

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

**Via Webinar  
July 14, 2020**

**Approved August 5, 2020**

Proceedings of the ISFMP Policy Board Webinar  
July 2020

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1. **Approval of agenda** by consent (Page 1).
2. **Move to approve the guidance from the Executive Committee for states submitting proposals to adjust the individual species 2020 recreational measures to address lost fishing opportunities to the COVID-19 restrictions** (Page 8). Motion by Dan McKiernan; second by Eric Reid. The motion failed, 5 to 9, with no abstentions and no nulls (Page 11).
3. **Move to adjourn** by consent (Page 13).

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**ATTENDANCE**

**Board Members**

Pat Keliher, ME (AA)	Loren Lustig, PA (GA)
Cheri Patterson, NH (AA)	Roy Miller, DE (GA)
Ritchie White, NH (GA)	John Clark, DE, proxy for D. Saveikis (AA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Bill Anderson, MD (AA)
Dan McKiernan, MA (AA)	Steve Bowman, VA (AA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Pat Geer, VA, Administrative proxy
Matthew Gates, CT, proxy for J. Davis (AA)	Steve Murphey, NC (AA)
Jim Gilmore, NY (AA)	Chris Batsavage, NC, Administrative proxy
Emerson Hasbrouck, NY (GA)	Mel Bell, SC, proxy for P. Maier (AA)
Joe Cimino, NJ (AA)	Doug Haymans, GA (AA)
Tom Fote, NJ (GA)	Marty Gary, PRFC
Adam Nowalsky, NJ, proxy for Asm. Houghtaling (LA)	Karen Abrams, NMFS

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

**Ex-Officio Members**

**Staff**

Robert Beal	Maya Drzewicki
Toni Kerns	Max Appelman
Tina Berger	Kirby Rootes-Murdy

**Guests**

Mike Armstrong, MA DMF	Derek Orner, NOAA
David Bard, NOAA	Joanne Pellegrino, NOAA
Erika Burgess, FL FWC	Brandon Muffley, MAFMC
Derek Cox, FL FWC	Allison Murphy, NOAA
Kiley Dancy, MAFMC	Derek Orner, NOAA
Cynthia Ferrio, NOAA	Joanne Pellegrino, NOAA
Willy Goldsmith, SGA	Nicholas Pieper, NOAA
Melanie Griffin, MA DMF	Mike Ruccio, NOAA
Bob Humphrey	Tim Sartwell, NOAA
Clifford Hutt, NOAA	John Schoenig
Kathy Knowlton, GA DNR	Ralph Vigmostad
Catherine Krikstan, NOAA	Mike Waive, ASA
Jose Martinez, MAFMC	Chris Wright, NOAA
Nichola Meserve, MA DMF	Douglas Zemeckis, Rutgers
Brandon Muffley, MAFMC	Eric Zlokovitz, MD DNR
Allison Murphy, NOAA	

The Interstate Fisheries Management Program Policy Board of the Atlantic States Marine Fisheries Commission convened via webinar; Tuesday, July 14, 2020, and was called to order at 1:05 p.m. by Chair Patrick C. Keliher.

### **CALL TO ORDER**

CHAIR PATRICK C. KELIHER: It is 1:05 p.m., July 14. This is the Atlantic States Marine Fisheries Commission ISFMP Policy Board meeting.

### **APPROVAL OF AGENDA**

CHAIR KELIHER: We are going to discuss a recommendation from the Executive Committee to the Policy Board regarding adjustments to recreational management measures. Toni has sent out an agenda and you would have received another updated copy yesterday. Is there any objection to the agenda?

MS. TONI KERNS: I don't see any hands raised.

CHAIR KELIHER: Okay great. With no objections to the agenda, no changes, we will go ahead with the consent of the Board to approve the agenda.

### **PUBLIC COMMENT**

CHAIR KELIHER: Item Number 3 is Public Comment. Is there any member of the public who would like to bring forward any issues to the Policy Board that are not on the agenda? Any hands, Toni?

MS. KERNS: I don't see any hands, Pat.

### **REVIEW AND CONSIDER THE APPROVAL OF PROPOSED GUIDANCE ON ADJUSTING RECREATIONAL MEASURES DUE TO COVID-19 IMPACTS**

CHAIR KELIHER: Okay, then we're going to run right down to Item Number 4, which is Review and Consider the Approval of Proposed Guidance. Just as a reminder, the Executive Committee back at the spring meeting several species boards discussed the impacts of COVID and the ongoing impact of COVID. The Executive Committee has

had several conversations around this issue, and developed a memo for the Policy Board to review, and their discussions potential approval. With that I'm going to turn it over to Toni to present this information.

MS. KERNS: Maya, if you could just throw up the PowerPoint presentation that would be fantastic. I'll just quickly go through the memo that looks at guidance for adjusting recreational management measures due to COVID-19 impacts. As Pat just said, the COVID-19 pandemic has had some impact on the different recreational fisheries. Several species boards requested guidance for receipts, if they are going to be considering changes to their 2020 recreational measures.

The Executive Committee has had several discussions regarding the issue. The Committee recognizes that there has been significant impact from COVID-19 on all U.S. fisheries, and there have been funds from the CARES Act that will provide some relief to the industry, including for-hire businesses. But we recognize that those funds may not make businesses whole. The lack of complete MRIP data makes evaluating proposals difficult, and the variability of the closures from each of the states make it very difficult to set a single set of measures for adjusting an individual species. For example, one state may have been closed March 15 through June 1, whereas another state was closed from April 15 to May 30. The Executive Committee is recommending that states be allowed to submit proposals to adjust their 2020 recreational measures.

But, the Committee is also recognizing that the precedent that could be set if measures were adjusted just due to lost fishing opportunities. We want to make sure that the proposals that are reviewed by the Technical Committees and the Boards are limited to fisheries that meet the criteria that I'm going to go over, and that they are specifically in response to the global pandemic.

It is not that we're just adjusting recreational measures for poor weather or limited fish

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availability, or other reasons. The recommended guidelines include that there was a Civil Emergency Action or other state or federal action due to the COVID-19 pandemic that closes recreational fishing. This can include those specific closures.

There is verification that the state made a good effort to enforce that closures from the state. The proposals may only adjust season length. There can be no other measures that can be adjusted. The only species that can be considered are those that are no overfished and/or overfishing is occurring. It can be both or just one. That is the recommended guidelines. Are there any questions?

CHAIR KELIHER: Are there any questions to the Policy Board? I can't see your hand, so Toni go ahead and call on people as they click on the hand.

MS. KERNS: We have a question from Matt Gates, Dennis Abbott, and Adam Nowalsky, and then Joe Cimino, and I'll let you know those folks again.

MR. MATTHEW GATES: Hi, this is Matt.

CHAIR KELIHER: Yes, go ahead Matt.

MR. GATES: Thanks for the opportunity. Are these proposals, do they have to be conservationally equivalent? It doesn't really spell it out in there that that is one of the requirements. Do they have to be conservationally equivalent to the amount of time that they lost?

MS. KERNS: Pat, do you want me to answer that or do you want to?

CHAIR KELIHER: Yes, go ahead, Toni.

MS. KERNS: They would be equivalent to the time that the closure occurred from the state.

MR. GATES: Does it exact a day for day?

MS. KERNS: It's not necessarily a day for day, because we recognize that a day in Wave 3 may not equal a day in Wave 5 or 6, so the TC would need to look at the MRIP information, evaluate and come back with information on that. For a lot of the species that already do recreational proposals this is a pretty normal process that they go through, so that there is something that is already set through their recreational settings process to deal with that issue. Then we had Dennis Abbott.

CHAIR KELIHER: Yes, go ahead, Dennis.

MR. DENNIS ABBOTT: It was my understanding from the Executive Committee when we talked about this issue, we talked about it several times that there were pros and cons expressed by the Executive Committee. It wasn't my understanding that the Committee recommended states be allowed to submit proposals, but that we felt that this issue should be brought to the Policy Board for their decision.

I think that it came from the Executive Committee, at least in my opinion, without recommendation from the Executive Committee. A number of issues were raised that there was a feeling that all the Commissioners should be involved in this decision. I would also ask Toni, you don't have to answer the question now, but how many of the LGAs are able to participate today?

You know, it occurred to be that asking the LGAs to meet in the middle of a week is probably quite burdensome for some that have jobs, unlike myself who is a retiree. I would like to know how much attendance we have from the LGAs. But again, I think it's my understanding that we didn't recommend that this be a given by the Executive Committee, but a decision to be made by the Policy Board.

CHAIR KELIHER: Dennis, thanks for that. That is what I believe we're doing here. Our Executive Committee made a determination based on consensus to move the issue to the Policy Board

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for a final decision on whether this would move forward or not.

MR. ABBOTT: That's correct then.

CHAIR KELIHER: Yes. Toni, I'll just let you continue on with identifying the other people on the list.

MS. KERNS: I'll let Dennis know that I think my count is correct that there are 9 LGAs on this call right now, and 15 non LGAs. The next person was Adam Nowalsky.

MR. ADAM NOWALSKY: Thanks to the Executive Committee for their work in looking at this issue. This is certainly something of very much interest by the public, in fact our Marine Fisheries Council here in New Jersey last Thursday night passed a motion asking our Bureau of Marine Fisheries to look at what we could do for black sea bass specifically.

I'm trying to get some clarity about what the bounds of this first bullet point actually entail. I think in the case of where a mode-specific closure occurs very prescriptively for a number of days that is very clear to pursue. With regards to our black sea bass, in New Jersey our season was slated to open on a Friday originally. We had direction that the fishery was closed. On that Friday for-hire vessels were told they could begin sailing on Saturday. Now very few, if any, vessels actually sailed, just because the ability to get fuel, get bait, get customers under that circumstance for that entire weekend and much of the following weekend, even into the week or so beyond that.

It was really a couple weeks until those vessels could get going again. The first question would be, would this allow us to submit a proposal that takes that into account, using VCR or some other information. That even though our vessels were told explicitly to stay tied at the dock for one day, because of the late notice they lost more than, a week or more of days that they could actually sail.

Then when they were allowed to sail those vessels, inspected vessels specifically that are capable of carrying 100 or more passengers, were initially constrained to a passenger limit of only 10 people. The result of that basically discouraged a number of those vessels to continue to stay tied to the docks, because it wasn't reasonable to go with that light of a load.

That was incrementally increased up from there. Essentially, our black sea bass season, which our Marine Fisheries Council has directed our Bureau of Marine Fisheries to look for some relief on for the fall, was physically closed on one day. However, the late notice caused many folks to stay tied to the dock beyond that and then a number of those boats stayed to the dock longer, because of the limited load capacity. How would this first bullet point, what would our directive be for a state like New Jersey, and I'm sure other states had similar examples.

CHAIR KELIHER: I think certainly that is a complicated case in my mind, and it is one that I think the Executive Committee kind of wrestled with, as far as trying to keep this as clean and concise as possible, because of the complexities around different scenarios. I think all states certainly saw impacts based on inspected vessels, number of passengers they could carry. But in this case, we certainly kept it strictly to "the season was closed."

We know, even if you look at the CARES Act, the fact that nobody is going to actually be made whole through this process, whether it's going to be financially or from a trip perspective. Toni, I would like you to jump in, or Bob can jump in. But I know I would have some concern. I don't have concern about the state submitting something, I would have concerns about how far we would go with that type of example. But, Bob or Toni, do you have anything you want to add?

MS. KERNS: The Executive Committee when they talked about this issue. The issue arose that it would be very difficult for, I guess it comes back to the Technical Committee then to determine

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the number of days that there was actually a closure. Without having specific information from an essential closure, then how do you interpret what that loss was?

It asks them to be subjective on the loss when you don't have MRIP data for the species. It made it really hard, and we were trying to fit some, in the discussions it sounded like you wanted to have clear, hard lines, in order for the committees to then evaluate state proposals, and so hence that recommendation came forward.

MR. NOWALSKY: I think the question from New Jersey would be with the information I've provided. If a motion came to the floor to approve these bullet points as recommended, would New Jersey at least be allowed to submit a proposal, and then ultimately have it come down to the TCs recommendation and Board approval whether or not to do anything for New Jersey?

CHAIR KELIHER: My read is you would be able to submit a proposal as it pertained to the closed portion of the fishery and what the impact was around that. What I heard you say was it was closed, then it reopened, and then there was kind of a lag effect, and how it impacted the fleet. The Executive Committee I don't think was thinking about that lag effect, it was the footprint of the closure itself.

MS. KERNS: You have Joe Cimino and then Jim Gilmore.

MR. JOE CIMINO: I guess yes, to follow up on Adam's question. You know one would be a discussion on tying the two when we're talking about that specific sector. If a state has 100 percent requirement for a vessel trip reporting. I'm curious what the Policy Board thinks on using that VTR data to show changes from 2020s fishery compared to previous years. I was hoping to get some folks to weigh in on that as well.

CHAIR KELIHER: You're suggesting then outside of a closure that we use VTR data to show an

impact, and then potentially make adjustment to the season?

MR. CIMINO: As the Administrator for New Jersey, you know this becomes a task for my staff, since our Marine Fisheries Council has asked us to look into this. At this point in time they've only asked us to look into it. They haven't said that they absolutely submit something. The only way I can see doing that is using VTR data. That is why I'm putting it out there.

CHAIR KELIHER: Does anybody on the Policy Board have any thoughts that they would like to bring up around Joe's point?

MS. KERNS: I don't know if these are in response to Joe's point, but we have new hands, well Matt Gates and Cheri Patterson and Dennis Abbott. But prior to them Jim Gilmore's hand was up.

CHAIR KELIHER: As we're going through, if you have a member of the Policy Board has a comment on Joe's, as you're being recognized why don't you just bring it up then. Let's just stay in line with the hands that went up and go there. Is Jim Gilmore next, Toni?

MS. KERNS: Yes, and then Cheri. I don't know if Adam's hand is up again after that.

CHAIR KELIHER: Okay, Jim Gilmore.

MR. JAMES J. GILMORE: No, I'll put mine down, I'm sorry.

MR. GATES: This is primarily a question for Toni. Toni, I think the assumption was, and I think it's pretty accurate that when the party boats or for-hire guys were not fishing, essentially there was no harvest from that sector. Essentially, doing the math would be pretty straightforward, and the TC could pretty much evaluate that even on a state-by-state basis.

However, we know the individual fishermen were out, and in fact some of them were out it appears in larger numbers. We don't have any MRIP data

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on that. When the TC gets to evaluate, you know one of these proposals, are they just going to assume no harvest? Are they just going to ignore the individual boats or the individual anglers, or how are they going to address that? Is there any thought given to that yet?

MS. KERNS: It is very complicated, and that is why when the Executive Committee was making these recommendations that I think they drew some of these hard lines around it, because we are not sure what is exactly happening in the fishery as you just stated. In some areas we're hearing that the private fishery effort has been higher than it's been in a long time, just based on what people are seeing out on the waters.

But, the Technical Committee won't be able to evaluate that. That information won't be available at the time when the Committee is evaluating those measures. All they can really go off of is the information that they have in front of them. Whether that be from VTRs if there is compliance in states in filling out VTRs.

Obviously, some states have requirements, other states do not, or if it's just from you know these closures that have been mandated by the state, either all fisheries fishing or just a sector of the recreational fishery. No, I don't think that they'll be evaluating the private sector at this time, unless they were closed. Next, we have Cheri, and then we have Dan.

MS. CHERI PATTERSON: Our problem is those charter vessels, not the party boats but the charter vessels that fish solely in state waters, so they have no federal permit, which is the mandated VTR reporting process. We would have no clear understanding of the number of trips that a state-only-licensed charter vessel took in the past or took this year, for that matter. Using VTRs is fine for those that have that federal mandate reporting process. However, I'm not sure all states have mandated reporting process to cover those that fish only in state waters.

MS. KERNS: We have Dan McKiernan, Eric Reid, and Bill Anderson.

MR. DANIEL MCKIERNAN: I would be concerned as Cheri is about the lack of data for the charter boats. I also think it would be incredibly complex, because what happened in Massachusetts, and I'm sure in other states that even when the fishery was opened to the for-hire sector.

The limit on passengers resulted in the head boats still not being able to go at full capacity. I think we're going to be creating an unacceptable level of complexity. Then you're going to be relying on MRIP estimates, which are already highly variable. I would prefer that the Policy Board adopt the four bullet points that we see on the screen.

CHAIR KELIHER: Eric Reid.

MR. ERIC REID: This is essentially an income recovery program, is that correct?

CHAIR KELIHER: Certainly, gives a segment of the industry the ability to try to recover some, if in fact they were closed due to COVID, and would give an option to be able to reopen.

MR. REID: But what happens to any vessel that may have taken advantage of like PPP or some other source of funds to help them through this time, as opposed to other vessels who did not?

CHAIR KELIHER: I think that's a great question. That is something that came up for the Executive Committee, the fact that some segments of the fleet certainly would have taken advantage of PPP or unemployment insurance for the self-employed. I think it would be very difficult for us to make that determination, whether this action would make them whole or not if they did receive that information.

That being said, you know we're not under the bounds of the CARES Act here, where making business whole becomes problematic. I'm not sure we would have any way to take those type of

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things into consideration on whether we should approve or not approve.

MS. KERNS: Bill Anderson.

MR. BILL ANDERSON: Whether folks think it's right or wrong, I think the Executive Committee did try to draw a very bright, clear line as to what would be included in the recommendation and what would not. Certainly the New Jersey example is compelling, and as every other state has indicated, we probably all have similar issues and concerns.

But, if you kind of begin to open that Pandora's Box a little bit, how far do you go? Sure, every state had a maximum group sizes, which impacted especially the big head boats for a while, for us a very long time. We know of situations where charter boats were getting cancelations of trips that went well beyond the end of the fishing ban, and they didn't recover all of those trips.

Then we have people, and I'm sure this is the case around the other states, people who book trips, then cancel the trips for concern about the ability to have social distancing on these vessels. Exactly how far do we go down that road, and allow it to be included in here? Maryland is very supportive of the guidelines as they're written. I just don't know how you make that value judgment of where you stop if you cross that clear line, Pat. I just don't know where you take it.

CHAIR KELIHER: Yes, thanks Bill for that comment, and I think that is a reminder that I was going to make. I think the Executive Committee certainly with the memo that was brought forward from the Executive Committee, tried to create that distinction between open and closed, and the fact that we were very, very concerned in regards to the precedent setting nature of this action, by keeping it very black and white with open and closed. It gave us a little bit of comfort to advance this issue to the Policy Board. Toni, who did you have next on your list?

MS. KERNS: It's hard to tell if Cheri and Eric had their hands up from before. Now, Eric put his hand down. I think that it was Dennis then Cheri, and then Steve Bowman.

CHAIR KELIHER: Dennis.

MR. ABBOTT: Going back to when we started discussing this. Dan McKiernan seemed to have a very clear situation. Massachusetts was closed for X number of days. He said he had a formula where he would be asking for X number of days at the end of his season, and that seemed sort of reasonable. Except one of the thoughts that came to my mind was he was going to add days at the end of the season for the for-hire fishery.

But the recreational fishermen in the same area would be shut out, and that would cause problems, you know within his own state. In trying to make this black and white that became the big issue on the Executive Committee. All the things that were mentioned today by Eric and others were issues that we wrestled with.

If we do have something and don't keep it completely black and white it's not going to be a good thing. It's going to set precedence. Everybody is going to have a problem with this, so all in all it just doesn't seem like it's a good idea. Eric brought up the financial issues about, you know whether people have been reimbursed for lost fishing days through the CARES Act or PPP or whatever. We have to be careful, because this is potentially a real bucket of worms.

CHAIR KELIHER: Cheri.

MS. PATTERSON: The very first bullet indicates closed recreational fishing. I guess I'm struggling with that terminology, considering that that would include private boats, not just the for-hire industry. At least in New Hampshire, the private boats could go out and do whatever kind of fishing they wanted to do, as long as they could find a ramp that was open. This primarily pertained, in my mind, to the for-hire recreational

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industry, and not the recreational industry as a whole.

CHAIR KELIHER: Yes, I think what we were trying to do is recognize the fact that the state may have actually closed all of their fisheries, and have that potential ability to add on to the end of the season if that was the case. I'm not sure if there are any examples of those out there. Most of them that I heard of were the for-hire segments of the fleet. I think we were trying to, correct me if I'm wrong, Toni. I think in the development of the memo, we were trying to be inclusive.

MS. KERNS: Pat, you're correct, and that is why we added that bit of language at the end that said it could include both specific closures.

CHAIR KELIHER: Any additional questions around the memo?

MS. KERNS: Steve Bowman had his hand up.

CHAIR KELIHER: Yes Steve, I'm sorry. Steve, go ahead.

MR. STEVEN G. BOWMAN: A lot of good debate today. I think as good managers we try to go down the path to do what is right in this situation. Just a couple things, and we I think have heard, this has been batted around, and Dennis Abbott pretty much hit the same points. But just a few things. Number one, we have insufficient data. That is the bottom line, if you get right down to it, as far as what we're trying to make good decisions upon. That is, I think our charge.

Number two, it really puts our Technical Committee in a bad position. These Technical Committees we rely upon heavily to give us good information that can withstand any test that gets thrown at us. I think that to put them in this position, when we have what we have out there, as far as data for them to work with, is putting them really in a bad place.

Last but not least, this Commission has a responsibility to be credible, and has to be able to

withstand again the test of what comes at us. I think the old saying about the road to hell being paved with good intentions. This is very much well intended, but I think there are just too many variables out there that allow this to withstand the test. If we're still here at two o'clock, because I have a meeting at two, I will not be voting for the measure.

CHAIR KELIHER: Is there anyone else on your list, Toni?

MS. KERNS: Dan McKiernan has his hand up.

CHAIR KELIHER: Dan, go ahead.

MR. MCKIERNAN: Toni, is it appropriate at this time to make a motion?

MS. KERNS: Ask your Chairman.

CHAIR KELIHER: I am fine with that. I think we've had good discussion on this, so I'm kind of both sides of the coin, and I think make your motion at this point in time would be warranted.

**MR. MCKIERNAN: Okay then, I would like to move to approve the guidance from the Executive Committee for states submitting proposals to adjust individual species 2020 recreational measures to address lost fishing opportunity due to COVID-19 restrictions.**

CHAIR KELIHER: All right, thank you Dan. We have a motion on the board, is there a second?

MS. KERNS: Steve Bowman, are you seconding that with your hand up, or is your hand up from before?

MR. BOWMAN: No, I would like to make a substitute motion.

CHAIR KELIHER: We need a second here on this one first. Is there a second to this motion?

MS. KERNS: Eric Reid.

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CHAIR KELIHER: Eric, you are seconding the motion?

MR. REID: Yes, I am.

CHAIR KELIHER: We have a motion by Dan McKiernan, seconded by Eric Reid. I'm just going to read it quickly and then we'll open the floor back up. Move to approve the guidance from the Executive Committee for states submitting proposals to adjust the individual species 2020 recreational measures to address lost fishing opportunities to the COVID-19 restrictions. Are there any questions or comments on the motion?

MS. KERNS: Dan, did you want to want to comment on your motion?

MR. McKIERNAN: Yes, if I could. Consistent with what Dennis mentioned earlier. This is a very conservative motion by Massachusetts to address the legally binding closures that were enacted on our for-hire fleet specifically. That will be the net effect, where not only did the governor announce that the for-hire fishing shouldn't take place, or would not take place, but DMF conditioned every for-hire boat permit, prohibiting them from doing that.

We did enforce the closure. We did have one violation. We would like to use what has been described as the exchange rate, based on the expected catch rates from the Wave 3 period to extend our fishery for some time period going into Wave 5. We think that is reasonable. We also think it's very conservative, because the foot traffic on that sector still remains fairly low, given the problems of the pandemic and people's fear about being in crowded settings.

But some of the members of that industry are able to take trips out with entire families that live together, or at reduced densities. This is the appropriate thing to do to help them. It is not going to make them whole in any fashion, and our CARES Act payments are still going to be very modest, something in the range of about \$3,000 to \$4,000 per charterboat, a little bit more for a party boat. But that industry has really been hurt,

I think the worst of all the industries that we're hoping to assist through the CARES Act. I hope there will be support for this motion.

CHAIR KELIHER: Does the seconder of the motion like to make a comment?

MR. REID: No, I think Mr. McKiernan did a fine job. You know my previous comments aside that that sector has suffered and is suffering. I watch those guys leave in the morning every morning. Some of them go and some of them don't. Most of them there is plenty of room on those boats, so they're having a hard time.

I will speak for my roots in Point Pleasant, New Jersey. They are having the same problem. I have no problem trying to bolster those guys up a little bit. They really need it. I can't speak for the rest of the coast, but for those two communities, I really think that we should do the best that we can to help them out.

CHAIR KELIHER: Toni, any other hands up?

MS. KERNS: We have Roy Miller and Adam Nowalsky.

CHAIR KELIHER: Roy.

MR. ROY W. MILLER: Just a question of clarification in the motion as it's stated. If the season is adjusted, let's say the impetus for the proposed season adjustment was the for-hire fleet. Would the extended season that would be granted if the proposal was approved be only for the for-hire fleet, or would there be additional recreational fishing opportunity for everyone during the extended period if it's approved?

MS. KERNS: Roy, from how I understand it is if there was a closure for only the for-hire fleet, then that extended season would only impact the for-hire fleet. If there was a closure for the entire recreational fishery then it would impact the entire recreational fishery. It just depends on how the closure was set up by the state.

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MR. MILLER: All right, thank you for that clarification.

CHAIR KELIHER: Adam Nowalsky.

MR. NOWALSKY: As written, and based on the earlier direction that the advice of the Executive Committee would allow in New Jersey's case the opportunity for black sea bass to recover at most one day. I can't vote in favor of this motion. I would hope we could have some additional conversation and clarification, and there could be some guidance given that would allow a state to make a determination if they have enough data, to bring something substantive to a Technical Committee.

When we look at what the language here is, taken verbatim of the Executive Committee recommendation, due to the COVID-19 pandemic that closed recreational fishing. I think there are two types of closures. One, there is a regulatory closure. I think Massachusetts proposal brings something that addresses that.

But then you have the closure that occurred, the lag effect as our Chairman mentioned before, and I believe I heard him say that that wasn't fully considered by the Executive Committee that effect. Mr. Reid's comments about helping Point Pleasant. This motion and the previous discussion, this isn't going to help Point Pleasant at all, as I suspect a lot of other states are going to be in.

I would like to see flexibility provided for states, we're talking about in New Jersey use of CARES Act money requiring a minimum \$10,000 loss to recover \$1,000. We're not talking about making anybody whole or beyond that even with PPP money or anything. This gets nowhere near any of that.

We've heard conversation on this call today about the low carrying rates, or lack of sailing entirely that continue to impact the for-hire sector. To simply say, well we're going to take the most conservative approach we can in a time of a

world-wide and national pandemic. I think it sends a horrible message to the fishermen we claim to represent. We need to provide flexibility to the states that if they feel they have data to provide to a Technical Committee and a species board, to at least give them the flexibility to do so. Again, based on the previous direction I can't support this. If the conversation moves to support a record that allows states to have that flexibility, to at least submit a proposal that would go beyond purely the regulatory closure, then I would fully support moving forward with this.

CHAIR KELIHER: Toni, any other hands?

MS. KERNS: Cheri Patterson and then Tom Fote.

CHAIR KELIHER: Cheri. You may be muted.

MS. KERNS: No, she put her hand down.

MS. PATTERSON: No, I'm sorry. I'm here. I was muted. I'm still struggling with this to some degree. Are we trying to help the for-hire industry, or are we trying to help a recreational industry as a whole? I think if we're just addressing a for-hire industry that actually got an economic loss scenario.

I can sort of support this maybe. But for the whole recreational fishery, I'm not sure why we would be doing that when probably most of them would still be able to go out and fish. I don't know how many states actually had access not allowed. This just still kind of confounds me. It seems too vague to me.

CHAIR KELIHER: I think the intention was to ensure that if any segment of the fishery was closed, to give the state the ability to bring forward a proposal, and the case of Massachusetts, it's a discreet segment of the for-hire industry. Tom Fote.

MR. THOMAS P. FOTE: Adam made my points on the for-hire industry, so I'm not going to repeat what Adam said. But I also want, I just listened to Cheri, when we basically look at the recreational fishing industry. The recreational fishery should

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consist of more than just party and charterboat. It consists of the tackle stores, the marinas, the gas pumps, and everything else that depends on it.

When the recreational boats weren't sailing, like in New Jersey, because the only people that could be on your boat, on your private boat is your family, and also most people were not actually sailing. We basically lose the impact, not on that. When you increase the season you not only increase the season for the recreational boats to go out to fish, but you also increase the marina, the gas, everything else that goes on there.

Tackle stores, because they sell tackle. I mean they were eating all kinds of crabs that they had hoarded, because nobody was going out black sea bass fishing, they wanted to use the baits for the clams and everything else. I'm just looking at how we're basically doing it. It's always tough on a community when we sit here a compact for 15 states, and we design a program that only one state can basically meet the guidelines for. States like New Jersey are left out in the cold, and we say well, how is that fair and equitable, because we had the same economic impact? We're not sailing. We don't have the same amount of people on the boats due to social distancing. The economic impact there. Pretty much for all the party and charter boats the same, and to basically write up rules that only one state can basically deal with, when the rec boat would represent a compact of 15 states it doesn't sound right.

I have a real serious problem with it, and I guess I cannot vote for the motion as stated, if New Jersey cannot basically put in at least a ? How do I explain that to my fishermen? The captains, because they're losing money, but you don't count because you don't follow the special guidelines that were only put up to basically benefit one state. We can't do that.

CHAIR KELIHER: Are there any other hands up, Toni?

MS. KERNS: One more, Dan McKiernan.

MR. McKIERNAN: Yes, I would just want to sort of respond to some of those comments, because recreational fishing in Massachusetts was not closed. But the for-hire businesses were told to stay tied up completely. We're just trying to address those rules, not the reduced traffic but the rules that were levied on them.

Believe me, I am not a big fan of split modes management in the recreational sector. But in this case, this mode was split, not by a fisheries management decision, but by the governor and his restrictions for COVID-19. This is a very clean proposal. I understand that it doesn't shower benefits on every state. But I think it's a fair way to address this for any state that was subjected to this kind of a rule. I would urge the Policy Board to support the motion as presented.

CHAIR KELIHER: Toni, is there any other hands up?

MS. KERNS: That is all your hands.

CHAIR KELIHER: I'm going to call the question. Toni, if you could do a roll call, please.

MS. KERNS: Will do, Pat. Pat, are you going to vote today? You're the only. Ritchie had his hand up.

MR. G. RITCHIE WHITE: I need a caucus; can we have five minutes to caucus?

CHAIR KELIHER: Yes. Do we need five minutes? Can we do it in two or three?

MR. WHITE: Three.

CHAIR KELIHER: Thank you, three-minute caucus. Okay, it's been three minutes. Toni, are you there?

MS. KERNS: I'm here.

CHAIR KELIHER: All right, hopefully that gave states a sufficient time to caucus. Toni, if you

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could do the roll call please, and I will not be voting unless there is a tie.

MS. KERNS: I know some states the Administrative Commissioner is not on the line, so I'm just going to call the state and someone from the state can give me your state's vote.

MS. KERNS: New Hampshire.

MR. ABBOTT: No.

MS. KERNS: Massachusetts

MR. McKIERNAN: Yes.

MS. KERNS: Rhode Island.

MR. REID: Yes.

MS. KERNS: Connecticut.

MR. GATES: Yes.

MS. KERNS: New York.

MR. GILMORE: No.

MS. KERNS: New Jersey.

MR. CIMINO: No.

MS. KERNS: Delaware.

MR. MILLER: No.

MS. KERNS: Pennsylvania. Loren, are you still on the phone? Maryland.

MR. ANDERSON: Yes.

MS. KERNS: Virginia.

MR. BOWMAN: No.

MS. KERNS: PRFC.

MR. MARTIN GARY: No.

MS. KERNS: North Carolina. I'm not hearing you, Steve. I'll come back to you. South Carolina.

SOUTH CAROLINA: No.

MS. KERNS: Georgia.

MR. DOUG HAYMANS: No.

MS. KERNS: Florida. I don't believe anyone from Florida is on the call. NOAA Fisheries.

NOAA FISHERIES: Yes.

MS. KERNS: I'm going to go back to North Carolina. I don't know if you're in contact with Steve, but we can't hear him.

MS. TINA BERGER: Erica Burgess is on the call.

MS. KERNS: I didn't know she was proxying, sorry Erica. She might not be able to speak, actually. Hold on, I'll go back to you Erica. I apologize. You can talk, Erica.

MS. ERICA BURGESS: Hi Toni. I'm not a proxy at this meeting, I'm just listening in.

MS. KERNS: Thanks.

MR. BOWMAN: Hey Toni, Steve Murphey says it won't let him unmute. He's voting no, if he could.

MS. KERNS: Okay.

MS. BERGER: It just unmuted, Steve.

MR. MURPHEY: No.

MS. KERNS: Thank you, Steve. I counted 5 yesses and 9 noes.

CHAIR KELIHER: Yes, that is my count. **The motion fails, 5 to 9, with no abstentions and no nulls.** Unless anybody has another motion that would conclude the business of the Policy Board, unless there is anything else under Other Business that a member would like to bring up.

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MS. KERNS: Pat, I have four hands that are raised; Adam Nowalsky, Ritchie White, Tom Fote, and Dennis Abbott. Ritchie's hand just went down so it's Adam, Tom, and just Adam.

CHAIR KELIHER: Adam, go ahead.

MR. NOWALSKY: I certainly don't want to draw this out, and the difficulty I have right now is with 9 no votes. I heard a couple of those people that voted no, I think I've got a sense of where they're coming from in their rationale for the noes. But a lot of the other states I didn't hear from, and I don't know if they are opposed to this in its entirety, or if they are opposed to it for some of the reasons I offered.

I would make a motion that is similar to what was up on the board, with the caveat to allow some additional flexibility for lost fishing effort, not just regulatorily. But before I did that Mr. Chairman, if you had the willingness to just poll a couple of those other states that voted no, in particular maybe some from the south, New York that we didn't hear from during the discussion, just to get a sense of where they were coming from.

There is no point in my making a motion if they shared similar concerns that we heard from, I believe Virginia and New Hampshire. But if they shared my concerns, then I would be prepared to make a motion to offer a little bit more liberalization to states to at least submit proposals for more specific DTs.

CHAIR KELIHER: Adam, I appreciate that. I am also very cognizant of the time. We had this scheduled from one to two. While I did not vote, I have very serious concerns about setting precedence, and creating a slippery slope, because I'm not sure where this ends, and are we then kind of opening up the door.

We've only talked about the recreational side. There have certainly been impacts on the commercial side as well, due to lost markets. Where do we stop this conversation? If there is anybody that did vote no that has an interest in

the direction that Adam is looking. If any of you want to offer up any additional comments, I would be hearing those now.

MS. KERNS: You have Steve Murphey and Dennis Abbott.

MR. MURPHEY: I agree with that Mr. Chair. I think it is a slippery slope, and a troublesome precedent to set. You know we did not close our for-hire fleet didn't do anything during that period of time, because nobody was traveling. There was not a closure, per se, but there was just a reticence on the part of the public to even go. There were impacts there that wouldn't fit into this.

But on a broader scale, you know if we get back-to-back hurricanes, can we do the same thing in the south? I mean Ocracoke, for example, and Hatteras their charter fleet is still not back to where it was two years ago. I just think, I sympathize with the for-hire fleet on that. What we're seeing, they are making up for lost ground. But I just think it's a bad precedent to set to sort of allow these types of these management issues, because like you said, you just don't really know where it's going to end.

CHAIR KELIHER: Dennis Abbott.

MR. ABBOTT: I think we had a good discussion. I think we had a good vote. I think everybody realizes the complexity of the situation. Everyone, and I'm sure some of us that voted no sympathize, et cetera and et cetera. It's been brought up repeatedly that it is precedent setting, and it's not what we should be doing. At this point I would like to make a motion to adjourn. Before I go. You know I asked early in this meeting about how many LGAs there were, and I think Toni told me 9.

That's out of 30, so having these meetings like this Policy Board meetings, you know short of having our spring/summer meeting that we've had is problematic. We really need to do these things with everyone involved, and we don't have

that right now. But I think we made a good decision, and again I think we should adjourn. Everybody made a good, honest effort today.

CHAIR KELIHER: Thank you, Dennis, and I think we can bring the other issue back up at the Executive Committee. I do know that we did a Doodle Poll to try to ensure good participation. But we can have that be further discussed at the Executive Committee. We did have another hand up, and I don't want to miss that. I appreciate your intent here, but I know we're running a little bit long, but I don't want to cut conversations off too prematurely. I think Ritchie White also had his hand up.

MS. KERNS: It wasn't Ritchie, unless I'm wrong. I don't see his hand up right now. We had Tom and Joe.

CHAIR KELIHER: Okay, Tom. Specific to Adam.

MR. FOTE: I just want to reiterate what Dennis just said. If we're going to do these, like these virtual calls, during the week when people are working, people have other committees, especially LGAs, maybe we actually should be doing it like we do Advisors, at night after six o'clock. To me it makes no difference, I'm around, I'm home. But there are other people that cannot do that. They're on call for their businesses and everything else, and it's hard enough doing business over the phone. I would recommend that.

CHAIR KELIHER: Thank you, Tom. We'll bring this back up at the Executive Committee level for further discussion. Adam, last word.

MS. KERNS: It was Joe Cimino.

CHAIR KELIHER: Sorry, I'm looking at my old list. Joe.

MR. CIMINO: You know this all sprouted out of the Executive Committee deciding to try and give guidance on proposals that come in as Massachusetts has put one forward. To me this

vote was a vote for what the guidance is. I don't understand how a no vote would stop anyone from still putting in proposals. Now there is just no guidance in doing that. Is that correct, so states can still submit proposals?

CHAIR KELIHER: I think a state is free to submit proposals, but it would have to be considered under conservation equivalency. Wouldn't that be correct, Toni? I mean, I'm not sure how would you do that.

MS. KERNS: I would have to think through that. But I think that would be what they would need to do, is make a request to change their measures from their state and use conservation equivalency to do that.

CHAIR KELIHER: Does that answer your question?

MR. CIMINO: Yes, Mr. Chair, thank you.

CHAIR KELIHER: I think we've had good conversation around this, and at this time we do have before we adjourn there was Item Number 5 for Other Business. Is there any other business to be brought before the Policy Board? If there is, I would ask you to be brief.

MS. KERNS: Is your hand up, Joe, or did you just not put it down from before? It's down.

#### ADJOURNMENT

CHAIR KELIHER: If there is no other business to be brought before the Policy Board, Dennis your motion would be in order.

MR. ABBOTT: Adjourn.

CHAIR KELIHER: Motion to adjourn. I'm assuming we've got a second for that. I want to thank everybody for their time today, and for the conversation around this issue. If there are additional thoughts that we need to discuss going forward, the Policy Board continues to have weekly catch-up calls. They are continuing to be scheduled, so if there is anything to be brought forward the Administrative Commissioner

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certainly could do that on behalf of the states.  
With that I want to appreciate everybody's time,  
and ask you all to be safe. Thank you very much.

(Whereupon the meeting adjourned at 2:05 p.m.  
on July 14, 2020)