

**PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
BUSINESS SESSION**

**The Westin Alexandria  
Alexandria, Virginia  
August 6, 2015**

**November 4, 2015**

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1. **On behalf of the ISFMP Policy Board, I move the Commission find the State of Delaware out of compliance for not fully and effectively implementing and enforcing Addendum III to the Fishery Management Plan for American Eel. Delaware has not implemented the following regulations required by Addendum III:**
  - 9" minimum size for yellow eel recreational and commercial fisheries
  - ½" x ½" min mesh size for yellow eel pots
  - Allowance of 4x4" escape panel in pots of ½" x ½" mesh for 3 years (beginning on January 1, 2014)
  - Recreational 25 fish bag limit per day per angler
  - Crew and Captain involved in for-hire are exempt and allowed 50 fish bag limit per day

The implementation of these regulations is necessary to achieve the conservation goals and objectives of the FMP to rebuild the depleted American eel stock. In order to come back into compliance the State of Delaware must implement all measures listed above as contained in Addendum III to the Fishery Management Plan for American Eel. Motion by Dr. Daniel on behalf of the ISFMP Policy Board. Motion carries unanimously (Roll Call Vote: In favor – ME, NH, MA, RI, CT, NY, NJ, PA, DE, MD, PRFC, VA, NC, SC, GA, FL) (Page 1).

2. **Move to request NOAA Fisheries implement the provisions of Sections 3 and 4 of the Jonah Crab FMP in federal waters pursuant to the authority of the Atlantic Coastal Act.** Motion made by Mr. Grout and seconded by Mr. Adler. Motion carries unanimously (Page 2).
3. **On behalf of the American Lobster Board, I move that the full Commission accept the Jonah Crab Interstate Fishery Management Plan.** Motion by Mr. McKiernan on behalf of the American Lobster Board. Motion carries unanimously (Page 2).
4. **Motion to adjourn by Consent** (Page 4).

## ATTENDANCE

### Board Members

Terry Stockwell, ME, proxy for P. Keliher (AA)  
Doug Grout, NH (AA)  
Ritchie White, NH (GA)  
Dennis Abbott, NH, proxy for Sen. Watters (LA)  
Dr. David Pierce, MA (AA)  
Bill Adler, MA (GA)  
Robert Ballou, RI (AA)  
Eric Reid, RI, proxy for Sen. Sosnowski (LA)  
David Simpson, CT (AA)  
Craig Miner, CT (GA)  
Lance Stewart, CT (GA)  
Katherine Heinlein, NY, proxy for Sen. Boyle (LA)  
Jim Gilmore, NY (AA)  
Emerson Hasbrouck, NY (GA)  
Brandon Muffley, NJ, proxy for D. Chanda (AA)  
Tom Fote, NJ (GA)  
Adam Nowalsky, NJ, proxy for Rep. Andrzejczak (LA)  
Loren Lustig, PA (GA)

Leroy Young, PA, proxy for J. Arway (AA)  
Thomas Moore, PA, proxy for Rep. Vereb (LA)  
John Clark, DE, proxy for D. Saveikis (AA)  
Roy Miller, DE (GA)  
Craig Pugh, DE, proxy for Rep. Carson (LA)  
Lynn Gegley, MD, proxy for D. Goshorn (AA)  
Bill Goldsborough, MD (GA)  
David Sikorski, MD, proxy for Del. Stein (LA)  
John Bull, VA, (AA)  
Kathryn Davenport, VA (GA)  
Louis Daniel, NC (AA)  
Robert Boyles, Jr., SC (AA)  
Ross Self, SC, proxy for R. Cromer (LA)  
Patrick Geer, GA, proxy for Rep. Burns (LA)  
Spud Woodward, AA (GA)  
Jim Estes, FL, proxy for J. McCawley (AA)  
Sen. Thad Altman, FL (LA)

**(AA = Administrative Appointee; GA = Governor Appointee; LA = Legislative Appointee)**

### Ex-Officio Members

#### Staff

Bob Beal  
Toni Kerns

Pat Campfield  
Mike Waive

#### Guests

Wilson Laney, USFWS  
Kelly Denit, NMFS

Martin Gary, PRFC

The Business Session of the Atlantic States Marine Fisheries Commission convened in the Edison Ballroom of The Westin Alexandria, Alexandria, Virginia, August 6, 2015, and was called to order at 10:15 o'clock a.m. by Chairman Louis B. Daniel, III.

**CALL TO ORDER**

**APPROVAL OF AGENDA**

**APPROVAL OF PRECEEDINGS SUMMER 2015**

**PUBLIC COMMENT**

**REVIEW NONCOMPLIANCE FINDINGS**

CHAIRMAN LOUIS B. DANIEL, III: Welcome to the business meeting of the full commission. We have an agenda in our briefing books. I don't have with me, but we're dealing with the Jonah Crab FMP and we're dealing with the compliance finding of Delaware. We have an agenda and our proceedings from October. As long as everyone is comfortable with the agenda and minutes, they will stand approved by consensus. Not having seen public interest in speaking or nobody has signed up, I'm going to move first to the non-compliance finding on Delaware. Dave.

MR. DAVID SIMPSON: Just one brief thing to add to other business and that would be compliance reports. Is that appropriate for this session or should I have done it 30 seconds ago?

CHAIRMAN DANIEL: On behalf of the ISFMP Policy Board I move the commission find the State of Delaware out of compliance for not fully and effectively implementing and enforcing Addendum III to the Fishery Management Plan for American Eel. Delaware has not implemented the following regulations required by Addendum III: the nine-inch

minimum size for yellow eel recreational and commercial fisheries; half by half inch minimum mesh size for yellow eel pots; allowance of four inch by four inch escape panel in pots of half inch by half inch mesh for 3 years (beginning on January 1, 2014); recreational 25 fish bag limit per day per angler; crew and captain involved in for-hire are exempt and allowed 50 fish bag limit per day.

The implementation of these regulations is necessary to achieve the conservation goals and objectives of the FMP to rebuild the depleted American eel stock. In order to come back into compliance, the State of Delaware must implement all measures listed above as contained in Addendum III to the Fishery Management Plan for American Eel.

Just for the record, we had several folks provide additional information on the need for implementing these actions in the state of Delaware to the satisfaction of the Service. That is the motion in front of the full commission. Is there any discussion on the motion? All right, we will need to do this by roll call vote as well.

MS. KERNS: MS. KERNS: Maine.

MAINE: Yes.

MS. KERNS: New Hampshire.

NEW HAMPSHIRE: Yes.

MS. KERNS: Rhode Island.

RHODE ISLAND: Yes.

MS. KERNS: Massachusetts.

MASSACHUSETTS: Yes.

MS. KERNS: Connecticut.

CONNECTICUT: Yes.

MS. KERNS: New York.

NEW YORK: Yes.

MS. KERNS: New Jersey.

NEW JERSEY: Yes.

MS. KERNS: Pennsylvania.

PENNSYLVANIA: Yes.

MS. KERNS: Delaware.

DELAWARE: Yes.

MS. KERNS: Maryland.

MARYLAND: Yes.

MS. KERNS: Virginia.

VIRGINIA: Yes.

MS. KERNS: North Carolina.

NORTH CAROLINA: Yes.

MS. KERNS: South Carolina.

SOUTH CAROLINA: Yes.

MS. KERNS: Georgia.

GEORGIA: Yes.

MS. KERNS: Florida.

FLORIDA: Yes.

CHAIRMAN DANIEL: All right, the motion carries unanimously.

**CONSIDER FINAL APPROVAL OF JONAH CRAB  
FISHERY MANAGEMENT PLAN**

MS. KERNS: For the Jonah Crab FMP, the Lobster Board forgot to discuss whether or not

we wanted to make any recommendations to NOAA Fisheries on the items that were approved through the Lobster Board's recommendations, anyway, before the full commission discusses whether or not they want to approve the full FMP. I'm going to turn to our Lobster Board Chair to bring this up.

MR. DOUGLAS E. GROUT: I'm not the Lobster Board Chair, but I'll be glad to make a motion. I move to request NOAA Fisheries implement the provisions of Sections 3 and 4 of the Jonah Crab FMP in federal waters pursuant to the authority of the Atlantic Coastal Act.

MS. KERNS: And those provisions are the monitoring requirements as well as the management measures that are contained in the document. The management measures include things such as permit requirements, size limits, trip limits for non-directed gears, recreational limits. I think that covers the majority of them.

CHAIRMAN DANIEL: We have a motion from Mr. Grout; second from Mr. Adler. Any discussion on the motion? Is there any objection to this motion? Seeing none; the motion carries unanimously. Dan, would you care to make the motion to accept the full FMP for Jonah Crab?

MR. DAN MCKIERNAN: Do you want me to read the motion on the board?

CHAIRMAN DANIEL: No, that one we've already done. That was just a housekeeping item from the Lobster Board.

MR. MCKIERNAN: I'll move that the ASMFC Policy Board accept the Jonah Crab Fishery Management Plan as approved today by the board.

MS. KERNS: Dan, to help you perfect, on behalf of the Lobster Board you would recommend the full commission.

MR. McKIERNAN: On behalf of the American Lobster Board, I move that the full Commission accept the Jonah Crab Interstate Fishery Management Plan.

CHAIRMAN DANIEL: The motion is on the floor and it does not need a second as it comes from our Lobster Board. Is there any discussion on the motion? Is there any objection to the motion? Seeing none; the motion carries unanimously. Is there any other business to come before the full commission? Dave.

#### OTHER BUSINESS

MR. SIMPSON: Related to my misunderstanding before, for a number of years I've expressed my frustration with compliance reports and how they aren't really effective at demonstrating compliance and it has more to do with reporting landings and other information. For example, our eel report that is due September 1, I think, is probably 30-some pages long. That causes me and staff to miss the fact that we weren't in compliance with the plan, which I thought we were.

Again, I'd urge that we rethink our compliance reports and have a very simple compliance report for states that when the commission or a board passes an addendum or an amendment that requires changes; that a letter go out from the commission that says you need to do this, this, and this; and that a letter comes back demonstrating that this, this and this was done with a copy of the statute, regulation, declaration, whatever it is that demonstrates that it was done; nice, simple, distinct from any of the other work that my staff and your staffs do to report on landings, report on trawl survey indices, all of that other stuff that isn't relevant and is also not timed with implementation or the time table for compliance. I just make that request one more time.

MS. KERNS: Dave, we'll definitely do that. We have revised the format for compliance reports and staff does their best to send memos out 90 days prior to the date that the compliance

reports are due. I fully admit that sometimes those are late. We do in that memo outline the information that is needed under that plan.

A lot staff even go as far as to sort of have a fill-in-the-blank table that states need to fill out. Some states still are just filling in their last year's compliance reports; so they're just going back and refilling in the numbers and some of that information we're no longer asking for so if states could be careful to pay attention to those memos when we send them out.

I'll make my plug as I normally do. When there is confidential data in your compliance report, it needs to be on the cover highlighted so that staff realizes that there is confidential data in there and that the confidential data is highlighted within the report. Otherwise, it can be very difficult for us to find and then it could be released to the public; and we do not want to do that.

MR. SIMPSON: But still those reports that we put together in fact have very little to do with compliance. They're summaries of our trawl survey indices; they're summaries of our landings that are already available on the website. It is a very frustrating, time-consuming process for us that we're getting to a point where we can't afford that time anymore.

Our staff is diminished enough that I've got trawl survey people in the middle of 50-hour weeks that are having to write a compliance report that is a summary of National Marine Fisheries Service data that is on the website or the MRIP Site and trawl survey indices. We can provide those when they're needed for the assessment; but this is just the greatest example of I missed something and everyone else did, too, because it is lost in all this other stuff we provide that has nothing to do compliance.

MS. KERNS: Dave, in some cases that is required by the plan for the state to report, so maybe we can sit down and look at the FMPs

that have those types of compliance reports and then bring that up to each of those species' management boards and the species' management boards can decide whether or not they want to include it as part of the compliance report or as potentially part of submission of data for data updates or the stock assessments. Somehow we would need to have an indication that information is being collected and accounted for each year because the plan does require us to collect that information.

EXECUTIVE DIRECTOR ROBERT E. BEAL: I think the point David is making is right on, which is that we wait a long time to submit the compliance reports because we're waiting data to be available on landings and other things; but that delays the review of the state regulations to make sure they're consistent with the FMP.

We've had that conversation in the past; and we said, well, if we do two reports per year per plan, that might be better; and a lot of sort of technical-level folks rolled their eyes and they go two reports, I don't want to do two reports. Maybe we do need two reports every time we change management through an addendum or an amendment, something like that; so maybe on sort of a case-by-case basis we have to do special reports that allow us to review compliance.

Once an FMP is up and running and really no states are changing regulations, we probably don't need the two reports and we can wait later in the year until the landings' data is available. It may be on a case-by-case basis, but we can report out something and sort of research it and see where we are.

MR. SIMPSON: Yes; I think that's it. You know, summer flounder, fluke, scup, every year by some date, February/March/April we need to be in compliance; so a quick this is what it is, what did you do when an addendum is passed. You don't need to revisit it every year, but my

staff has to go through and find a copy of the regulation and paste it in and it is five years old.

Again, we're required to report our recreational data. I've offered I'll do all the states because it is no more work do all the states than one. I get it off the website and I could put it on a table and I could do for you. Another state could do the commercial. We're not adding anything except for a provisional number which is a mistake to publish anyway.

CHAIRMAN DANIEL: Okay, any other business. I have one just quick update on an issue that has been of interest to a lot of you, which is the lawsuit that was filed by the North Carolina Fisheries Association against the recreational fishery for turtle interactions that had the potential of actually enjoining the recreational fisheries possibly all the way into the Gulf of Mexico.

That lawsuit was dismissed on all parties for lack of standing by the Fisheries Association in that case. The decision by the judge is very interesting and one that certainly you would want to get a hold of a copy of and read, because it has got some very interesting findings in there that could impact case law for some time. Very good news from our perspective.

The document does make it look like there is much of a chance for an appeal to be successful but you never know; and whether or not they're going to file an appeal or not, we don't know at this time. Just for the commission's information, that case is out there and it is a good one to read. Anything else? If not, we'll adjourn the full commission.

**ADJOURN**

(Whereupon, the meeting was adjourned at 10:35 o'clock a.m., August 6, 2015.)

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