

**PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
AMERICAN EEL MANAGEMENT BOARD**

**Wentworth by the Sea
New Castle, New Hampshire
October 29, 2019**

Approved May 4, 2021

Proceedings of the American Eel Management Board Meeting
October 2019

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1. **Approval of Agenda** by Consent (Page 1).
2. **Approval of Proceedings of August 2019** by Consent (Page 1).
3. **Move to approve the Coastwide Cap Coverage Policy as presented today** (Page 9). Motion by Eric Reid; second by Cheri Patterson. Motion carried (Page 10).
4. **Move to accept the FMP Review and State Compliance Reports for American eel and *de minimis* requests from New Hampshire, Massachusetts, Pennsylvania, Georgia, and Florida requested *de minimis* status for their yellow eel fisheries; and *de minimis* status for both South Carolina's yellow eel and glass eel fisheries and accept and forward the PRT's recommendations** (Page 11). Motion by Cheri Patterson; second by Lynn Fegley. Motion carried (Page 12).
5. **Move to adjourn** by consent (Page 13).

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ATTENDANCE

Board Members

Megan Ware, ME, proxy for P. Keliher (AA)
Steve Train, ME (GA)
Sen. David Miramant, ME (LA)
Cheri Patterson, NH, proxy for D. Grout (AA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)
David Pierce, MA (AA)
Sarah Ferrara, MA, proxy for Rep. Peake (LA)
Raymond Kane, MA (GA)
Phil Edwards, RI, proxy for J. McNamee (AA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)
David Borden, RI (GA)
Justin Davis, CT (AA)
Sen. Craig Miner, CT (LA)
Bill Hyatt, CT (GA)
Maureen Davidson, NY, proxy for J. Gilmore (AA)
Emerson Hasbrouck, NY (GA)
John McMurray, NY, proxy for Sen. Kaminsky (LA)
Heather Corbett, NJ, proxy for J. Cimino (AA)
Tom Fote, NJ (GA)
Adam Nowalsky, NJ, proxy for Sen. Andrzejczak (LA)
Loren Lustig, PA (GA)

Andy Shiels, PA, proxy for T. Schaeffer (AA)
John Clark, DE, proxy for D. Saveikis (AA)
Roy Miller, DE (GA)
Lynn Fegley, MD, proxy for B. Anderson (AA)
Phil Langley, MD, proxy for Del. Stein (LA)
Robert Brown, MD, proxy for R. Dize (GA)
Pat Geer, VA, proxy for S. Bowman (AA)
Chris Batsavage, NC, proxy for S. Murphey (AA)
Jerry Mannen, NC (GA)
Mike Blanton, NC, proxy for Rep. Steinburg (LA)
Mel Bell, SC, proxy for R. Boyles (AA)
Malcolm Rhodes, SC (GA)
Sen. Ronnie Cromer, SC (LA)
Spud Woodward, GA (GA)
Doug Haymans, GA (AA)
Rep. Thad Altman, FL (LA)
Jim Estes, FL, proxy for J. McCawley (AA)
Marty Gary, PRFC
Chris Wright, NMFS
Mike Millard, USFWS

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

Ex-Officio Members

Staff

Bob Beal
Toni Kerns
Kirby Rootes-Murdy
Dustin Colson Leaning

Maya Drzewicki
Julie Defilippi Simpson
Tina Berger

Guests

Bill Anderson, MD DNR
Lewis Gillingham, VMRC
Kris Kuhn, PA Fish & Boat
Arnold Leo, E. Hampton, NY
Chip Lynch, NOAA

Steve Murphy, NC (AA)
Glenn Normandeau, NH F&G
Jack Travelstead, CCA
Renee Zobel, NH F&G

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The American Eel Management Board of the Atlantic States Marine Fisheries Commission convened in the Wentworth Ballroom of the Wentworth by the Sea Hotel, New Castle, New Hampshire; Tuesday, October 29, 2019, and was called to order at 1:00 o'clock p.m. by Chair Martin Gary.

CALL TO ORDER

CHAIR MARTIN GARY: Good afternoon, I'm Marty Gary your Chairman for the American Eel Board. Seated to my right is Kirby Rootes-Murdy, who will be back in a moment. He is the Senior Fishery Management Plan Coordinator, and liaison for this species. Our Vice-Chairman is Lynn Fegley from the state of Maryland.

Before we get going I would just like to, I know it's been said before and it will be said many, many times before our meeting week is over with, but I want to thank the New Hampshire delegation: Doug Grout, Cheri Patterson, Ritchie and Dennis Abbott for their hospitality and all the work they put in to bring us together under this great venue, in what's been a great meeting so far, and will be a wonderful meeting for the rest of the week.

Thank you to the New Hampshire delegation, and also thanks to Bob, Toni, and all the ASMFC staff, for all the hard work that they've done to put us in a position to succeed in our meeting. Thank you very much, ASMFC staff. I know Toni would like to say a couple words.

MS. TONI KERNS: I just wanted to introduce the Commission's newest staff member, Maya Drzewicki. She's right up here at the front of the table with Dustin, and she is the new Fisheries Administrative Assistant. She helps out the ISFMP, the Science Department, and ACCSP as well at times, so she's getting to know all the parts of ASMFC. If you see her around please welcome her to the family.

APPROVAL OF AGENDA

CHAIR GARY: All right, excellent. Our first order of business is Approval of the Agenda. Note that there are no aquaculture plan proposals on the agenda today. It should make things easier. Are there any changes or modifications to the agenda? Seeing none we'll consider that approved.

APPROVAL OF PROCEEDINGS

CHAIR GARY: Next order of business is to approve the proceedings from the August, 2019 meeting. Are there any modifications, changes to those proceedings? Seeing none, we'll consider those approved.

PUBLIC COMMENT

CHAIR GARY: The next order of business is Public Comment. I didn't see anybody signed up, but is there anyone in the public that would like to speak to items that are not on the agenda? Okay seeing none, we'll move ahead.

**CONSIDER APPROVAL OF
COASTWIDE CAP OVERAGE POLICY**

CHAIR GARY: The next order of business is Consideration of Approval of Coastwide Cap Overage Policy. This will be a final action, depending on the discussion, and Kirby has a presentation for us, and Kirby I'll turn it over to you.

MR. KIRBY ROOTES-MURDY: As mentioned, we're going to go through the Draft Coastwide Cap Overage Policy today. I have a presentation I'll give you that provides a little bit of background on this policy. We'll review some of the details in the document, I'll answer any questions you guys have, and then it is for the Board to consider final action on it.

As background, this Board approved Addendum V in August of last year. That Addendum established a new coastwide cap for the yellow eel fishery. That's at 916,473 pounds. It also

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established the new management trigger, whereas if landings exceed the cap by 10 percent or more for two years, then it triggers the need for mandatory action to reduce harvest back to the cap.

That 10 percent overage would get us up to a little over a million pounds. The Addendum also modified the FMP so there are no longer state allocations. Those states that harvest 1 percent or more of the coastwide yellow eel landings are responsible for the reduction. Through the rest of my presentation I'm going to refer to them as the 1 percent states.

Following that approval of Addendum V, there was a workgroup that was convened to help develop this coastwide cap overage policy. That Workgroup met seven times between late last year and up through earlier this month. In talking through this new coastwide cap level and the new management trigger, and how to manage the resource in a way that prevents overages from occurring, there were a couple of challenges that came to light pretty quickly.

The first is that with the new management trigger, the coastwide cap can be exceeded anywhere between 0 percent up to 9 percent, for multiple years without there being mandatory Board action required. A second challenge is that there is a lag in addressing an overage in a given year, due to the timing of when landings data becomes available.

We, this year for example, received landings data for 2018 if we wanted to address that it would take action now and those measures would likely go into place for 2020. There is always this lag. The Workgroup considered a number of different overage scenarios and drafted different reduction options, and thought through those.

In going through the document now, I want to just highlight some of the key points, because it was included in the briefing materials, and hopefully you've all had a chance to review it.

But the key distinction the group raised is that with this new approach the Board is trying to manage to the coastwide cap, not the gray area in between, above the coastwide cap and under a 10 percent overage.

To do so, this requires proactively monitoring landings data, and encouraging voluntary action by states of this Board when an overage occurs. To help do that the Workgroup recommends that there should be a review of preliminary commercial yellow eel's landings from ACCSP to be made available annually by the spring meeting.

Now, in talking through this approach with the Workgroup members it became very clear that, in order to get that data together in time annually by the spring meeting, it's very important for all states to submit their data on time, so that it can go through ACCSP, have a QA/QC analysis done to ensure that they are as accurate as they can be, and the states can then work off of the best available data to respond to changes in landings trends. In terms of how the Workgroup thought through responding to cap overages, they put together this notion that a workgroup should be convened in those situation to further evaluate the overage, rather than trying to prescribe ahead of time a very specific, or maybe narrow approach for dealing with an overage.

There could be different situations that arise that need to be evaluated in those instances. The crux of this policy lays out for Years 1 and 2, after an overage has been determined through a Decision Tree how this management board should respond. To hit home the point about getting data in on time, and how important it is for evaluating the yellow eel fishery.

We worked with ACCSP to look at the past few years, in terms of when states got their landings data in, and went through the process of validating them. I've got 2016, 2017, 2018 up on the screen. You can see that in each of those years you had some states that got the

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landings data in on time. Then other years you had situations where no states got the landings data in on time. It fluctuates year to year.

The key take home here, I think, is trying to just keep in mind that if we're going to move forward with an approach, where the Board is trying to evaluate this data by the spring meeting, it's really going to be contingent on having the data available, and in turn submit it on time. Otherwise, this Board would be trying to make potential management decisions on data that is not the best that it could be.

Next I'm going to go through the Decision Tree. It's laid out pretty clearly in this document, but I'm going to go through each of the years and each of the branches that are within it, and so it might take a little bit more time, but bear with me. Under Year 1, going from left to right on the screen, the first two scenarios are pretty straightforward. In a situation where the overage is less than 5 percent no action would be taken, but continue to monitor landings annually.

In a situation where the landings overage is between 5 and 9.9 percent, those 1 percent states that saw an increase in their harvest would be asked to take a voluntary reduction, to reduce harvest back to the cap. The furthest column over, those gray boxes, have some added complexity. It starts off with this question. Did the 1 percent states landings increase? There are then three potential responses and associated action.

If yes, all by 10 percent or greater, the 1 percent states would take an equal percentage reduction, it would be a voluntary action again to reduce harvest back to the cap. If it's yes, some exceeded or had their landings increase by 10 percent or greater, and others increased but by less than 10 percent, the Workgroup is proposing the reduction to be divided up the following way. All those 1 percent states take 50 percent of that reduction, and then the other 50 percent of that reduction goes to

those 1 percent states whose landings increased by 10 percent or more.

It divides up the reduction into two halves. There is a base level reduction that all the states that are in the 1 percent take a reduction, and then the other 50 percent of it goes to those states that saw their landings increase by 10 percent or more. For the response in Year 2, if there is a 5 percent to 9.9 percent overage in Year 1, starting from left to right. If there is a greater than 5 percent overage in Year 2 for 1 percent states whose landings increased in Year 1 and 2, the idea would be to expand those voluntary reduction measures, and take them into Year 3. For 1 percent states whose landings increased in Year 1, but not Year 2, the idea would be to maintain those voluntary reductions from Year 2 into Year 3. For those 1 percent states whose landings increased in Year 2, but did not in Year 1, they would then implement voluntary measures in Year 3.

Moving over in a situation where there is a 0 to 5 percent overage in Year 2, the idea would be to just maintain those voluntary reduction measures from Year 2 into 3. Then the third column, if there is an underage in Year 2, the idea would be to consider maybe relaxing those measures into Year 3. The last one is what the response would be in Year 2 if there is a 10 percent of greater overage in Year 1.

Starting again from left to right, if there is a 10 percent or greater overage in Year 2, the idea here would be then to initiate an addendum to determine the best approach for trying to reduce harvest among those states through mandatory action. In the middle column, if that overage in Year 2 is 5 percent to 9.9 percent in Year 2, for the 1 percent state whose landings increased in Year 1 and 2, they would then expand those voluntary measures, and taking them into Year 3.

For the 1 percent states whose landings increased in Year 1 but not Year 2, they would maintain voluntary measures into Year 3. For 1

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percent states whose landings increased in Year 2, but not in Year 1, they would implement voluntary measures in Year 3. In the last column, if there was no overage or less than 5 percent overage in Year 2, voluntary measures would be put into place for Year 3.

To really hit home, the time table that would play out under this new policy, if we were looking at this year, and we went back in time to the spring, excuse me, if we would go forward into 2020, and the Board was looking at landings data from this year, 2019. If there was an overage between 0 and 10 percent of the cap, the Board would convene a workgroup.

During the summer of next year, the workgroup would review the overage relative to the Decision Tree, and develop a report with recommended actions for the Board to consider. In August of 2020 the Board would consider that report, and recommend voluntary actions as soon as possible. Voluntary measures implemented would try to be in place before the end of the year.

In spring 2021, the Board would review 2020 landings, and if it's determined that an overage of greater than 10 percent of the cap occurred the management trigger would be tripped, and the Board would initiate an addendum. Later that summer we would pull together that draft addendum, and we would go through our process of drafting it up, presenting it to this Board for consideration at the August meeting.

Public comment period would take place in the fall of 2021, and in October 2021, the Board would consider final action on that addendum, and potentially implement the provisions of it by January of 2022. Again, this speaks to the lag in being able to address overages, but this is based on the Working Group's recommendation. Probably the best approach to address overages in the future. One thing to keep in mind with this policy is we do have preliminary landings data available for 2018. That is why we've got an asterisk next to it.

Landings in 2018 for the yellow eel fishery were approximately 781,615 pounds. This value includes landings from Massachusetts, which was not available when the FMP review was completed, so it's slightly higher than what the value is in that document.

But this value is an approximate 8 percent decrease from 2017. It's I believe the second lowest value in the time series, between 1998 and 2018. To wrap up, the Board today can consider approval of this Overage Policy. I've tried to outline, I think the most specific parts of it that are key for this Board to keep in mind. If this Board approves this policy today, it would be added to Addendum V as an appendix, and that would be modified on our website. With that I'll take any questions. Thank you.

CHAIR GARY: Questions for Kirby? We'll start with Adam and then go to Emerson. Adam.

MR. ADAM NOWALSKY: Thanks to the Working Group for putting this together. What discussion did the Working Group have about if you pull up your example timeline again, the actual feasibility for states to put something in place in August of a given year for that current fishing year, and the expected compliance by fishermen with a voluntary measure?

MR. ROOTES-MURDY: Yes, thanks for the question. The Workgroup talked about this a little bit, and we have really just one example in recent years. In 2017 preliminary data indicated that we had gone over the previous coastwide cap. The state of Maryland took action to implement changes in their fishery for the fall.

We haven't really gone through what each of the state's ability is to quickly implement something, because it varies across the coast, right. Some states have to go through a rulemaking process; some have to go through the state legislature. It really varies, depending on what state you're talking about.

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That is one of the big challenges in trying to move quickly on this, the other is that keep in mind this would be voluntary measures that would be implemented. There is no requirement in the Addendum currently or in this Draft Policy that in a situation where an overage occurs, and where we haven't tripped the management trigger that management action is required.

CHAIR GARY: Follow.

MR. NOWALSKY: Thank you for the opportunity for a follow up. I would certainly think yesterday's conversation should give us pause about any expectations about voluntary compliance. What would be a potential revised timeline if we did not approve this policy today, but went back to the states to see how feasible this even was on a coastwide basis? The states could take action, given where we are with landings relative to 2018 right now, with this not appearing to be something we would put in place, need to utilize in the short term.

MR. ROOTES-MURDY: Sorry Adam, can you repeat that question one more time. I'm a little confused by what you were asking.

MR. NOWALSKY: If we did not approve this policy today, but took the time to go back to the states and get the answer as to this timeline. If, in August of 2020, you were asked to take voluntary action and get the answer to, which of those states actually could do something? When would we next consider this as a policy?

MR. ROOTES-MURDY: Well I think as Toni mentioned in a previous meeting today, we haven't quite started thinking through all the boards that will be meeting at the winter meeting. I'm not sure when the next time this Board would meet. It would be kind of at the pleasure of when this Board thinks it needs to meet again.

But given that this Board also has membership across the coast and all are present here today,

we could probably get that answer from all the states around the table, if you wanted to know that ASAP. But if you prefer we can go back and send out an e-mail and ask people to respond, and then we could follow up.

CHAIR GARY: Thoughts on that Adam.

MR. NOWALSKY: My thought is that I would not vote in favor or approve by consent this policy without knowing those answers.

CHAIR GARY: All right, Emerson Hasbrouck.

MR. EMERSON C. HASBROUCK: I actually have several questions, but I'll just start off with a couple of them. It was helpful to see the landings for the past three years, but what would be even more helpful to me is if you have it available, the landings by state for the last three years. That is one question. Kirby, you mentioned several times in your presentation that if the states report on time. You mentioned on time several times, but what is on time? What is the timeframe on that? Those are my two starting questions.

MR. ROOTES-MURDY: Thanks for the question, Emerson. To answer the first question, yes. I have available, not in an easy-to-see format. I have the landings data by state, so we have a good handle on which states in any given year harvested 1 percent or more of the coastwide total. If you're interested in what New York situation would be.

I mean for at least the last ten years New York has been a 1 percent state. They've harvested at least 1 percent of the coastwide total. To the second question, I might have to turn to my counterpart in ACCSP, Julie our Deputy Director; she can answer the specific date that we would be asking for this data in 2020.

MS. JULIE DEFILIPPI SIMPSON: Hi, the date that is currently slated would be the end of the first week of March. In this year in 2019 the date was March 9, and in 2017 it was March 8. I do

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want to point out that when Kirby put up his timeline earlier with lateness, there was sort of that big jump in 2017. A lot of that came from the fact that that was the first year that we tried to push the deadline a little bit earlier. For the 2016 data the deadline was March 17. When it went from March 17 to March 8 that is when everyone missed it, and folks are getting better now. But this year's deadline was March 9, and that timeline is likely to remain in effect for at least a few years at this point.

CHAIR GARY: Follow Emerson.

MR. HASBROUCK: Yes thank you, Mr. Chairman, and Julie thank you for clarifying that. Kirby, in terms of the landings by state, I already know that New York lands more than 1 percent of the landings. But I just wanted to get a sense of what the landings distribution is among the states. I know that New York is more than 1, but I don't know what the percentage has been the past couple of years, if it's 5 percent, 10 percent in other states that land a significant percentage of the quota, you know 25 percent or more.

MR. ROOTES-MURDY: To your fall question. Over the last ten years the states of New York through North Carolina have consistently harvested at least 1 percent or more of the coastwide total. You were saying you were interested in knowing which states harvested say 25 percent or more of the coastwide total, is that correct?

MR. HASBROUCK: It was a two-part question. One is what is the average percent that New York has been harvesting of the quota, and then yes other states that harvest a significant amount, and I'm not sure what significant is, because I'm not looking at a table that has all the landings in it. I just picked 25 percent out of the air. Maybe it's 30 percent, maybe it's 65 percent. You know whatever some of the states are that have "significant" landings.

MR. ROOTES-MURDY: Yes so over the last ten years New York has averaged approximately 3.67 percent of the coastwide total. With the exception of Maryland, there is no other state that is higher than 11 percent of the coastwide total for the last ten years.

CHAIR GARY: Lynn Fegley.

MS. LYNN FEGLEY: I wanted to maybe try to clarify a little bit to Adam's question about the time by which states could put measures in place. If we got to the point in August 2020, where the Board recommended voluntary measures, it's my impression that a state could implement measures voluntarily for the next year, and the effect of this voluntary action is to stay ahead of a situation when you would trip a trigger.

If you look at the timeline, and we get to August 2020, where it says voluntary measures implemented ASAP for 2020. If a state and I may be stepping outside the bounds of a document here, I don't know I hope I'm not. But if a state put those measures in place, if they couldn't do it right away for 2020, but they did it for 2021, then if we fired a trigger that state would already be ahead of an addendum process.

What the point here is to try to get states onboard to take action before it becomes a mandatory addendum. If they can get ahead of the ball, because we have that lag, it's going to save time for reaction. That was sort of the thought process that we went through in the Workgroup, recognizing that not every state could act within those few months at the end of a year.

CHAIR GARY: Thanks Lynn for those thoughts. Also before we take additional questions, we tried our best to be as inclusive as we could. We had both low harvest states and high harvest states on the Workgroup, and as Kirby mentioned they put in considerable time, seven meetings. Most of those meetings ran multiple

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hours, so it's a complex issue. There was a lot of territory to cover.

But the Workgroup did their best, and again we had geographically a good spectrum from South Carolina to Maine, New Hampshire low harvest states, the Mid-Atlantic states, Maryland, Delaware, Virginia and North Carolina, those are those higher harvest states that Kirby referenced, were part of this. We didn't have everybody involved, but we had I thought high inclusiveness, in terms of developing this policy, so I just want to state that. Are there any more questions on the Policy Document for Kirby? Maureen.

MS. MAUREEN DAVIDSON: Kirby, this is just something I couldn't follow while you were giving your presentation. When a state exceeds, or we have a one-year overage, on the right hand column in the gray boxes, if some states exceeded by more than 10 percent and some states exceeded by less than 10 percent that's the bigger box.

It says that each 1 percent state takes a base voluntary reduction equal to 50 percent of the reduction needed to get to the cap. Are we talking about a standard number of pounds that represent the 50 percent, and each state would take an equal number of poundage from it, or is that poundage going to be a percent of the state's landings?

MR. ROOTES-MURDY: Yes, thanks for the question, it's a good one. I think my read of it is that it would be dependent on the volume of landings, right. I believe it would be somewhere in the ballpark if we had like 100,000 pounds and you have 50,000 pounds that needs to be reduced that is the base reduction that the 1 percent states have to take, right?

You've got to get to that reduced by 50,000 pounds collectively. The other 50,000 pounds would then be dealt with by those states that are harvesting 10 percent or more, or saw an

increase in their harvest by 10 percent or more. Does that make sense?

MS. DAVIDSON: Yes, but I think what I'm asking is for the first group. Is it going to be a set poundage that each state will have to take, or is it going to be a percent of it?

MR. ROOTES-MURDY: I think that would have to be determined at the time. This Decision Tree doesn't specify whether it would be a percentage or poundage on that front.

MS. DAVIDSON: It would be determined at the time if we were to have the overage, thank you.

CHAIR GARY: Additional questions for Kirby, Chris.

MR. CHRIS WRIGHT: If in the Decision Tree, if the states don't report or all the states don't report, is the default to do an addendum to address the overages? Do you have to have all the states reporting to be able to even move forward with the Decisions Trees?

MR. ROOTES-MURDY: I'm trying to understand the question. Yes, we need all states to report their landings. That allows us to evaluate whether the coastwide cap has been exceeded or not.

MR. WRIGHT: Then what is the default if they don't?

MR. ROOTES-MURDY: If the states don't report their landings?

MR. WRIGHT: Right, by the deadline.

MR. ROOTES-MURDY: Sorry, by the deadline or annually? I am not understanding.

MR. WRIGHT: It seems like you have to meet a specific time for the information to get put into the process in time to be effective to actually move forward, correct? I'm just trying to picture if they don't. Now if one or two states

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don't report what happens then? What is the default in either Year 1 or 2? Do you have to catch up? I don't know.

MR. ROOTES-MURDY: The key thing I would point out with this policy is that the Working Group recommended the spring meeting, so as to as quickly as possible try to implement voluntary measures if needed for that year. That is part of why that deadline is important. If the data isn't available by the spring meeting, then when that data is available we would report it out to the Board. It would just generally delay the process in this Board being able to take action.

CHAIR GARY: Toni.

MS. KERNS: To the point, it is to the benefit of the states. It's for their own wellbeing, in terms of their eel fisheries, because no one wants to exceed the cap. Therefore, these voluntary measures are to prevent the trigger from being hit. It's not an individual state is exceeding, it's the coastwide quota being exceeded, and so everybody is holding each other accountable.

CHAIR GARY: Thank you, Toni for the clarification. Time for a couple more questions, but just to let the Board know, there are three possible outcomes today. If the Board supports moving forward with this policy without any edits, and we can accept a motion to do so. If there are very minor edits we could also do that today.

But, if there are significant concerns by the Board we would have to come back to the Working Group, and that would delay the process, so just to make you aware of that. Are there any other questions? We have time for a couple more if you have them, Emerson, one last.

MR. HASBROUCK: Yes, if nobody else has a question. I still have a couple. Is it possible, under that box that Maureen was referring to on the right hand side of Year 1, the larger box?

Yes, some by greater than 10 percent. Under that scenario, depending on what the overage is, is it possible that by spreading that 50 percent across all the 1 percent states that a state may take a reduction that is approximately equivalent to what its current harvest is?

MR. ROOTES-MURDY: I would have to look at the data, but I don't believe that would be the case given where the cap is at, what the overage scenarios could be. Yes I would have to double check.

CHAIR GARY: One last one, Lynn Fegley.

MS. FEGLEY: I don't have a question Mr. Chair; I have a comment if that's okay. Yes, and to Emerson's point, I just want to remind the Board that the point to this was to try to develop an alternate scenario than developing a hard allocation that a state would be saddled with, and getting in a situation of creating winners and losers on allocation.

The idea here is to be flexible, and if we have to make a reduction to be able to, and it's stated in the document, to carefully review the pattern and the magnitude of the overage, in determining how to get back to the cap. That means if you have situations where some states are really shooting up, and other states aren't. You can make a reduction to get back to the cap, recognizing that it is not a permanent allocation that we're going to be saddled with onto the future. The actions are voluntary, so we're all holding together, and trying to as Toni said, hold each other accountable. Recognizing that if we exceed the trigger and we do two years of 10 percent overage, then it's going to be an addendum, and it's no longer going to be voluntary.

Then we're going to have to determine how to get to that reduction. It's a little bit of a different way to do business. The Workgroup made a very conscious decision to your point, Emerson, not to be overly prescriptive, because

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when we get in a situation is when the Workgroup is going to have to convene, and really see how these Decision Trees are going to come together, and Emerson make sure that the scenario that you outlined doesn't happen.

CHAIR GARY: At this point in time I would entertain a motion, Eric Reid.

MR. ERIC REID: Just one point. Of course if you looked at a three-year scenario, when you got to the end of your three year, one would drop out, and then you would have a different set of numbers for two years, right? **Okay with that being said do you want to entertain a motion, Mr. Chairman? I've got a three-page motion in honor of my good friend, Dr. Pierce, but I think it's been edited down to something a little bit more reasonable, so I think you have it. There it is. Move to approve the coastwide cap coverage policy as presented today.**

CHAIR GARY: Do we have a second? Cheri Patterson. Start off and see if this can go the easy way. Is there an objection to this motion? We do have an objection, so this is a final action so it will be a roll call vote. Is there a need to caucus? Yes, I would say about a two minute caucus. Okay we'll go ahead and read the motion into the record, and then Kirby will conduct the roll call vote. Move to approve the Coastwide Cap Coverage Policy as presented today. The motion was made by Mr. Reid, seconded by Ms. Patterson, and Kirby, could you go ahead and conduct a roll call?

MR. ROOTES-MURDY: We'll start with the state of Maine.

SENATOR DAVID MIRAMANT: No.

MR. ROOTES-MURDY: New Hampshire.

MR. DENNIS ABBOTT: Yes.

MR. ROOTES-MURDY: Massachusetts.

MR. RAYMOND W. KANE: Yes.

MR. ROOTES-MURDY: Rhode Island.

RHODE ISLAND: Yes.

MR. ROOTES-MURDY: Connecticut.

CONNECTICUT: Yes.

MR. ROOTES-MURDY: New York.

MR. HASBROUCK: Yes.

MR. ROOTES-MURDY: New Jersey.

MS. HEATHER CORBETT: No.

MR. ROOTES-MURDY: Pennsylvania.

MR. LOREN W. LUSTIG: Yes.

MR. ROOTES-MURDY: Delaware.

MR. JOHN CLARK: Yes.

MR. ROOTES-MURDY: Maryland.

MS. FEGLEY: Yes.

MR. ROOTES-MURDY: District of Colombia is not present, Potomac River Fisheries Commission.

POTOMAC RIVER FISHERIES COMMISSION: Yes.

MR. ROOTES-MURDY: Virginia.

VIRGINIA: Yes.

MR. ROOTES-MURDY: North Carolina.

MR. CHRIS BATSAVAGE: Yes.

MR. ROOTES-MURDY: South Carolina.

DR. MALCOLM RHODES: Yes.

MR. ROOTES-MURDY: Georgia.

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MR. DOUG HAYMANS: Yes.

MR. ROOTES-MURDY: Florida.

MR. JIM ESTES: Yes.

MR. ROOTES-MURDY: National Marine Fisheries Service.

MR. WRIGHT: Yes.

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

U.S. FISH AND WILDLIFE SERVICE: Yes.

CHAIR GARY: The motion passes 16 in favor, 2 opposed, no abstentions and no null votes.
Thank you.

**CONSIDER APPROVAL OF 2019 FISHERY
MANAGEMENT PLAN REVIEW AND STATE
COMPLIANCE REPORTS**

CHAIR GARY: Our next item up on the agenda is Consideration of Approval of 2019 Fishery Management Plan Review and State Compliance Reports, Kirby.

MR. ROOTES-MURDY: I'll go through this FMP review now. I just have an outline for you all, a review status of the stock, status of the fishery, state compliance with the FMP, and PRT recommendations. As we've discussed before, Addendum V was approved in 2018. Two aquaculture proposals were submitted and approved for the 2019 season.

Any state harvesting over 750 pounds of glass eel a year must implement a Fishery Independent Life Cycle Survey. Maine began implementing their survey in 2016. As the Board may remember, there was an update provided at the August meeting last year. They have continued to work on adjusting some of the issues they've encountered with the site selection for a few of those different life stage data points.

In terms of stock status as this Board is aware, the American eel stock status remains depleted. We have no reference points we're working under. In terms of the status of the commercial fishery, state reported landings for the yellow silver eels were approximately 780,615 pounds in 2018. As mentioned in my previous presentation that is approximately an 8 percent decrease from 2017 to 2018.

Delaware, Maryland, Potomac River Fisheries Commission and Virginia account for 82 percent of the harvest. Landings of glass eel were reported from Maine and South Carolina. Maine harvested 9,194 pounds; South Carolina's landings are confidential. In terms of status of the fishery for the recreational sector, since 2009 recreational data has not been included as part of compliance reports, given the unreliable nature of the MRIP survey design in targeting eel.

In reviewing the plan there was no changes to eel measures in 2018. There were no noted issues in terms of glass eel regulations for Maine or South Carolina. In terms of the yellow eel fishery regulations, as we've noted before the coastwise cap was increased to 916,000 pounds through Addendum V. There is now a two-year-management trigger, and state-by-state quotas have been removed.

There were no noted issues in terms of yellow eel regulations from State Compliance Reports. In terms of the silver eel fishery there were no new changes in regulations. As noted, we didn't find any issues with state compliance reports there. As part of Addendum V Aquaculture Plan Proposals based on the Technical Committee's recommendations, additional information is requested from the states as part of those proposals annually, so that was modified, based on the Board's approval of Addendum V.

The only other issue that was notified but has been rectified is that we didn't receive a compliance report from Massachusetts by the

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time we had compiled the FMP review for this meeting, but we received it within the last week. In terms of *de minimis* status, the FMP stipulates that states may apply for *de minimis* status for each of the life stages of eels that they are targeting for the preceding two years, if their average commercial landings constitute less than 1 percent of the coastwide commercial landings.

New Hampshire, Massachusetts, Pennsylvania, South Carolina, Georgia, and Florida requested *de minimis* status for the yellow eel fishery, and they all met that threshold. South Carolina requested *de minimis* status for glass eels and met that as well. In terms of Plan Review Team recommendations, the PRT recommends that the Board consider state compliance as mentioned.

We had some standing items that were brought up last year, such as reconsidering the requirement that states provide an estimate of the percent of harvest that goes to food versus bait. This is a challenging estimate for the states to put together, in terms of information and compliance reports.

There was the note that states should work with law enforcement agencies to include information on the legal or undocumented harvest of eels. The PRT also requested that New York continue to try to work to separate out their yellow and silver eel landings where possible, and that states should try to continue to quantify where possible when upstream and downstream passage has been improved, and provide that information to the Technical Committee for evaluation. With that I'll take any questions, thank you.

CHAIR GARY: Questions for Kirby. John Clark.

MR. CLARK: Can you just elaborate a little more on Maine's Life Cycle Survey, and why that seems to still be not making a lot of progress?

MR. ROOTES-MURDY: In terms of characterizing it, they have made progress. You know it was first implemented in 2016, as I noted. They, at the Board meeting in August of last year, they presented some of their preliminary information as part of the Technical Committee report.

They have been adjusting some of the sites that they were using over time, and I think that is just in an effort to capture the best data available. But we can provide you more information specific to what their estimates were if you want. It's also included in the state compliance reports that are compiled at the back.

CHAIR GARY: There are no questions for Kirby? Barring none we'll entertain a motion, Cheri Patterson.

MS. CHERI PATTERSON: Move to accept the FMP Review and State Compliance Reports for American eel, and *de minimis* requests for New Hampshire, Massachusetts, Pennsylvania, Georgia, and Florida requested *de minimis* status for their yellow eel fisheries, and *de minimis* status for both South Carolina's yellow eel and glass eel fishery. Accept and forward the PRTs recommendations.

CHAIR GARY: Do we have a second to that motion? Lynn Fegley. Is there any objection to this motion? Seeing none the motion passes. Next up, is there any other business to bring before this Board? Dennis Abbott.

MR. ABBOTT: Before we adjourn I do have an announcement to make if you recognize me.

CHAIR GARY: I'm sorry, go ahead Dennis.

MR. ABBOTT: Yes, I just wanted to remind everyone that there are still tee shirts available. If you have bought your \$20.00 tee shirt, you can buy another one for \$10.00; give you a chance at the raffle. All the items that principally Ritchie White collected from L.L.

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Bean, Kittery Trading Post, CCA, will all be raffled off tomorrow at lunchtime. For a good cause we urge you to get out there and buy another tee shirt, thank you.

ADJOURNMENT

CHAIR GARY: Thank you, Dennis. I think that concludes the business of this Board, this concludes my tenure for Chairman, and I'll be turning over the reins for the next meeting to the very capable hands of Ms. Lynn Fegley of Maryland, and thank you for the privilege of Chairing this Board. (Applause) We're adjourned, thank you.

(Whereupon the meeting adjourned at 1:55
o'clock p.m. on October 29, 2019)