 committee I thought was expressed, and should have
23 been included in the letter, was that some
24 consideration be given about stability of landings

1 and consequences down the road and to avoid a yo-yo
2 effect of the quota from year to year. So, my
3 understanding was that was to be included in the
4 letter as well.

5 RED MUNDEN: Correct, Mr. Chairman.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Yeah. I would concur. I think that point would be
8 reflected in the letter. We certainly don't want to
9 see the fishery go through what it went through in
10 the 1990's and subsequent rebuilding period. Pat.

11 PAT AUGUSTINE: Back to the comment
12 Red made about smooth dogfish, Mr. Chairman.

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 Yes, sir.

15 PAT AUGUSTINE: If you notice in one
16 of the announcements that I referred to, it
17 announces the availability of final environmental
18 impact statement for Amendment 3 to the consolidated
19 HMS species fishery. At the very bottom of the
20 page, it does have an item for smooth dogfish.
21 There was an alternative that was selected,
22 preferred. However, the preferred alternative in
23 the FEIF was changed. And basically it addresses
24 the alternate being delayed implementation of

1 management measures until 2010, I'm sorry, 2012
2 fishing season to establish a smooth dogfish quota
3 equal to the maximum annual -- average annual
4 landing plus two standard deviations, which would be
5 715 thousand -- 715 and a half metric tons. And
6 further down at the bottom, the reason for the
7 changes was specifically not only to finalize the
8 biological opinion, but more importantly to work
9 with fishery participants regarding fins attached
10 requirement. Higher quota minimizes change in catch
11 levels and better accounts for incomplete data
12 reporting.

13 I also sent an e-mail to Margo
14 Schultz noting that this subject had been mentioned
15 at our meeting here and that I would hope she would
16 have that on our meeting coming up in a couple of
17 weeks for HMS. Thank you, Mr. Chairman.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Thank you, Pat. Okay. Any other questions on spiny
20 dogfish? Seeing none, we'll move on to RSA. If
21 you're ready, Pres.

22
23 RESEARCH SET-ASIDE COMMITTEE REPORT

24 PRESTON PATE: Yes, Mr. Chairman.

1 Thank you. The RSA, Research Set-Aside Committee,
2 convened four o'clock on Tuesday afternoon. And
3 their discussion was guided by an agenda that
4 included mostly items that stem from the RSA
5 workshop at our last meeting. We also had a
6 presentation from Steve Heins regarding an issue
7 that has recently arisen in New York involving the
8 purchase of OSA shares by private recreational
9 fishermen and all of the attendant logistical and
10 policy issues that are associated with that. Steve
11 was hoping for some type of guidance from the RSA
12 Committee about how New York should respond to that.

13 He didn't get exactly what he wanted because the
14 issue was so complex and really included a lot of
15 sub-issues and important matters that are embedded
16 generically in the RSA program.

17 We spent a fair amount of time during
18 that hour and-a-half assigned to the agenda talking
19 about the relative importance of the categories of
20 projects that are funded by RSA. And I was
21 interested in getting some affirmation from the
22 committee that NEAMAP is a priority for continued
23 funding. Because it was from that point that we
24 would go forward with developing a more up-to-date

1 mission statement, and around that mission
2 statement, develop and refine procedures regarding
3 grant administration and long-term funding.

4 We discussed a letter that the
5 Atlantic States Marine Fisheries Commission had sent
6 regarding long-term funding of NEAMAP. Vince O'Shea
7 noted that letter. And I honestly can't remember if
8 it had gone to congress or the service. But
9 regardless, it generally stated the importance of
10 the NEAMAP program and the critical component that
11 it provides to our management efforts. And given
12 those characteristics, it should be supported with
13 some long-term assured funding for the future. And
14 the committee agreed with supporting that concept
15 and sending on behalf of the Council a like letter
16 to the receiving body, whomever -- I'll find out who
17 that is after this meeting -- providing that same
18 level of support.

19 We talked about the individual
20 projects that have been funded in the past and the
21 need to do a thorough evaluation of what level of
22 contribution they have made to our management
23 efforts and identify those projects that have made a
24 contribution, those that have not, and for those

1 that have not, why they haven't to try and come up
2 with some better quality control measures both in
3 terms of initial project review and review of the
4 results of that project to ensure that we're getting
5 more return from our investment than we might have
6 been in the past.

7 So, Mr. Chairman, I think at our next
8 meeting we'll come back to the group with a draft
9 mission statement that will be a good starting point
10 for proceeding. I guess I didn't make it clear and
11 I should that there was strong agreement and support
12 for continued funding for the NEAMAP program, with
13 the caveat that we should also continue the effort
14 for securing long-term funding.

15 But certainly there's the impression
16 and feelings of the group that this is an important
17 program. The RSA program is an important one to our
18 efforts, but certain aspects of it need some
19 improvement and it's going to be a difficult and
20 challenging task, but I think we're off to a good
21 start.

22 COUNCIL CHAIRMAN RICHARD ROBINS:

23 Pres, again, I applaud you and Peter for taking this
24 issue up. I really appreciate all the effort you've

1 already put into the committee work. And I know
2 it's a very substantial undertaking, but I'm
3 confident that we'll be able to make some progress
4 on this issue.

5 And I think one of the actions that
6 you had recommended as a committee was that we do
7 send a letter similar to what the Commission had
8 sent. I certainly think that would be in order.

9 Are there additional comments or
10 questions? Howard.

11 HOWARD KING: I would only add for
12 the record that Dr. Weinberg stated that NEAMAP
13 finally has a long enough time series and enough
14 data points that will actually be put to use in the
15 next SARC, I believe, a year from now. So, the
16 expectations hopefully will be realized next year.

17 PAT AUGUSTINE: Nancy got the money.

18 UNIDENTIFIED SPEAKER: Nancy got the
19 money.

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 That's right.

22 NANCY THOMPSON: What?

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Nancy.

1 NANCY THOMPSON: If this is a real
2 question about funding NEAMAP, I can say that yes,
3 it's an important survey. Yes, we obviously are
4 moving forward with using RSA as we have in the
5 past. No, there is no additional funding. And I am
6 happy to work with whomever to try to obtain some
7 kind of funding. I have brought this up repeatedly
8 to my leadership in NMFS relative to the importance
9 of the survey, but I don't see any funds
10 forthcoming. Those funds should be forthcoming from
11 the survey and monitoring line item in the NMFS
12 budget if anybody wants to direct any activities
13 towards funding.

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Thank you. And we'll be sure to note that in our
16 letter. Thank you. Okay. Additional comments or
17 questions on RSA? Adam.

18 ADAM NOWALSKI: Adam Nowalski,
19 Recreational Fishing Alliance. I just want to go on
20 record that the Recreational Fishing Alliance
21 continues to support a funding source other than RSA
22 for NEAMAP. It's an important project. There's a
23 lot of important projects out there that are not
24 getting done that could be accomplished with RSA

1 money, but with the funding going to NEAMAP instead,
2 it's an issue and we continue to support a line item
3 funding source from NEAMAP. Thank you.

4
5 EXECUTIVE COMMITTEE REPORT

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Thank you, Adam. Okay. The next report is the
8 Executive Committee and the Executive Committee met
9 yesterday morning and considered several issues and
10 updates.

11 The first order of business that we
12 went through was an update on the Executive Director
13 search process and the Search Committee's work. The
14 Search Committee has received ten applications and
15 will be reviewing the finalist among those -- or
16 interviewing the finalist among those in May. I've
17 sent around a doodle poll to you just to see if we
18 could schedule a one-day Council meeting where the
19 Search Committee would present the finalist for an
20 interview process where we would ask questions at
21 the full Council level and give the Council an
22 opportunity to select the new Executive Director by
23 vote. That date would either be May 26 or 27. And
24 just before we adjourn today, I'll go in and check

1 the results, but I think both dates would result in
2 a quorum being present and I'll check the final
3 tally here so that we can hopefully go ahead and
4 confirm that before you leave today.

5 PAT AUGUSTINE: It was confirmed
6 11/11, both dates.

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 We'll try to finalize that today. But that's the
9 process that we had laid out previously. And so, we
10 would have a one-day Council meeting to select the
11 new Executive Director. Dan.

12 DAN FURLONG: To that point, this
13 would be a Council meeting that is not open to the
14 public. This is a closed meeting because it is a
15 personnel action. And even though I had to put it
16 into the Federal Register Notice, there will be no
17 public there. It's just exclusively a Council
18 meeting.

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Dan, thanks for that clarification.

21 The other items that came out of the
22 Executive Committee, we had a review of the SOPS and
23 John Boreman presented those to us. The SSC worked
24 together with staff and Lee Anderson had significant

1 input, but they developed a new set of SOPS for the
2 SSC. And so, those Standard Operating Procedures
3 are found behind Tab 4, I believe, behind the first
4 green divider. And the Executive Committee moved to
5 approve those with one modification. The terms of
6 reference for the ABC's be developed by the Council
7 Chair in consultation with the Executive Director
8 and the Species Committee Chair in order to give the
9 Species Committee Chairman an opportunity to weigh
10 in on those draft TR's as well. So, that's an
11 action item that we have that was made on behalf of
12 the committee and approved by consent so it does not
13 require a second. But Jan, I don't know if you'd
14 you like to put that up there.

15 And I'll just note in the record that
16 the one modification was in Section B2 where the
17 Council Chair in consultation with the Species
18 Committee Chair and Executive Director shall develop
19 a set of terms of reference based on the relevant
20 ABC control rule, etc., etc. Discussion on the
21 motion?

22 (No response audible.)

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Council ready for the question?

1 (Motion as voted.)

2 {Move to accept modification (in Section B2) to
3 SOPPS.}

4 COUNCIL CHAIR RICK ROBINS: All those
5 in favor, please raise your hand.

6 (Response.)

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 Nineteen. Opposed, like sign?

9 (No response audible.)

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Abstentions, like sign?

12 (No response audible.)

13 COUNCIL CHAIRMAN RICHARD ROBINS: The
14 motion carries.

15 The other discussion we had was a
16 reflection on the catch share workshop that we had
17 and discussing next steps. And we had a couple.
18 One was the fact that the interjurisdictional panel
19 raised a number of significant issues. And so, we
20 agreed that it would be beneficial to appoint a
21 working group or an ad hoc committee to work on some
22 of those interjurisdictional questions and begin to
23 think through them and then reach out to the
24 Commission and our management partners and give that

1 issue some additional thought.

2 The other was a desire to initiate a
3 visioning effort whereby we would undertake a
4 significant surveying type approach and reach out to
5 our stakeholders and ask them to help us identify
6 the issues that are going well in their fisheries
7 and problems in the fisheries so that we can focus
8 on whether or not the goals of the FMP's are being
9 met and whether or not any additional changes are
10 warranted to those, and to help us focus on
11 additional management issues. And I think that
12 effort will require a fair amount of planning. And
13 so, for the time being, I think we'll put that on
14 the next Executive Committee agenda and begin to
15 flesh out what that effort might look like. But
16 that was the other outcome of the Executive
17 Committee meeting and that concluded it.

18 Are there any additional comments on
19 the Executive Committee? Peter.

20 PETER DEFUR: Yeah. Thank you, Mr.
21 Chairman. I just had a question. Do you have an
22 idea about where we might be meeting in May, that
23 one-day meeting, the 26th or the 27th?

24 COUNCIL CHAIRMAN RICHARD ROBINS: We

1 haven't set it yet, but I would just guess it might
2 be -- we'd try to be somewhat convenient for
3 everybody to get into so maybe BWI. I think that
4 airport is relatively easy to get into. Red.

5 RED MUNDEN: Thank you, Mr. Chairman.

6 I know you don't have the total survey in for the
7 two dates that you asked us to comment on were
8 Thursday and Friday, the 26th and 27th, I think.
9 Actually, keep in mind that the 27th is a Friday of
10 a holiday weekend. So, it may be difficult for
11 travel, I believe.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Red, I believe the 26th was Wednesday and the 27th
14 was Thursday.

15 RED MUNDEN: Okay.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Thank you. Additional comments on the Executive
18 Committee's output? Okay. Why don't we take a ten-
19 minute break and then come back and finish up the
20 black sea bass discussion. And we have a
21 presentation from Rob Latour on SARC 49 as well as
22 we'll discuss Joel's opinion on Amendment 10.

23 (Break: 11:45 a.m. to 12:01 p.m.)

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Next item. At this point, we're under a continuing
2 new business, Tab 13. And Jessica has an update on
3 the status of the black sea bass recreational
4 measures. As you may recall, there is a disconnect
5 between the Commission's action and this Council's
6 February recommendation that followed the change in
7 the harvest limits that were recommended by the
8 Regional Administrator.

9
10 STATUS OF 2010 BLACK SEA BASS REC MEASURES

11 JESSICA COAKLEY: Okay. Just
12 refreshing everyone's memory. We had an emergency
13 action that occurred back on February 10th of 2010.

14 This increased the TAC/TAL to 4.5 million pounds,
15 and 3.7 million pounds respectively, with an
16 associated recreational harvest limit of 1.83
17 million pounds, and a commercial quota of 1.76.

18 In early February, the ASMFC Board
19 voted on black sea bass measures for 2011. They
20 recommended a 12 and-a-half inch minimum fish size,
21 a 25 fish possession limit, and an open season from
22 May 22nd to September 12th. This was consistent
23 with the FMP required reduction of 44 percent, which
24 was the reduction needed from that increased TAL

1 based on the emergency action.

2 Council met the day after that
3 emergency rule filed and recommended a 12 and-a-half
4 inch minimum fish size, 25 fish possession limit,
5 and a modified season from May 22nd to August 8th.
6 And then open September 4th to October 4th. So,
7 that would include a mid-season closure. This also
8 achieves the FMP required 44 percent reduction. So,
9 both the Board action and the Council action are
10 consistent with what was required by the FMP.
11 There's just a disconnect there.

12 So, in response to the Council
13 action, the staff prepared and submitted an addendum
14 to the recreational specs. package. This provided
15 all the impact analyses and economic data to support
16 that sea bass alternative that was recommended,
17 which would now be Alternative 4 in the specs.
18 document.

19 In addition, around the time that the
20 specs. package was being submitted, Vince O'Shea
21 sent a letter from Pat Kurkul -- this has been
22 distributed to everyone -- stating that for
23 essentially in order for the states to go through
24 their rule-making processes, they were going to be

1 moving forward with the measures that they
2 recommended and they did have an intention to go
3 back and revisit their recommendation, and that was
4 that open season from May 22nd to September 12th.

5 At this point, I think just about all
6 of the states are in process or have finished their
7 processes except for I think it's Delaware and North
8 Carolina. I had Toni Kerns check to see where
9 people were with their rule making. They are moving
10 forward with those actions.

11 There's that common season start date
12 of May 22nd. And the service -- and this is behind
13 the briefing book tab associated with this issue --
14 the service has extended the black sea bass closure
15 that started in 2010 in early October through May
16 21st. So, that closure is consistent at this point
17 with both the Board and the Council recommended
18 seasons which would open on May 22nd. So, that
19 action has already -- that notice I believe went out
20 what -- two weeks ago and it made it in the briefing
21 book.

22 In that notice to extend that black
23 sea bass closure, it's stated that it's expected
24 that the proposed rule for recreational specs will

1 publish sometime in mid to late April. There is
2 also still the issue of Wave 5 data and data
3 availability. I talked to persons over at NMFS SNT
4 and the Wave 5 information will be available when
5 the final estimates become available, which should
6 be the end of this month. So, that information will
7 be available to the fishery service sometime between
8 the proposed rule and the final rule for their
9 decision-making process, before they go to final
10 ruling.

11 So, the bottom line is, we don't have
12 the proposed rule yet at this point. It should be
13 out soon. And at some point, either right before
14 that proposed rule comes or after, Wave 5
15 information should be available on the final
16 estimates for the year which would include -- 6
17 would be available to the fishery service for when
18 they make their decision. So, that's pretty much
19 the update unless there are any questions or Pat or
20 George have something to add.

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Howard.

23 HOWARD KING: I just wondered,

24 Jessica. When you said the states have adopted

1 regulations, were you referring to Atlantic states
2 or Mid-Atlantic states?

3 JESSICA COAKLEY: Oh, well, the
4 Atlantic -- well, the Summer Flounder Board and
5 Atlantic States Commission, when you voted on that
6 season, that's the season that you're moving forward
7 with for your state rule-making process to implement
8 those measures in individual states. So, I may have
9 been --

10 HOWARD KING: I wondered of those
11 states that have already begun the promulgation
12 process or the notice process, which states are
13 doing what? Do we know?

14 JESSICA COAKLEY: Oh, my
15 understanding is that all of the states are moving
16 forward with the measures that the Council voted on
17 -- Commission voted on back in February. Other than
18 the fact that when I spoke to Toni, she said she
19 wasn't sure if Delaware or North Carolina had
20 already initiated that hearing process for their
21 states. My understanding was that all the remaining
22 states were already going through that process.

23 HOWARD KING: All right. And if
24 that's the case, and the EEZ would be closed August

1 8th to September 12th, then the situation would be
2 that federal permit holders would have to relinquish
3 -- I'm thinking about the for-hire boats now. They
4 would have to relinquish their federal permits in
5 order to fish in state waters and land in states?

6 JESSICA COAKLEY: Yeah.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Okay. Red.

9 RED MUNDEN: Thank you, Mr. Chairman.

10 Jessica, North Carolina has closed its state waters
11 to the harvest of black sea bass until May the 22nd.

12 And we haven't taken any action beyond that because
13 we have proclamation authority for black sea bass
14 and we can put in a proclamation with as little as
15 48 hours advance public notice. Our plans at this
16 time are to follow the ASMFC's season.

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Peter.

19 PETER HIMCHAK: Thank you, Mr.

20 Chairman. Just to comment on that as to which
21 states -- all the states on the Atlantic coast were
22 confounded with is that we have to be in compliance
23 with the ASMFC's season. So, when we approached our
24 Marine Fisheries Council, we said we had to at least

1 proceed with taking the ASMFC's season. Now, if the
2 NMFS season comes out and there is -- if we can
3 extend the state waters season, then we could also
4 do away with in-season adjustment to extend it. But
5 that's unforeseen right now. Thanks.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Pat, do you have anything to add to Jessica's
8 presentation in terms of the process?

9 PATRICIA KURKUL: Not a lot. We do
10 hope that the proposed rule will be out soon. The
11 proposed rule runs through this sort of contorted
12 history that Jessica just reviewed for all of you.
13 And so, acknowledges that there is some
14 inconsistency. In addition, we don't have the Wave
15 5 data yet and there are definitely some problems
16 with that data. As you recall -- as you may recall
17 -- there was a new contractor and there were
18 questions of coverage levels and coverage levels.
19 and that's the delay in getting the information.
20 So, we are taking a tact in the proposed rule
21 similar to what we did in dogfish, which is try to
22 leave our options open as much as possible so that
23 we can be responsive to the management situation as
24 well as the new information that comes in from

1 MRFSS.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Thank you, Pat. Pres.

4 PRESTON PATE: Thank you, Mr.

5 Chairman. Jessica, can you clarify the status of
6 the Virginia, Delaware and Maryland seasons?

7 JESSICA COAKLEY: Clarify what they
8 have in place right now?

9 PRESTON PATE: Yes.

10 JESSICA COAKLEY: Toni would be the
11 best person to clarify exactly what they are doing
12 right now or you could ask the actual state while
13 they're here. Like I said, I just got a quick
14 update from Toni as to what the states were doing,
15 but not in a lot of detail.

16 PRESTON PATE: Okay.

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Jack, do you mind giving us Virginia's?

19 JACK TRAVELSTEAD: Not at all.

20 Virginia has adopted the split season option which
21 was endorsed by the Council. But at the point in
22 time we did that, we thought -- we were interpreting
23 the motion that had been adopted by the Commission
24 differently. Now we understand that the straight-

1 through season is the compliance required season by
2 ASMFC. So, we will be going back through our
3 regulatory process in May and June to adopt the
4 straight three season.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Jack, is Virginia going to wait until the proposed
7 rule comes out to do that?

8 JACK TRAVELSTEAD: Well, I think the
9 proposed rule will be out in April, so yes, we won't
10 start our process until late May.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Harley, how about Maryland?

13 HARLEY SPEIR: We have publicly said
14 we will be in compliance with ASMFC season. We have
15 not -- we do not have anything in place yet. And we
16 do have short-term authority to put a season into
17 place relatively rapidly. And so, we would wait
18 sometime before that. This puts us -- this is a big
19 problem for us. All of our fishery is in the EEZ.
20 And if that period of time is closed almost a month
21 in the EEZ while other states are -- that may have
22 state fisheries for black sea bass, are able to fish
23 in their state waters, it's going to create a
24 problem for us.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Rick.

3 RICK COLE: Delaware has started the
4 administrative procedures process to implement the
5 May 22nd through September 12th season. We just
6 recently started that process because obviously we
7 weren't sure what we were dealing with there. So,
8 unfortunately, it takes us at a minimum four months
9 to get a regulatory change in place and effective.
10 So, we're pretty much locked into a September 12th
11 closure and that's what we're going to have to deal
12 with regardless of what the National Marine
13 Fisheries Service ultimately decides in regards to
14 the final closure date.

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Howard.

17 HOWARD KING: I'm reminded of the old
18 Laurel and Hardy movies, This is another fine mess
19 we've gotten ourselves into. I remember though the
20 ASMFC adopted their measures and we merely
21 recommended measures. I think there's significance
22 in that language. Do we have the option of in spite
23 of our earlier Council vote making the
24 recommendation to the National Marine Fisheries

1 Service at this point that might be different than
2 our vote?

3 COUNCIL CHAIRMAN RICHARD ROBINS: I
4 think if we want to submit a comment letter to the
5 service on this issue to address this discrepancy,
6 we could do that. I mean, Pat, the window for
7 comment would still be open; would it not?

8 PATRICIA KURKUL: It hasn't actually
9 opened yet. It won't be open until the proposed
10 rule publishes. So, it's too late to impact what's
11 in the proposed rule. But you may want to respond
12 to what is in the proposed rule. Unfortunately, I
13 don't think the comment period will be open during a
14 Council meeting. It won't be open until June
15 certainly. But as I said, we did leave ourselves a
16 lot of flexibility in the rule for how we would --
17 for what measures we might adopt in the final rule.

18 So, it's entirely the Council's call. You could
19 decide now to give your intentions even though the
20 comment period isn't open and certainly we'd
21 consider that.

22 PAT AUGUSTINE: Let's do that.

23 COUNCIL CHAIRMAN RICHARD ROBINS: So,
24 Howard, it seems like if we wanted to, we could do

1 that. Peter.

2 PETER HIMCHAK: Thank you, Mr.
3 Chairman. Yes, in this context, I'm concerned about
4 what Harley has said and what Howard has brought up
5 as far as federally permitted vessels. And if there
6 is a closure in black sea bass within season, these
7 vessels would not be able to fish in state waters
8 for black sea bass. This would be very detrimental
9 to our sport fishery. Thank you.

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Howard, do you want to recommend that we submit a
12 letter? What's your pleasure?

13 HARLEY SPEIR: I was actually looking
14 for some signals around the table. I don't see any.
15 But I will for the purposes of discussion make a
16 motion that the Mid-Atlantic Fishery Management
17 Council send a letter of recommendation to the
18 National Marine Fisheries Service for their adoption
19 of the ASMFC black sea bass measures for 2010.

20 COUNCIL CHAIRMAN RICHARD ROBINS: Is
21 there a second to the motion? Second by Rick Cole.
22 Discussion on the motion? Adam.

23 ADAM NOWALSKI: Thank you, Mr.
24 Chairman. Adam Nowalski. As you are aware, a

1 letter was brought down to Cambridge, Maryland. The
2 purpose of that letter at the time was to focus on
3 the issue of projections. Okay. And that really
4 what the issue at hand is, and that's really going
5 to what will impact the rule, the final rule, that
6 NMFS is going to promulgate.

7 When regulations were set forth back
8 in December, a month of only June and September,
9 that regulation was put forth based on the idea of a
10 required 66 percent reduction in landings. By
11 February, we knew that as a result of an emergency
12 action taken by the RA, by the increase in quota,
13 the ability to go with the longer season was based
14 on the fact that now only a 44 percent reduction in
15 landings would be necessary. That 44 percent
16 reduction in landings made the assumption that from
17 the period of September through December that
18 landings of black sea bass were 100 percent greater
19 than landings during the same period in 2008. Okay.

20 The assumption was that the 2009 September to
21 October landings were double the same period in
22 2008; despite the fact that the EEZ was closed for a
23 three-month period, despite the fact that that was a
24 period of historically bad weather. What we have

1 learned since that time, and a letter was sent to
2 the service about this issue, is that we now have
3 the Wave 6 data. Wave 6 data did not show sea bass
4 landings that doubled 2008. In fact, the landings
5 during Wave 6 were a decrease of over 75 percent.
6 We expect when we finally see Wave 5 data that
7 something of a magnitude far less than the doubling
8 of landings in 2008 is what is actually going to
9 come out. In any other year, we'd be sitting here
10 saying, wow, MRFSS doesn't enough samples, there's a
11 real problem.

12 The reality is we're not surprised
13 that the telephone survey couldn't find enough
14 people because of the historically bad weather
15 during that time period. Quite frankly, I
16 understand there were contractor problems, but just
17 from an empirical ground -- what's happening on the
18 ground -- it wasn't altogether unsurprising.

19 So, the issue at hand is that the
20 projections that are being used for the 44 percent
21 reduction are in all likelihood -- there's a very
22 high probability I believe that the Wave 5 landings
23 are not going to go ahead and require -- indicate
24 that they require the full 44 percent reduction.

1 So, I've had numerous conversations working with our
2 own state in New Jersey when they went ahead and put
3 together a rule, they had stated -- and the ASMFC
4 also -- and I know that there's been some discussion
5 about it actually meant about that the state would
6 go with whatever the final rule that came out was.

7 I think and I appreciate what the
8 service has done in this particular case and I think
9 it's unfortunate that we can't see the text of what
10 that proposed rule is because I believe that
11 proposed rule is constructed in such a way that
12 should the Wave 5 landings indicate that the full 44
13 percent reduction is not required that they'll go
14 ahead and put a final rule out that is going to
15 provide for something, either a longer season,
16 either an increased bag limit, a decrease in size.
17 I think the focus would probably be on the length of
18 season.

19 So, I think that's really what the
20 focus is. I don't know if the service is willing to
21 comment more about what the structure of that
22 proposed rule looks like. I understand and
23 appreciate the work that everybody has put into
24 this. I understand that it's a real issue at the

1 state level here. But these projections we now
2 know, wrote a letter down, said that the projections
3 were unrealistic, that has been validated by the
4 Wave 6 data at this point and we firmly believe that
5 the Wave 5 data is going to show something the same.

6 I don't know what the right action
7 is, but hopefully you could find the way for some
8 flexibility to accommodate that and hopefully with
9 some guidance with the service on the proposed rule.

10 Thank you.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Jessica.

13 JESSICA COAKLEY: Just a quick point
14 of clarification on the MRFSS issue and the sampling
15 issue for Wave 5. It wasn't that MRFSS couldn't
16 find any fishermen to call that had fish. The issue
17 is that the contractor failed to meet the sampling
18 protocol that had been laid out in the MRFSS survey.

19 Because basically, they'd lay out an allocation.
20 You've to make X-many phone calls per area, per
21 region. This is what they need to do. And that
22 contractor did not meet those sampling goals. So,
23 that's the issue with the sampling, not that they
24 met their sampling goals and didn't come across any

1 fishermen. I just wanted to make that point because
2 the MRFSS people aren't here to make that clear.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Well, I think if we send a letter suggesting that
5 the service adopt the measures consistent with ASMFC
6 action we're not precluding the possibility that if
7 Wave 5 comes in and we're able to extend the season
8 that those season dates wouldn't be reflected in
9 that final action. I think we have a motion. Pat.

10 PATRICIA KURKUL: Can I just comment
11 on one more thing. It's my hope that the proposed
12 rule will be out very shortly and before the
13 Commission meeting so there will be at least some
14 opportunity for the Commission to look specifically
15 at what's in the proposed rule. And they'll also,
16 at that point, hopefully we will all at that point
17 have the Wave 5 and 6 information too.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Pat, thanks for that clarification. Okay. Further
20 discussion on the motion? Is Council ready for the
21 question?

22 HOWARD KING: Could we put the motion
23 up there?

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Yes. Give us a minute on that, please. How would
2 it be if the motion reflects the fact that we would
3 send the letter as soon as we received the proposed
4 rule so it would reflect the dates in the proposed
5 rule, but essentially consistent with the
6 Commission's action.

7 PRESTON PATE: That would be
8 perfection.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Peter.

11 PETER HIMCHAK: Yes, Mr. Chairman.
12 I'm going to support the motion because again you
13 can't put the natural resource agencies in this yo-
14 yo effect to keep changing regulations within
15 season. So, if the EEZ was to close during the
16 ASMFC season, that would be disastrous to state
17 fishermen and enforcement. But if the MRFSS data
18 comes in and says well the 44 percent reduction
19 wasn't required or something less, then the states
20 could extend the season farther into the fall. But
21 we can't we doing three changes within a calendar
22 year. That's just out of the question.

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Jan, could you adjust the motion just to say that --

1 right after letter, just put in parentheses, upon
2 receipt and evaluation of the pending proposed rule
3 from NMFS. Is that okay, Howard.

4 HOWARD KING: Yes. And maybe say for
5 their adoption of black sea bass measures for 2010
6 consistent with ASMFC.

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 Because by the time they make a final -- take a
9 final action, the ASMFC may have reflected Amendment
10 5 -- or Wave 5 and Wave 6 data at its decision at
11 it's May Commission meeting. Okay. Is there any
12 additional discussion on the motion? Is the Council
13 ready for the question?

14 Howard, would you mind reading it
15 into the record?

16 HOWARD KING: Yes. Move that Mid-
17 Atlantic Fishery Management Council send a letter
18 upon receipt of proposed rule from National Marine
19 Fisheries Service a recommendation to National
20 Marine Fisheries Service for their adoption of ASMFC
21 black sea bass measures for 2010.

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Peter.

24 PETER HIMCHAK: Just one perfection

1 on the motion. It should specify recreational
2 measures.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Thanks, Peter. Is the seconder okay with that
5 perfection. Rick, thank you. Chris.

6 CHRISTOPHER ZEMAN: I thought there
7 was language in there sort of saying like well, if
8 the ASMFC doesn't go with the split season, we then
9 go with what we concur with the ASMFC's
10 recommendation.

11 COUNCIL CHAIRMAN RICHARD ROBINS: It
12 was actually reflected in --

13 DAN FURLONG: Tab 7, first page.

14 COUNCIL CHAIRMAN RICHARD ROBINS: I
15 think we said that we would -- it fell back to the
16 original motion only if it didn't survive that
17 technical analysis. And it did survive technical
18 analysis. Does that help.

19 CHRISTOPHER ZEMAN: I was hoping we
20 could remedy this because I think we were --

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Okay. Is Council ready for the question?

23 (Motion as voted.)

24 {Move that MAFMC send a letter (upon receipt of

1 proposed rule from NMFS) of recommendation to NMFS
2 for their adoption of ASMFC black sea bass
3 recreational measures for 2010.}

4 COUNCIL CHAIR RICK ROBINS: All those
5 in favor, please raise your hand.

6 (Response.)

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 Sixteen. Opposed, like sign.

9 (No response audible.)

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Abstentions, like sign.

12 (Response.)

13 COUNCIL CHAIRMAN RICHARD ROBINS: One
14 abstention. The motion carries. Thank you.
15 Anything else on black sea bass? That's it. Okay.

16 The next agenda item relates to
17 butterfish. At the February Council meeting in
18 Cambridge, Maryland we had received an update of the
19 SARC 49, which were the assessment results. And
20 following that, there was some discussion about the
21 relationship to Amendment 10, since Amendment 10 was
22 established as a bycatch amendment to manage the
23 interactions of butterfish in the loligo fishery.
24 And subsequent to that, there were some discussions

1 at the SSC about the issue as well. And it seemed
2 that we might benefit from some additional
3 clarification on SARC 49 as we look at this issue.
4 But at the February meeting, we'd agreed to let the
5 committee at the committee chair's request
6 reconsider the issue of Amendment 10.

7 And subsequent to that, I received a
8 letter that's in your briefing book from our
9 Executive Director suggesting that we through the
10 deeming provision in the Magnuson Act reel the
11 amendment in and deem it not necessary in light of
12 SARC 49. I had some questions as to what our
13 options were in response to that and I asked Joel
14 MacDonald for a legal opinion. That also appears in
15 your briefing book. And it was not an option in the
16 opinion of general counsel to somehow use the
17 deeming provision to say that it was not necessary,
18 but that in fact if the Council were to do anything
19 about that, it would have to initiate a new
20 amendment but that raised a number of substantial
21 questions in that opinion.

22 But I thought we would benefit as a
23 Council from a little bit more context and detail
24 about the SARC 49 on butterfish. And so, Rob Latour

1 who is a member of our SSC and was the SARC Chair is
2 with us today and Rob is going to go through the
3 results of the SARC as well as give us a little bit
4 of sense of the issues that they considered in
5 making their findings. But I thought that might be
6 beneficial to us and help us so we can ask some
7 questions and perhaps make a more informed decision
8 about this issue. So, I'd like to welcome Rob
9 Latour. Rob.

10
11 PRESENTATION OF SAW/SARC 49 BUTTERFISH

12 ROBERT LATOUR: Thank you, Mr.
13 Chairman. Thank you. Good morning. Good
14 afternoon, I guess by now to everyone. Thanks for
15 the opportunity to be here. I'll try to keep
16 comments brief. I know we're running long. You can
17 switch to the next slide.

18 The goals of what I was trying to
19 present today would be simply to provide some
20 context, maybe convey some of the thinking of the
21 review panel during the butterfish stock assessment
22 review. Hopefully I'll do that through touching on
23 aspects of the first five terms of reference
24 specifically to the commercial landings, the catch

1 data, the survey data that are available, the model
2 results, the estimates of fishing mortality and
3 biomass, some reference point discussion, and then
4 ultimately the stock status determination. Next
5 slide.

6 A couple of slides on catch. I
7 apologize if this figure is difficult to read. I'm
8 trying to maintain consistency with the stock
9 assessment documents that were presented to us at
10 the SARC. But the line to take note of is the top
11 line which represents total catch, which would be
12 directed landings plus discards ranging from early
13 mid 60's to 2008. You can see in the early 70's,
14 landings peaked largely coincident with the presence
15 of the foreign fleets and then subsequently
16 declined. And then the 2000's are very low which
17 are the function of a non-existent directed fishery.

18 So, these are the catch data presented to the panel
19 driving the underlying assessment model. Next
20 slide.

21 This is a plot of sort of measures of
22 precision for those catch data, those total landings
23 data. They're CV's which are coefficients of
24 variation. If you're not used to seeing these sorts

1 of plots, pick off a value. If your CV is 1, it
2 basically means your standard error and your point
3 estimate are the same, which would mean your lower
4 limit of your confidence interval would be negative
5 and your estimate of landings would not be
6 statistically different from zero. And you can see
7 many of the CV's are up near one, which basically
8 means that there's a great deal of uncertainty
9 associated with that -- those estimates of landings.

10 This gave significant concern to the panel as to
11 whether we truly understood what the landings were,
12 the actual removals from the commercial fleet. Next
13 slide.

14 So, major uncertainty with landings.

15 Switching gears to survey data. The data sources
16 available were the Northeast Center's groundfish
17 survey, the spring, fall and winter surveys, mostly
18 from 1968 to 2008. These data were used in the
19 assessment. Other available data included state
20 surveys, principally Massachusetts and Rhode Island,
21 with varying time series much shorter than that of
22 the Northeast Center. These data sets were not used
23 in the assessment under the primary reasoning being
24 that they're limited spatial coverage relative to

1 the distribution of butterfish. And the NEAMAP data
2 were also available. In my bias as co-principal
3 investigator, the NEAMAP project was trying to push
4 these data. The biological side of butterfish data
5 were used, but the catch data series is far too
6 short at this point. So, they were not used in the
7 assessment. So, the survey data were simply
8 restricted to that of the Northeast Center's survey.

9 Another maybe difficult figure to
10 look at, but these are the winter, spring and fall
11 indices. The top line there is the spring. This
12 would be measures of uncertainty of those survey
13 indices, so again, CV's, ranging between .6, .5 for
14 the spring survey, which suggests a great deal of
15 uncertainty, and the estimates are relative
16 abundance from the spring survey.

17 The winter survey are also sort of in
18 that mix with higher CV's. But on a positive note,
19 the dark line on the bottom indicates measures of
20 precision ranging between .2 and .4 for the fall
21 survey.

22 So, the panel felt reasonably
23 comfortable that the fall survey provided a
24 reasonable or perhaps dependable index of relative

1 abundance based on these measures of precision. So,
2 there was some good -- at least from the perspective
3 of the panel -- some good fishery independent data
4 available.

5 Switching a little bit to the actual
6 model results. The next three slides, I'm going to
7 try to walk you through the results that were
8 presented to the panel upon walking in the door at
9 Woods Hole and then provide you with a little bit of
10 where the discussion and thinking as to why they may
11 have disagreed with these results. So, these were
12 the results presented to the panel as a function of
13 the assessment. And then we'll try to walk through
14 the aspects that the panel brought up and ultimately
15 leading to slightly different interpretation of the
16 stock status.

17 So, here you have estimates of
18 spawning biomass. And the dark line would be the
19 new assessment or maybe more appropriately labeled
20 the 2008 assessment. And the faded line would be
21 the same spawning stock biomass estimates from the
22 2002 assessment. You can see the new assessment has
23 a much more optimistic estimation of what that
24 spawning stock biomass would be. Although there is

1 a slight decline over the time series.

2 Switching to recruitment. In the
3 same sort of vein, the new assessment is although
4 highly variable estimating higher recruits, when
5 compared to the old assessment model. Maybe a
6 caveat on these comparisons. The models weren't
7 identically the same. They were built slightly
8 differently so we're kind of comparing green apples
9 to red apples. It's not apples to oranges, but it's
10 certainly not apples to apples. It's a slight
11 variation here, so keep that in mind as you compare
12 these. But the take-home message here is that the
13 essence of recruits were a little more optimistic in
14 the recent assessment when compared to the past
15 assessment.

16 And then trends in F had the opposite
17 trend, which would be consistent with the way the
18 biomass was playing out. The old assessment or the
19 2002 model suggested much higher F's, much more
20 variable too over time than the new assessment model
21 which would have F at a much lower level and much
22 less variable.

23 We're in the world of uncertainty of
24 course now. The terms of reference are structured

1 to require that the assessment teams provide us with
2 measures of uncertainties. So, these are two plots.

3 The left is the CV plot of the biomass estimates
4 from the model. The right is the CV estimates for
5 the fishing mortalities. And you can see they're
6 hovering pretty high around .6, nothing in the range
7 of .2 to .4 which is where we might feel more
8 comfortable with our levels of uncertainty.

9 So, we have slightly optimistic
10 results of the stock performance, stock status,
11 relative to the previous assessment but much
12 uncertainty associated with those results. I think
13 this gave some pause to the panel in terms of their
14 interpretation of what the trends in the model
15 output were saying.

16 Other primary concerns of the panel.

17 to the credit of the assessment team, Tim Miller
18 put together probably over a hundred different
19 combinations of model runs which represented
20 different inputs, different sensitivities. But
21 unfortunately, a large fraction of those model runs
22 never actually converged on a final solution without
23 a lot of help if you will, or a lot of hinting, or a
24 lot of strong-arming of the assessment team, which

1 is not a good characteristic in general, doesn't
2 seem to suggest that the model is robust to
3 modifications to the data input or the preliminary
4 values being supplied.

5 Again, to the credit of the
6 assessment team, they tried to provide estimates of
7 natural mortality from several different methods,
8 and/or estimates of total mortality from several
9 different methods. And there was a great deal of
10 conflicting signals and what those trends in
11 mortality would be over time, large discrepancies in
12 the estimates of natural mortality depending on
13 which method you use.

14 So, that provided some pause or some
15 concern about whether the assumption that went into
16 the base model of a value .08 was valid when many of
17 the other methods used or sort of ancillary methods
18 used would place (inaudible) at a much higher level,
19 1.5, possibly even as high as 2.

20 And perhaps the biggest problem or
21 the most concerning issue was there's no information
22 available that has the ability to put the biomass of
23 butterflyfish -- anchor the scale of the biomass of
24 butterflyfish population. Meaning that usually in most

1 assessments, the catch data combined with what
2 losses would be due to natural mortality placed the
3 -- defined the ballpark for where the biomass
4 estimate should be. Is it 1 ton, is it 10 tons, is
5 it a hundred tons, a thousand, 10,000, a million
6 tons. This sort of idea. Give us a ballpark here.

7 With the lack of a directed fishery,
8 the directed landings are very low. We have one
9 survey that's admittedly a bottom trawl. Butterfish
10 is a pelagic species occupying probably the entire
11 water column. So, it doesn't contain any
12 information about total biomass per se. So, there's
13 really no ability for the model to understand what
14 the scale of the biomass should be. And this was
15 probably a major sticking point for accepting the
16 trends in biomass and thus the relationship of the
17 estimates of biomass to the reference points.

18 So, the panel ultimately accepted the
19 biomass in F trends only and asked that we interpret
20 the point estimates with a great deal of caution
21 both from the point of view, these issues here as
22 well as the uncertainty estimates associated with
23 them coming out of the model.

24 If we switch a little bit to the

1 reference points, I'll go in order here from the
2 reference points used in the previous assessment
3 2002, 2004 model, I guess, and then the most recent.

4 The panel ultimately didn't accept the reference
5 points from the previous model from this point of
6 view. The biomass estimates from the present day
7 model, the 2008 version, were four to six times
8 higher than those of the earlier model. And it
9 would be fair to say that the present model is an
10 advancement or a superior to the older model largely
11 because of the work done in the calibration efforts
12 between the Delaware and the Bigelow. The Center
13 now actually has some empirically derived estimates
14 of survey catchability, which in the world of stock
15 assessment, you could argue is one of the few golden
16 eggs that exist. So, it's a huge advancement. And
17 so, it's fair to say, that because the survey queue
18 is used in the 2008 version that it's superior to
19 that of the 2004 version. So, going under that sort
20 of logic, it was deemed that the 2004 based biomass
21 estimates were far too low and thus to be otherwise
22 associated with those would be far too low and thus
23 potentially invalid.

24 If we switch to the present day

1 model, the FMSY proxy that was estimated was, in
2 fact, higher than any of the F's ever experienced by
3 the stock. So, the conclusion here would be that
4 your FMSY, your threshold, if you will, would be a
5 little bit higher than anything ever achieved
6 through the performance of the fishery in the
7 historic record.

8 The BMSY value was, in fact,
9 estimated to be below the range of the historic
10 biomasses ever experienced. So, there was a great
11 deal of uncertainty there largely driven from
12 probably the philosophical point of view of these
13 were based -- these reference point calculations
14 were based on the assumption of this population
15 being in relative equilibrium; that is, not changing
16 in abundance over year productivity and removals are
17 sort of cancelling themselves out. And this was
18 questioned significantly given that the stock is in
19 decline, or at least appears to be in decline in the
20 absence of directed fishing. So, how can this
21 equilibrium assumption be valid if that's the case.

22 So, the panel did not accept the
23 reference points and made the statement that they
24 should not be used to guide management in their

1 current form.

2 I know that that's unsatisfying,
3 because it would be nice for the panel to provide
4 alternatives. But I'll just offer the caveat that
5 the panel was comprised of individuals from Europe,
6 two individuals from Britain, one from Norway, who
7 prior to the two-week period that they spent
8 thinking about butterfish, they'd probably never
9 seen a butterfish. So, despite a great deal of
10 discussion -- collegial discussion and effort
11 amongst the assessment team and panel, they were
12 unable to in that period of time resolve a
13 dependable set of alternative reference points.

14 Finally, stock status. In here is
15 sort of more a hypothesis rather than a fact. It
16 was the sense of the panel that the butterfish stock
17 dynamics might be more driven by environmental
18 factors as they affect recruitment. The age old
19 this is a recruitment driven fishery as shaped by
20 the environment, that was their sense, I'll offer,
21 as a hypothesis. There's no data or anything to
22 test that hypothesis at the workshop. But it's
23 perhaps food for thought in terms of what this means
24 for management.

1 And the other question is, has the --
2 or the other hypothesis maybe is, has the
3 environment changed recently causing a decline in
4 biomass despite an absence of directed fishing. A
5 regime shift idea. So, the overfishing definition
6 the panel acknowledged is no directed fishing, they
7 acknowledged F is likely a low in recent years, and
8 that one might be inclined to conclude it's not
9 overfished under the traditional definition, but the
10 uncertainty associated with the landings,
11 particularly the uncertainty associated with the
12 discards, which is a function of the very poor
13 observer coverage in the Mid-Atlantic, renders even
14 that conclusion somewhat tenuous.

15 They were unwilling to say anything
16 more defined than the status of the stock biomass is
17 unknown. In terms of the overfished definition,
18 biomass seemed low and declining. It's not
19 unreasonable to think it's low enough to impair
20 recruitment. Again, that's not necessarily a fact.

21 It's just sort of a supposition. There's no
22 resolution on the scale issue, so there's no
23 information that we have to understand what the
24 scale of the biomass should be or what order of

1 magnitude it would be placed in, if you will.

2 So, that collectively combined with
3 the notion that we had benchmarks or reference
4 points based on equilibrium theory motivated the
5 panel to sort of conclude that the status of the
6 stock was unknown from the overfished point of view.

7 The last line here, just to hopefully
8 summarize some things, ask you maybe if I've
9 achieved the goals of providing a little more color
10 to what happened at the panel meeting, landings,
11 commercial landings highly uncertain, especially the
12 discards. And it was the sense that the uncertainty
13 was driven by poor observer coverage, low sample
14 sizes, etc. The survey data were generally highly
15 uncertain. The indices with the exception of the
16 fall survey which was reasonably good precision on
17 those indices. However, it contains no information
18 about the scale of biomass so there's no way to
19 understand what the population levels should be from
20 the survey, per se.

21 Estimates of F and B were also highly
22 uncertain, perhaps maybe view only the trends as
23 guidance and take caution in interpreting national
24 point values. A lot of this was driven from the

1 incongruence among the various M estimates and Z
2 estimates of natural and total mortality
3 respectively that were provided. Reference points
4 were ultimately not accepted and there was
5 inconsistencies with those reference points relative
6 to past knowledge or estimates of biomass in F.
7 Again, the equilibrium theory comes to mind here.

8 Stock status was determined to be
9 largely unknown, but possibly in decline to a point
10 where it's not unreasonable to think that it's low
11 enough to impair recruitment. It appears to be
12 environmentally driven, at least, that's the
13 prevailing hypothesis coming out of this thinking.
14 And thus, difficult to say what it is from an
15 overfished point of view.

16 I guess I'll be happy to take
17 questions. Hopefully that was enough clarity. I
18 can expand on anything you might have questions on.

19 Thanks.

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Rob, thanks again for this information and update.
22 Questions for Rob. Rob, can you talk a little bit
23 about the management implications of this, whether
24 specific management recommendations were to just set

1 the stage at all for management.

2 ROBERT LATOUR: I think the panel
3 kind of felt like the management objectives of this
4 fishery were a little big ambiguous, I think, if I
5 recall correctly. We spent a lot of time discussing
6 the linkage to the loligo fishery. It's obviously
7 principally a bycatch species now without any
8 directed fishery. So, there was some difficulty for
9 the panel in understanding what is the objective?
10 Is it to maintain a certain amount of biomass to
11 accommodate the loligo discards? Is it to maintain
12 a certain amount of biomass to accommodate ecosystem
13 questions like predation of other fishes and sea
14 birds and things? I guess maybe it's a long way of
15 saying not really. There wasn't a lot of tangible
16 this is the way to go management advice that came
17 out of it. I think most of the time was spent
18 grinding through the data trying to make some sense
19 of what very largely uncertain databases.

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Thanks, Rob. Additional questions or comments for
22 Rob. Okay. Greg.

23 GREG DIDOMENICO: Mr. Chair, would
24 you like me to address my questions to you or to Rob

1 Latour?

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Sure.

4 GREG DIDOMENICO: The major issue I
5 have, of course, is this issue's dependence on -- or
6 the outcome of this and its impact on the loligo
7 fishery. Our biggest concern, or one of our
8 concerns is that will we know if we have succeeded
9 in helping the butterfish resource? Will we know --
10 will we be able to tell if the -- our efforts on
11 bycatch, our efforts on conservation engineering,
12 our efforts in bearing the burden of saving or
13 reducing impacts on butterfish, when will we know if
14 we succeeded? Will we just let the loligo fishery
15 grind to a halt because of the bycatch cap? As we
16 continue forever. That, I think, is the biggest
17 question at this point. I know it's a management
18 question, but it's science based. So, what can we
19 expect?

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Rob.

22 ROBERT LATOUR: The problem of not
23 having information to put -- to answer the scale
24 question, in my mind is not going to go away anytime

1 soon. You'll always be faced with that barring some
2 significant new source of data that provides some of
3 that information.

4 I think where there could be some
5 advancement is in the discard estimation, both on
6 the analytical side, which I think the Center has
7 taken up in some regard, at least I was invited to
8 sit on another review panel for an analysis -- a re-
9 analysis of their discard type data. But also the
10 enhanced observer coverage. The concern of the
11 panel about the estimates of catch were largely
12 driven by the uncertainty in the discards. So, we
13 could go a long way in improving things from that
14 point of view if we could bring down those CV's.
15 The way to do that is through enhanced observers and
16 more precise estimation of what the discards are.

17 GREG DIDOMENICO: To that point, and
18 not a debate at all, it was my understanding though
19 -- and we support more observer coverage, we support
20 conservation engineering, we know (inaudible) on
21 bycatch, so there's no mixed message on that here.
22 We've been pretty consistent. But it's also been my
23 understanding and I think it might have been John
24 Boreman who said that for the discards to be -- what

1 we don't know about discards would have to be so --
2 I mean, they'd have to be so underestimated to the
3 tune of 10, 20 or a hundred times that for discard
4 to be the problem. I think -- I recall having this
5 discussion at the last meeting. Actually, it was a
6 conversation between Chris and John. And that was --
7 -- you know, is it because they're under sampled? Is
8 it because there's less observer coverage? I think
9 the answer was for discards to be the problem, it
10 would have to be orders of magnitude than what we
11 think. That doesn't seem defensible. And again, we
12 welcome the observer coverage.

13 ROBERT LATOUR: So, you're drawing
14 the difference between what's potentially
15 controllable and what isn't; right, the environment.
16 So, if in fact this hypothesis is reasonable that
17 the environment is driving it, driving the
18 abundance, the abundance is low, that productivity
19 is somehow impaired out of -- you know, out of
20 environmental reasons, then yeah, maybe that's the
21 case. Maybe that wouldn't necessarily help it, but
22 we don't know. I mean, the uncertainty lies -- is
23 pervasive here at all aspects of this assessment and
24 all aspects of the data set. So, inasmuch as the

1 trends are drawing our eyes down to say that the
2 biomass is low, it's reasonable to say it's higher
3 than that based on the level of uncertainty. So, I
4 guess I can't say that that's a totally valid way of
5 looking at it. I think you've got to step back and
6 say we really don't know much and we have to
7 approach this from an objective point of view and
8 try to make progress in areas that we can make
9 progress in advancing understanding. To me, the
10 discard is the primary one.

11 GREG DIDOMENICO: Rob, do you believe
12 the NEAMAP survey will yield results on butterfish
13 amendments?

14 ROBERT LATOUR: Yeah, definitely.

15 GREG DIDOMENICO: And do you think it
16 will be as a result of this either -- you know, the
17 spring and fall of this year? Will you have enough
18 information to --

19 ROBERT LATOUR: I mean, the
20 assessment model went from 1973 to 2008. You're
21 going to have three years of data now, four years of
22 data. So, it's not really going to provide any
23 contrasts. This is the problem with surveys, it
24 takes a while for them to get up and running and

1 then for them to gain in value for some species.

2 The biological data are actually
3 being used. Percent mature, length composition, age
4 composition. If you want to know, they eat lots of
5 jellyfish and (inaudible). We have those data too.

6 Those are being used and for many species, so
7 that's helping. But the catch data take a while
8 before they can become useful.

9 GREG DIDOMENICO: One last question,
10 Mr. Chairman.

11 COUNCIL CHAIRMAN RICHARD ROBINS: Go
12 ahead.

13 GREG DIDOMENICO: Do you believe we
14 will also suffer from the increased predation from
15 loligo squid on butterfish if, in fact, our loligo
16 catches are greatly reduced, therefore, kind of
17 negating --

18 ROBERT LATOUR: The top down control,
19 is that what you're saying?

20 GREG DIDOMENICO: No. -- therefore
21 negating the --

22 ROBERT LATOUR: I don't have
23 knowledge that that's exactly the way the dynamics
24 in the food world would play out.

1 GREG DIDOMENICO: Do you think squid
2 eat butterfish?

3 ROBERT LATOUR: I've read that in the
4 literature. I mean, that's as far as I can go.
5 I've never -- set out to study that myself.

6 GREG DIDOMENICO: Thank you, Rob.
7 Thank you, Mr. Chairman.

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Thank you. Rich.

10 RICHARD SEAGRAVES: Thank you, Mr.
11 Chairman. Rob, thanks for being here. We
12 appreciate your making the trip.

13 I want to get back a little bit to
14 the discussion about the management goals as you
15 alluded to in your talk that it was unclear what our
16 goals were to the panel. And this gets back to the
17 primary goal coming into this assessment was to
18 rebuild -- we were operating under the assumption
19 that the stock was overfished and a traditional
20 equilibrium yield reference point context and that
21 we needed to rebuild it back to BMSY. As a result
22 of this assessment now, I think the general
23 conclusion was that that equilibrium-based theory is
24 probably not applicable to this recruitment driven -

1 - or appears to be a recruitment driven species
2 largely probably driven by environmental factors.
3 Is that a fair synopsis?

4 So, now we're left with, okay, how do
5 we manage this stock. And so, previously the
6 paradigm was we're going to rebuild the BMSY and we
7 may or may not allow a directed fishery depending on
8 how much yield we can -- we're allowed to take if
9 it's rebuilt and then we would allocate whatever
10 mortality between the loligo fishery discards and
11 some level of directed fishing and then the thought
12 was that we would kind of take the tradeoff in
13 economic value between the two and maybe we won't
14 have a directed fishery. Everything would have to
15 go to the loligo fishery. Wait and see.

16 Now, we're kind of left with that
17 traditional equilibrium theory is not applicable.
18 So, I'm not sure where we headed with this. But in
19 terms of -- for the near term future, can you give
20 us any advice in terms of like ...

21 Well, the other follow-up question I
22 had was, okay, if equilibrium theory is not
23 applicable, would this species then move towards or
24 into the category of short-lived species. The

1 reason they were kind of given the exemption from
2 the ACL/AM requirement was because the equilibrium
3 yield theory doesn't basically apply to them. So,
4 I'm wondering if you could comment a little bit
5 about on are they in or near that one-year or short-
6 lived category?

7 ROBERT LATOUR: Yeah. I'm not
8 exactly sure what the exact language is for the
9 formal definition. But the thought is that for
10 butterfish, much beyond 3 is quite rare. So, you're
11 looking at a short-lived high-turnover species. I
12 don't know if the life cycle has to be formally one
13 year to meet that criteria to fit into that
14 definition or not. But the thought at the time
15 during the review is that you have this species is
16 much like the squids in that regard. Recruitment as
17 affected by the environment is largely going to
18 dictate abundance more than most other things. The
19 equilibrium theory benchmarks were a function of --
20 those were applied in the 2002 assessment. There
21 are certainly a whole suite of other alternatives
22 certainly that can be applied. Those weren't
23 explored by the assessment team. There wasn't time
24 to explore them fully at the review. I think

1 perhaps maybe some -- I don't know if there's
2 follow-up analyses to come or not, but that might be
3 an area to think things through as well.

4 The notion of -- the sense I got from
5 the panel and my own thoughts were basically that
6 maybe the shift should be -- and this is just my
7 idea -- maybe the shift should be we need to
8 maintain a certain level of biomass so that we can
9 maintain reasonable recruitment in light of the
10 affects of the environment. So switch the gears.
11 We need to have in the bank a certain amount of
12 butterfish to make sure we're viable rather than
13 achieving some optimal fishery performance balance
14 and then try to manage the things we can control
15 from that point of view on. But that's again just a
16 thought off the top of my head. I won't believe it.
17 It's just an idea.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Rob, if you were to pursue that, what type of
20 reference points might we consider to develop?

21 ROBERT LATOUR: I don't want to get
22 too far down the line, because I'm not here as a
23 scientist. But usually the traditional approach is
24 some fraction of B-zero or virgin biomass if you

1 could attempt to even nail that down with some
2 reasonable confidence. But that's the strategy
3 that's been employed in other fisheries.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Thank you. Additional question? Rich.

6 RICHARD SEAGRAVES: Just to follow
7 up, I guess. So, operationally, we would change our
8 philosophy in terms of the reference points and
9 proceed with that kind of approach. But then once
10 we adopted it, we would still need to improve our
11 understanding and information on which to scale the
12 biomass. So, we would still be -- and hopefully, if
13 we improve discard estimation and a better precision
14 in the total catch estimate, we might move into that
15 to be able to make a valid estimate of what the
16 biomass is so that we can reference where we are to
17 have some minimum biomass.

18 ROBERT LATOUR: Yeah. You hit the
19 point. I don't know, maybe it's possible to scale
20 the survey data appropriately based on empirical
21 stuff that's coming out with calibration. I don't
22 know what -- traditionally it's the catch data that
23 provide the scale. Those are essentially gone
24 without a directed fishery. And unless we're way

1 off with the discards, we don't have a good idea.
2 So, that will always remain a problem.

3 But if you go back in time -- you
4 know, we had appreciable landings when the foreign
5 fleets were here. So, that might give us some
6 window into what virgin biomass was prior to the
7 fishery ramping up in the 60's and 70's. Now,
8 maintaining that under new environmental conditions
9 or regimes and understanding how it might change, I
10 don't know. But the scale is a problem. And right
11 now, the way things are going, you're not going to
12 have a viable data source that would contain that
13 information, in my view, any time soon.

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Rob. Thank you. Rich, can you talk a little bit
16 about the -- or can you give us a sense of the level
17 of observer coverage that we have in the fishery now
18 versus what we'll have under Amendment 10? I mean,
19 if we achieve the CV of .30, isn't that the target
20 CV in Amendment 10? If we achieve that, where does
21 that put us relative to where we are now? I'm
22 trying to have a sense of how that relates back to
23 our level of understanding that Rob just discussed?

24 RICHARD SEAGRAVES: Okay. I'll kick

1 that to Jason. I think we were historically getting
2 less, 2 percent or less, in terms of observer
3 coverage with fairly high CV's. There was an
4 increased observer coverage more recently that lower
5 the CV's. But Jason has the latest.

6 JASON DIDDEN: It ultimately depends
7 on how many observer days end up on loligo trips.
8 '4, '5 and '6, we ended up with enough days 2004,
9 2005, 2006, with enough days to get around that
10 range in two of the three years close to .3. But I
11 mean, it really depends on what we get in a given
12 year in terms of observer coverage.

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 Rich.

15 RICHARD SEAGRAVES: I guess at some
16 point we probably need to sit down with Rob, because
17 those data points were in the assessment with the
18 higher level of coverage. And I think the
19 conclusion was even -- I think what Jason is talking
20 about is basically an independent analysis that we
21 did during the development of Amendment 10 where we
22 were looking at the precision of discard estimates
23 based on the SBRM procedure. However, within the
24 context of the assessment, I think those data points

1 were in there. And there wasn't any signal that
2 said, oh, you had really good or better, reasonable
3 discard estimation for even those years. Is that
4 fair?

5 ROBERT LATOUR: Yes. But that's not
6 necessarily a function of again inadequate sample
7 size. There's also the other side of this. How do
8 you analytically estimate discards. And the
9 assessment team is using a ratio-based estimator
10 which could be highly uncertain depending on how
11 subtle the sensitivity of the estimator to the small
12 changes in the data.

13 So, there may be some analytical
14 advancements in how to actually interpret the
15 observer data and the discard information where we
16 can make progress there too that could help improve
17 our precision. So, it's both data and data
18 analysis. I think. I don't know if the Northeast
19 Center wants to comment, but I believe they're
20 trying to make some improvements on the analytical
21 side. At least that's the sense I got from Paul.

22 COUNCIL CHAIRMAN RICHARD ROBINS:

23 Chris.

24 CHRISTOPHER ZEMAN: But I would like

1 to hear some more details as to like how you
2 actually estimate discards and what data did you
3 specifically use?

4 ROBERT LATOUR: For clarification, I
5 didn't do anything. I just looked at what was done.

6 But I take your point. I'm going to give you my
7 best recollection subject to potential
8 clarification. But essentially looking at ratios of
9 butterfish captured as bycatch based on observers on
10 loligo boats, or any other fleet for that matter,
11 and then you scale that based on sort of total
12 loligo landings under the assumption that the
13 samples that you have are representative of bycatch
14 of all -- you know, of the entire fleet throughout
15 the entire season in a given year. It's approaches
16 like that.

17 There is also the dilemma of going
18 back in time. We know discards were likely a
19 problem many years ago. We have no observer datum
20 many years ago, so there's a challenge in how do you
21 hindcast to get some -- to even make an attempt at
22 estimating what they would be back in the 60' and
23 70's. It would be sort of disingenuous to ignore
24 them or say they didn't exist. There were attempts

1 made to hindcast subject to great deals of error I'm
2 sure as well. So, it's basically a scaling issue
3 based on a small number of observations under the
4 assumption that they represent the average case of a
5 discard through whatever fishery the observer is
6 participating in.

7 COUNCIL CHAIRMAN RICHARD ROBINS: Any
8 additional questions for Rob? Yes.

9 PAM LYONS GROMAN: Thank you, Mr.
10 Chairman. Pam Lyons Groman with the National
11 Coalition for Marine Conservation. We talked about
12 butterfish being a short-lived species, possibly
13 being a candidate for annual species. But, isn't it
14 their life history that they can live to be six
15 years, but we've seen actually a truncation since
16 the last two stock assessments where they don't live
17 longer than three years? And the size also has gone
18 down.

19 ROBERT LATOUR: I believe in the
20 literature, yes, six years has been estimated. I
21 will point out that there's been no age validation
22 studies for butterfish. So, in theory, that's an
23 estimate, but it's never been validated.

24 There was some discrepancies between

1 the size, composition of the survey data, and the
2 size composition of the catch of landings data.
3 Landings data having older animals when compared to
4 the survey data suggesting that they're sampling
5 different components of the population, and that
6 perhaps some older aged fish were more frequently
7 present in the catch data than in the surveys. The
8 catch data were not aged beyond -- I think -- or
9 even the survey data were not aged beyond 0 and 1.
10 In other words, the model was age-structured, but at
11 the level of 0 and 1-plus. So, I don't have a great
12 understanding of -- or I don't have a definitive
13 understanding of max age. The only information we
14 have is where the samples come from, which the two
15 primary sources of the fishery and the survey. And
16 animals older than three are not present there.
17 That doesn't mean they don't exist. It also doesn't
18 mean that they only exist at that age. You know
19 what I mean. It just depends on whether you can
20 collect them or not. But they certainly aren't
21 frequent beyond age 3.

22 PAM LYONS GROMAN: And just a follow-
23 up question. Predation in the stock assessment, do
24 you feel that that was accurately accounted for? I

1 know we use a natural mortality estimate of around
2 .8. And is that possibly a source of error that we
3 need to work on refining.

4 ROBERT LATOUR: Yeah. There are
5 several methods, again to the credit of the
6 assessment team, put forth to estimate M. They
7 showed wildly different results, which means that
8 there is conflicting signals in the input data by
9 what total mortality really is. I didn't go over
10 specifically -- I didn't really think it was germane
11 -- but there was an attempt to estimate consumption
12 using the long-standing Northeast Center's database
13 on food habits. The top six fish predators were
14 considered in this. Consumption was estimated. And
15 then converted into what would be a mortality rate
16 due to -- acknowledged as a minimum and it had it as
17 quite low. So, there's really a great deal of
18 uncertainty about what national mortality is. And,
19 yeah, remedying that would certainly be an
20 improvement as well.

21 PAM LYONS GROMAN: Thank you, Mr.
22 Chairman.

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Thank you. Rich.

1 RICHARD SEAGRAVES: Yeah. Just a
2 quick follow up. When I asked Rob about his feeling
3 about the way we've been approaching this and
4 whether this stock approaches the annual model. I
5 wasn't implying that that's what we're pursuing.
6 They're including a not annual species. But the
7 problem we're left with is, you're either in the
8 annual species bin, and if you're not, then the
9 traditional equilibrium yield type biological
10 reference points get applied to that stock. And
11 this thing is kind of in between. But it's not like
12 you're going to be able to build an age distribution
13 at some biomass and then produce some surplus
14 production out of the stock. And that's the way the
15 Magnuson Act is -- basically tries to manage
16 fisheries. So, what we're saying is, it's largely
17 environmentally driven. And I guess Rob's response
18 was you're going to try to name some fraction of
19 virgin biomass and that's your reference point. So,
20 I'm just pointing out that it doesn't fall into the
21 traditional approach. It's going to be very
22 difficult to manage with those objectives. It
23 obviously doesn't fall into the annual species
24 either. And we don't really have any good guideline

1 at how to handle it.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Chris.

4 CHRISTOPHER ZEMAN: I guess I'm just
5 trying to think about this. This would be an easier
6 just to -- I mean, it would be easier to be more
7 deferential with regard to butterfish if we just
8 sort of had that observer coverage to show that it's
9 not fishery impacted. It's more we can confirm that
10 it's more environmental recruitment related. But
11 it's like now we're faced with this dilemma. It's
12 like either we can't do anything or we do too much.

13 In cases like this, it's like it would be great if
14 the science -- or the SSC or the Science Center
15 identified -- you know, what are the key one, two,
16 or three things that we need to do, data we need to
17 get, how to get it; and -- you know, maybe we could
18 tie that into like I say RSA money or RSA funding to
19 sort of get that information so we're not here five
20 years from now.

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Well, it sounds like on the scientific side that one
23 of the next steps would be considering further
24 development of alternative reference points --

1 approaches, so --

2 CHRISTOPHER ZEMAN: If I can just ask
3 for clarification, is that on -- are you suggesting
4 that's the SSC's role or it sounds like we can't --
5 I mean, we'd have to go within the confines of the
6 Center and their assessment group.

7 COUNCIL CHAIRMAN RICHARD ROBINS: I
8 think that's going to be an assessment issue next
9 time around.

10 CHRISTOPHER ZEMAN: When is next time
11 around?

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 That's a while. Jim. Try the other mike.

14 JAMES WEINBERG: At the moment,
15 butterflyfish is not on the assessment schedule.

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Nancy.

18 NANCY THOMPSON: I personally think
19 that what we're still talking about is increased
20 observer coverage, and we've been over this before;
21 and obviously we have limitations, and everybody
22 understands that, in terms of the resources that we
23 get and how our observer coverage is directed based
24 on the requirements for the funding that we get.

1 So, something that is quite doable if
2 there were additional resources would be putting
3 observers on vessels, but it's the question of
4 getting those additional resources.

5 And like I said, I mean, I think
6 everybody's aware that most of the resources we get
7 have controls on them which do not allow us that
8 level of discretion.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Thank you, Nancy. Erling, we had agreed to review
11 this issue and we've had Dr. Latour walk us through
12 I think a pretty detailed look of the -- at the
13 assessment for butterfish. I think at the end of
14 the day they're pretty clearly still in relatively
15 poor condition and in a declining trend, which I
16 think is part of the difficulty that we face.

17 But you know, we agreed to have this
18 discussion and wanted to take a closer look at this;
19 so, I would just ask if we've addressed your
20 concerns.

21 ERLING BERG: Well, we have -- thank
22 you, Mr. Chairman. We have, but the issue is still
23 out there that -- you know, we're actually punishing
24 the loligo fleet for something that we're not sure

1 they're guilty of.

2 So, I don't know where we're going to
3 go from here. My idea was to revisit this cap --
4 obviously we can't do that now because this has been
5 signed into law -- so, maybe we'll ask Joel what is
6 the next step? Do we initiate another amendment?
7 And I'm not even sure if that's doable. I'm not that
8 versed in the process, but -- I do think that we're
9 not treating the fishermen fairly here.

10 COUNCIL CHAIRMAN RICHARD ROBINS:

11 Well, I think he's addressed that to some extent,
12 but I'll ask Joel if he might -- you know, focus
13 perhaps on a summary of your opinion that you gave
14 us, or if you could give us some guidance here today
15 about what our options are. But specifically, I
16 think you had addressed the issue of initiating a
17 new amendment, and what some of the implications of
18 that were relative to the SARC finding.

19 JOEL MACDONALD: Thank you, Mr.
20 Chairman. You essentially stated my legal opinion
21 in your introductory remarks. Amendment 10 has been
22 approved, I believe, last October of 2009, and
23 implemented recently. So, all the issues raised
24 with respect to withdrawing determinations, et

1 cetera, et cetera, really have no bearing.

2 So, what you're left with is an
3 alternative of doing an amendment to change whatever
4 -- you know, to make a change that you feel is
5 appropriate based on the information before you.

6 You have to keep in mind, though,
7 that the bycatch cap was put in place not just to
8 address the overfished determination but to make the
9 FMP consistent with National Standard 9. If you
10 consider withdrawing it, you're going to have to
11 have something in place that provides the same
12 protection and consistency with National Standard 9
13 if you hope to get an amendment that deals with this
14 approved by the agency.

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Erling.

17 ERLING BERG: Well, I don't know
18 where we can go from here. We seem to have hit a
19 wall. I just look at this as a fairness issue --
20 you know. As I said before, we are punishing the
21 fishery for what I see they're not guilty of. But I
22 don't know what we can do to alleviate that. So,
23 I'm looking around the table for help.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Well, I think it's further complicated, too, by the
2 fact that this is the primary tool now that we've
3 developed to manage this interaction. And we just
4 passed an omnibus amendment that deals with the ACLs
5 and AMs, and this is our primary mortality control
6 for the butterfish mortality.

7 So, you know, it seems like it's --
8 if you put it in that context, it's -- it is a
9 difficult issue, because if you were to abandon it,
10 as Joel said, you'd still have to -- you'd still
11 have to figure out how to control mortality of
12 butterfish. And I think -- you know, frankly, if
13 there had been a much easier way to do this, we
14 would have heard about it during the development of
15 Amendment 10 if there were an option that would have
16 been a silver bullet for both issues and would have
17 further reduced or mitigated economic impacts for
18 the fleet.

19 But I think we went through a pretty
20 comprehensive process in the development of
21 Amendment 10 and developed those options through
22 that process. So, I think it does leave us in a
23 difficult but unfortunate position. Rob.

24 ROB LATOUR: I just want to clarify,

1 too, that although we've -- although the panel sort
2 of postulated the hypothesis the environment may be
3 the player, they didn't do that with -- they didn't
4 mean to suggest that fishing wasn't a contributor
5 and wasn't still potentially a problem.

6 So, I don't want to send a message
7 that all losses due to fishing would be irrelevant
8 to the stock status or stock dynamics. So, just --
9 it's a balance and the question is what is the
10 balance.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Pete.

13 PETER HIMCHAK: Yes, thank you, Mr.
14 Chairman. Yes, I kind of like got into the subject
15 two days ago when we talked about the scoping
16 document on Amendment 14, and so we can't even take
17 this butterflyfish bycatch cap out as an item for
18 scoping under Amendment 14 for possible
19 reconsideration?

20 I'm really -- I'm really stuck -- you
21 know, we're pigeonholed by the process, and yet -- I
22 mean if we can't come up with a good level of
23 precision or accuracy on the bycatch itself, the
24 social and economic consequences of that are unfair.

1 I mean, I don't know how else to put
2 it. At some point, management bears the
3 responsibility of giving them the resources. That
4 could shut down their fishery. And I can't
5 emphasize enough that at the very least we come up
6 with bycatch estimates and -- if that's all we can
7 do at this point, then that's all we can do, but at
8 least -- at least improve on that.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Well, I think that's the main point of -- that's one
11 of the primary points of the measures in Amendment
12 10 are to improve the CVs and the observer coverage.

13 So, I think those estimates are going
14 to increase and -- are going to improve. And as
15 that improves, our understanding of the resource may
16 improve on the scientific side. But I think again
17 the difficulty we have -- you know, you could
18 initiate a new amendment, but you have to -- I think
19 we have to have an eye towards what could be
20 approved.

21 And in that context, just given the
22 status of the resource, while it's technically gone
23 from overfished to overfished status unknown, I mean
24 it's still in a declining trend and in apparently

1 poor condition.

2 So, if this is our primary tool of
3 managing butterfish mortality, what are we going to
4 put in its place? That's the question I'd ask. I
5 mean, it would still have to be consistent with
6 National Standard 9 and approvable. I think that's
7 the difficulty we face.

8 And had there been a better
9 alternative, I think we would have seen it during
10 the development of Amendment 10. Chris.

11 CHRISTOPHER ZEMAN: Yesterday I was
12 talking about how we need to really sort of look at
13 expanding our toolbox to also address other sources
14 of mortality, and this seems to me like a perfect
15 example where our limitations on the information
16 really only limits us to the option of impacting the
17 directed fisheries. But if you're looking at the
18 SBRM bycatch data, which is just the raw numbers
19 from 2007, 2008, and I'm seeing that 17,000 pounds
20 of butterfish was discarded in the first quarter '08
21 by the midwater trawl in New England fishery,
22 there's no specifics as to what they were actually
23 targeting.

24 The same quarter 2008, 6,000 pounds

1 was in the -- was caught -- discarded in otter trawl
2 Mid-Atlantic small mesh, and then 5,000 pounds was
3 discarded in otter trawl New England small.

4 So, we have -- we have evidence -- I
5 mean, we don't even have -- we have evidence of
6 discarding occurring in New England -- both New
7 England and the Mid-Atlantic in small mesh in
8 midwater trawl fisheries, but we don't have the
9 ability to extrapolate this data to determine
10 whether it's significant or insignificant and we
11 also don't have the ability to sort of control those
12 discards, which may be the major source, may be a
13 minor source, but it's something that we should also
14 have in our toolbox.

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Thank you, Chris. Erling.

17 ERLING BERG: I have a question. I'm
18 not sure who to answer it -- who would answer it.
19 But I mean how will we know when we reach the cap if
20 there's nobody out there to observe what is going
21 on? And apparently we're not going to get that
22 observer coverage. So, how will we know? Where are
23 those numbers going to come from?

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Pat.

2 PATRICIA KURKUL: Yeah, I don't think
3 you should take from what Nancy said that we're not
4 going to have observer coverage before we approve
5 this amendment. We work with the Center to make
6 sure that we would have at least the minimum level
7 to allow us to count the cap and project the
8 landings under the cap.

9 That's not going to get us to the .3
10 CV level, but we made the determination that we
11 could at least have enough to administer the cap.

12 ERLING BERG: A follow-up? Do you
13 feel that's adequate, Pat?

14 PATRICIA KURKUL: Well, adequate to
15 track the landings for the cap. That's -- that's
16 what we've committed to.

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Okay. Jason.

19 JASON DIDDEN: Just a couple quick
20 follow-ups to Chris's question. There is analysis
21 in 10 that looked at defining different trips, what
22 kind of fisheries, looked like they were responsible
23 for most of the butterfish discards. And while it's
24 just looking at total pounds discarded or caught in

1 different fisheries and it's not scaled to different
2 locations, the loligo trips as defined did look at
3 their accounting for most of the butterfish
4 discards.

5 And so whether they landed them in
6 New England or Mid-Atlantic, it was more designed --
7 more looking at what they caught.

8 The general question is on how to --
9 how to -- how is Amendment 10 or the cap been
10 estimating, there is a framework within 10 that
11 describes a methodology using the observer coverage
12 we do get to come up with an estimate and then also
13 that would be reviewed by the SSC, is that
14 appropriate, on an annual basis.

15 And one of the things that they would
16 look at is the CV -- the CV estimates on those
17 discard estimates. So, that -- you know, so a
18 framework for that procedure is in place and it
19 would be reviewed by the SSC.

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Thank you. Any additional comments or questions?
22 Chris.

23 CHRISTOPHER ZEMAN: I believe that
24 the SBRM data that I'm referring to is based on a

1 statistical area where the fishing occurred and not
2 where it landed.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Thanks. Dr. Latour, thanks again for taking the
5 time to give us this updated presentation on the
6 SARC. Appreciate it.

7 Okay. Recognize Harley Speir.

8 HARLEY SPEIR: After 39 years of fish
9 management research, I'm retiring as of June. I
10 really have enjoyed this Council. I'm miss each and
11 every one of you, not that badly, but I will miss
12 you, and the debate.

13 It can be tedious, but it can be very
14 stimulating. And so I wish you all the best of
15 luck. I'll keep up with you on the web.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Well, Harley, will you be retiring before the June
18 meeting?

19 HARLEY SPEIR: Yes.

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Okay. Well then --

22 HARLEY SPEIR: There is some slim
23 possibility -- we're having discussions now about my
24 replacement; so, there is some slim possibility I

1 would be there at the June meeting, but it's slim.

2 COUNCIL CHAIRMAN RICHARD ROBINS: All
3 right. Well then, I would just like to take this
4 opportunity to thank you for your years of service
5 on this Council and wish you all the very best in
6 your retirement.

7 (Applause.)

8 COUNCIL CHAIRMAN RICHARD ROBINS: You
9 all had responded to a poll that I sent around, and
10 everybody indicated that the 26th or the 27th were
11 viable dates. Is there anybody at the table who
12 hasn't responded to that that knows if either one of
13 those dates is a conflict? Because if not, I would
14 suggest that we do Thursday the 27th, for the one-
15 day meeting to select the Executive Director.
16 Again, that will be a closed session meeting.

17 And I would suspect that we'll do
18 that at BWI because I think that's a pretty central
19 airport for everybody to get in and out of. Okay.

20 Is there any additional business to
21 come before the Council? Pat.

22 PATRICIA KURKUL: So, are we going to
23 be able to fly in and fly out the same day?

24 COUNCIL CHAIRMAN RICHARD ROBINS: I

1 think so.

2 PATRICIA KURKUL: Okay. Thanks.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Howard.

5 HOWARD KING: Dan, what is your
6 departure date?

7 DAN FURLONG: June 30. You're stuck
8 with me for one more meeting.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Okay. And again, the Search Committee will be
11 taking all of your survey inputs and information
12 that we glean through the interview process with
13 staff to distill those into a series of interview
14 questions. And so we'll be going through the
15 process of interviewing the finalists and presenting
16 those to the Council.

17 And Lieutenant Commander Brown, would
18 you like to make an introduction?

19 LCDR TIM BROWN: I don't think I need
20 to go to the mike. I think you can all hear me, but
21 I've taken the chance to walk around the table and
22 gotten to maybe 75 percent of you, but I'll try to
23 get to more of you after this as you all leave.

24 Lieutenant Kevin Saunders is at the

1 University of Rhode Island now and as I mentioned
2 yesterday in my report will be my relief or
3 replacement, and I know he will do a great job
4 representing the Coast Guard and carrying the
5 message from them to you and from you to us.

6 KEVIN SAUNDERS (No microphone): I'm
7 real excited about working with you guys. I know
8 Tim's kind of a legend in the Coast Guard field for
9 what he does and it's going to be tough to
10 (inaudible) what he does. But I'll have him on
11 speed dial, so if you have any questions for him
12 later, I'll pass them on with my list, and I just
13 look forward to seeing you guys in June up in New
14 York and working with you (inaudible).

15 If you want my phone number and you
16 have his phone number, then you already have it so -
17 - thank you very much.

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Thank you, Kevin, and welcome. We look forward to
20 seeing you in June. And Tim, all the best to you.
21 Are there any additional issues to come before the
22 Council?

23 (No response audible.)

24 COUNCIL CHAIRMAN RICHARD ROBINS:

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Okay. Seeing none, we're adjourned. Thank you all
very much. Safe travel.

WHEREUPON:

THE MEETING WAS CONCLUDED AT 1:30 P.M.

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 26th, day of May, 2010.

PAUL T. WALLACE. Notary Public
My Commission Expires

October 8, 2015

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