

**PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
ISFMP POLICY BOARD**

**Crowne Plaza Hotel Old Town  
Alexandria, Virginia  
February 6 and 7, 2008**

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## INDEX OF MOTIONS

1. **Approval of Agenda by Consent** (Page 1).
2. **Approval of Proceedings of October/November, 2007 by Consent** (Page 1).
3. **Move that ASMFC work with this Policy Board to develop a list of recommended data elements that would be used in developing recreational registry programs by states** (Page 9). Motion by Doug Grout; second by Pat Augustine. Motion to postpone until the May meeting carried on page 10.
4. **Move to accept the recommendation put forth by the Committee on State/Federal Alignment Subcommittee** (Page 17). Motion by Bill Adler; second by Pat White. Motion carried (Page 17).
5. **Move that the ISFMP Policy Board recommend to the Full Commission that the State of New Jersey be found out of compliance for not fully and effectively implementing and enforcing Addendum IV and Addendum V to the Interstate Fishery Management Plan for Tautog** (Page 20). The State of New Jersey has not implemented management measures to achieve the required 25.6 percent reduction in exploitation. This reduction in exploitation is necessary to initiate rebuilding of the overfished Tautog stock. In order to come back into compliance, the State of New Jersey must implement management measures that achieve the required reduction in exploitation as required by Addenda IV and V. Motion carried (Page 22).
6. **Adjournment by consent** (Page 28).

## ATTENDANCE

### Board Members

George Lapointe, ME (AA)	Frank Cozzo, PA, proxy for Rep. Schroeder (LA)
Pat White, ME (GA)	Roy Miller, DE, proxy for P. Emory (AA)
Sen. Dennis Damon, ME (LA)	Bernie Pankowski, DE, proxy for Sen. Venables, (LA)
John Nelson, Jr., NH (AA)	Harley Spier, MD (AA)
Rep. Dennis Abbott, NH (LA)	William Goldsborough, MD (GA)
Ritchie White, NH (GA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Paul Diodati, MA (AA)	Jack Travelstead, VA, proxy for S. Bowman (AA)
William Adler, MA (GA)	Catherine Davenport, VA (GA)
Najih Lazar, RI, proxy for Gibson (AA)	Ernest Bowden, VA, proxy for Del. Lewis (LA)
Gil Pope, RI, proxy for Rep. Naughton (LA)	Dr. Louis Daniel, NC (AA)
Eric Smith, CT (AA)	Damon Tatem, NC (GA)
Dr. Lance Stewart, CT (GA)	Jimmy Johnson, NC, proxy for Rep. Wainwright (LA)
James Gilmore, NY (AA)	Malcolm Rhodes, SC (GA)
Pat Augustine, NY (GA)	Robert Boyles, Jr., SC (LA)
Brian Culhane, NY, proxy for Sen. Johnson	John Duren, GA (GA)
Tom McCloy, NJ, proxy for D. Chanda (AA)	William Sharp, FL, proxy for G. McRae (AA)
Erling Berg, NJ (GA)	April Price, FL (GA)
Leroy Young, PA, proxy for J. Austen (AA)	A.C. Carpenter, PRFC

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

### Ex-Officio Members

#### Staff

Vince O'Shea	Brad Spear
Bob Beal	Erika Robbins
Tina Burger	Patrick Marchman
Nichola Meserve	Toni Kerns

#### Guests

Emily Manashes, NMFS	Bill Archambault, USFWS
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The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel, Alexandria, Virginia, Wednesday afternoon, February 6, 2008, and was called to order at 2:30 o'clock p.m. by Chairman George LaPointe.

### **CALL TO ORDER**

**CHAIRMAN GEORGE LAPOINTE:** Good afternoon. My name is George LaPointe; I'm chair of the Commission. I will run the Policy Board meeting this afternoon. There are draft agendas on the table. They were also on your CD. I have three other business items that people have asked about.

Jack Travelstead asked to speak about spiny dogfish. Ritch White would like a little bit of discussion on federal funding and the Plus-Up monies. We need to let people know about the lobster transferability data base and whether we should submit something to ACCSP.

A couple of introductions before we get started – Sam Rauch is the deputy assistant administrator for NOAA. Welcome, Sam. He has never been to a Commission meeting so treat him well so he'll come back. We also have Emily Menashes, who is the deputy director of the Office of Sustainable Fisheries. Chris Moore is at a meeting in California; Gordon Colvin is at a meeting in Hawaii. She is here to demonstrate her support for the ASMFC process. Welcome to everybody from NOAA.

### **APPROVAL OF AGENDA**

Are there other changes to the agenda? Seeing none, is there opposition to its acceptance? Seeing none, the agenda is accepted.

### **APPROVAL OF PROCEEDINGS**

The next Board item is approval of the proceeding from the October/November ISFMP meeting. Those proceedings were on the CD. I have a motion from Pat Augustine and a second from Robert Boyles for their acceptance. Are there changes to the proceedings? Seeing none, is there objection to their acceptance? Seeing none, they are accepted.

### **PUBLIC COMMENT**

The next item is public comment. We have a period on all of our agendas or a spot on all of our agendas for public comment. I would ask people that this would be limited to items not on the agenda. For the

items on the agenda, we would take public comment during those agenda topics. Are there members of the public who wish to make comment?

Seeing none, we will move to Agenda Topic 4. The first thing I'll do is welcome Patrick Marchman, our new Director of our Science Program, and he will give us an update on non-native oyster activities.

### **NON-NATIVE OYSTER ACTIVITIES UPDATE**

**MR. PATRICK MARCHMAN:** Thank you. Here is an update on non-native oyster activities. First, the project delivery team meetings; there have been three meetings since the last ASMFC meeting; one in November, one in December and one two-day meeting in January of this year. The January meeting focused on an update of the progress of the assessment and some discussions of the EIS writing effort.

There were several presentations and also some discussion of outstanding issues with the pre-draft EIS. The only discussion of possible extensions of delivery dates were due to the inclusion of a legal review period; however, it's not believed to be significant at this time. Tentatively the next meetings are going to be March 13<sup>th</sup>, following the review of several sections of the draft; a possible meeting on March 24<sup>th</sup> in case there was second meeting needed prior to the review of the pre-draft EIS; and April 28<sup>th</sup>, which is prior to the publication of the availability of the draft EIS in the Federal Register.

The ISTC letter update, as many of you probably know, a letter was prepared for Maryland and Virginia, the Army Corps of Engineers containing comments on the EIS development process. That letter is being – revisions to that letter were actually prepared in January of this year, and they're being passed out right now. That's pretty much it.

**CHAIRMAN LAPOINTE:** Thank you, Patrick. My recollection from the meeting is that there was a letter that was being drafted, and I understand that it's still in the works. Is that correct?

**MR. ROBERT E. BEAL:** Thank you, Mr. Chairman. Yes, the charge coming out of the Policy Board meeting and from the Commission's annual meeting in October was to put together a letter or update the draft letter that the ISTC had put together and work with the states of Maryland, Virginia, Delaware and

New Jersey to craft that letter that was acceptable to all four of those states.

That letter has been reworked a few times. It is still in the editing mode. I am not sure if a draft of that was sent around or not, but I know the most recent draft is in the hands of the four states that I mentioned. They will continue to work on that letter and hopefully have that resolved relatively soon and sent out to – just as a refresher, the letter was addressed to the Secretaries of Natural Resources in Maryland, Virginia, and an colonel at the Army Corps of Engineers.

CHAIRMAN LAPOINTE: Thank you, Bob. Tom McCloy.

MR. THOMAS MCCLOY: Thank you, Mr. Chairman. Maybe, Bob or George, you could answer this. Is there a reason that only the four states have an opportunity to comment on that letter? I think there's probably a few other states along the coast who might have an interest in this issue.

CHAIRMAN LAPOINTE: That may be and because it hasn't gone out, they may have the opportunity for that. I think at the annual meeting those were the states that were engaged most in the process. People can correct me, It strikes me that because the letter hasn't gone out what we could do is to provide a copy to the member states. They look at it; they could look at it in the light of the most recent communication from the ISTC, and we could move forward from that perspective. Does that make sense to people? I see heads shaking yes.

Any other comments on the letter or the issue? If not, I'll move to the agenda topic. Robert Boyles.

MR. ROBERT H. BOYLES, JR.: Thank you, Mr. Chairman, I apologize for my density here. The letter that was addressed to you dated January 31<sup>st</sup>, who is this from?

CHAIRMAN LAPOINTE: I believe that is the letter from the Interstate Shellfish Transport Committee.

MR. BOYLES: It is from the ISTC?

CHAIRMAN LAPOINTE: Right, and you can see from the date – it was dated 31<sup>st</sup> and received in the Commission office a couple of days ago. My thought is because we have this draft and it has not been finalized, if the members can look at the draft letter to the two states and the corps, but do it in the context

of a review with this letter, if changes need to be made, we can do that.

MR. BOYLES: To that point, again, to me it would be helpful – again, this may seem a minor point, but it would be a little bit clearer if it was signed by someone. It's a letter with no signature. It would be very helpful to me just to keep me in line, as it were.

CHAIRMAN LAPOINTE: I think it's not signed because there is no chair to the Interstate Shellfish Transport Committee. I talked to staff a while ago about sending correspondence to the Shellfish Transport Committee to get a chair so that in fact those kinds of things wouldn't occur in the future, and I have not done that yet. Tom McCloy.

MR. MCCLOY: Thank you. Just so we're on the same page, what is going to be the mechanism for all the states to review both these letters? Do you want to set a date now that we all have to get back to Bob or Patrick or is there going to be additional correspondence to the states from the Commission?

CHAIRMAN LAPOINTE: Bob's question to me was do we want to allow the four states that have been engaged to resolve it before it goes out to a broader audience – I understand one state still has not agreed to the letter – or do we want to just send it out to everybody at the same time, and I am open for suggestion at this point. Tom.

MR. MCCLOY: Since I think we're the state that is holding out right now, I would suggest it be sent out to everybody.

CHAIRMAN LAPOINTE: Does that make sense to people? Is two weeks sufficient? So comments, send them back to – I guess Patrick will be the beneficiary of this – and it's the 6<sup>th</sup> of February, so two weeks is the 20<sup>th</sup> of February. Mr. Miller.

MR. ROY MILLER: Thank you, Mr. Chairman. So if I understand the charge to the Board, it's to review the draft letter, the first draft of which we saw in October, review the latest iteration of that draft in light of this, as you will, unsigned report that we got from the Interstate Shellfish Transport Committee; is that correct?

## **ASMFC INVOLVEMENT IN THE STATE RECREATIONAL REGISTRY**

CHAIRMAN LAPOINTE: That's what I'm proposing. Other discussion on this issue? Seeing none, please review it and get your comments back

by the 20<sup>th</sup>. Our next agenda topic is the discussion of ASMFC involvement in the state recreational registry. The first sub-agenda topic is the update on the registry and the survey design for MRIP. Bob Beal is going to lead us through.

### **FEDERAL RECREATIONAL REGISTRY UPDATE**

MR. BEAL: Thank you, Mr. Chairman. As George mentioned at the beginning of the meeting, Gordon Colvin is in Hawaii versus Alexandria, Virginia, right now. I had checked to see if he was available to come over and due to this scheduling conflict, he is not able to come over and give an update on the progress of the Federal Registry.

We talked for a while and he indicated that the proposed rule and Federal Register Notice is very close to leaving the Silver Spring office of the National Marine Fisheries Service. Then it will have to go downtown for approval and publication. He is anticipating that proposed rule will be published relatively soon and it will include the details of the Federal Registry, including data elements and all the requirements that the National Marine Fisheries Service is proposing to include.

What is being passed around right now are two fact sheets on the Recreational Registry and on the MRIP Program, the Marine Recreational Information Program Improvement Process, that's going on right now. In speaking with Gordon it sounds like the early read is that the majority of states would have to either implement some sort of registry or it would be affected by the registry.

Gordon has been working with all the states very closely that currently have licenses and discussing the data elements that are included in the current state licenses versus what the Magnuson-Stevens Reauthorized Act looks like. It looks like North Carolina and Georgia may be the only states that don't need to make changes if you compare what the federal government thinks the system may look like versus what the states currently have in place right now.

That's not the official stance of the National Marine Fisheries Service. That's just kind of the early read on the data elements that are out there. I think that's a summary of where the registry is. Once the proposed rule is available, obviously we can work with Gordon Colvin to get that out to all the states that will be impacted by that for consideration.

CHAIRMAN LAPOINTE: Thank you, Bob. Before I take questions, my sense is that because we were supposed to see the draft rules on the recreational registry in October, and if they get out to OMB next week, and that takes a little bit of time, one of the discussions we'll have to have is how in the heck do you get this in place by January 1, 2009?

I don't think we need to get into a long discussion of that, but that's a fact we're all going to have to deal with because I think the time will be short from when it's available through the time it's going to be implemented in the states. I just mean short in terms of all the management and regulatory process that will need to take place. Now, that I've had my bully pulpit, I'll take Roy Miller first and then Robert Boyles.

MR. MILLER: Just a quick item. This one-page handout on the Interstate Recreational Angler Registry, was this supposed to have a back to it, Bob? I notice at the bottom of the page it appears to stop in mid-sentence.

MR. BEAL: It appears that it should. That was developed actually by Massachusetts Department of Marine Fisheries. The PDF file that I received actually only had one page and I obviously didn't look down to the bottom and notice that there should have been a second page. I'll get the full document out to you guys in e-mail.

MR. BOYLES: Thank you, Mr. Chairman. Bob, I apologize for you being the proxy for Gordon here, but is there any indication of whether January 1, 2009, date will slip as a result of the delay; any indication at all from Gordon or anybody else from the Fisheries Service?

CHAIRMAN LAPOINTE: Can I put somebody from NMFS on the spot?

MR. STEVE MEYERS: Thank you, Mr. Chairman. Frankly, sir, I'm not really sure about that. We will explore that and get back to the Commission with that. We'd like to hold days reasonably strictly, but again given the nature of what we're trying to do here, there is bound to be some flexibility involved in this, and we will get back to you with updates as we progress through this process. Thank you.

MR. PAUL DIODATI: I think the article from the Division of Marine Fisheries News is what you're referring to. Earlier today I had mentioned to Bob Beal that I did have an article in our agency regular newsletter about the registry. I made it available to

Bob, indicating if he thought it was appropriate for this Board to make copies, feel free to give it out.

The second article – that’s the beginning of the second article about MRIP, which wasn’t really germane to this discussion, so that’s why it’s only one page. You have the complete article about the registry and then MRIP. If you’re interested in that, you could subscribe to our newsletter by calling.

CHAIRMAN LAPOINTE: Thanks, Paul. Any other discussion on the registry? With regard to the timing of the federal process, I think that’s something that we individually as states and the commission will need just to watch as closely as we can; and then depending on what the timing is and the impacts again on the January 1 date and our individual states engage as we need to as this issue moves along. I suspect we’ll have a much better estimate of what that timeframe will be at our May meeting. Other discussion on the registry? Paul.

MR. DIODATI: At our last meeting, which I guess was the annual meeting, the Policy Board discussed the registry in a bit more detail. I thought at the end of that meeting we agreed that commission staff would provide some possible options for us to review at this meeting that might be options to lead the commission into a more active role regarding the registry.

#### **SURVEY DESIGN FOR MRIP UPDATE**

CHAIRMAN LAPOINTE: That was the third bullet under this agenda topic. Can we do MRIP first? Any other discussion on the registry before we move on? Then Bob will give us an update on the survey design for MRIP.

MR. BEAL: This will be brief as well. The process of updating the Recreational Information Data System at the National Marine Fisheries Service continues to move on. The operations team met the week after Thanksgiving and reviewed a series of proposals that are aimed at improving or looking into improvements for about 15 different aspects of Recreational Data Collection Program, things like night fishing, private access and a number of things that have been cited over the years as potentially biasing the current data collection system.

Each one of those separate issues that has been identified has a proposal developed by a working group to look into that individual issue associated with recreational data collection. Each of those

proposals had essentially a dollar amount associated with it that it would take to conduct that study.

The operations team prioritized those different projects. Now that the federal budget is getting a bit more clear, I think the next step in the process is for the executive steering committee to take the recommendations of the operations team and prioritize those projects and determine which of those projects are able to be funded given the current budget and the priorities established by the operations team.

To my knowledge, the executive steering committee has not scheduled a meeting yet, but I assume that will be taking place in the relatively near future so they can move forward with that project. That’s a quick summary of where that project is.

CHAIRMAN LAPOINTE: Thank you, Bob. Questions for Bob? Doug Grout.

MR. DOUGLAS GROUT: Bob, in my other hat, when I was Striped Bass Technical Committee Chairman, we had brought a recommendation to I believe the Policy Board, asking that a letter be sent to the executive committee concerning Wave 1 sampling in MRFSS. Was that ever sent? And, if so, can we get a copy of it?

MR. BEAL: The letter was sent. We will give you a copy of it. Wave 1 sampling is one of the projects or issues that’s being considered in the suite of proposals that was considered by the operations team. The letter and the notion included in that letter did get worked into the system and they’re looking into it. We will get a copy of that letter out to everyone.

#### **OPTION PAPER FOR ASMFC INVOLVEMENT IN STATE REGISTRY**

CHAIRMAN LAPOINTE: Other questions for Bob; comments on MRIP? Seeing none, we’ll now discuss the option paper that Bob put together for ASMFC involvement in the state registry.

MR. BEAL: There is a one pager that was on the CD, and there are some additional copies in the back as well. It’s just sort of a continuum of options. The title is “ASMFC Involvement in the Development of State Recreational Registry Programs”. There are five options included in the paper.

As Paul mentioned, one of the tasks for ASMFC staff following our annual meeting was to go back and kind of look at some of the options for possible



ASMFC involvement. These kind of start from the least involvement and go down to the most – these options aren't mutually exclusive. There are ways of hybridizing these and combining them or kind of smearing them together that can be considered as well.

The first option is pretty easy, no ASMFC involvement, just leave it up to the states and you folks. You know, if the states are interested in developing registries, then they go through their regular state process.

The second option included here is just that the ASMFC serves as a forum for the states to come together and discuss some of the issues associated with the recreational registry. There really isn't any ASMFC involvement other than providing meeting space and a table like this where all the states are in the same room and able to discuss some of the issues associated with recreational registries.

The third option is ASMFC works with ACCSP to develop a list of recommended data elements that as the states move forward, they can include these data elements in their recreational registries. This would not be a mandatory system. It would just be something to help out the states and ideally all the states would end up on the same page and be consistent with the data elements included in the federal recreational registry.

Another part of this potential Option 3 is that ASMFC and ACCSP work together to develop a centralized data base or at least work to help coordinate the development of a data base. I don't think this is an offer by ASMFC or ACCSP to pay for a data base, but I think it's an offer to help set up the parameters and identify what a data base would look like and move forward with that.

The fourth option is the individual management boards at ASMFC would consider the need for a recreational registry in order to manage those individual species. This has come up in some of the discussions this week with shad and river herring and some of the other species that we manage. It has come up with American eel in the past as well. There is a need to get names and addresses and phone numbers of folks that do harvest those animals recreationally, and we need to be able to get in contact with them to collect the data on their harvest.

The fifth option is that ASMFC develops a mandatory recreational registry program for all the states. One concept would be to develop similar to a

fishery management plan. It would be focused on the data collection aspect. The idea there would be that in order to effectively and properly manage the resources of the ASMFC a recreational registry would need to be developed by all the states to collect, again, the names, addresses, phone numbers and other relevant information of the anglers up and down the coast to provide or facilitate the data collection that's needed to get a handle on recreational landings and harvest.

As I mentioned earlier, there are combinations of options here that probably can happen such as ACCSP developing some of the options and this Board discussing them or serving as a forum. Also, on your CD briefing materials there were the ACCSP standard data elements for the commercial data collection programs.

The idea in including that is in talking with Mike Cahall and the other folks at ACCSP, is the idea was that data element list can probably be reworked a little bit and probably serve as a starting point for the recreational fishery, if that's what the Policy Board chose to do. There is also an inventory of the current state licenses, kind of a one pager.

If you printed it, it's in pretty small font, but if you've got it on your computer, I think it's fairly legible. It's just an inventory of what the states have, what the provisions are. I think some of the information on prices and exemptions and those sorts of things are included in that summary. That's a quick rundown of the options. As I mentioned, it's kind of a continuum of no ASMFC involvement to the other end, which is a mandatory registry in all the states.

CHAIRMAN LAPOINTE: That could get discussion started. I'll tell folks a number of us went out to dinner the other night to talk about how to move this forward in a way that would help the states. One of the discussions was for a mandatory program. There was some discussion about that, and I guess the sense of the group was that wasn't the way to go right now. Again, this was just a small discussion group.

There was also a discussion about having some mandatory data elements, but people – and I'm sure those members who were there will help us get the discussion started, just about some of the impacts of that, that option of mandatory data elements that might have on states with current license programs. With that, I'll take questions or comments. Roy.

MR. MILLER: Mr. Chairman, I like a combination of Options 2 and 3. I think rather than have a mandatory system which might impose hurdles on states that already have marine fishing licenses' programs, hurdles that those states may not be able to jump over because of legislative or regulatory constraints I prefer Options 2 and 3 because they're not dictates. They are involvement by ASMFC without being mandatory in terms of how the particular license should be structured or administered. I like the combination of those two; and when you're ready, Mr. Chairman, I would offer that as a motion.

CHAIRMAN LAPOINTE: Okay, I'll try to get a little more conversation first. I sit on the registry team with a number of people, and Gordon Colvin chairs that group. One of the discussions was – and we'll see it when the rules come out – about what the list of elements and exemptions would be.

There was a recognition on the federal level that – I think Bob said that only two states would meet kind of their idea of what they're putting together now. But what you're proposing would not force states to meet those elements, but would identify the elements and let the states make changes over time if that leads to better data?

MR. MILLER: That's correct.

MR. JACK TRAVELSTEAD: Personally I would prefer a mandatory program or approach to this. Virginia has had a license since 1992. To get that license we had to make a number of concessions with our legislature that resulted in the formation of a number blanket licenses that prevent us today from identifying the vast majority of the anglers in our state.

I think it's going to be very difficult to convince the legislature to make the kinds of changes we need to have the kind of data we've been arguing about around this table for as long as I've been here without some kind of mandatory pressure from ASMFC. The public in Virginia has gotten so used to these blanket licenses, they're extremely popular.

You can buy a private boat license that covers all of your passengers during the entire year. You buy one license on line and all of your friends are covered. It's our number one seller, but it does nothing to get us the kinds of angler registration that we need. I'm afraid the public outcry when we try to change that is going to be enormous. Without a mandatory element to this, I see big trouble.

Every meeting, every species management board, we sit around this table and cry about the lack of good data. Every Summer Flounder Management Board meeting that we have when we set specifications, we scream about MRFSS and how horrible it is, and yet we don't want to bite the bullet to do what needs to be done to get the better data. It just doesn't make sense to me. I think the only way to go is mandatory on this.

CHAIRMAN LAPOINTE: Thank you, Jack. I've got on my list, just so folks know, Paul Diodati, Robert Boyles, Roy Miller and A.C. Carpenter and Eric Smith.

MR. PAUL DIODATI: Well, I wholeheartedly agree with Jack's comments. I think that the Commission should step up and create a mandatory program for recreational licensing that complements the federal law. I would call it more a registry. I would stay very close to the federal law.

I'm very concerned, as I've spoke about at past meetings, about questions about jurisdiction between federal and state waters and what happens if there is a federal registry and there isn't a state license, whose regulations do those recreational fishermen abide by at that point? That's one question I have.

I think that ASMFC is certainly the body of states that is in a position to lead the states, not necessarily follow the federal government but lead the states into developing the kind of license program that would be useful in providing the information that's being called for by the federal law.

You're not going to get it from this law and you're not going to get it with the hodgepodge of a federal registry and mismatched state programs up and down the coast or around the country. I wholeheartedly agree with Jack, but I'm not going to fall on my sword on this one. I'll sit back and be interested to see how the rest of the discussion goes.

MR. BOYLES: Thank you, Mr. Chairman. I don't want to say I disagree with Paul and Jack, but I think I do. Unless I'm –

CHAIRMAN LAPOINTE: Unless you do it respectfully.

MR. BOYLES: That's right, I do it respectfully. My read on it is congress has spoken. We know what the data elements are. I'll be honest with you, in trying to explain it to our elected officials in South Carolina, it is not – when you go around the mechanics of how

we've got to adjust our particular program in South Carolina, it is tongue twisting already.

Quite frankly, what concerns me is – I'm going to sound dumb in saying this, but I'm concerned that an additional effort by this Commission is not going to clarify things that congress has already been very, very clear in what kind of data is required. I do offer that with respect to my colleagues.

CHAIRMAN LAPOINTE: Thank you. Roy Miller.

MR. MILLER: Thank you, Mr. Chairman. Again with due respect to Virginia and Massachusetts, I find myself in agreement with Robert Boyles on this issue. The federal government has indeed spoken. In terms of greasing skids, so to speak, for our licensing proposal over the past couple of years, the federal gorilla in the closet proved to be very influential.

In other words, if we didn't do this, we were going to have to endure a federal program in '09 and begin paying for it in 2011. Therefore, since the feds have already made that stand, I don't favor creating yet another level of bureaucracy; namely, an ASMFC plan that we must comply with. I do like the idea of ASMFC coordination among the members and structure, but I don't favor mandatory action by ASMFC because I think we already have a federal mandate to comply with. Thank you.

CHAIRMAN LAPOINTE: Thank you, Roy. On the list now I've got A.C., Eric, Pat Augustine, Louis Daniel, Doug Grout – I put myself on the list – and then I'll get back to Jack Travelstead.

MR. A.C. CARPENTER: Thank you. The list that was put together, I see that since we didn't pay dues we didn't get included on that list of people that have licenses, but I do have some information for Bob and a two dollar bill to help him get it fixed in there this morning.

CHAIRMAN LAPOINTE: We'll send you a bill for dues if you want us to, to get you on the list.

MR. CARPENTER: If it's anymore than two dollars, you're in trouble. I'm going to disagree with my cohort sitting here next to me as well. I recognize that the federal government, through congress, has spoken that there be some kind of registry, but NMFS right now gathers information from the for-hire sector, which are nothing than boat owners taking people fishing, so I think it is a question of mechanics of how NMFS surveys the boat owners, in the case

where we have a boat license that allows people to go fishing with me.

I think that it's a question of mechanics on the part of the statisticians and surveyors to figure out a way to do it and utilize the existing structures that we already have. In terms of making it mandatory, I think the term "mandatory" came into our lexicon here when the Striped Bass Act came about and then the Atlantic Coastal Act came a few years later, and something that became mandatory had a penalty associated with it. You were going to shut down the fishery.

In the instance of a license requirement, what is the penalty going to be if it's mandatory and who is going to enforce it? Are we going to stop everybody from fishing; there'll be no fishing in state waters if you don't have a license; and who is going to enforce it? I think before we go down the path of a mandatory ASMFC program we better think through this thing a little bit further.

CHAIRMAN LAPOINTE: Just to cut in, I think that people did talk about – the earlier discussion was using the compliance mechanism for enforcement. That's my memory from the last conversation. Next on the list is Eric Smith.

MR. ERIC SMITH: Thank you. I think we all knew this was going to be a lively debate, and I'm pleased to see that it has been a pleasant one, too, at least a diplomatic one. We're very concerned that any ASMFC initiative would jeopardize our initiative now well underway and unable to be revised. Our legislative session started today.

We had a proposal on the table last year that died at the end of the session not for any opposition, but because of the archaic nature of how the budget is developed, and this happened to have dollars associated, so it just didn't get dealt with because they postponed and worked on all the budget issues in an after-session supplemental session.

We didn't have opposition. We have reintroduced that bill. It will start with our process now and we'll know whether it passes by mid-May. Anything that comes forth a commission-type planning process that would jeopardize our process is something that has us very concerned. We have been working, as many of you have, with the National Marine Fisheries Service for the last six months on designing the compatibility of what should be exempt, what should not, where do they need data, where do we agree.

We've had a lot good discussions and I think what is about to come out in their proposed rule has been developed with a lot of consensus from a lot of parties. Again, we'd have trouble if it appeared to the few critics in Connecticut that there was a new process of development starting. We don't want someone to throw a monkey wrench in the works and say, "Oh, the Commission is going to plan; let's give them some time to do it," because we lose a whole legislative session if that happens.

Now I do note that and we all know there have been a couple of shortcomings, that we foresee as shortcomings, and Paul has identified them before in how the Magnuson Act came out. You, know, that's one of those sometimes congress acts and you don't necessarily get things the way you think they ought to be, but congress has spoken, and that's what a lot of speakers have already said.

We're willing to work with what congress decided to pass as a national initiative and try and work to heal the shortcomings over time. For that reason, I don't have any kind of a motion to offer other than I do support what Roy said of the available five items. I see two as non-starters; number one, insufficient for us to maintain our finger on the pulse and contribute in a positive way whenever we can.

So one, in my view, would be off the table. We are a forum for discussion. That's what Item 2 is and that's good use for us because we get all 15 states and the federal agencies here, why not talk about it? And, the fact is Number 3 is going to get done anyway. The Fishery Service is doing that now. We've talked about having ACCSP involved.

However they design the data system that we all feed information to so that we don't have our anglers have to be federally registered, that system is going to have to be developed and we should be a party to that, as should ACCSP. I think Roy is right on that a combination of two and three is something that can be a productive way for us to be involved. Thank you.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman, it's a very lively conversation and informative. I agree pretty much with what Eric said. The one that's a non-starter for me would actually be the ASMFC or ACCSP would work with the states to develop a centralized or coordinated data warehousing.

It's my understanding, according to John Boreman in a couple of presentations that he made, he said that

they would be supplied – a CD, if you will – with the program data bases that we would need to take back. Now, how complex that will be, I don't know, but that seemed like that would be a no-starter or at least should be looked into. As far as four and five are concerned, I don't agree with either one of those. Thank you.

MR. GROUT: Thank you, Mr. Chairman. I see this commission's role here can best serve this process by working towards Number 3. The thing that really strikes me is that, yes, the feds are going to come up with a proposed rule with minimum elements, but there is one thing that this federal registry does not get to where we want to be because it sits there and says that the only people that are going to have to participate in this registry are people that fish in the EEZ and fish for anadromous fish.

What about all the people that fish in state waters for other species such as fluke and flounder? If we were to come forward with our own set of data elements that includes saying that if we were going to have – if a state decides to go forward with a license or a registry, whatever terminology, our list of data elements would not just be limited to people fishing for anadromous fish. Our list of data elements would be listed to anybody that fishes within tidal waters.

CHAIRMAN LAPOINTE: Thank you. I was next on the list. When we started this discussion at the annual meeting, I expressed concern for the major reason that we had just gone through our legislative process and a license bill was defeated; and if it looked like we were trying to do something through the Atlantic States Commission, it would look like we were trying to back-door something we couldn't get through our normal regulatory process.

I still have that concern. I completely understand the concerns of states like Delaware and Connecticut because they are either right past or at the cusp of getting something passed. And, again, I suspect those battles were hard fought; and if you try to jam extra things up that weren't in the legislative process, that the repercussions could be severe. It certainly could happen in our state.

I am concerned in the long term, however, about the list of data elements and how it gets put together state by state. I'll tell you when we were having our discussions, one of things we were going to exempt was smelt shacks. They cut a hole in the ice, they put a cabin on it with a stove, and you fish for smelt. I'd rather wrestle with six rattlesnakes than the smelt camp owners right now, so we left that off the list.

I suspect other states are just the same. But I think Jack's concern and Paul's concern, everybody's concern is that if we have so many exemptions in the end that MRIP becomes Son of MRFSS and we don't get the data we need to manage, we'll be five or seven years down the road and we'll have another NRC review saying we're doing a poor job at managing fisheries.

We'll lose the stakeholders we're talking about today, more of the stakeholders, and so, again, I'm completely sensitive to those states that are either just past or at the cusp of passing something, but I think it's an issue that we need to keep on our front burner so that in fact we don't get complacent and end up with a hodgepodge of registries that doesn't help us collect better data. Jack, you're next on the list.

MR. TRAVELSTEAD: George, I think you made many of the points that I wanted to follow up with. My comments earlier were not intended to support two different competing systems; one here at ASMFC and one at NMFS. My comments were intended to make sure that each of the states end up with a program that produces the kinds of data that we all need. It seems to me we're at a perfect opportunity to achieve that. We're closer now than we ever have been, and I just don't want to see us backing off; and as you say, five years from now find out that MRIP is no better than MRFSS ever was.

MR. SMITH: Because of what Doug said, I have to tell you after Monday night I've been bouncing around like a ping pong ball on this whole issue. I had come in here planning to offer a motion today, and I heard the nature of the debate and I decided -- well, in fact, I just said I wouldn't offer a motion.

But the only two things I was going to discuss in that motion actually happened to be what Doug mentioned and what George mentioned, so I'm just going to offer them as a kind of idea because I do think there were a couple of shortcomings in the federal legislation. That happens. One of them was Doug's point that we ought to -- if any state embarks on a license, at a minimum we ought to urge those states to adopt a provision that all fishing for a marine species within the state's jurisdiction should be covered with one caveat.

The caveat is the point George talked about. When they said all anadromous fisheries, they didn't think how far inland the little buggers swim. Some of them go way inland. Maybe you define it as "head of tide" or some other way so that the ball gets handed off between the marine fisheries' agency and the inland

fisheries' agency to cover the fish when it gets so far up that they're building shacks on ice and putting coal stoves in there.

Probably marine fishery managers at that point don't care much because, in fact, that fishing is covered by the state's inland fishing licenses. Those are the kind of things I think are common denominators that probably we could agree with relatively quickly, but it's dangerous to start to make that list on the fly because you don't know if you left something off, and you don't know if you've mischaracterized something and you don't know about it until later.

Given my druthers, I support what Roy said; and if I had to move from that position, I would move towards what Doug and George had both identified as things that need to be addressed as we go on.

CHAIRMAN LAPOINTE: Thank you. I have no other speakers on the list. Mr. Grout.

MR. GROUT: Can I offer a motion?

CHAIRMAN LAPOINTE: You may.

MR. GROUT: I'd like to move that ASMFC work with this Policy Board to develop a list of recommended data elements that would be used in developing recreational registry programs by states. I'll leave at that for right now as to whether we would make it as a requirement for all -- what I want to do is get ASMFC on board here.

CHAIRMAN LAPOINTE: Doug, because you were kind of on the fly, are you recommending Option 3?

MR. GROUT: Yes.

CHAIRMAN LAPOINTE: Thank you. Is there a second to that motion? Mr. Augustine. Discussion on the motion? I might ask Roy Miller, he was talking about a combination -- I guess we've got the forum anyway, but our current discussions embody Recommendation 2; did you want to just discuss adding that to the motion, but is Doug's motion sufficient?

MR. MILLER: Thank you, Mr. Chairman. I think Eric stated that we're already functioning in the capacity of Recommendation Number 2. It may not be necessary to add it to that. I presume that if we adopt the motion before us, it sort of embodies Recommendation 2 as well. Is that your understanding as well, Mr. Chairman?

CHAIRMAN LAPOINTE: After I said it, I said it probably didn't need to, so that would be my understanding. I have a question for the maker of the motion. Option 3 talks about working with ACCSP; should add the National Marine Fisheries Service to that because they are, in fact, putting a registry together, and I suspect this is already being done, but to make sure that the efforts coordinated.

MR. GROUT: Yes, I would say they need to be coordinated, but obviously in the case of the National Marine Fisheries Service, they may not be allowed to include all species within that because the law says it's only going to be anadromous species.

CHAIRMAN LAPOINTE: Now that got some discussion going. I've got Pat Augustine and then Wilson Laney and then Eric Smith.

MR. AUGUSTINE: Thank you, Mr. Chairman. I wonder for discussion purposes whether a sentence should be added here that would expand this list – and hopefully the ACCSP will do it – that would help those states that have a problem. Jack has suggested where they've got so many exemptions that they're going to raise hell in his state to try to get any additional data elements supplied. I thought this might be the time to bring it up to see if we could add that or see if there is discussion around the table.

CHAIRMAN LAPOINTE: I have on the list now Wilson Laney, Eric Smith, Paul Diodati, and there is a member of the public who wants to speak, so you're on my list, Dick, and Jim as well.

DR. WILSON LANEY: Thank you, Mr. Chairman. I just wanted to ask a question for clarification. Bob, in the handout that you provided there is a Table 14 with fishermen registration tracking minimum data elements; is that the list from the National Marine Fisheries Service or is that the ACCSP list?

MR. BEAL: That's the ACCSP list that may be a starting point for development of a recreational list.

MR. SMITH: Okay, I see the motion was perfected. I was a little concerned that we were asking the Commission to work with the Policy Board on this when Option 3 really says the Commission working with ACCSP. I'm not sure the Policy Board actually needs to be in there in terms of this kind of development, which is why when you clarified Option 3, I thought that was an improvement. That was my only point.

MR. DIODATI: Since ACCSP is a body of all the states, the councils and the federal fisheries agency, I don't think we need to expand it by adding language "and work with NMFS". They're part of ACCSP.

CHAIRMAN LAPOINTE: Fair enough. Jim Gilmore.

MR. JAMES GILMORE: Although we're not as far along as Connecticut is, we're still trying to do something this season to make the January 2009 deadline. We definitely could support the motion. The only concern is that one part that would be very helpful to us, because we're trying to frame something of a license and a lot of the information that we would get from this would be very helpful, the issue would be, of course, timing, as we talked about before.

If we're going to do anything this year, we're going to have to get it done pretty quickly, and I guess a caveat in all this is we really need to have that done probably at latest the early summer or it's not going to be very useful.

CHAIRMAN LAPOINTE: Thank you. Other Board comments? Mr. Grout.

MR. GROUT: Since we've been perfecting my motion here to remove the Policy Board from that – and I agree with it – but I would like to have reflect that it would come back to the Policy Board for approval as official ASMFC policy.

CHAIRMAN LAPOINTE: At the next meeting, I assume?

MR. GROUT: Sure.

MR. SMITH: I'm having a semantic debate within myself right now. I read this as data elements literally the way it's described, and to me that means you work with ACCSP and you figure out what things are required to be in the data base that goes from the state to the federal government to create a consistent registry.

That's part of what Gordon and folks doing MRIP are developing. That's different from what we see as a shortcoming in the congressional language regarding anadromous fish. I don't see those kinds of things being resolved by this motion. To me this is we need consistent data so we don't have a hodgepodge of data systems that have inconsistent elements. That's going to have to be done, anyway, and I think that's a very appropriate motion.

Because of what Jim said, I have the same apprehension he has. If the signal goes out that ASMFC is going to start to talk about things that might come about in a different federal legislation, if that were to ever occur, that's not something I can support. I want that clear that we're not talking, in my view, about things that would, as a policy matter, change or recommend changes to what the federal legislation called out a year ago.

CHAIRMAN LAPOINTE: Again to clarify, if the motion reads – and if the maker of the motion doesn't want to, that's fine – it would be that we approve Option 3 with staff development work and bringing back a more fleshed-out proposal for review and approval by the Policy Board at our next meeting.

MR. GROUT: Yes, and I would hope that would include, as one of the inclusions in the minimum data elements, is that it would apply – that collecting this information would apply to fishing for all species within tidal waters, you know, giving the exception that we certainly don't need to collect it in freshwater.

What I'm trying to get at here, Eric, is I see a gap that the federal registry is inadequate as the law was written for the data collection purposes that we have all espoused for many years. What I'm trying to get – hope we'll get out of this is a Commission policy that says if you're going to implement a license, if you are, or a registry, this is what ASMFC thinks that you should collect that will get to where we want to go. But if we just sort of follow the federal exemption, you won't need a license, then we're not going to get where we need to go.

CHAIRMAN LAPOINTE: My sense is that I don't think anybody is saying we wouldn't include all the species in our state waters. The mandatory data elements, the sense I get from the motion is the boat license that Jack mentioned, shore fishing that other people mentioned, so it's not species by species. It's those modes of fishing that are exempted in some states now that bring the concern about that we'll end with an incomplete program when it's put together. I had Roy Miller and then Eric Smith.

MR. MILLER: I just wanted to clarify that I was with Doug through his motion, and I also support his inclusion of our program discussion of fishing up to the extent of tidal waters. But, I wanted to make it clear that whatever product evolves as a result of these deliberations does not become policy, per se, but as long as – I'm comfortable with the term "recommend". If that's the intent, then I'm with this,

but if it ever becomes policy that the member jurisdictions shall do so and so, then I am opposed. Thank you.

MR. SMITH: I agree with that, and, frankly, my level of discomfort went up a bit, Mr. Chairman, when you started to talk about the other potential exemption. It's exactly that kind of debate extended over the same period of time that our legislature is in session that is the concern back home.

Data elements are things you put in a data base to, in a common way, identify what you have in your data base so that every state has the right things in there, and it becomes a common data standard. That's different from talking about exemptions, which is what Doug is talking about, and then you identified as the boat license, the shore license.

Those things are exemptions that are – congress spoke and the Service is adopting their rule and trying to get it through the process in the way that they have identified the exemptions or the lack thereof. The thing I talked about before – I don't disagree with Doug and that's why I had the motion in my back pocket, and maybe we better put it up there and just talk about it as possibly a separate motion or in addition to this motion.

I didn't hear any disagreement with the two points and I would be much happier if this motion passed and said those two things are embodied by adoption in this motion than I would be to say this is an open ended and we're going to talk about anything over the next three or four months. I would have to vote no on that.

CHAIRMAN LAPOINTE: That's fair enough. I've got Paul Diodati on the list, and then I want to respond to your comments, and then Robert Boyles.

MR. DIODATI: I guess it's just very disappointed for me to sit here and hear commissioners saying that they don't want to vote on policy at the Policy Board, but that aside, I really think that we're not doing our job on this issue. We are here to develop policy; that's what this is all about. Policy is leadership; it's an opportunity to lead the nation's fisheries in developing better data collection systems.

This motion, I'll vote for it out of camaraderie for the Commission, but it doesn't do anything. ACCSP already has these standards developed. They'll provide that for you before you leave the building tonight. I'll vote for it, but I want it very clear on the record that we're not accomplishing anything here

today, and we might as well move on to the next agenda item.

CHAIRMAN LAPOINTE: My comment back to Eric and my thought is that the data elements about what – for license data elements, a critical element would be the mode of fishing and what needs to be covered. If we don't have that in, we end up with what we've got now, and my conclusion would be then that I guess I would drift towards Paul's conclusion that we aren't really doing anything. I'm concerned about that. I would rather have no motion and just let the issue hang until the next meeting when we get some more clarity and we'd all have time to think about it. Robert Boyles.

MR. BOYLES: Thank you, Mr. Chairman. I do think the comments most recently, Paul, yours and others do make sense. One of the concerns that I've got with this – do we call this a substitute? It's not been made in the form of a motion yet. My General Assembly has very specific ideas of what constitutes saltwater and what constitutes freshwater, and it has absolutely nothing to do with physical characteristics nor the geographic location of it.

I'm concerned about us prescribing things that I think I would have a very, very difficult time coming in and trying to change probably 75 years of licensing culture that my General Assembly views as their purview. I do think it's important to have these discussions. I do think it's important, as Paul suggested, to talk about policy, but I think in many regards this stuff has already been done. The train has left the station. I'm really waiting on the Fishery Service to give me something so I know what I've got to do with our General Assembly to make our program what we all want it to be.

CHAIRMAN LAPOINTE: I guess the other thing I didn't say in regard to Eric's comment was congress didn't speak about this stuff. They said what they want in a federal registry program, and it was highly migratory species, federal waters and anadromous fish. They haven't defined anadromous fish exactly yet; we know that.

They also have used Gordon's registry program to come up with those data elements – I'll call them that – that they think are necessary to result in an improvement of how recreational fishing data is collected along the coast, in all waters. Leroy.

MR. LEROY YOUNG: I thought when Gordon was here at the last meeting he talked about inland waters, the issue of anadromous fish and inland waters, and

there were a lot of questions about how they were going to handle that. Does someone closer to that know where those discussions have gone because they were scratching their head at the time? They were anadromous fish. I mean, are they not going to be covered by this?

CHAIRMAN LAPOINTE: Can somebody from NMFS tell us where the discussions on anadromous fish are right now?

MR. MEYERS: Thank you, Mr. Chairman. We're in the process now of trying to refine again some of these data requirements. We really are looking forward to working with the states and trying to flesh out some of these very issues that are being discussed today. I think that as we progress here, by the Policy Board session we'll have much better information for you to resolve some of these questions, especially with regard to essentially freshwater or saltwater anadromous and those sorts of issues.

MR. YOUNG: My concern about waiting until the next meeting for this information is we're going to run out of time to do anything if we have to do something different.

MR. MEYERS: We'll get you the information, Mr. Chairman, just as soon as we have it. It's not a question of waiting for the next meeting to resolve this. That would just be the forum for additional discussion based on the information which we will make available at the earlier opportunity.

MR. CARPENTER: I was going to suggest that we table this discussion until the next meeting, but in light of the concerns here, but at the very minimum I think we need to send a message to NMFS that they need to have this by some date certain, publish some kind of rule so that we know what we're dealing with for those states that have to go to the legislature; and any time that they can't meet that rule, then that state gets a one-year extension on this January 1<sup>st</sup>, 2009, implementation date.

CHAIRMAN LAPOINTE: Well, I think NMFS' dilemma right now is that when it gets out of their shop, it goes for review by OMB and they can hold it for up to 90 days?

MS. EMILY H. MENASHES: Yes, that's correct.

CHAIRMAN LAPOINTE: And so that's a component of the timing that they can't – well, they probably have some influence, but they have little control over. A.C.



MR. CARPENTER: To follow up, is it at OMB now?

MS. MENASHES: No, I think the rule is still within clearance. It's closed to being cleared out of the Fishery Service. I don't think we're expecting any significant problems going through NOAA and Department of Commerce, but, right, it has to be submitted to OMB, and they have up to 90 days to review it.

CHAIRMAN LAPOINTE: In response to that?

MR. CARPENTER: It sounds to me like we can expect this at least by our annual meeting and not much before.

MR. HARLEY SPEIR: We've got states that are in the process of trying to get a license and some states that are not in the process, some states with a long-established license, some states with a long-established license that are going to need significant change. Maryland is among those because we don't license ocean-side fishermen, so we're going to have to make an enormous change.

I think everybody is afraid that these mandatory standards are going to derail some part of this. Obviously, the first thing that we need to do coastally is we need licenses, and then we, at some point, will move to a mandatory set of universal license requirements. It's not data elements; it's license requirements; who is covered; who is uncovered.

We're going to have to go to that, but I don't see that coming about given the discussion around the table for a number of years and certainly not by the 1<sup>st</sup> of January of 2009. We need to think about staging this thing over the next two to three years and perhaps MRIP operating on some sort of reduced and less than desirable sets of data.

CHAIRMAN LAPOINTE: I had Pat Augustine next. Pat, can I take Dick Brame and Ed O'Brian just so we don't lose them before we take action? Mr. Brame.

MR. DICK BRAME: Dick Brame with the Coastal Conservation Association, but I'm here speaking as a member of the registry team. One, I agree with Harley, and we've talked about that a fair amount; that states that do have licenses, we would suggest working with them to improve the license over time, and it would extend whatever deadline.

As you know, what we envision is not an end to MRFSS one day and start MRIP the next day. They'll run side by side and we'll compare the two data sets and finally MRIP will take off. The idea, if you have license, there will be, I would think, a little more time in trying to implement this.

I also sense some confusion in what Doug said about the federal government versus the state elements. If you read the section in Magnuson, it's not federal and state. It's a federal or state program. If you elect not to do anything with your state program, then the feds will put in place their registry, but if you put in place a state program that has the elements that we have developed through the registry that we're waiting to get out of the belly of the beast, then the federal program doesn't apply. So it does apply to all fish and not just anadromous fish or EEZ fish. There is an "or" in there, and that's the purpose of the state program. Thank you.

CHAIRMAN LAPOINTE: Thank you. Mr. O'Brian, do you still want to queue up?

MR. ED O'BRIAN: I appreciate the opportunity. My name is Ed O'Brian. I'm vice-chairman of the National Charterboat Association. We had Gordon Colvin out to our national meeting recently, and he heard all of our paranoia, which is considerable when it comes to this registration situation.

We take out millions of people. Charterboats within the states are pretty regulated. We've just been conforming with the new system to where every charterboat has to have a twix card that has their fingerprints and all kinds of data. You have to have an interview before you get that. In many cases, our people have to travel hundreds of miles to have this interview.

Then they have to go back and pick their card up and sign for it, and that's another hundred mile trip. So, again, paranoia in this Orwellian world of fishing. With the situation with the registration, it's so good to be part of being from Maryland of this Commission to where there certainly are considerable opportunities to express opinion, states' rights, if you will. This doesn't exist in a similar forum all around the country, believe me, and it's really fortifying to be here.

Now, of course, we pay fees to take people out on our boats, and we have a blanket – in Maryland we have a blanket license to which we can carry these people. Going way back, people wanted us to have these

people licensed, and we fought that. I think some of the same circumstances apply in this case.

Again, it's being interpreted differently across the country among charterboat fleets as to what we're going to have to do here. Gordon was very clear that this is formulating and seemed very understanding of where our people were coming from. For instance, we may run a trip out of Florida or Maryland or Virginia, and we may have 25 people on board. Five might be from Pennsylvania, five might be from Virginia, five might be from Maryland and several from Dubai and Ethiopia.

So this registration thing, you know, could get very, very complicated. I just appreciate for you all listening for a few minutes. I just wanted to get our perspective on this and our concern on the table. Thank you very much.

DR. DANIEL: Kind of to that point, in North Carolina we do have a blanket charterboat license and that has been accepted by the National Marine Fisheries Service. We also have a blanket license for headboats and for piers, and that's pretty much it. One of the concerns, though, that I have – and this kind of gets back into the original debate that started – is that if North Carolina is deemed compliant with the federal rule, then we've got legislation that's going to come in during this short session to potentially muck it up because of the desires of some folks in North Carolina to have a blanket license like Virginia.

So, that's another little component to this thing that, you know, having some kind of either ASMFC oversight or some clear definition of what is or is not acceptable so that I can go to my legislature and say if we do this we're no longer going to have this exemption, and that's an important component of this, I think.

CHAIRMAN LAPOINTE: And I think your comment and Jack's and others is a reflection of the past that you're far enough out of the chute that you know about some changes you need to make to make the system better. And, again, for those either on the cusp or near the cusp or way away from the cusp, the concern is that it will get that – well, not so much for us because we tried and did not succeed, but for those people who are closer or just passed, it will look like the states are trying to get something through the Commission that they couldn't get through the state legislatures and there could be repercussions to that.

It strikes me that – I mean, given the discussion and how it went back and forth, I think A.C. suggested a tabling motion. Vince would say that was a motion to postpone to a time certain. Because of people's concerns that the motion, as it stands now, doesn't go far enough and other people's concerns that if we do something else it will go too far, that it would be better just to hold until the next meeting. That's just my thought after listening to the discussion. Mr. Grout.

MR. GROUT: My thought was to see if we could modify the motion to make it more palatable to the people that are close to getting a license. As I said, my intent here is not to have any kind of requirement that the ASMFC would put on any states. My intent here is to say this is what – if you are going to go forward with a license, these are the ideal scenarios, these are the ideal data elements, and this is ideally what it would totally cover, so that when Dennis Abbott goes to the New Hampshire legislature next year he can say, okay, this is the type of license that's going to get us the information that ASMFC needs to manage their species effectively.

CHAIRMAN LAPOINTE: I'm going to call a five-minute recess, and you can get together with Eric and see what you can do with the motion, and then we'll come back and figure out what to do next.

(Whereupon, a recess was taken.)

CHAIRMAN LAPOINTE: Please take your seats again. Mr. Augustine, you have the floor right now.

MR. AUGUSTINE: Thank you, Mr. Chairman. In regards to this whole conversation about where we're going and what we could do and why states are concerned now who are in the process of putting their license together, it just seems to me that if you have a saltwater license you've already established some allowances for folks to get around and not have to have a license.

But, why could you not take the same license frame – I would assume that you're going to put it in the same data base and maybe have a single line because now you're going to have access to additional Wallop-Breaux money and Dingell-Johnson money, and make it a line item, and that's about it. The license becomes identical to your freshwater license, because that data base is used by Fish and Wildlife, as I understand it, to put together their five-year reports.

So, it just seems like we're spinning around here, and it's a gloomy thing up here, and we don't know what

to put in it. There is no question until the list comes out from OMB, we have to go with what we've got. For our states to delay – if New York delays, we're in deep trouble like everybody else. We're trying to get something in for January of 2009.

It just seems to go forward with what we have. As OMB's information is released or the MRIP information is released, if you have to amend your plan or amend your law, you have to do it and get on with it. It just seems to me, also, that ACCSP, when it was under MRFSS or that part of it, Maury had indicated – Maury Osborne had indicated all the data elements that they have right now, at that time were adequate.

Now I'm not sure what ACCSP has added to that base, so maybe before we go off and recreating something, we take a look at those elements. I'm not sure there are that many more elements that ACCSP will ask us to put into this thing. But, we're complicating something that I think should be straightforward.

We've got a mandate from congress; we've got to stop beating around the bush; make a decision and let's get on with it. If it requires a policy and Mr. Diodati would like to talk about it with me, I would not have a problem seconding his motion because I think sooner or later we'd have to step up to the plate.

We've just gone through two days or eight hours of strategic planning, making commitments to each other in an environment that was very open. This is just another one of our policy calls. It's something we have to do on behalf of the fisheries in our states. Thank you, Mr. Chairman.

MR. G. RITCHIE WHITE: I'd like to ask a question of the Service. If a state does not implement a license until 2012, is it still possible for a state to do that and come into compliance?

MS. MENASHES: I'm not positive about the answer to that, but I'll take that down and see if we can get some information back and try and answer it. I can maybe chat with you and make sure I've got your question correctly.

CHAIRMAN LAPOINTE: Sitting on the registry team, my answer to that would be, yes, it will be possible.

MR. BOYLES: Yes, sir, Mr. Chairman, it strikes me – and, boy, I'm going to be a pariah for this, but we've asked a number of questions that are not

forthcoming for a number of reasons. I'm just uncomfortable moving down the road until I've got a little bit firmer ground to stand on with respect to what the Service is going to require. With that, I would like to make a motion that we postpone this vote until the May meeting.

CHAIRMAN LAPOINTE: Is that a second by A.C.? We have a motion and a second. This is non-debatable, a motion to postpone? Only as to the time.

MR. AUGUSTINE: Point of information. I was going to ask would they specify a time when it would come back up again?

CHAIRMAN LAPOINTE: The Policy Board at the May meeting. Is there anybody who wants to debate the time to May? Seeing none, are we ready for the question? Do we need to caucus? All those in favor of the motion to postpone until the May meeting, raise your hand; opposed, like sign; any abstentions; any null votes. That passed unanimously.

#### **ALIGNMENT OF STATE/FEDERAL MANAGEMENT PROGRAMS**

CHAIRMAN LAPOINTE: Thank you. It was actually a very good discussion. The next agenda topic is a discussion on alignment of State/Federal management programs. This is an easy one so I'm sure it will be about five minutes.

MR. BEAL: Thank you, Mr. Chairman. Staff will be handing out a brief summary of a subcommittee meeting that took place earlier this week. As background to this, at the annual meeting the Policy Board initiated a discussion on opportunities to improve consistencies and alignment between state programs and ASMFC management programs and the federal programs for some of the fisheries that we manage in common.

During that Policy Board meeting, I presented a white paper that had I think eight different ideas that had been introduced in the past as to ways that we could improve alignment between state and federal programs. Those ideas were tweaked a little bit, but the main action item from the Policy Board meeting at the end of October was to establish a subcommittee to work on this issue.

The chairman of that subcommittee is Paul Diodati. There is also Eric Smith, Pat Augustine, Jack Travelstead, Gil Pope and Bill Adler on the committee. The committee met during lunch yesterday and put together the document that's being

handed around right now. I will just go it through real quickly.

The group discussed a number of different existing management programs and essentially looked at four case studies, Northern Shrimp, American Lobster, Bluefish and Spiny Dogfish. These four species are all managed in different ways and they have different interactions between ASMFC and the states and the federal government.

Each of these is kind of spelled out in a paragraph in the document. Northern Shrimp, as I think most folks around the table know, is managed through ASMFC through the Northern Shrimp Section. There really isn't any federal involvement in that program the way it stands right now. The Section gets together and establishes the management program for that species and then it's implemented through state regulations.

Lobster management is currently solely managed under the Atlantic Coastal Act. It does not have a Magnuson-Stevens component anymore. The ASMFC American Lobster Management Board makes the decisions on what the management program is going to look like, and then the federal government, under the authority of the Atlantic Coastal Act, implements complementary regulations within federal waters.

The Bluefish Fishery Management Plan is a joint management program between ASMFC and the Mid-Atlantic Council. By joint management it literally means there is one fishery management plan that the Commission and the Mid-Atlantic Council both use. When the Board and the Council get together, the quotas are set in concert and we end up – at the end of the meeting every August we end up with one set of regulations that will control the Bluefish Fishery for the next year, assuming the regional administrator approves the recommendation of the Mid-Atlantic Council.

Then a final example or case study that the group talked was spiny dogfish, which is more of a complementary management program. There is a joint management program at the federal level between the New England Council and the Mid-Atlantic Council, and then there is also the ASMFC component. The technical groups meet together.

The monitoring committee and our technical committee meet together, and they usually end up with the same set of recommendations that go out to the councils and to Atlantic States Marine Fisheries

Commission Management Board. However, those two bodies make their decisions independently of each other, and there is not a joint meeting where the managers make decisions.

Those are the four different scenarios that currently exist in ASMFC and federal management programs. This group went on to talk about are there opportunities to improve the alignment between these programs. The idea and the recommendation that's included in the last paragraph here is to set up a subcommittee that includes the ASMFC Chair, the Chair of the Mid-Atlantic and the New England Council. It suggests the regional administrator as well. The idea is to evaluate effectiveness and efficiencies that can be improved in the system and look at opportunities to do that. That's a quick summary of the meeting as well as the recommendation. I don't know if the chairman has anything to add.

CHAIRMAN LAPOINTE: Paul, any comments?

MR. DIODATI: Just that we came to the conclusion that most of the structures that exist are there because of matters of convenience. They have developed historically, but we think that by forming a panel to evaluate the various processes, we might be able to make more strategic decisions about which to apply where.

CHAIRMAN LAPOINTE: Thank you. My only thought on the issue is that we should look – if this, in fact, gets put together, look at templates provided in other regions of the country. This may be a misconception on my part, but my sense is on the west coast there is more or a – with some species there is kind of giving states the management of some species and the feds management of other species without regard to the three-mile limit, which is just another form of coordination we may want to consider.

Board members, comments or questions? Do folks think this is a good idea? I mean, I certainly think it is. We've got issues that come up all the time that cause a lot of heartache, whether it be spiny dogfish, whether it be summer flounder, scup and black sea bass, herring. If there is a way that we can deal more with the conservation issues and the management issues before us as opposed to arguing about or having to work our way through multiple management systems, it makes sense to me to have a look at it. Bill Adler.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. If you think it's appropriate, I'll make a motion that we accept the recommendation that was put forth by the committee. Is that something you'd like?

CHAIRMAN LAPOINTE: We have a motion; do we have a second. Seconded by Pat White. I guess I would ask – we'll ask for discussion, but I would also like staff to – have we discussed at all how this might move forward from a timing perspective? He says we have not. My other sense is that – well, this says at a minimum for the membership, so if we want to include somebody from NMFS who has knowledge of other regions, we can do that as well. I guess my questions are taken care of. Other comments on the motion? Seeing none, are there any audience comments? Seeing none, we'll come back to the Board. Bill is going to read the motion.

MR. ADLER: Move to accept the recommendation put forth by the Committee on State/Federal Alignment Subcommittee.

CHAIRMAN LAPOINTE: A little choppy from an English perspective, but we understand what it is. Are there other questions or comments on the motion? Seeing none, are you ready for the questions? Do we need time to caucus? Seeing none, all those in favor, raise your hand; opposed, like sign; any abstentions; any null votes. The motion carries.

### **FISH PASSAGE WORKSHOP UPDATE**

Thanks for your work on the subcommittee. The next agenda topic is an update on the Fish Passage Workshop. Bob Beal.

MR. BEAL: Thank you, Mr. Chairman. One of the action items in the ASMFC work plan for this year is to put together a workshop on fish passage issues for all of the diadromous species that ASMFC manages. There has been a subcommittee that has been working on scheduling this workshop for a while.

There was a draft agenda that was included on the briefing CD for consideration and review by the managers. The goal of the workshop is to initiate the development of ASMFC protocol on fish passage issues and look into some of the relicensing issues that are out there and essentially put together a roadmap that the states could use as they are moving forward on dealing with fish passage issues within their state.

The workshop is tentatively scheduled for April 3<sup>rd</sup> and 4<sup>th</sup>. Actually those dates are fairly firm. The location on the draft agenda is listed as Charleston, South Carolina; however, there is a big activity in Charleston the following weekend so we're not able to find hotel space in Charleston. We're still looking at a couple of places down south for the workshop and we're going to hopefully solidify that location in the next week or so.

The idea is that commissioners are invited to attend this workshop and participate in the workshop. George LaPointe has agreed to be the head facilitator of the workshop. It's one of the short straws you get as the Chair of the Commission. If any commissioners are interested in attending the workshop, please let me know and we'll make space for you at the hotel. That's just a brief summary of where we are. If folks have comments, please let us know.

CHAIRMAN LAPOINTE: Paul, did you have your hand up?

MR. DIODATI: Bob, can you just briefly give us an idea of who the audience this workshop is intended to be?

MR. BEAL: It's a combination of commissioners and technical-level people within the states. We're going to invite commissioners as well as the technical committees of our diadromous species to attend the workshop. A lot of the speakers are members of our technical committees for our diadromous species.

The idea is not to get into the very nitty-gritty of a fish ladder, how it operates and those sorts of things. It's kind of to keep it a little bit of a higher level and conceptually talk about fish passage issues, some of the FERC relicensing issues and just hopefully initiate the development of a roadmap states can use when they're dealing with fish passage in the future.

### **OTHER BUSINESS**

CHAIRMAN LAPOINTE: Other comments or questions for Bob? Seeing none, thanks for that update. We'll now move to other business. The first issue was spiny dogfish, Jack Travelstead.

### **SPINY DOGFISH**

MR. TRAVELSTEAD: Thank you, Mr. Chairman. I bring this issue up to the Policy Board simply because the Spiny Dogfish Management Board is not meeting this week. It's a request to ask that staff look into a particular issue and bring back

information to the management board the next time it meets.

Over the last couple of years, there have been overages of some of the quotas associated with the various periods and geographic areas on dogfish. The net effect of those overages has been to the disadvantage of the southern fishermen who are fishing for spiny dogfish. Most recently I think there was a couple hundred thousand pound overage that resulted in their fishery being cut off a little bit shorter than what they had anticipated.

I would simply ask that the staff look into the issue of what is causing the overages and whether or not there are solutions that can be implemented to prevent that from occurring and bring that information to the management board the next time it meets.

CHAIRMAN LAPOINTE: Thank you, Jack. I asked staff if that was something they could do and they said yes. Louis Daniel.

DR. DANIEL: I would like to follow a little bit Jack's lead on this and also indicate a concern that we have in North Carolina. The closure impacted us significantly. The trip limits are impacting us significantly. I would like for the staff also to look at – since management began and when Massachusetts was the dominant player in the game and North Carolina was number two, how has that changed with our management approach, and is it possible or better to perhaps consider state-by-state quotas on dogfish.

I see the grimace, but here is the question. If I go out of compliance and put in a higher trip limit in North Carolina to take advantage of the fish when they're in my region, by the time you find me out of compliance, I go right back into compliance and it impacts the regional quotas. So what Jack is saying is similar to the concerns that I have down in the southern area, is that if there is not accountability in the regions, and by state by state we have much more accountability and we can manage the fisheries more effectively.

We don't have a cutting house in North Carolina anymore and that's our problem. The only ones left are up north; and in order to get the amount of fish necessary to ship them north, there needs to be more access in the southern region. There are several issues that are arising in North Carolina and I think in Virginia as well related to dogfish that we need to discuss.

CHAIRMAN LAPOINTE: My grimace wasn't that the issue didn't need to be discussed, but if we discuss things like state-by-state quotas, that is the purview of the board. Jack was asking that staff be directed to put some information together that then could be brought to the board to have that follow-on discussion, however it goes. Is there any opposition to what is being suggested? Seeing none, it will be done.

### **PLUS-UP MONEY**

The next agenda topic is Plus-Up money. Ritch, do you want to lead that for us?

MR. R. WHITE: Thank you, Mr. Chairman. Just to kind of follow up on our meeting earlier today and wondered at what point do we start discussing if we don't get the Plus-Up money, how does that impact us and how do we go forward on that?

CHAIRMAN LAPOINTE: I guess that would require some discussion on the part of this board, and we may want to – I don't know when all that is going to shake out, but we may want to ask staff to come up with some different options for the May meeting. We could fall back to where we were before the Plus-Up money -- we may want to reorganize; a grimace when I say that – but to provide some options. Does that make sense to people?

### **LOBSTER TRANSFERABILITY DATA BASE FUNDING**

CHAIRMAN LAPOINTE: I see a few headshakes yes and nobody else saying anything so we will ask staff to do that. The next agenda topic is the Lobster Transferability Data Base. Toni is going to help us.

MS. TONI KERNS: Thank you, Mr. Chairman. The Lobster Management Board has been discussing over the last year implementation of a transferability program. That would allow for lobstermen to buy and sell traps from each other in just parts of their allocation. In order to buy and sell traps from a fisherman from another state or from another jurisdiction, meaning federal waters, we would need to be able to track those traps so that we know where they're going and where they're being fished and that an individual actually has those traps to sell.

In order to track those traps, we need a data base to do so and/or need funding to implement that data base and then to continue maintaining that data base over time. The Lobster Board was looking to see if it's something that the Policy Board would like to

recommend to ACCSP for funding in the development of that data base was the question.

CHAIRMAN LAPOINTE: And the implication of that for ACCSP, given that is fully subscribed, would be there would be other priorities that wouldn't be met. Board members, discussion? Eric Smith.

MR. SMITH: Well, I heard Toni asking that the board wanted this to be put forth to ACCSP as a proposal for the next time the funding cycle changes as opposed to a mid-term one where something would have to be stopped immediately in order to pick this up immediately. I'm not sure which one it is.

MS. KERNS: It would be a priority for the Policy Board in the submission of proposals for May when ACCSP accepts proposals for funding. It would not be a change of funding but potentially of the priority future.

CHAIRMAN LAPOINTE: So what we would be doing is – because this is outside the Lobster Board – is asking staff to put together a proposal without, at this point, voting on that proposal compared to the other things that we may be viewing at the ACCSP funding cycle, whenever that occurs? We aren't voting that this is a higher priority than anything else at this point; just that it's a high enough priority to direct staff to put a proposal together? Toni is nodding her head yes for those people who can't hear. Paul Diodati.

MR. DIODATI: So who would be the PI on that; how would that work, because usually this kind of a task, we would either ask ACCSP staff if they can take it on or a state submits a proposal or one of the participating agencies submits a proposal; or, is there an RFP to request – does the ASMFC, the Commission itself, take that on? I'm not sure who the principal is.

CHAIRMAN LAPOINTE: My sense is if the board did take the action to move this forward, that the Commission would be the applicant. Ritch White and then Eric Smith.

MR. R. WHITE: I guess I'm not clear on this. In the amendment, didn't we go forward requesting areas of funding from the public on this or is this something different?

CHAIRMAN LAPOINTE: Toni, in response to that question.

MS. KERNS: The funding that we would be requesting from ACCSP would be money to develop the data base itself, and the funding that we are inquiring about through the draft addendum would be, my understanding of the discussion, long-term funding to maintain the data base as well as adding to the development funding.

MR. SMITH: Toni is correct because if you remember, one of the principals of ACCSP is to try and avoid long-term maintenance activities and focus more on development of things, so the development is appropriate. The maintenance would probably have to be a lower priority and maybe not recommended.

I think the other point that George made is this might be one of those examples where it's a joint proposal that ASMFC more or less frames out the purpose of the proposal from the fishery management plan perspective, and then it actually becomes a proposal for one of the things that ACCSP does; not asking for an outside agency or a state agency to be the developer, but that ACCSP develop it. They would do it in one of two ways; either you have the in-house staff that can take that on as one of their priority activities or you contract it out through ACCSP.

CHAIRMAN LAPOINTE: The reason Toni brought this to us is that we wait until the May meeting, when I'm sure the Lobster Board will meet, we will be too late to submit a proposal. My thought would be – again, with this board's concurrence – that we have staff develop a proposal.

They bring that proposal back to the Lobster Board for those mechanics because there are many unanswered questions. I have concerns about the Commission taking this over full-time because of concerns about staffing and funding. So if we gave them the green light to develop the proposal and then directed the Lobster Board to deal with those details at its next meeting, we would help them time-wise, but we wouldn't be locking in the Commission or the Lobster Board for things that we shouldn't do. Does that make sense?

MR. SMITH: The process makes sense; the calendar hurts us. The next time the Lobster Board meets will be the same meeting that the Coordinating Council is talking about proposals, so we actually have to have staff develop a proposal or maybe get it out to board members through e-mail to say conceptually are you okay with this so that they meet ACCSP's deadline. I suspect their deadline for submission is somewhere in

April or so, so they can organize it by May. Is that right?

MS. KERNS: I don't know the exact date for submissions, but I know it is in the spring, and I know they discuss the proposals at the May meeting.

CHAIRMAN LAPOINTE: My comment was that, yes, we need to get the proposal done to provide the option of ACCSP funding this cycle. I'm reluctant, as a Policy Board member, to direct all the specifics of that proposal, so I'm saying the specifics need to go back to the Lobster Board to figure out where it would be housed in the long term and things of that nature. I don't think that's something we can prescribe here tonight.

MR. SMITH: My question, if I may, is will those things be sent out to the Lobster Board in the next two months for them to comment on to improve the proposal or do we wait for the board meeting in May, which, frankly, is too late to get that comment?

CHAIRMAN LAPOINTE: I think that's a good comment and we would probably do – the suggestion would be, I suspect, that we do it through e-mail. Does that make sense to people? Paul.

MR. DIODATI: I guess it would help if we had a proposal today and we saw exactly what it was and how much we're asking of ACCSP's budget. I don't have an idea of what the cost is, but obviously I think that matters. If we can just get a proposal back, then I think that might be a good way to go.

CHAIRMAN LAPOINTE: And by, again, allowing this to occur now we're not binding the ACCSP members as to how they vote on this compared to the other priorities at that May ACCSP Coordinating Council meeting. Other discussion? So it would be staff develops a proposal, they send it out to the Lobster Board, the Lobster Board will make comments, they'll submit it to ACCSP, and then members can review it, see how it fits within their priorities and vote accordingly at the May ACCSP Coordinating Council.

Other discussion needed? I don't see any so we'll stop that. That's the last agenda topic on our agenda this afternoon. We will recess until tomorrow morning. I want to thank everybody for their attention this afternoon. For those folks who weren't here, Congressman Bob Davis, the former congressman is going to come back at 5:30 if people want to discuss things individually with him. Thanks very much.

(Whereupon, the meeting was recessed at 4:30 o'clock p.m., February 6, 2008.)

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#### THURSDAY MORNING SESSION

February 7, 2008

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The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission reconvened in the Presidential Ballroom of the Crowne Plaza Hotel, Alexandria, Virginia, Thursday morning, February 7, 2008, and was called to order at 11:05 o'clock a.m. by Chairman George LaPointe.

CHAIRMAN LAPOINTE: Will the Policy Board members take their seats, please. In your binders and probably on the back table, there are agendas for the Policy Board. It includes Board consent of the agenda, and the sole agenda topic at this point is reviewing non-compliance findings. Eric, did you want to discuss something under other business?

MR. SMITH: Yes, I would, thank you.

#### APPROVAL OF AGENDA

CHAIRMAN LAPOINTE: All right, with those two agenda topics, are there any other items to be added? Is there objection to the approval of the agenda? The agenda is approved. All of our agenda topics have a spot for public comment. This would be public comment not related to issues on the agenda. Are there any members of the public who wish to speak on issues other than the New Jersey Compliance Issue?

Seeing none, we will go to the next agenda topic, which is to review the non-compliance findings, and I believe the Chair of the Tautog Board has a motion for us. David.

#### REVIEW OF NON-COMPLIANCE FINDINGS

DR. DAVID PIERCE: I do have a motion to make, and I believe staff has that motion to put on the screen. I will read this motion on behalf of the Tautog Board regarding a non-compliance issue for the State of New Jersey.

Move that the ISFMP Policy Board recommend to the Full Commission that the State of New Jersey be found out of compliance for not fully and effectively



implementing and enforcing Addendum IV and Addendum V to the Interstate Fishery Management Plan for Tautog. The State of New Jersey has not implemented management measures to achieve the required 25.6 percent reduction in exploitation. This reduction in exploitation is necessary to initiate rebuilding of the overfished Tautog stock. In order to come back into compliance, the State of New Jersey must implement management measures that achieve the required reduction in exploitation as required by Addenda IV and V.

CHAIRMAN LAPOINTE: Thank you, David. That's a committee motion so it does not need a second. Policy Board members, discussion on the motion? Mr. McCloy.

MR. MCCLOY: Thank you, Mr. Chairman. If I just may get the indulgence of the Board for a couple of minutes since I don't think everybody sitting here is on the Tautog Board, I'd just like to bring you up to date as to where New Jersey is on this particular issue.

New Jersey submitted a proposal to the technical committee with a different methodology of analysis on determining where we were in terms of meeting the target that is required by the addendum. In our opinion that analysis was a good analysis and it indicated that we did not need to take an additional reduction.

Unfortunately, the Tautog Board did not agree with that. We took that information back to our Marine Fisheries Council at their last meeting, I believe, or the meeting before – November or January. I mean, I don't recall which one it was. The council feels very strongly that the analysis that was performed does indicate that New Jersey is currently fishing at the target that is in the addendum. As a result, they have refused to endorse any changes in our regulations.

In New Jersey our council must endorse changes if we are to make them regarding an ASMFC plan. As of right now, without the council moving off their position, we don't have the ability to make any changes in the plan.

CHAIRMAN LAPOINTE: Thank you for that explanation, Tom. Other Board members? John Nelson.

MR. JOHN I. NELSON, JR.: Not being on the board – fortunately not being on the board – does the plan that was put forth by New Jersey – I assume it went

through the technical committee and had an evaluation associated with it. Tom, I understand, felt that their – New Jersey felt that they had provided something that was in compliance, but is it the technical committee review and whatnot that provided that it would not meet the 25 percent reduction that was necessary?

CHAIRMAN LAPOINTE: David, can you respond to that as Board Chair?

DR. PIERCE: Yes. There was a great deal of debate about the methodology employed by New Jersey as well as other states in determining the analytical support for the measures that were proposed by the states. In New Jersey's case, after review by the technical committee, the technical committee – I can't recall the exact words, but I believe the technical committee could not support the analytical approach, the modeling approach that was used by New Jersey.

It was a great effort on the part of the State of New Jersey to try to provide the necessary justification for their measures, but it did not convince the technical committee. As a consequence, the board felt it had no other choice, then, but to make this decision, and, of course, the motion that you have before you now.

CHAIRMAN LAPOINTE: Thank you, David. John, is that sufficient? Other Board members? Eric Smith.

MR. SMITH: Mr. Chairman, as a board member I made the motion the other day for the board to begin the non-compliance proceeding. I want to read again, because it's brief and because I think it's important to create the record of the rationale for why we're embarking on this and why I personally feel it's so important to do it even though it's never comfortable and never looked forward to.

When we get to compliance time, I don't take that lightly, but I'm a strict defender of the Commission ACFCMA process. Some of you will recall that more than once I have argued for and voted for finding my own state out of compliance. Two years later I still get criticized by lobstermen back home for having done that a couple of years ago.

What I had said the other day, the time has passed for reviewing the science and methods. That was done twice. There were two iterations of review of the New Jersey proposal during 2007. The technical advice was that it did not meet muster. The board, therefore, did not approve New Jersey's method.

They were required to adopt the regulations specified by Addendum V and they have not. The duty of this Board today is simple; that we find that they have not complied with the provisions of the FMP; and if so, we're obligated to vote them out of compliance. Thank you.

CHAIRMAN LAPOINTE: Thank you, Eric. Other Board members? Are there any members of the audience who wish to speak on the motion? Seeing none, we'll go back to the Board. We have a motion that has been read into the record. Do states need time to caucus? I don't see much signal one way or the other, so I'll give you a minute, anyway.

(Whereupon, a caucus was held.)

CHAIRMAN LAPOINTE: Are we ready to vote? All those states in favor of the motion, please raise your hand, 13 in favor; those states opposed, 1 state opposed; any abstentions, 3 abstentions; any null votes. The motion carries. Thank you for that. We now move to other business and Eric had an item he would like us to discuss.

### **OTHER BUSINESS**

MR. SMITH: One of the other uncomfortable things of the week has been the debate on the previous issue in the Fluke Board. And, again, for those of you who were not here, very briefly, it was a motion to allow the use of mandatory regions in the future for managing fluke, and the motion failed.

It struck me that one of the things that happens – and I mean no disparaging thought to anyone when I say this – it's just it seems like it has become a fact of our existence and probably we'll all agree whether we are comfortable with it or not. When we set up allocations with the Commission process, we did not do what the Magnuson Act did on a very key point.

The Magnuson Act says these are not entitlements. They can be taken away for unfortunate violations or just because the management body decides to do it differently in the future. There is nothing that the allocation recipient gets that is sacrosanct. The problem is we didn't do that; and now when I go back home and say, you know, I tried to work out a region, but we were going to have to give a few more percent away, and I get a blank look and then a "why", and it's hard argument to offer.

I sense that was a lot of what was in play with the vote on the fluke issue twenty minutes ago. With the kind of history that has gone on, it's going to be very

difficult to make any kind of a change, but I would urge the chairman to consider establishing some kind of a working group that can reposition us away from the sense that state shares of whatever species are the state's right and then nevermore will those be taken away.

As we get thirty years away in fisheries management, we're going to look pretty dumb having allocated things on the period of 1980 to 1989, and that's what is going to happen with fluke commercial, which was not the issue of the moment today, but that's the one where we have the oldest qualifying period.

As time goes on that's going to be ancient history. There will be no fishermen left who fished in that period of time; yet the allocation will still prevail. And as Dave Simpson for the technical committee had pointed out earlier, fish move in the ocean. If climate change has the effect that people think it's going to have, the Gulf of Maine is going to have a heck of a lot of summer flounder and their allocation is less than a percent.

Those things are going to have to be addressed in the future. I don't know of another way to do it other than to put a few people together and have them go out to dinner between now and May and try and see if we can develop some strategy for engaging that debate so that no one feels like their ox is being gored or their marbles are being stolen or anything else, but that we can just collectively have that discussion as a commission and see if we can find our way out of that problem. Thank you.

MR. AUGUSTINE: Thank you, Mr. Chairman. Not to belabor the point, but some folks think that New York has a devious method or reason as to why we want to do this regional. We listened to the technical committee. I won't belabor the point, but they said what we have is not working. We sat here and just decided, well, the hell with it, whether it's working or not, we're going to do what we're doing.

It doesn't make sense, and I agree with Mr. Smith on his putting together a subcommittee. I just hate to think of us looking at each other next year when 2009 comes and you're going to have coastal whether you like it or not; or, no season at all. I don't want to go back to our state and tell our commercial fishermen and federally permitted party/charterboats, "Hey, guys, you're going to drop your permit so you can fish or sell your boat or burn it," because that's where we're going.

I think some folks might be a little shortsighted as to what we were trying to accomplish. Some of you think it's a fish grab for New York; it's not. The problem is we use one year of harvest information or catch information to set the so-called state-by-state quota, one year, and here is where we are. We hold on with a death grip to keep that quota, to keep that share.

We're going to have battles. I hope there are not gunshots this year between New York and New Jersey. Imagine fishermen fishing on 20.5 inches over here and 18 or 18.5 inches over here, side by side, and switching sides; the same way with Connecticut. So, I think some of us are not looking at the big picture.

In the case of New Jersey they've got a commission to deal with, but the fact of the matter is we have a board, ASMFC has a responsibility, and I think somewhere in time it's awful difficult to separate personal concerns and interests with that of special interest groups. I think we're here; we take an oath; we either do it or we don't it.

I find it hard to believe that some of us have to cave in to our state agencies – no disrespect, Tom – but cave in to those groups that have a special interest and not be able to do what we have to do as a board. I think it's our responsibility to the stock and to each other and the Interstate Compact. Thank you, Mr. Chairman.

CHAIRMAN LAPOINTE: Before I get to you, David, I don't want to replay the discussion at the Fluke Board. That's one microchasm of a bigger problem I think that Eric is trying to address. I mean, when we did the strategic planning, what is one of the big things we don't do well – allocation – and this is talking about this.

I, frankly, like the idea. I think we've tried it in the past a few times, so I'd like board members' comments on, first, whether it's a good idea to move forward with; and then, second, if it's a good idea to move forward with it, how do we do it in a logical way? David Pierce.

DR. PIERCE: I don't mind following through with the suggestion made by Eric, but, frankly, I think that a regional approach, which I tend to support for many species and fluke, as well, I think a regional approach might be more attractive to many states. If we're successful in what we just did at the board meeting regarding fluke, and that is the technical committee provided us with some advice as to how we should

proceed in a precautionary manner to make sure that the targets are not exceeded, if that works and we don't exceed our targets, then I suspect that there will be a great deal of support for a regional approach, and the concerns, legitimate concerns expressed by my colleagues to the right will be addressed.

CHAIRMAN LAPOINTE: Thank you. Other board members? John Nelson.

MR. NELSON: Mr. Chairman, as you pointed out, this is an issue that has been pointed out as an issue for us to discuss through our strategic planning. I recognize the passion and compassion, I guess, of summer flounder and some of those other species that, thank God, we don't have up in our area.

But, I know you've made the effort before, the Commission has made the effort before to take a look at this, but if you don't do something about it, you're going to continually have – and these are my words only – you're going to have that sense of a state feeling that they have an entitlement, which when you come right down to it, they probably don't, and they need to have come to grips with that, that, look, either we all work together on this and come up with something that is something we can live with; or, you're going to continue to have squabbling.

I hate to classify it strictly as that, but we better come to grips with it and deal with it as fairly as you can. Otherwise, you won't make progress. We are shooting to have at least five of our stocks – and I would hope that summer flounder is one of them – improved rather than still down.

CHAIRMAN LAPOINTE: Thank you, John. Other board members? Eric, what was the action you proposed?

MR. SMITH: That you establish a working group to brainstorm on ways to extricate ourselves from the sense of entitlement; not to amend anything, but just to say if the Commission realizes the problems we have when we try and talk about reallocation in an amendment process, if they feel those are valid because of the kinds of shifts I talked about earlier, then can we put our heads together and try and figure out a way out of that morass.

CHAIRMAN LAPOINTE: Board members, does that make sense? It strike me that one of the first things we should do before a workgroup, if it's established, meets is to have staff look through the archives and look at how we've addressed this issue

in that past for some templates. We may look elsewhere as well. John.

MR. JOHN DUREN: I certainly like the spirit of the suggestion, and I think it would be good if we not only had the working group and the staff consider the viewpoint of entitlement, but also to go one step further and look at a process for dealing with allocation.

CHAIRMAN LAPOINTE: And I think that would be logical conclusion of that. I see everybody shaking their head yes, so we need to put together a group. My sense is that when groups get above five or six, it becomes unworkable. That's just my own view.

MR. SMITH: Why don't you appoint them later?

CHAIRMAN LAPOINTE: All right, Eric said I can appoint them later, so we'll do that. That makes it easy. Does that make sense to people? I'll work with staff on doing that sooner than later. We'll let everybody know how that moves forward, and we'll report back at the May meeting about whatever progress is taken between now and then. Does that make sense? Excellent! Are there any other matters to come before the Board? Mr. Goldsborough.

MR. WILLIAM GOLDSBOROUGH: Thank you, Mr. Chairman. On that last matter it strikes me that this workgroup should consider not just allocation of direct harvest shares, if you will, but also the non-harvest benefits that the different jurisdictions accrue from these resources, some more than others, like the forage role that some of these species play, filtering roles that they may play as well. You may find that there is a need for a different allocation scheme, if you will, than the direct harvest one, depending on the patterns of the fishery. I just toss that out as something for food for thought for the workgroup.

### **ADJOURN**

CHAIRMAN LAPOINTE: Thank you, Bill. Are there other matters before the Board? Then we will adjourn.

Whereupon the meeting was adjourned at 11:25 o'clock a.m., February 7, 2008.)