

**PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
TAUTOG MANAGEMENT BOARD**

**Webinar  
May 5, 2020**

**Approved September 1, 2020**

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1. **Approval of agenda** by consent (Page 1).
2. **Approval of proceedings** from October 2019 by consent (Page 1).
3. **Move to approve the Rhode Island conservational equivalency proposal to increase the bag limit for the party and charter mode to 6 fish during the fall season beginning on October 15, 2020. All other tautog recreational management measures will remain unchanged** (Page 8). Motion by Jason McNamee; second by Mike Luisi. Motion fails (1 in favor, 9 opposed) (Page 14).
4. **Move to adjourn** by consent (Page 17).

**ATTENDANCE**

**Board Members**

Dan McKiernan, MA (AA)	
Raymond Kane, MA (GA)	
Rep. Sarah Peake, MA (LA)	
Sarah Ferrara, MA, Legislative proxy	
Jason McNamee, RI (AA)	
David Borden, RI (GA)	
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	
Justin Davis, CT (AA)	
Bill Hyatt, CT (GA)	
James Gilmore, NY (AA)	
Emerson Hasbrouck, NY (GA)	
John McMurray, NY, proxy for Sen. Kaminsky (LA)	
Joe Cimino, NJ (AA)	
Tom Fote, NJ (GA)	
	Adam Nowalsky, NJ, proxy for Asm. Houghtaling (LA)
	John Clark, DE, proxy for D. Saveikis (AA)
	Roy Miller, DE (GA)
	Craig Pugh, DE, proxy for Rep. Carson (LA)
	Mike Luisi, MD, Administrative proxy
	Russell Dize, MD (GA)
	Phil Langley, MD, proxy for Del. Stein (LA)
	Pat Geer, VA, proxy for S. Bowman (AA)
	Bryan Plumlee, VA (GA)
	Sen. Monty Mason, VA (LA)
	Peter Burns, NMFS
	Mike Millard, USFWS

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

**Ex-Officio Members**

**Staff**

Robert Beal	Chris Jacobs
Toni Kerns	Jeff Kipp
Kirby Rootes-Murdy	Laura Leach
Maya Drzewicki	Mike Rinaldi
Max Appelman	Kirby Rootes-Murdy
Dustin Colson Leaning	Mike Schmidtke
Jayran Farzanegan	Caitlin Starks
Lisa Havel	Geoff White
Sarah Hylton	

**Guests**

Dennis Abbott, NH, Legislative proxy	Ray Bogan
Fred Akers	Jason Boucher, DE DFW
Bill Anderson, MD DNR (AA)	Rhianna Bozzi
Mike Armstrong, MA DMF	William Brantley
Pat Augustine, Coram, NY	Delayne Brown, NH F&G
Chris Batsavage, NC DENR	Jeff Brust, NJ DEP
David Behringer	John Carmichael
Mel Bell, SC, Administrative proxy	Patrick Cassidy
Rick Bellavance, Narragansett, RI	Mike Celestino, NJ DEP
Alan Bianchi, NC DENR	Benson Chiles, Chiles Consulting
Jesse Bisette	Allison Colden, CBF
MaryAlice Bittmann	

**Guests (continued)**

Proceedings of the Tautog Management Board Meeting Webinar – May 2020

Gordon Colvin  
Heather Corbett, NJ DFW  
Nicole Costa, RI DFW  
Kira Dacanay  
Jessica Daher, NJ DEP  
Maureen Davidson, NY DEC  
Jeff Deem, Lorton, VA  
John Duane, Wellfleet, MA  
William Dunn  
Warren Elliott, PA (LA)  
Jim Estes, FL FWC  
Peter Fallon  
Lynn Fegley, MD DNR  
Dawn Franco, GA DNR  
Rick Frenzel  
Tony Friedrich, SGA  
Marty Gary, PRFC  
Matt Gates, CT DEEP  
Lewis Gillingham, VMRC  
Angela Giuliano, MD DNR  
Bridget Harner  
Brendan Harrison, NJ DEP  
Doug Haymans, GA DNR (AA)  
Asm. Eric Houghtaling, NJ (LA)  
Jeff Kaelin, Lund's Fisheries  
Kathy Knowlton, GA DNR  
Kris Kuhn, PA F&B  
Tom Little, NJ Legislature  
Carl LoBue, TNC  
Loren Lustig, PA (GA)  
Chip Lynch, NOAA  
Shanna Madsen, VMRC  
Jerry Mannen, NC (GA)  
Nichola Meserve, MA DMF  
Allison Murphy, NOAA  
Brandon Muffley, MAFMC

Steve Murphey, NC (AA)  
Gerry O'Neill  
Peter Mohlin  
Sen. David Miramant, ME (LA)  
Cheri Patterson, NH (AA)  
Mariah Pflieger  
Olivia Phillips, VMRC  
Nicholas Popoff, FL FWS  
Brian Potvin  
Harry Rickabaugh, MD DNR  
Al Ristori, Manasquan Park, NJ  
Mike Ruccio, NOAA  
Brandi Salmon, NC DENR  
Alexei Sharov, MD DNR  
Jared Silva, MA DMF  
Andrew Sinchuk  
Somers Smott, VMRC  
Julia Socrates, NYS DEC  
Helen Takade-Heumacher, FL FWS  
Mary Beth Tooley, Lincolnville, ME  
Howard Townsend, NOAA  
Sam Truesdell, MA DMF  
Mike Waine, ASA  
Ritchie White, NH (GA)  
Angel Willey, MD DNR  
Spud Woodward, GA (GA)  
Chris Wright, NOAA  
Erik Zlokovitz, MD DNR  
Renee Zobel, NH F&G

Derek Orner, NOAA

The Tautog Management Board of the Atlantic States Marine Fisheries Commission convened via webinar; Tuesday, May 5, 2020, and was called to order at 1:45 p.m. by Chairman William Hyatt.

### **CALL TO ORDER**

CHAIRMAN WILLIAM HYATT: Good afternoon everybody. This meeting of the Tautog Management Board is called to order. My name is Bill Hyatt. I'm the Governor's appointee from the state of Connecticut; the current Chair of this Board, and this is my first meeting as Chair.

### **APPROVAL OF AGENDA**

CHAIRMAN HYATT: Since we are no longer doing a roll call, the first item is approval of the agenda. Does anyone have any additions or modifications? If so, please raise your hand on the screen.

MS. TONI KERNS: I do not see any hands up.

CHAIRMAN HYATT: Okay, so seeing none the agenda is accepted. Next order of business is the approval. Yes?

MS. KERNS: I'm sorry, Tom Fote snuck his hand up in there.

CHAIRMAN HYATT: Sure, go ahead, Tom.

MR. THOMAS P. FOTE: Yes, I would just like some discussion about, as we're going to have with summer flounder, black sea bass stock, extending the season to recover from the losses that we had in the earlier part of season, or right now, because our charter and party boat fleets are still closed in New Jersey, and I assume in New York and a few other states, and how do we basically handle that situation by maybe using conservation equivalency.

CHAIRMAN HYATT: Okay Tom, so we will put that underneath 'Other Business' towards the latter part of the agenda. Is there anything else, Toni?

MS. KERNS: That is all Bill.

### **APPROVAL OF PROCEEDINGS**

CHAIRMAN HYATT: Next is approval of the proceedings from the October, 2019 Board Meeting. Are there any objections or changes or edits, again please raise your hand on the screen?

MS. KERNS: I do not see any hands raised.

CHAIRMAN HYATT: Okay, seeing none the proceedings are accepted.

### **CONSIDER RHODE ISLAND'S CONSERVATION EQUIVALENCY PROPOSAL**

CHAIRMAN HYATT: We can move to the main item on the agenda, which is consideration of Rhode Island's Conservation Equivalency Proposal. In brief, what Rhode Island is proposing under conservation equivalency is to increase their creel limit for tautog from 5 fish to 6 fish, party/charter sector only, and only during the October 15-December 31 season. Board approval is required. At this point I'm going to turn it over to Kirby, and what Kirby will do is provide more detail on the proposal, and review if it's been received from the Plan Review Team, the Technical Committee, the Law Enforcement Committee, and the Advisory Board. Kirby, go ahead.

MR. KIRBY ROOTES-MURDY: Hopefully everyone can hear me all right. Just bear with us as we switch controls to get the presentation up. All right, hopefully people can see that all right.

MS. KERNS: It looks good and we can hear you.

MR. ROOTES-MURDY: All right, so I have just a brief outline for this presentation. I'll review the Rhode Island proposal, and then go through the Commission's Conservation Equivalency Policy. After that I'll give an overview of the Plan Review Team's assessment and summary of the Rhode Island proposal.

Then as Bill had noted, provide a summary of each of the different committees that reviewed this proposal, in addition to the PRT, which is the Technical Committee, the Law Enforcement Committee, and the Advisory Panel. After that it will be for this Board to consider management action on the proposal.

As Bill noted, we received the proposal from Rhode Island. Specifically, it's requesting a separate bag limit by fishing mode during the fall season of October 15-December 31. What the proposal is outlining is an increase of one fish in their bag limit for the party/charter fleet. More information, if you're looking for background information on the proposal rationale is in the meeting materials.

But I'm going to try to give you guys just an overview of some of the key salient points. In particular, the proposal outlines that Rhode Island, specifically the party/charter sector, has been negatively impacted by the measures implemented under Amendment 1. They find that they are disadvantaged marketing fishing trips, and since the measures have gone in place, they have seen a decrease in their fall/winter trips, due to reduction in the bag limit.

Prior to 2018, they had these measures of 6-fish bag limit in place. In terms of part of the justification for why the proposal should go forward. They indicate that the party/charter sector makes up a small percentage of Rhode Island's total recreational catch, and with the proposed changes in the party/charter sector, this would increase Rhode Island's total harvest by less than 1 percent of the state's entire harvest in 2018.

It's another important item that they wanted to highlight, which is that regional measures currently are not quite the same between Massachusetts and Rhode Island, in the MARI Region, as we refer to it. Massachusetts has a summer tautog season, whereas Rhode Island does not. But as I said, more information can be found in the meeting materials on the

proposal. For today's meeting, we thought it would be helpful for this group to get a brief overview of the Commission's conservation equivalency policy, specifically in this instance because the proposal was submitted outside of the normal implementation plan process. It followed a slightly different timetable than what we would see for other proposals when an addendum or an amendment is approved by the Board. We received the proposal towards the end of February, and at that point it was through the Commission's process, up to the Board Chair to decide whether the Board would review the proposal.

Bill Hyatt determined that it should go forward in being reviewed by the subsequent committees, and so he submitted the proposal to the PRT for their review. Once it got to the PRT, it is for them to review against the information that is included in the Conservation Equivalency Policy Guidance Document that is on our website.

Within that document there is standard information that we look for in all proposals that are submitted. The PRT evaluated the proposal against those standard pieces of information. After that it was their task to determine which committees needed to review the document further, so they asked the TC, the LEC, and the AP all to review the document and provide their feedback for the Board's consideration.

Once each of those groups had completed their review, we put it all together and it was submitted as part of the meeting materials for today. I'll get to this at the end of the meeting, but basically today's meeting is about the Board reviewing this proposal, and considering whether to approve it. If the Board chooses to approve the proposal, then they need to set an implementation date.

#### **PLAN REVIEW TEAM REVIEW**

MR. ROOTES-MURDY: Next, I'll get into the Plan Review Team's review of the proposal. Some of

the key things that I'll go through was that the initial proposal, some rationale lacked information on the number of trips from the party/charter sector over time. As you hopefully saw in the updated proposal, which was included in meeting materials, this information was added in.

Additionally, the document didn't specifically connect how the proposed measures aligned with the fishery management plan's objectives, and there was not a clear plan outlined for how the proposed measures, if implemented, would be monitored for potential impacts moving forward. Next the group highlighted that it's not, in their view, a traditional conservation equivalency proposal.

Harvest is projected to increase, and there isn't an offsetting change in other measures, such as an increase in the size limit or a reduction in the season length. Given these considerations, the group didn't find that the proposal was truly conservation neutral. This, in combination with the projected harvest increase were key things that the group wanted to highlight, as well as that it was potentially more of a change in the regional measures than an actual conservation equivalency set of measures.

Specifically, to tautog fishery management plan, there is language in Amendment 1 that outlines states within the region should communicate with each other prior to making changes to their measures, and agree to those changes. Prior to the PRTs review, there was no communication between Massachusetts and Rhode Island on the proposed measures, and so this was another thing that was highlighted by the PRT. Last, from the PRT standpoint there was at least concern expressed about the potential impact in evaluating the status of the stock in the next assessment update with this change in regulations. The TC was asked to review this and provide their feedback, which I'll get into shortly. I will note that as I mentioned in the previous slide, there was an initial proposal submitted to the staff, and reviewed by the Board Chair, and after the Plan

Review Team's review of the proposal, the state of Rhode Island went back and updated their proposal, and provided additional information.

The revised version is what is included in the meeting materials.

#### **TECHNICAL COMMITTEE REVIEW**

MR. ROOTES-MURDY: Next, just to hit on some of the important points from the Technical Committee's review of the proposal. There was a discussion on the updated analysis in data use. It was pointed out that mandatory reporting is a requirement for the party/charter sector, and it was a question of the TC why this data wasn't used.

Rhode Island staff indicated that their requirement had only been in place for one year, and only provides trip-level report data for effort and harvest, but not discards and live releases. Additionally, it was highlighted that in considering whether any additional data should have been analyzed, a comparison of Massachusetts party/charter trips to Rhode Island party/charter trips may have been helpful.

In the revised analysis, total Massachusetts recreational trips targeting tautog during June through July, were compared against Rhode Island total recreational trips during October through December. In considering the analysis and potential increase in harvest, there was disagreement within the group, in terms of how much harvest would increase.

The proposal indicates that the increase could be approximately 3,176 fish, which is less than 1 percent of Rhode Island's total recreational harvest in 2018, which was approximately 330,000 fish. Some TC members indicated they didn't think harvest would increase much, given a 1-fish change in the bag limit.

Others expressed concern that the proposed measures would further complicate the regulations between New York, Connecticut,



and Rhode Island, and that there would be a 3-fish bag limit difference between those states. One TC member highlighted that discrepancy in measures could be a significant reason for people shifting their effort out of the Long Island Sound area to Rhode Island during the fall season.

More broadly, there were concerns raised about how much change in harvest could be tied specifically to regulatory changes versus normal interannual variability. The fact that anglers could target other species at the same time, such as black sea bass and summer flounder, may potentially increase harvest and effort, but it's unclear if it would ultimately result in significantly higher harvest.

As noted by the TC in previous analysis, MRIP data on tautog is highly variable, with PSEs varying significantly year to year. Regarding whether the proposed measures would complicate analysis to be undertaken in the next stock assessment update. The TC was in agreement that given the stock is considered to not be experiencing overfishing, nor is overfished at the regional level, based on the 2016 SPR reference points that proposed regulatory change doesn't pose a significant threat to the stock status. In considering the potential change to the regulations for the next stock assessment update, and whether this would complicate analysis of the three-year average of the fishing mortality rate. It was highlighted that given the current challenges in conducting the MRIP survey, due to work disruptions from COVID-19 this spring, data from 2020 will be difficult to evaluate overall, and that their regulatory change will likely have a less significant impact on the assessment than the disruptions to data collection this year.

Overall, the group found that the analysis was acceptable, and the proposal contained enough information to effectively evaluate it. As mentioned above, there is a lot of uncertainty about the extent of how the harvest would increase. Similar to comments made by the PRT, many in the group noted that they did not

see the proposal as truly conservation equivalency, given there is no offsetting changes to other measures, such as season length, size limit, or bag limit or other fishing modes, and therefore they didn't see it as conservation neutral.

#### **LAW ENFORCEMENT COMMITTEE REVIEW**

MR. ROOTES-MURDY: Next, I'm going to get into the LECs comments. We received feedback from the LEC by e-mail, and primarily they reaffirmed points that were raised in the January 2020 memo that they produced as part of evaluating proposals for striped bass. In particular the two key items they hit on was differing regulations by fishing mode, and enforcement of regulations on shared water bodies.

Specific to the first point, when there are regulations that are further divided out by fishing mode, this becomes more difficult from a law enforcement standpoint to enforce. Having a single size and bag limit for all recreational harvest is easiest to enforce. The biggest challenge that they encounter, when it comes to these differentiating regulations by fishing mode is that when people come back to the dock or marinas, it's not always clear if they were out fishing on a party/charter trip, or as a private angler.

In terms of enforcement on shared water bodies, the different regulations between neighboring states also presents challenges, especially when you have vessels that are moving between different state waters, and having fished on different regulations. Generally, law enforcement tries to abide by a strict possession limit, such that you are following what the regulations are in the water body that you are currently in. When you are returning to areas that are different from where you're fishing that further complicates enforcement.

**ADVISORY PANEL REVIEW**

MR. ROOTES-MURDY: My last slide, in terms of committee summaries is the AP. We requested feedback from the AP and received very few comments, but in particular we had two AP members who provided their input, and expressed support for the PRTs comments, specifically concern about whether the proposal was conservation equivalency. They found that it was likely going to present a situation where it could create a new precedent for approving conservation equivalency proposals that are different than previously evaluated.

Then, there was an additional comment that was offered up that was not specific to the proposal that was expressing concerns more generally about commercial management. That concludes the committee reports that I was going to go over today. For the Board's consideration at this point, the Board can take up whether to approve the Rhode Island proposal, and if so, set an implementation date. With that I will take any questions.

CHAIRMAN HYATT: Are there any questions for Kirby?

MS. KERNS: Bill, you have Dan McKiernan, Justin Davis, and then John Clark.

CHAIRMAN HYATT: Dan, go ahead.

MR. DANIEL McKIERNAN: I'm going to pass. I thought you were ready for a motion. I don't have any questions on the presentation.

CHAIRMAN HYATT: Okay, I guess next was Justin.

DR. JUSTIN DAVIS: This is a question that might be best answered by Commissioners from Rhode Island, and it relates to the rationale for the proposal. The phrase that I read in the proposal is that the reduction from a 6-fish to a 5-fish bag limit for the party/charter sector in Rhode Island resulting from Amendment 1,

created a competitive disadvantage for the sector in marketing their trips.

Given that surrounding states are at either equivalent or lower bag limits, I guess I can't understand how that presents a situation in which Rhode Island party/charter sector is at a competitive disadvantage for marketing trips. I'm guessing that the rationale is more related to the sector's ability to attract customers, given a reduced sort of bonus advantage over the general recreational bag limit.

In other words, you know three individuals who might plan on going out on one of their personal boats to go tautog fishing, could keep 10 fish because of the aggregate boat limit. But if they decided to spend perhaps \$300.00 for the three of them, perhaps more if they were going on a six-pack boat to get on a for-hire boat, they could go harvest 15 versus 18 fish.

I just wanted to clarify with Rhode Island folks that that is sort of the rationale for the proposal. Second question, I apologize, I'm being a little long winded here. In the rationale it was suggested that the industry has suffered a reduction in trips in 2018 and '19, as a result of these regulations.

But I'm wondering whether there was any analysis looking at the impact of weather on that. We know that that fall tautog fishery can be really unpredictable. When it comes to harvest and effort that is often related to how many good weather days there are when the fleet can get out fishing. Those are my two questions.

CHAIRMAN HYATT: Those questions were for somebody in Rhode Island. Is there somebody who is prepared to respond?

MS. KERNS: Jason has his hand up.

CHAIRMAN HYATT: Okay go ahead, Jay.

DR. JASON McNAMEE: Thanks, Justin for the questions. Actually, if I could just take a

moment. I really appreciate all of the effort on that. You know all of the committees invested in looking at our proposal and making comments. Now as I was going back through the materials, it struck me how many people for this change got kind of involved.

I'm really appreciative of all of that and that goes all the way to Nichole Ares, who is a staff member in Rhode Island, who did the original analysis. I just wanted to make sure I had a chance to say that. To your questions, Justin. There are a couple of spots in the original proposal, where I think we didn't word things very well.

The competitive disadvantage is one of those areas. I think you sort of characterized it well when you said, it's not necessarily about competing with the other states, because what you said is accurate. Relative to Connecticut and New York there are differences that are in Rhode Island's favor, and really the same as Massachusetts.

It really was about going back to the original crafting of the Rhode Island/Massachusetts management structure, and the fact that we ended up keeping. We had a spawning closure in place, that is that late spring, summertime closure that we have in place where Massachusetts has a fish they can keep during that time period.

That was kind of the crux of why we brought this proposal forward. I'll talk more about that after. It's not really about the competitive advantage. But what we found was at the time this 1-fish, and this was in, there was a letter that was submitted from industry in Rhode Island to this fact. I don't have data on it necessarily.

But this 1-fish seemed to be kind of like a tipping point for the industry. We lost our 1-fish, and they saw a significant decrease in their business. To your second question, Justin, whether that was an effect of weather, we didn't investigate that. I'm taking the industry

information that we received at face value that they believe it was driven by that decrease in the fish that really impacted that fall fishery for them. I'll stop there, Mr. Chair.

CHAIRMAN HYATT: I believe John Clark is next.

MR. JOHN CLARK: Jay answered just something I was curious about was the fact that Rhode Island does not have that summer season and Massachusetts does. Was that part of the original regional plan, or was that Rhode Island being more conservative than the plan? If so, you seem to imply there, Jay, that that is part of the rationale for asking for this extra fish now. Was it just a surprise to Rhode Island that it had such an impact on the business that difference of just having the 1-fish?

CHAIRMAN HYATT: Kirby or Jay.

DR. McNAMEE: Thanks John for the question. Maybe I'll take it back to that point. If folks remember, that was a big change for tautog, shifting to that regional management structure. I was and am a big proponent of that. I think it was the right move for tautog, for lots of different reasons, scientific as well as management reasons. At the time there was this difference of opinion, I guess I'll call it, between Rhode Island and Massachusetts on what to do with that spawning time period. In the end, to move things forward, we agreed to just have that difference in place, where Rhode Island wouldn't have any harvest during that spawning period, and Massachusetts was allowing that bycatch amount of 1-fish.

You know at the time it didn't seem like a big difference, and we were going to be the same in the fall. That seemed as if it would work out okay. I think we had the opportunity to have that fish in the spawning period. When we shot that around to the folks in Rhode Island, they didn't want it. They've always been really conservation minded, with regard to tautog in Rhode Island.

They didn't want it. They didn't want that fish during that period. They wanted to keep the

spawning period completely free of harvest, and that is on the commercial side as well. You know things went, we got into that first year, and that is when the industry reported that they started seeing those dramatic decreases in the number of trips that they were getting during that fall period.

That is why we're kind of revisiting this now, and I appreciate the opportunity. I think there was a lot of comments, in particular by the PRT, about this not being truly conservation equivalent. I think they are accurate in saying that I guess. The context that we were viewing it though was in that context, where we were trying to account for not having that 1-fish during the spring and summer, and taking it in the fall. We're just doing it a couple years late.

CHAIRMAN HYATT: Toni, are there other questions?

MS. KERNS: Dan McKiernan re-raised his hand, so I don't know if he has a question or if he still wants to get into the comment section. He took his hand down, so then we have Mike Luisi with a question.

CHAIRMAN HYATT: Okay, Mike go ahead.

MICHAEL LUISI: This is a question for Jason. I'm curious as to what are your plans for how to deal with this on the enforcement end at the docks? I'm asking, because selfishly we're trying to figure out how we're going to deal with differences between the charter and private angler sectors in our state with striped bass.

We're working on plans to try to make sure that we can enforce the different regulations on bag limits. What are you guys talking about, as far as dealing with this when the fish are at the dock, when you have different limits for whether people are on charter or private trips?

CHAIRMAN HYATT: Go ahead, Jay.

DR. McNAMEE: We have a couple of additional requirements, and I'm sure this is the same for everybody. There is a license if you're a party or charter vessel. You have a license, so there is kind of the first vetting that occurs by enforcement. Do you, or do you not have a license? But then we've adopted in Rhode Island same electronic reporting requirements that the Mid-Atlantic has adopted for some of their species complexes. We have all electronic reporting required for all of our party and charter vessels. That is another layer that allows some enforcement to occur. I guess those are the two main ones. It's a possession rule, so it's simple enough I guess to count fish. But when documenting that they are party and charter vessel, they need to have those other two things, they need to have their electronic trip report filled out, and the license on hand.

MR. LUISI: Thank you so much, I appreciate that.

CHAIRMAN HYATT: What I would like to do right now is close the questions. Toni, just for my information, does anybody else have their hand up?

MS. KERNS: Just Jason. Never mind, so no other hands up.

CHAIRMAN HYATT: I'm going to close this to questions, Toni, and go to Jason and say do you have a motion?

DR. McNAMEE: Yes, thank you, Mr. Chair. I'll get that up in front of me. **I would like to move to approve the Rhode Island Conservational Equivalency Proposal to increase the bag limit for the party and charter mode to 6-fish during the fall season, beginning on October 15, 2020, so that is this fall. All other tautog recreational management measures will remain unchanged.** In the motion you'll see there is a table showing all of those regulations. If I get a second, I would like to speak to the motion, Mr. Chair.

CHAIRMAN HYATT: Very good, is there a second?

MS. KERNS: To second the motion you would need to raise your hand.

MR. LUISI: I'll second the motion, this is Mike Luisi.

CHAIRMAN HYATT: It's moved and seconded to approve Rhode Island's Conservational Equivalency Proposal to increase the bag limit for the party and charter mode to 6-fish during the fall season beginning on October 15, 2020. All other tautog recreational management measures will remain unchanged. Jay, you said you would like to speak further to the motion.

DR. McNAMEE: Yes, thank you Mr. Chair, and thanks Mike for the second. I didn't know if that was going to happen. What I would like to do is start addressing some of the PRT comments. Their critique was the harshest, and so I thought I would focus there. I'll try to be relatively quick.

The main thing that they brought up in their critique was that this is not conservation equivalent. I've said this already, but just to reiterate. The idea with this proposal was to account for the fact that Rhode Island is closed during the spawning season, so late spring, early summer, while Mass is still open, and that's our region, it's Rhode Island and Massachusetts.

While we understand that we didn't make any adjustments to account for the additional harvest that we were taking on, the way we were thinking about it is, because we kept that spawning closure in place that is where we were sort of recouping those additional fish. That is the context that we were, that is the equivalency that we were kind of viewing. I also wanted to; Kirby brought this up in his presentation. It's a fair point. This is my mistake. I should have consulted with Massachusetts before submitting the proposal, and I didn't do that. That was an error, and it was wrong. The reason it happened is I simply

ran out of time to get the proposal in and have it get through this process in enough time to actually be viable for this year.

I've already apologized to Dan McKiernan directly for that. He and I did talk about it. It was after the fact though, but we did talk. As far as the mode split goes, which also came up in some of the comments. I for one look forward to thinking about addressing party and charter mode in a more comprehensive, whether it is to split the mode off or not do that. I think it's something that we need to address more comprehensively, and we've been talking about that a little bit at the Commission.

I look forward to that. I don't like to piecemeal this stuff, necessarily. However, in the short term, during what is a really challenging time, particularly for the party and charter mode, not just in Rhode Island but everywhere. This is something that we can do to provide a little bit of relief. Again, the industry has indicated that that change in 1-fish, even though it doesn't seem like a big deal. It was a tipping point. Whatever calculus the folks who charter those tautog trips in the fall.

Whatever calculus they're doing losing that additional fish created a situation where they were less inclined to book trips that are party and charter industry. Then the final point that I'll make is that this is just a really small change. The party and charter sector are a small overall proportion of the recreational harvest for tautog in Rhode Island.

They are in general a small proportion, and we're only adding one fish to the fish that they have available to them. It's a really small change. As the Technical Committee noted, you know in the grand scheme of things it's not going to impact stock status very much. Thanks for the opportunity, Mr. Chair, to sort of explain things a little bit more, and that is it from me.

CHAIRMAN HYATT: We have a motion on the floor. We're going to be open to comments and questions, but before we start. Well, anybody

who wants to comment please raise your hand on the screen. But before we start, a couple things I'll ask. One is be brief.

Secondly, I ask that you preface your comments, if possible, by saying up front whether you're speaking in support or speaking in opposition. I think in this format that will be helpful for keeping things moving. Again, brief, and if possible, preface your comment by saying whether or not you're speaking in support or in opposition to the motion. Toni, do we have any hands?

MS. KERNS: Yes, we do. We have Mike Luisi, Dan McKiernan, Justin Davis, and Jim Gilmore.

CHAIRMAN HYATT: Okay, Mike.

MR. LUISI: I'll quickly say that I supported the motion as a second for purposes of discussion. It's something that we're dealing with in our state. There is a fine line between what trips can sell for, and I'm curious to hear what other states are thinking, you know related to this proposal. I just wanted to go on record to say that I seconded this motion, not in support but for purposes of discussion. I'll look forward to hearing what others have to say.

CHAIRMAN HYATT: Dan.

MR. MCKIERNAN: I urge the Board to reject the motion for a whole suite of reasons, not the least of which is the strong criticism coming from the PRT. I understand Jason's thesis that the for-hire fleet in the fall needs more fish. If that is true, I think we should examine the stock status, and see if both states could adopt a 6-fish limit, not just for the for-hire in each state, but maybe for the private sector as well.

I just would give the Board a little bit of history of when we negotiated the common rules for the two states, Massachusetts had a 3-fish limit, a very simple set of rules all year long. Instead, we went with more of a Rhode Island approach with variable trip limits. To us, because we really favor access to the resource by

recreational anglers. We thought it would be most appropriate to give the rank and file private angler the opportunity to retain 1-fish per angler, especially when the stock wasn't overfished, and overfishing wasn't occurring.

We urged Rhode Island to consider the same, and that would keep us all in the same page, and they opted not to. Just to sum up. The notion of trying to reconcile a disparity on rules that were agreed to three years ago, with benefits only to the for-hire sector, I think is a bad policy. I'm certainly willing to entertain liberalizing tautog rules for all anglers and all sectors if it is appropriate.

CHAIRMAN HYATT: Justin.

DR. DAVIS: I'm going to be speaking in opposition to the motion, and I'll just say up front that I'm fully cognizant of the impacts that the for-hire sector is currently facing in all of our states, and it doesn't really give me any pleasure to be sitting here speaking in opposition to something that might benefit the for-hire sector in a particular state.

But my opposition, I guess, is tied to thinking about the larger commission process. You know this proposal is not a true conservation equivalency proposal by design. It is intended to increase harvest by selling more for-hire trips. I do think this is a good faith proposal on Rhode Island's part, and that they're seeking equivalency for a conservation-minded decision they made to keep their summer season closed.

However, it just doesn't seem to fit for me within sort of the construct of how we currently understand and implement conservation equivalency. This I think, speaks to maybe it's time for the commission as a whole to step back and take a look at conservation equivalency and the guidance we provide.

Certainly, our recent experiences with striped bass and bluefish this last year suggest the same. Related to that this proposal also suggests a mode split. Right now, the

Commission has a working group formed to explore the issue of mode splits. Again, because that has become a little bit of a hot button issue, with what we saw in bluefish this last year. I think because the Commission is, I think trying to right now develop a more comprehensive policy on the issue of mode splits, that we should probably really think carefully about enacting anymore of them in a piecemeal fashion. I'll also just share that of course while Connecticut is not in a management region for tautog with Massachusetts and Rhode Island, we certainly are in a fishing region. We share waters.

Currently our bag limit is substantially lower in the fall for tautog than Rhode Island. I'm concerned that the Rhode Island party/charter sector increasing their bag limit to 6-fish will create a real competitive disadvantage for the for-hire businesses in Connecticut and New York. Particularly, in a year in which I think the sector is going to be off to a slow start under the best-case scenario, and the fall season may be particularly important for these businesses to recoup some income. For all those reasons, unfortunately I have to oppose the motion.

CHAIRMAN HYATT: I believe Jim Gilmore was next.

MR. JAMES J. GILMORE: I'm sort of neutral on it right now. From a management standpoint, I don't think there is a significant impact in the bag limit change. But there seemed to be enough conversation about the, is this conservation equivalency or not. Simply, and that is I guess the concern I have in the motion, and maybe the issue that Justin I think raised, and other people have talked about.

A question, and I'm not sure if this is to you, Mr. Chairman, Toni, or whatever. If we removed conservation equivalency and they move to approve the Rhode Island proposal to increase it. Does that at least eliminate that thing, or does this have to be proposed as a conservation equivalency measure?

CHAIRMAN HYATT: My understanding is it does not have to be proposed as a conservation equivalency measure, but that is what Rhode Island has chosen to propose it as. Am I missing anything, Toni or Kirby?

MS. KERNS: Kirby, do you know off hand in the Plan if it says any requirements of changing regional measures outside of conservation equivalency? I can look. We have a couple other questions. If Kirby doesn't know this off the top of his head, he and I can look it up really quick.

MR. ROOTES-MURDY: Yes, so Toni, the main thing, and this was part of the Plan Review Teams review of the proposal, was specifically language in Amendment 1 that outlines that if the regional management measures are modified at a future date, all states will agree to the new regulations prior to regional implementation.

That is kind of the extent of it specific to Massachusetts, Rhode Island, MARI Region. It's on Page 68 of the Amendment. It does have more information that I could pull up if you guys want. But I'll see if there are other people who have comments that they want to speak to first.

MS. KERNS: Bill, Bob has his hand up. I don't know if it's specific to this issue.

CHAIRMAN HYATT: Go ahead, Bob.

EXECUTIVE DIRECT ROBERT E. BEAL: No, I wanted to comment a little bit on a couple folks that brought up the idea of the mode split, then Justin brought up the idea of a working group. I just wanted to give a quick status on where that is or isn't, if that's okay, Mr. Chairman.

CHAIRMAN HYATT: Sure, go ahead.

EXECUTIVE DIRECTOR BEAL: Just as background. The Executive Committee formed a working group to talk through this issue of mode splits. The Executive Committee started

talking about this because of bluefish and striped bass, and some other mode splits that had come up recently, and they were concerned that it was kind of piecemeal.

The Commission doesn't have a policy on that. The idea came up, should the Commission have a policy on that? There are strong feelings both ways. Some members of the Executive Committee felt mode splits were appropriate, and a great thing to have, while others felt it was a competitive advantage, and just because you're paying someone to take you fishing, you shouldn't have more access.

There is a range of opinions. The group had one conference call, and they asked me to go back and do some more analysis. I've been distracted by COVID and a number of other things, and haven't gotten nearly as far as I had hoped to be at this point. The group asked me to look into sort of analyzing what it would look like if we split off for-hire fisheries as their own mode, or own sector.

I'm doing some analysis on what the percentage is for many of our popular recreational fisheries, and you know how big that for-hire sector allocation would be based on historic data. Also, the notion of if we move sort of collectively towards separating, or implementing three sectors across the Commission's FMP, how would we do that?

The working group hasn't by any means settled on separating out the for-hire. Is it a good thing to do, or not? They just wanted to see what it would look like. We're working through that. I'll try to get that group back together sometime in the near future. But I just wanted to let everyone know that that work is ongoing, and it's not complete at this time. We're still working on it.

CHAIRMAN HYATT: To the question that was asked, for this needing to be conservation equivalency. Kirby and Toni, I'm looking at 4.2.1 in Amendment 1, and it says that if a state within a region wants to implement different

management measures than those within the region, the general procedure with Section 4.11, Conservation Equivalency will be followed.

Maybe questioning what I said before. That verbiage seems to say pretty clearly that if you want to change management measures within a state that are different, then you need to do so through Conservation Equivalency. In your view, am I interpreting that correctly?

MS. KERNS: Yes.

MR. ROOTES-MURDY: Yes.

CHAIRMAN HYATT: Okay. I guess we're on track, and yes, it has to go through conservation equivalency. Who was up, Toni with the next comment?

MS. KERNS: Okay, next on comments we have Joe Cimino, Eric Reid, Adam Nowalsky, and then Dan McKiernan, and then Tom Fote.

CHAIRMAN HYATT: Okay, again we're looking at the time. I think we need to be brief, so with that Joe, go ahead.

MR. JOE CIMINO: I'll be very brief, because I think that changes things a little bit. One of the things I was going to ask you was if we would have a minute to caucus before states have to make a decision on this. But I think, you know judging this on the true CE proposal may have changed people's call from previously.

I like many others on this Board came up on tautog TC, and spent a lot of time looking at the species. I think biologically this is a fairly safe proposal, but we've heard from some serious considerations, and we are going to have a discussion on possible relaxations with COVID. If this was a one-year proposal, and then the region would look to get back into sync, I could see other ways around this, even if this fails.

CHAIRMAN HYATT: Thank you Joe, and yes, we will allow a minute before any votes for caucus opportunities. What I'm going to try to do is wrap up this debate over the next 5-7 minutes,



so again please be brief, and I believe Eric is next. Go ahead, Eric.

MR. ERIC REID: I appreciate it. I'll be quick. I support the motion. I'm trying to understand how Rhode Island not fishing on a spawning stock is not a bad idea. Maybe we're not conservation equivalent, maybe we're positive. We're choosing not to fish at a time when those fish are spawning. It's a known spawning time, and we're choosing not to go after those fish, which leads me to a question.

Now, if you have fishing for 1-fish is allowed. What is the sum effect of allowing 1-fish to be caught? Is there high grading, what's the discard rate? We're trying to avoid all that. Our party and charter boat sector is a very small sector. We have them electronic reporting. They are under some pretty strict requirements already.

We're not going to fish on spawning stock. What is the outcome for fishing on a spawning stock? Apparently, we're married to Massachusetts, so I can understand the angst there right off the bat. But I'm having a hard time seeing why this is a problem for anyone. We're not fishing on a spawning stock, and we're giving our small sector of our economy the fish back later in the year when it's not spawning.

CHAIRMAN HYATT: I would assume that your question was more to make a point than actually present a question, for which we don't have them at the moment. Thank you again and move to Adam.

MR. ADAM NOWALSKY: I am acutely aware of the impact that 1-fish bag limit may have on the ability to draw passengers, so I have no doubt that the regulation as proposed here could have a significant impact on those for-hire vessels, and what they're seeing at a positive impact. There is no doubt that given our current economic problems, as a result of health concerns, all fishermen, the for-hire sector

specifically is going to need all the help they can get.

Particularly this fall, hopefully we'll be able to fish long before that. I do think it's important that we separate though the discussion about our reaction to trying to recoup what we've lost this spring. That is a separate discussion. I don't feel that should be a rationale for doing this, because we've got an agenda item today.

I'm sure in the coming months we're going to have conversation on this species and many others about the potential to recoup what we've lost this spring. I don't think that should be a factor into this decision. This decision should be judged solely on the basis of what we've done for the region. I have concerns about moving away from each other in the region at this point.

I would prefer to look at this. I'm going to be in opposition to this motion, but that does not mean I'm in opposition to helping Rhode Island and the region this fall, as we move into that discussion today and in the future, and then I would encourage Rhode Island to have discussion with their regional partners about how to bring this back at some future time, for the benefit of the for-hire group. I'll be opposed to this, but I'm not going to be opposed to the discussion about what we can do about for-hire vessels and all fishermen, as we move into later this year.

CHAIRMAN HYATT: Toni, I believe we had one more person queued up to speak. Unless there is overwhelming opposition, after this next person speaks, I'm going to close the debate, and go to a vote. I assume there is one person, I just didn't write down who that was.

MS. KERNS: It's Tom Fote.

CHAIRMAN HYATT: Tom, go ahead.

MR. FOTE: I came into this discussion, waiting to hear what everybody said, and there were two things that were said. I agree with what

Adam just said, and the second was I agree with what Dan said. We need to help the private boat industry also. I mean I'm looking at form between 2007 and 2014.

Not only did I lose a whole bunch of party and charter boats, but I lost 50,000 recreational boats. The effects on marinas, tackle stores, everybody that depended on those people is dramatic. We need to be helping both sectors, not just one sector. That is what I'm looking at. When Dan said that we should be looking at both sectors, I realized that that is really what was making my decision here, and I can't support this motion. But I will look at ways that we can help all fishermen, as Adam said in the fall because of lost fisheries.

CHAIRMAN HYATT: At this point we're going to close the debate. The question is adoption of the motion to approve Rhode Island Conservational Equivalency Proposal to increase the bag limit for the party and charter mode to 6-fish during the fall, beginning on October 15, 2020. All other tautog recreational management measures will remain unchanged. Let's take a one-minute caucus, and then Kirby as soon as you're ready, why don't you call the vote.

MR. ROOTES-MURDY: Thank you Mr. Chair, I'll go off of your mark.

CHAIRMAN HYATT: Okay, go ahead, Kirby.

MR. ROOTES-MURDY: I'm going to go north to south, starting with Massachusetts.

MR. DAN MCKIERNAN: This is Dan McKiernan; we oppose the motion.

MR. ROOTES-MURDY: Rhode Island.

MR. REID: Rhode Island is a yes.

MR. ROOTES-MURDY: Connecticut.

DR. DAVIS: No.

MR. ROOTES-MURDY: New York.

MR. GILMORE: No.

MR. ROOTES-MURDY: New Jersey.

MR. CIMINO: Opposed.

MR. ROOTES-MURDY: Delaware.

MR. CLARK: Sorry, we were still caucusing. Where are we now?

MR. ROOTES-MURDY: Voting.

MR. CLARK: Okay, I guess given the uncertainties here, we are opposed.

MR. ROOTES-MURDY: Maryland.

MR. LUISI: Opposed.

MR. ROOTES-MURDY: Virginia, Pat Geer. Please double check to see if you are muted currently.

MS. KERNS: Kirby, Pat Geer is not connected via sound. He cannot speak. Here we go, Pat, I see you now.

MR. PAT GEER: Okay thank you, opposed.

MR. ROOTES-MURDY: U.S. Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: No.

MR. ROOTES-MURDY: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: No.

**MR. ROOTES-MURDY: By my count I have 1 yes, 9 noes, 0 abstentions, 0 null.**

**CHAIRMAN HYATT: Thank you, Kirby, so the motion fails.**

## OTHER BUSINESS

CHAIRMAN HYATT: That brings us to Other Business. Now what we had originally intended was for Kirby to give a very quick update on where we stand relative to tagging. I think we can put that off to a future meeting. It was just going to be an update without any questions.

Tom Fote, you expressed a desire to talk about extending seasonal opportunities, given what is taking place here. If you can try to do that in two minutes, just to tee up the discussion that I think will flow through a number of these meetings that would be appreciated. Two minutes, Tom.

MR. FOTE: I'll make it fast. Basically, I think we should take a look at this. I don't know if you want to put together a working group to have this by the August meeting. We have time to do this, and look where we should go using conservation equivalency on the closed seasons that we had. I mean New Jersey has been closed for the first part of our season. It's already over.

Really, no private boats were out. Charter boats weren't out at all. Basically, I feel the other states are in the same predicament, and I think we should do anything we can to help by extending the season this year in the fall. That is my suggestion. I'm not sure how, we can't do it right now. But I think we should set up something for the August meeting. I'm just looking for everybody's support on that.

CHAIRMAN HYATT: Thank you, Tom. Is there any other business that anyone wants to bring before the Board?

MS. KERNS: Bill, I think to respond to that Bob has some suggestions.

CHAIRMAN HYATT: Go ahead, Bob.

EXECUTIVE DIRECTOR BEAL: Just very briefly. I understand where Tom's coming from. I think it's a good idea. You know it's going to take

some technical analysis to figure out what fisheries did occur, what didn't occur. A number of them were open, but nobody was really participating.

We hear from some of the southern-most fisheries that their participation is through the roof. It doesn't apply to tautog, but a number of other species. I think for this species, and we're going to talk about it in probably in striped bass, and summer flounder, and scup, and black sea bass tomorrow, maybe bluefish. You know I think we kick something back to the technical committees, ask them to dig into the data that is available. The Effort Survey is still going on, so we'll have a picture of how many fishing trips did occur. We may not know the success rate. Site intercept work is suspended.

I think it's going to take a little bit of thinking rather than just sort of, well we feel like we missed two months, let's extend it two months. If everybody is okay with it, and you're okay with it, Mr. Chairman. I would suggest we bounce this back to the TC, and have them start talking about it, and do what Tom said and bring something back at the August meeting.

CHAIRMAN HYATT: Very good, Bob. The question that Tom was bringing forward has to do with a whole slew of different species. You're not suggesting we bounce it back to the Technical Committee on tautog specifically, are you?

EXECUTIVE DIRECTOR BEAL: I think we're going to have to do it on a species-by-species basis almost, yes. I mean tautog will handle tautog, striped bass will handle striped bass, and those kinds of things. The tech groups are just going to have to dig in to the data that is available for each of the species, and see what's there and what's not there. Some fisheries the seasons haven't started yet, others have. It's just going to be species specific.

CHAIRMAN HYATT: This is something that you're speaking about in general for the different species could refer this question or

something similar to their technical committees. It's not something that requires any formal action that we take today, correct?

EXECUTIVE DIRECTOR BEAL: Correct, and you know the other boards may talk about it. They'll need to task their technical committees with working on it. Obviously Tautog Board can't task the other ones. But I think in the interest of time, you know we need to do some analysis before we start talking about specific seasonal changes and those sorts of things.

CHAIRMAN HYATT: Very good. Any other business?

MS. KERNS: Bill, you have another hand up. But I will just add to Bob's statement. If a state has an interest in having the TC look at certain aspects of the fishery, that you please communicate that to Kirby. For example, if you knew that your party and charter boat season was closed during this timeframe, then you would say hey, the TC should look at party and charterboat fisheries being closed in X state. That can just be sent in an e-mail over to Kirby. Then Bill, Mike Luisi has his hand up.

MR. HYATT: Go ahead, Mike.

MR. LUISI: I'm anticipating that this conversation is going to be had tomorrow with the joint meeting that we have with the Council. To Bob's point. I'm just wondering, maybe this is a question directly to Bob Beal. What is going to be the most efficient way of dealing with this question? It's going to come up at all the species boards, and there is certainly an interest.

I can't imagine that we would handle each one independently, and have different tactics, or different management measures, or management decisions that we would apply to each board. But is this something that the Executive Committee, or is there a place somewhere, Bob that we can have this discussion about this entire question about extending or changing seasons in the fall to

account for issues surrounding the COVID-19 pandemic now, you know later?

Is there some other place that we can have a more robust discussion that encompasses all of the fisheries that we're dealing with, rather than taking this one at a time? I'm concerned that we're going to deviate, all the different boards are going to deviate from one another, and we're going to go in different places. Just a question to Bob, basically.

CHAIRMAN HYATT: Yes, Mike that is an excellent question, exactly what I was wondering too. Is there a better place or a better way to handle this?

MR. LUISI: Tomorrow this is going to come up. It's going to come up in each, it is probably going to come up this afternoon with striped bass, and then it's going to come up with bluefish, and then it's going to come up again with summer flounder, scup, and black sea bass. If we can come to some agreement now, very quickly, as to how we would message that to the Board members.

If there is another place and time. Given that we're doing all of this via webinar now, is there a place in time in the near future that we could execute a meeting of the Commission, whether it is the Executive Committee, or a Business Session or something, to get everybody on the same page. I think that would be the way to go, rather than having this argument each and every time a board meets. Thank you for that extra.

CHAIRMAN HYATT: Bob, Toni do you want to respond?

EXECUTIVE DIRECTOR BEAL: I'll chime in, this is Bob. I'm fine with just bouncing back to the Executive Committee. The Executive Committee actually has a call this Thursday to theoretically talk about distribution of the Cares Act Funds, the Disaster Relief money, but we haven't heard the final allocations there yet.

Maybe this topic is something they could kill time with. I think it is a good idea to have one sort of policy approach that is unified across all the species, you know one strategy that we're going to apply. Once that strategy is figured out, I think there is still going to be species-specific technical work that has to happen, looking at data and those sorts of things.

But I think it is a great idea to have one approach, so that one strategy is not applied to tautog, which is different than striped bass, which differs from summer flounder. I can work with the Chairman of the Commission and find some time for the Executive Committee, or a similar group to talk about and come up with the overall policy or strategy to tackle the problem.

CHAIRMAN HYATT: Excellent. That's perfect. We need to move on here, because we're going to be bumping up against the Striped Bass Board meeting shortly. Does anybody else have any other business?

MS. KERNS: Bill, Tom Fote has his hand raised.

CHAIRMAN HYATT: Tom, is this a continued discussion or something new?

MR. FOTE: It's just a short comment. Tautog and striped bass are managed by the Commission only, so we don't have to deal with the Council and NMFS. That is why I was handling tautog, and I don't know what we're going to do with striped bass. But just on tautog, we can do this without going through the Council system and through NMFS, and we can do it by ourselves. That is why I suggested it that way.

CHAIRMAN HYATT: Okay very good, thank you Tom. Toni, is there anybody signed up for public comment?

MS. KERNS: I'll just give the public a second to raise their hand if they want to make any comments to please go ahead and do so. I do not see any hands raised.

## **ADJOURNMENT**

CHAIRMAN HYATT: Thank you folks, with that it brings a close to our agenda, a close to our meeting, and we are adjourned.

(Whereupon the meeting adjourned at 2:55 p.m.  
on May 5, 2020)