

P R O C E E D I N G S
of the
ATLANTIC STATES MARINE FISHERIES COMMISSION
ISFMP POLICY BOARD

October 18, 2001
Samoset Resort
Rockport, Maine

Graham Verbatim Transcriptions, Inc.
P.O. Box 314
Monson, Maine, 04464

(207) 997-2080

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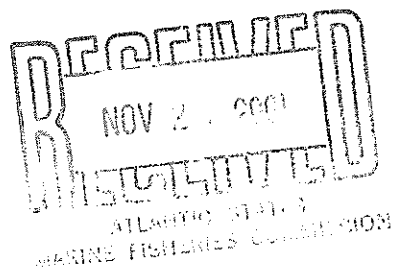
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ATLANTIC STATES MARINE FISHERIES COMMISSION

ISFMP POLICY BOARD

Samoset Resort

Rockland, Maine

October 18, 2001

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The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened in the Rockport/Camden Room of the Samoset Resort, Rockland, Maine, Thursday morning, October 18, 2001, and was called to order at 10:00 o'clock a.m. by Chairman Susan Shipman.

CHAIRMAN SUSAN SHIPMAN: Welcome. We'll convene the meeting of the Policy Board. I'm going to forego calling the roll. I will note that we do have a quorum of member states present. We have the federal services. I know we have both of them. Staff will make note of the attendance. We'll also pass something around and ask that our observers and guests sign that, please.

What I'd like to do is approve the agenda and the minutes as a consent item. Those are Items 2 and 3 on your agenda. Everyone should have received the packet on your CD-ROM.

If you don't have it with you, there are materials over on the table. Is there objection to approving the agenda and the proceedings by consent? Seeing no objection, those are approved by consent.

As is our custom, we would like to ask any members of the public if they would like to address us on any issues. Seeing no one from the public that wishes to address us now, I would just like to extend an open invitation as we move along in our business.

If someone from the public does wish to speak, just raise your hand and we will be glad to recognize you. We're going to move on to reports, and we're going to actually take this in reverse order.

We're going to have the Management and Science Committee report first from Charlie Lesser because of some travel constraints, and then we will take Law Enforcement and then Habitat Committee. So, we will go in order of C, B and A. Charlie.

MR. CHARLES LESSER: Thank you, Susan. The Management and Science Committee met for the half of two days for a, and our plate is full, believe me. We went through various topics and boiled it down to what we would like to report to the Policy Committee.

I'll go through this. There are five items we would like to bring

to your attention. The modification of the stock assessment peer review process, we've been asked to review this.

There has been a subcommittee working on this for over a year now, and the majority of the modifications of this peer review process involve clarification and elaboration of the procedures, standards and time line for conducting a stock assessment.

However, several major issues were raised regarding the expectations of what a peer review would and would not provide and what should be included in the peer review. Some of these concerns stem from the functional differences between the SAW/SARC process and the Commission's external peer review.

The MS Committee agreed with the subcommittee's recommendations that the peer review will do the following things, and there are five listed there:

It will provide a judgement of the value and the appropriateness of the science and the scientific methods which produce the assessment. It will provide recommendations for future research and improvement of future assessments.

It will evaluate all input parameters and biological characteristics incorporated into the model. It will evaluate the stock assessment methods, and it will evaluate the status of the stocks relative to the current Fishery Management Plan goals.

The peer review will not do the following, and I repeat not. It will not provide specific management recommendations. It will not resolve all issues. It will not answer all questions, and it will not provide options to reach management targets.

The major issues addressed include the accommodation of changes to the stock assessment during the peer review, finalization of peer review findings and providing advice on stock status.

After discussing this for various aspects, we are making the following recommendations to the Policy Board. We recommend that for all types of peer reviews, if changes to the assessment report can be accommodated during the conduct of the review meeting, given the resources available, then the decision to make these changes should be made through consensus of the reviewers through the Chair and the peer review panel.

We also recommend that the findings of the peer review panel be viewed as a final determination. We recommend that the peer review panel provide advice on the status of the stock relative to the overfishing definition or the biological reference points, for example, the stock is overfished or the stock is at some level of spawning stock biomass; and the management targets, for example, the overfishing definition may be too high.

However, the Management and Science Committee recommends that the peer review panel should not recommend management options or strategies, in other words, how to lower the F or to meet other management goals.

We also recommend approval of these major changes to the Commission's Stock Assessment Peer Review Process as well as clarifications of the purpose and the process of conducting a peer review. Any questions on that one?

CHAIRMAN SHIPMAN: Any questions for Charlie on those recommendations? Charlie, what I think I'd like to do is go ahead and work through the whole report, and then we'll come back to these recommendations that we need to approve, and we may want to do that by consensus or take motions.

MR. LESSER: All right. The next item of discussion was the long-term schedule for conducting the stock assessment peer reviews, and I think you have that table.

We reviewed the long-term schedule for conducting these assessments, and we recommend it be used as a guide by the ISFMP and the Commission staff, fully recognizing that in time, with shifting priorities and budget changes, it may cause modification of this schedule.

On invasive species, we came to the conclusion that there are various aspects of invasive species that are a much higher level than just the Commission, and we recommend that the Commission monitor the ongoing activities involving invasive species, such as the Invasive Species National Task Force, the Chesapeake Bay Ballast Task Force and the Great Lakes Invasive Species Plan during 2002.

Recommendations will be developed by the M&S Committee and the Habitat Committee on how to coordinate Atlantic coast efforts with these other regional and national activities. Compilation of the information will be conducted by staff and will not require additional funding.

On aquaculture, there is a draft document being circulated entitled, "The Guidance in Support of Development of Sustainable Aquacultural Activities in Atlantic Coast States." It is currently being reviewed by the Commission's Management and Science Committee, the Habitat Committee, and the Law Enforcement Committee.

It will also be forwarded to all commissioners for review with comments due back, hopefully, by mid-November. We would like to stress the importance of the review because this document will affect the states.

It is for state guidance and it will not affect the Commission, per se, but the states should take note of that. It will be distributed for public comment during 2002 and forwarded to the Policy Board for approval during mid-2002. So, again, we stress that you review this document based upon how it may affect you in your own state.

CHAIRMAN SHIPMAN: Charlie, if I may just ask there; I know it says that recommendations contained in the report are intended to be directed to the state fishery agencies. I would assume also to the aquaculture agencies because in many cases those are different in our state.

MR. LESSER: True. In various states, there are various aspects of aquaculture going on. I know, in our own state, we went through this process about six or seven years ago where the final result was legislation enacted to place aquaculture into agriculture, and it's a long, drawn-out process, and this report will help those who have not gone through that process yet.

CHAIRMAN SHIPMAN: Thank you, Charlie. Okay, general tagging.

MR. LESSER: General tagging, I don't know if you have the language, but there has been general information or general language developed by the subcommittee on tagging programs for incorporation into all Commission fisheries management plans and amendments.

This language focuses on the need to coordinate tagging efforts through the Interstate Tagging Committee and does not contain requirements for state compliance. We recommend inclusion of this language as standard language in all FMPs and amendments, and that concludes our report to the Policy Board.

CHAIRMAN SHIPMAN: Okay, thank you, Charlie. What I would like to do is just go item by item and take questions that you have, and then I believe what you have requested is that we approve, at a minimum, the three recommendations on the bottom of Page 1, with regard to peer review, and you or Lisa please correct me if I'm wrong there.

So, let's take that item first. Questions or discussions on the peer review process? Gordon.

MR. GORDON C. COLVIN: I just have a little bit of discomfort about one element of the peer review process that I would like the Board to be aware of, and it flows from the experience we had in the Lobster Management Program from the last comprehensive lobster stock assessment update.

I'm going to put a spin on this that's my spin, but I'm telling you at the outset that it's a spin. The lobster stock assessment, as

those in the Lobster Management Process are aware of, was a very, very difficult, stressful, time-consuming and comprehensive stock assessment process that was conducted internally under the auspices of the American Lobster Technical Committee and its subcommittees.

It took many months, frankly, well over a year, to complete and conclude. It wasn't entirely conclusive and there were both majority and minority views expressed in the text of that assessment about the reference points and where the resource stood with respect to the reference points.

Nonetheless, there was a consensus viewpoint expressed, even though albeit minority opinions were included in the assessment. The assessment, without getting into details, was about that thick. It was submitted to a peer review panel.

Now, just a word about this. Peer reviewers are certainly extremely knowledgeable and qualified scientists in whom we have confidence. So, of course, are the people who prepared the assessment, the difference being that the former group is accountable to the Board and the latter, the peer reviewers are not.

The results of the peer review, which was conducted in a period of a few days, resulted in conclusions that differed in some substantial ways from the conclusions of the assessment itself.

We have proceeded to adopt an addendum that reflects the advice of the peer review panel, and that's consistent with these recommendations, but it raises an issue about the question of acceptance of a peer review panel, however well-qualified, however well-intentioned, however much confidence that we have in them.

It's how thoroughly they can assess and consider and deliberate and report on technical matters of the weight and of the time that it took to create the assessment in the amount of time and in the process that we have.

I know that some members of our Lobster Technical Committee felt that their work got shortchanged in the peer review, that the time and the effort and the trouble that they put into it was not matched in terms of the effort it was given by the peer review, again, not out of anything other than the simple consideration of the time available.

We also know, as is indicated here, that the Northeast SAW/SARC Process is a more iterative process that attempts, through the SARC part of that process, to reconcile and to create a process through the iterative discussions and reviews and analysis to reconcile differences that the peer reviewers may have with the input that they're given, in that case from the various committees.

Our process has not, to date, although it's indicated here that we will attempt to do so, provided that opportunity for reconciliation. It strikes me that we have a couple of options. One option is to simply proceed as recommended and not address this issue of reconciliation.

A second is to actively consider revisions to our peer review process to try to provide an opportunity for reconciliation along the lines of the Northeast SAW/SARC.

A third is to accept the advice of peer reviewers with respect to critical issues such as the establishment of reference points or an evaluation of stock status as compared to reference points as advice, which may or may not coincide with advice received from our own in-house experts, if you will, and leave the reconciliation of that to the Management Board Process.

I'm not sure yet that we've gone quite far enough here in addressing that critical point. But I do know that the last Lobster Stock Assessment Peer Review left unresolved questions in my mind, as Board Chair, and left a lot of hard feelings among stock assessment people who work for us who put an enormous amount of time, effort, blood, sweat and tears into a work product that they really didn't feel got an equivalent amount of effort put back into its review. It is in the spirit of their concerns that I speak to this issue this morning.

CHAIRMAN SHIPMAN: Thank you, Gordon. It appears to me the two issues you have addressed are the first and second recommendations; the issue of the peer reviewers making changes and then; secondarily, that those findings be the final determination, and correct me if I'm interpreting that wrong.

MR. COLVIN: Yes.

CHAIRMAN SHIPMAN: Okay. Bill Adler.

MR. WILLIAM A. ADLER: Thank you, Madam Chair. I just wanted to ask on that second one there, when you say a final determination, what does that mean?

CHAIRMAN SHIPMAN: Charlie, would you or Lisa like to respond to that?

MR. LESSER: Lisa.

CHAIRMAN SHIPMAN: Dr. Kline, would you join us, and you may want to make some remarks with regard to Gordon's comments.

DR. LISA KLINE: Well, I think the issue that was discussed by the subcommittee and the Management and Science Committee that made this recommendation was related to the issues that Gordon raised.

The question that, I guess, was addressed was if you take a stock assessment out to an external peer review and you get results from the peer review panel, at what point in time do you stop the process of review and accept the results?

The recommendation essentially says that the peer review panel results are the final determination. That would be the endpoint, as opposed to another option that was discussed, which is you take a stock assessment out to peer review, you bring it back to the Board, who then refers it to the Technical Committee and allow your committees to reevaluate the advice from the panel, which kind of creates a circular type of review process, and the Management and Science Committee's recommendation essentially says stop the process at the end of the peer review.

CHAIRMAN SHIPMAN: Other questions? Pete.

MR. W. PETE JENSEN: I have a question for Gordon. Gordon, in the report, there's an enumeration of what the peer review will do and will not do. Are you suggesting that that list of guidelines is not adequate for the future? I think that's the important point of this recommendation, as I'm reading it, in spite of what happened in lobsters.

MR. COLVIN: I'm not sure that the issue I'm trying to put my finger on falls out of the wills and will not. Maybe it does, but I'm not convinced of it. I think it's a process question. But, Bill and I just had a discussion sidebar.

Let me state the problem a different way as I see it, and maybe others don't share my view. The problem as I see it is this, that the peer review process as it's outlined here, particularly this second bold item, this one sentence bold item at the bottom, can boil down to this, and it's as simple as this to me; that if a peer review panel, comprised of scientists that we don't know, or may not know, and are not accountable to us, says that a stock is overfished, even if our own technical advisors say otherwise, that determination by those people that we don't know and are not accountable to us becomes binding on this Commission and all of our constituents up and down the East coast for the duration of that assessment and that determination, and that bothers me.

CHAIRMAN SHIPMAN: Other comments on this? Ernie.

MR. ERNEST E. BECKWITH, JR.: I thank Gordon for bringing that up because I have a similar concern. I was concerned with lobster, and we've recently gone through a peer review in summer flounder and at least some of us had somewhat similar problems with it, too. So, I think it takes away the flexibility that the Management Board has.

CHAIRMAN SHIPMAN: What I might suggest -- this strikes me as

similar to some issues we had in the past with regard to the Habitat Review Document for reviewing permit comments and that type of thing.

What we may want to do is I would ask those that have a concern on this, if we're not ready to adopt this today or to recommend incorporation of this into our peer review guidelines, and it appears to me from some of the concerns expressed that we're not, that those states with concerns, the delegation should make those known to the Management and Science Committee and see if you all can rework something that accommodates those concerns.

Would that be agreeable to the Board? Charlie or Lisa, do you have a comment on that?

DR. KLINE: I would suggest that anyone that has concerns pass them through me, either verbally or written. What I'll do is forward it, Charlie, back to the subcommittee and essentially have them readdress those concerns.

CHAIRMAN SHIPMAN: And if we could defer maybe approval of these recommendations. Now, will that in any way affect or influence the workload that you all have planned for this schedule of peer reviews for the next eight years? My immediate concern is 2002. I don't see an external peer review involved in the 2002 scheduling.

DR. KLINE: No, right now we don't have any recommendations from any of the boards to do an external peer review. Atlantic croaker could be one that could come up, but that would be much later in 2002.

So, the rest of those species will most likely go through the SARC, and I think the SARC process is set and not really under question here.

CHAIRMAN SHIPMAN: Well, if no one has any objection, let's take that course, and I would note that Dr. Kline and the Management and Science Committee sent a document out to us a good while back asking for our feedback and our input.

If you did not take the opportunity or make the time to comment on it then, please take a look at these recommendations and do get feedback to her for in turn her to give to the subcommittee.

What I would like to take up next, Charlie and Lisa, would be that long-term schedule. You have reviewed that, you've adjusted it, and you're recommending to us that this schedule be used as guidance for the Policy Board and the Commission staff, recognizing that things will come up in a year and things may have to be adjusted.

This is an eight year -- well, excuse me, a seven year schedule, I guess. Any other comments either of you want to make on this schedule? Okay, we have a recommendation from them that we accept this to be used as guidance. Is there objection to doing that? George.

MR. GEORGE LAPOINTE: I thought that lobster was going to be reviewed in 2003. Wasn't that what we heard in the board meeting, and it says 2005 here?

CHAIRMAN SHIPMAN: I could not comment to that. I wasn't there for that part of the meeting. Could the Lobster Chairman or Dr. Kline answer that?

DR. KLINE: Actually, just to comment in general. The table was put together a couple of weeks ago, Bob and I sitting down looking at the draft action plan, so any changes that the Management board has made this week are not reflected in the table.

MR. LAPOINTE: Okay, I'll have the Chair of the Lobster Board talk to Dr. Kline and Bob and clear that up.

MR. COLVIN: If I can, I do think that there's an expectation that a lobster assessment will be done in 2003. However, getting it completed and having it peer reviewed by 2005 may be more realistic, in light of our last experience.

CHAIRMAN SHIPMAN: A.C.

MR. A.C. CARPENTER: In looking at this, it looks to me like you have nine scheduled for 2002, five for the next year, eight for the following year, and my attention is drawn to the American eel.

Given what we heard at the American Eel Board Meeting yesterday, you might want to push that one back to five or six or even seven where you only have three scheduled right now.

CHAIRMAN SHIPMAN: Bob.

MR. ROBERT E. BEAL: Yes, A.C., as Lisa said, the schedule is basically set up on the triggers that the Commission has in place and the SARC process has in place.

But obviously, if the data isn't there and the assessment is no different than the last time, we'll reconsider as we get closer to those years.

CHAIRMAN SHIPMAN: Bruce.

MR. BRUCE FREEMAN: There are three categories; the SARC process, which is straightforward, and there's an external review and an internal. What led us to determine whether it would be internal or

external; just that's the way it worked out?

CHAIRMAN SHIPMAN: Dr. Kline.

DR. KLINE: The ones that are marked on there as S, E and I are ones that have already been conducted through those processes. The indications where there's just an X, that indicates that the Management Board will need to determine how to do the review.

So, this table will need to be reviewed by all the management boards, and as an assessment is coming up, a determination will have to be made.

CHAIRMAN SHIPMAN: This is mostly a scheduling document and for guidance, understanding that things will change as Management Board priorities change.

If there's no objection to accepting this as guidance, I would suggest we do this and commend this back to the management boards and to staff for adjustment as necessary. Seeing no objection, that's how we'll handle that. Invasive species, Charlie, there was a recommendation there.

MR. LESSER: We recommend that the Commission staff monitor the ongoing invasive species boards and compile that information, and it shouldn't require any additional funding.

CHAIRMAN SHIPMAN: Okay, Gordon.

MR. COLVIN: I just wanted to say I'm really glad that the Management and Science Committee is doing this. The Great Lakes Plan had come across my desk earlier this year from folks in some of our upstate offices, and I had recognized that it might very well be applicable to east coast stuff and aware that there was stuff going on on the Chesapeake.

I sent it on to Lisa and I just want to thank the staff and the Management and Science Committee for jumping on this. I think it's really important, and a coordinated review of this nature has the potential for saving some of us a great deal of independent state-by-state work and really streamlining our ability to address something that's really important.

CHAIRMAN SHIPMAN: Gordon, it would also be my hope that as in the coming year we complete some other things under goal two of our action plan, we can move this onto the burner with some money, because we did have to cut some money out of this, and move it to staff compiling the information. George.

MR. LAPOINTE: I, too, am glad this is being conducted because in the state of Maine, I don't know how it is elsewhere, the invasive species work has been largely terrestrial in fresh water and trying

to get attention to marine issues has been really tough in the state of Maine.

CHAIRMAN SHIPMAN: Okay, no other discussions on that topic, I don't believe we have any action item there. We'll move down to the general tagging language for incorporation into the Commission FMPs.

Management and Science has recommended the inclusion or standard language be included in all the FM's and amendments, and that language is basically the need to coordinate tagging efforts through the Interstate Tagging Committee. There are no requirements for state compliance. Any elaboration on that, Charlie, that you need to make?

MR. LESSER: It's just they're trying to not require states to follow a standard procedure, but they're going to establish procedures and make sure that the wording is such that they recognize that there are different types of tags and the right tag should be used.

It should be coordinated and it should be a reasonable study that meets the scientific review. It's a set of safety guidelines so that we don't have the "let's just tag a fish to tag a fish" routine going. It coordinates it, but it's not a compliance factor with the FMP.

CHAIRMAN SHIPMAN: So, your recommendation is that this would be standard language to go into the recommendations sections of the plan, not the requirement sections of the recommendations.

Is there objection from the Policy Board of commending this language to all of our management boards? Seeing no objection, we'll do that by consensus.

I think that completed the items from the Management and Science Committee. Those of you who participated in the conservation equivalency workshop yesterday know that we did add some additional things to their platter, in the context of their current working group and review of our technical input process.

We have tasked them and asked them to look at formulating some guidelines and standards for conservation equivalency on that. So, that's an additional task with no money, of course, one of those unfunded mandates. Ken.

DR. KENNETH HADDAD: Yes, Susan, just a quick question on the Aquaculture Guidelines Document, and this is more me just not understanding all the processes yet.

When you get comments coming in that are being requested in this document, how will they be applied to the actual document itself?

Do they just get appended as comments or if we recommend changes as individual states --

CHAIRMAN SHIPMAN: Are you asking will those comments go back to the work group?

MR. HADDAD: Yes, what happens?

CHAIRMAN SHIPMAN: Lisa, what is your plan for dealing with the comments from the Commission family?

DR. KLINE: The document has been put together through an aquaculture steering committee that's made up of Management and Science Committee people and some other people with more expertise in aquaculture.

That steering committee has worked with about 40 different participants through a series of workshops. All the technical issues or comments will be merged into the document by the steering committee and passed back out for review by the 40 participants.

We will then move everything up to the Management and Science Committee, who will have the approval, and send it up to the Policy Board through the Commission process. So, those are kind of the steps, but all comments will not just be appended to the document. The document will be adjusted for those comments.

MS. SHIPMAN: Ken, does that answer your question? My understanding is there's still quite a bit of vetting that this document will go through before it comes to us in a final form.

Other questions on the Management and Science Committee report? Thank you, Charlie. You all continue to do just phenomenal work for us. I don't know how we could get much of what we do done without the work of Management and Science, and please continue to express our thanks to your committee for the fine work you all do. Thank you, Charlie.

Okay. We're going to move quickly onto Law Enforcement Committee. Bruce Buckson, who is the Chair of that committee, is going to report to us and I know he's on some time constraints, so we'll move as quickly through that as we can.

MAJOR BRUCE BUCKSON: Thank you, Madam Chairperson. I am Bruce Buckson. I'm from the Florida Fish and Wildlife Conservation Commission, and as Susan said, I Chair this committee and it's been a pleasure to be in this state.

I'm sorry that Joe is not here, but you all do a good job with the weather up here, too, for the most part. I thought we were the only ones who had sun all the time, when you wanted it anyway.

We had a one-day meeting with a real aggressive agenda and we were able to push through that. I've been told a couple of times that maybe I pushed a little too hard to try to get through it, but I think we did manage to get through it.

We covered the issues that were most important and we've set aside some things for subcommittees to deal with, and I think we managed our time very well.

We had representation from 13 of the Atlantic coastal states and two of the federal agencies, which is a real good representation, especially during this time of national crisis. I was very happy to see all those present.

You'll notice on the report that, basically, it's a summary report. There is one action item for the Board and I think it's a rather serious item. I'll give you a little background on how we got to it, and I'm speaking of the resolution that you should have a copy of.

The Mid-Atlantic and the New England Council were presented with a resolution or a proposal similar to this. It was an encouragement to those councils and this is a recommendation of a resolution from our Committee to this Board to follow suit to try to at least acknowledge the fact that we've still got business at hand, the general business that we have in protecting the resources.

I think it's important for this Board to understand that, clearly, the national level of the fisheries enforcement folks have been redirected and diverted to some different missions.

I can tell you that I didn't hear of one state that was represented that did not have some sort of diversion of law enforcement assets to deal with the issues that began on September 11th.

I think it's very important to recognize that that September 11th issue was a grave crisis for us all to face, and I think that a definition I once heard of crisis is very appropriate.

It's an opportunity for success, and I think that the nation has moved forward to make a success out of something that was terrible and we're trying to do the same thing with this.

We recognize that our assets are not going to be totally focused to marine resource issues the way they have been before. We're going through a transition period, and I think it's something that will take some time to get through.

Also important for the Board to recognize is you had -- at this Law Enforcement Committee, this particular week you had just about all of the marine enforcement for all the states of the Atlantic coast of America represented here, and you need to recognize that those

are the folks that are the ones that are out there taking care of the marine resources, but also having some assets diverted from the traditional things that we're used to seeing us do.

With that, I'd just like to read this resolution and it's a recommendation, as I said, of this Committee for this Commission to adopt this resolution and make it available as a press release where it sees fit and also pass it onto the states so that they might use it and be able to recognize that the partnership that we have amongst states, that we're all moving towards the same thing.

We're focusing our efforts as best we can in the areas to be able to ensure that we continue to have as good a compliance as we do with regulations. The resolution reads:

WHEREAS, the terrorist attack of September 11, 2001, resulted in a diversion of some law enforcement resources from the area of marine resource enforcement; and

WHEREAS, enforcement of living marine resource regulations is a crucial component of effective marine resource management and is required to carry out the public trust responsibility for the sustainability of common property resources; and

WHEREAS, some individuals may attempt to take advantage of the present focus by law enforcement on national security issues to violate marine resource management regulations; NOW,

THEREFORE, BE IT RESOLVED that the Atlantic States Marine Fisheries Commission recommends to the criminal and civil penalty authorities of the federal and state governments, prosecutors, judicial and administrative, that any person who violates federal and/or state marine resource regulations in a manner that takes advantage of the present national crisis be assessed the maximum penalties by law, such as fines, seizures and lengthy permit sanctions, and strongly encourages its member states to take actions to effectuate these recommendations within their jurisdictions.

That is the only action item that we have for the Commission at this time, and I would like to review some of the summary as well.

CHAIRMAN SHIPMAN: What I would like to do is go ahead and take action on this, and my recommendation would be that we take action to approve this and recommend it to the Full Commission for adoption at our business meeting. Bruce.

MR. FREEMAN: Do you need that as a motion?

MS. SHIPMAN: I would like it a motion.

MR. FREEMAN: I move that.

MS. SHIPMAN: All right, we have a motion by Bruce Freeman, second by several people -- Dennis Abbott's hand, I saw first. Any further discussion on the motion? David Cupka.

MR. DAVID CUPKA: Thank you, Madam Chairman. As Chairman of the Resolutions Committee, I will be bringing this forward at our business meeting, and I will note for the record that we will have to suspend the rules in order to consider this at that time, and I will so move when we get to the appropriate point.

CHAIRMAN SHIPMAN: Okay, thank you, David. Discussion on the motion? All in favor of the motion indicate by signifying aye; all opposed; any abstentions. The motion carries unanimously. Thank you, Major Buckson.

MAJOR BUCKSON: Thank you. I'll just very quickly go through the summary. First of all, let me thank the Board for that action. We appreciate that. I haven't, as yet, seen any action like that for the Southeast or the South Atlantic Fishery Management Council, but I expect that to be forthcoming as well.

As I said, very quickly for the summary, The guidelines for resource managers, that's a document that we were very encouraged to hear that has been used in some of the different boards and we appreciate that, and we are open to comments from any of the boards.

One of the things that we intend to do is review that annually. We will begin that process. We've set up a protocol to be able to handle that review to make adjustments in it because we believe that management measures probably will change.

Some will get better and some may not be as effective as they were before. The only thing that I would say that's very important to us is don't let that document replace the face-to-face interaction with our law enforcement officials. There's some benefit into getting specific comments, and we didn't create that to be a replacement for what we can provide you.

Item Number 3, display permits for sharks, our state in particular has had some interest in that. There are harvests of protected species, particularly sharks, that are being used for display purposes or scientific or experimental purposes, and it seems that we probably need to get together as a group of states and make sure that we all use basically the same regulations.

So, we've been invited to participate in a conference call and the Law Enforcement Committee will have three representatives participate in that call.

The fourth one, conservation equivalency, we did have Rob Winkle as a representative in that workshop yesterday, and I think he

presented our views very well.

I don't have anything else to add to that particular item, other than to let you know that we all in the Law Enforcement Committee are very concerned and want to make sure that we stay involved as we work through that process.

The Law Enforcement FMP reporting requirements, we, as a committee, just want to make sure that we stay involved and are able to advise each of the boards on the information that we are able to provide and make sure that the information that we are providing is relevant information and that it's information that the boards will use.

We've found, in some of the reporting requirements that we've had in the past, that possibly they're intensive reporting requirements that make changes in our particular agencies, and we've found that sometimes the information has no benefit to anyone else.

So, we just want to make sure that we stay involved with that process as well. Aquaculture is an issue for enforcement as well and we will stay involved in that process. We've got a couple of states' law enforcement folks that will be making some comment to that document.

The striped bass issue, dealing with opening the EEZ was an issue that we spent a lot of time discussing. There are some concerns from the enforcement perspective.

You should have gotten a copy of the letter as well that the committee forwarded to Jack Dunnigan to make sure that he is aware of -- he had originally requested the committee address that and you should have a copy of that letter that we provided him.

There's basically three issues that we're concerned about. There's two that are highlighted there, but the last paragraph also addresses a third one, which came up in our discussions.

Should the EEZ be opened for striped bass harvest and a large harvest of that particular species be landed in a state that has de minimis status at this point, it could potentially affect that state's de minimis status, even if it was harvested legally in the EEZ off of another state.

So, that was one of the things that we saw in our discussions as being a possibility of being an issue as well. And the final thing, I once had a panelist tell me that people retain about 10 percent of the information that's presented to them.

CHAIRMAN SHIPMAN: Bruce, I think we have a question on that item.

MR. PRESTON PATE, JR.: Yes, on striped bass, Bruce. Excuse me for

interrupting you, but I'm remembering the action that the Striped Bass Board took, not at this annual meeting, but the one before that was requested by Massachusetts, I think, to request NMFS to open the EEZ out to 12 miles.

The information came to me by probably second, third or fourth hand that the National Marine Fisheries Service was not going to take any action on that request until it was vetted before the Law Enforcement Committee, and I'm wondering if the Law Enforcement Committee actually discussed the right question.

The conclusion, the last sentence in your letter, Bruce, says that you don't believe the concept of increasing state jurisdiction from three to twelve miles is a prudent measure for one species, and that wasn't what the Board asked NMFS to do.

If my recollection is correct, they just asked opening the EEZ out to 12 miles, with no presumption that the states were going to be responsible for enforcing those restrictions.

MAJOR BUCKSON: That's exactly one of the one points that we discussed in the letter. The only information we had was the letter that was provided -- two copies of the letter; a letter from Jack to Dr. Hogarth and then his response, and it was pushed back to the Law Enforcement Committee for some comment.

It sounded to us as if the state's responsibilities would be extended to 12 miles, in the letter that we reviewed, and that was one of the issues that we discussed, what is the real question? The only thing we were able to do was answer the question that was in writing.

CHAIRMAN SHIPMAN: Bob may want to comment on that also because he sat through that part of the discussion and gave them some additional information from the Striped Bass Board's perspective.

MR. BEAL: Sure, thank you. Actually, Pres, there are two different scenarios that you were talking about, one being that the state jurisdiction actually goes out to 12 miles and the law enforcement individuals from the states would have, obviously, additional responsibilities to enforce the regulations out that far.

It is discussed, I think, in the second paragraph there; and then the other scenario where the federal waters are opened from three to twelve miles with essentially no regulations, and the harvest of striped bass is basically controlled through the state laws as landing limits.

I think that's the third paragraph in this letter, so both of the different scenarios were explored by the Law Enforcement Committee.

CHAIRMAN SHIPMAN: My understanding is the letter that has gone back to Jack -- and I assume the responses will be similar to both the National Marine Fisheries Service and to the Commission, that this will be taken up by the Striped Bass Board and by the National Marine Fisheries Service.

Other questions on this letter or this item? Pres, did that answer your question?

MR. PATE: Yes, I won't belabor it now. If the Board is going to take it up at a later time, we can discuss it then.

CHAIRMAN SHIPMAN: Well, I think the appropriate place for this item is back in the Striped Bass Board, with regard to the striped bass question. Their last point, obviously, has greater implications for the Policy Board with regard to all species, but each board may have to take that up. Bruce.

MAJOR BUCKSON: And we would certainly be happy to continue comment. If the question comes to us a little differently, then that's fine, we'll address it whatever way it comes to us.

MR. PATE: Thank you, Bruce. I'm not disagreeing with the conclusions and recommendations you're making. This is an issue that has come up in North Carolina recently with some requests that our state support opening the EEZ completely to striped bass harvest, and they're all linked together, and I just wanted to make sure that we were asking and answering the right questions to get to a final answer from NMFS.

CHAIRMAN SHIPMAN: Pres, if you think we need to refine our question and refer that back to Law Enforcement Committee from the Commission's perspective, we would welcome your refinement of that question, and we can always refer it back to them.

MR. PATE: Thank you.

CHAIRMAN SHIPMAN: Bruce.

MAJOR BUCKSON: My final point -- and as I was saying, I once had a pastor tell me that people in the congregations usually retain about 10 percent of what they're told and quite often they walk out the door with the last thing that they were told as being the primary point.

The last thing that I'm going to tell you as a Board is that I appreciate the support that I saw during the action plan process with regard to the Law Enforcement Committee Coordinator, the staff coordinator.

We see that just about from every Board member, that they recognize how important that is. We've discussed this for several years and

this was the best recommendation that we could come up with.

We feel like that we have a significant input in the process in general. And most importantly in every management plan that the Commission deals with, it requires some law enforcement input, and we feel that we have a real need for that position.

Though there will be some disappointment that it wasn't part of the funded action plan this year, I intend to make sure that our committee understands that the support so far I've gotten has been great. So, we look forward to you all finding that money, and that will be my final thought that I'll leave with you. Thank you very much.

CHAIRMAN SHIPMAN: Thank you. Any further questions for Major Buckson? Well, my intent is to find that money and I'm not sure the time line within which we're going to find it, but I intend to look for it sooner than later and I hope we will find it.

I think we all agree it's a critical need we have, to provide you the support your committee needs. No other questions? Thank you very much for your excellent report and the fine work that your committee does.

The next item we have is a report on the Habitat Committee, and I believe Lance is going to give that report.

DR. LANCE STEWART: I'll make this very brief because we have no resolutions or recommendations or any formal action of the Commission. It's basically an activities report of several documents in preparation.

At our last meeting in July in Arlington, the Habitat Committee kind of forged ahead with a different tact on important habitat definition.

We've been dealing with SAV issues for quite some time and kind of recognize that that might have been a little bit stagnated for three -- not stagnated in process, but have taken a long time and that we should move on hastily and try to create other habitat definitions that are important to essential fish habitat.

With that, a discussion on the different types occurred, and the one that was chosen to work on and draft and define was molluscan shell substrate and essentially that, by definition, has come to mean living reefs of molluscan nature.

They can be oyster, mussel and the ensuing shell hash that is generated by living reefs and the bed forms that these take either close to shore, coastal environments or all the way out to the edge of the continental shelf.

A form of windrows that may concentrate juvenile fish are essentially very important three dimensional and refuge area for not only young of the year recruitment species, but for sort of thigmotactics behavior of all the other species that use them from Florida to the Gulf of Maine.

And therein lay the difficulty in really defining what the species types were, and we thought we had a pretty inclusive habitat-type definition because in Florida you have the chinking zones, you have the surf zone cochina type-habitats.

All the way up to the Atlantic where you have spishula and you have oyster reef shell hash as well as the living resources into the Gulf of Maine having modiolus and mussel shells.

So, there was a pretty coastwide, recognizable, fairly high proportion habitat type to be addressed here. This document that's being prepared in collaboration with Tom Bigford at the National Marine Fisheries Service -- Jennifer Lowry is the one who is drafting it -- is going under quite a bit of interactive editorial correction.

The important thing, I think, would be to define important trophic level relationships that the Atlantic States Marine Fisheries Commission's identified species are directly involved with molluscan shell habitat.

So, we're trying to make those absolute direct links of the species that we manage having dependance on that habitat type. Recognizing that this habitat has a tremendously important intermediate effect on those species, because it provides at the fauna and prey species abundance that are quite unusual for benthic habitats.

So, the consensus was that we've chosen the right habitat to develop, and hopefully, it will be more expedient in its process so that the Commission can act, and we can move onto another habitat definition.

The next issue is beach nourishment. Again, there's a draft paper under circulation and multi-committee correction. The issues there were the continual process of enhancing sand substrates, shoreside, and what the impacts are in excavation of nursery grounds, which are shallow surf zone regions, seasons of the year that might be recommended.

A lot of the analogies here with beach nourishment process, you might equate to dredge material management, and some of the conservation factors could be seasonal timing, avoidance of shell substrate or some sort of a way of protecting that when you do beach nourishment and issues of minimizing turbidity and any smothering suffocation aspects and any timing of spawning that occurs in nearshore environments.

So, these are all relative ecological frameworks of looking at beach nourishment effects on fishery resources, and this paper is being drafted, again, in cooperation with the National Marine Fisheries Service.

The third major document that's being synthesized here is on marine managed areas, and at our last meeting the Habitat Committee had requested that we try to get more abreast of what's going on with the councils in terms of marine managed areas and what they meant.

I think the thought process of the Habitat Committee was that in many cases we've already practiced that. In some of the management procedures, we've identified closure zones and particular gear type areas which have been exclusionary.

So, they've been ongoing, but I think the concern is the nature of wilderness areas, sanctuaries, total exclusion zones that may be recommended, and the particular scientific documentation of these are important in bringing rigor to the size structure of a particular species that may be refuged within the marine protected areas; and, also, just trying to monitor the national program, how NOAA goes with this particular philosophy.

It's receiving a lot of public support. The environmental groups are strongly behind it. So, I think it's something that will be updated on pretty thoroughly by the time this document is through.

Carrie has asked me to remind you that if you'd like a copy of the preliminary document, just see her and she'll give you one.

And lastly, the Aquaculture Document that we have been drafting through the Steering Committee -- it's not as much the Habitat Committee as oversight, but there are a couple of us from the Habitat Committee that serve on the Aquaculture Steering Document Group.

A few things about that the Commission might want to know is it has generated a lot of concern. I think that this may be a policy directive or an all-inclusive sort of recommendation to the states on how to proceed with aquaculture.

It's not that. It's absolutely a guidance document for the Commission, and it's based on a review of all the present best-management practices that some of the aquaculture associations, the industry themselves are trying to incorporate in their operation plans.

So it's a system to try to -- actually, quite honestly, is the aquaculture industry members to not diffuse the aquacultural movement and to try to divert some of the backlash of aquaculture which is occurring in some places and to look at a more planned, adoptive way of accepting aquaculture into the coastal environment.

So, when you receive a copy and look at it, there are several sub-headings that are somewhat important for the states to take heed to.

They're approaching zoning in a marine environment. All these particular ways of dealing with how we work with marine protected areas and aquaculture siting and particular water use are approaching zoning minds that control decisions.

So, with that, we had a joint meeting session with the Management and Science Committee that I think has already been covered by the previous committee report. I'll leave it at that. Are there any questions? Madam Chairman, I've finished the report of the Habitat Committee.

CHAIRMAN SHIPMAN: Thank you very much. I believe we may have a few questions. Gil.

MR. GIL POPE: Thank you very much; just a quick question on SAV's. At the beginning you said you'd kind of reached a dead end or you were done. Did you come up with any more final recommendations on SAV's?

DR. STEWART: No, I'm sorry, Gil, I didn't mean to leave that impression. I think we've said that we've done a lot. We've engaged the process of conservation protection. It's being put back to the states for implementation.

There's a survey questionnaire on SAV's that's still being finalized to try to get an assessment of acreage and what the state plans are for particular protection, mapping, GIS, declaration of area.

And SAV is still going to be considered protection of SAV. But we're just moving on in emphasis to other major habitat types, and we hope not to be encumbered by MSS deliberations for too long, but look for three or four other major habitats that we can act on so that we have those in place, for recognition at least, and for relative weighting factors in these different species FMPs.

MR. POPE: And the second question was you referred to MMA, a marine managed area and MPA. Are they one and the same?

MR. STEWART: No, and, again, I meant to say that this is part of the definition process. You've got so many acronyms and so many different management schemes on what you want to do.

The problem is that any one term, whether its a marine sanctuary or a marine protected area or a marine managed area, they always have their particular nuances of non-acceptance.

So, I think, just the fact that -- I don't know if you'll ever be

able to have an umbrella name for the types of different management scenarios that go on with different geographical isolation.

I think the important thing to really focus on there is that they're chosen ecologically to be very unique and very seasonally important for a long term, that they aren't just chosen, and this is the case.

It's the ongoing process, I think, that's important for us to engage in, are those definitions, input from fisheries, from environmentalists, and from managers so that the proper selection and management frameworks are adopted, if these are chosen to be on the nature of national parks.

I mean, we do have just those analogies of land use zoning starting to intrude into the ocean environment so that that whole scenario and historical look at where we went land side can be applied to the marine sector, I think.

CHAIRMAN SHIPMAN: Okay, Pete.

MR. JENSEN: I apologize if I missed this, but when is the Aquaculture Document going to be available?

MR. STEWART: I think January is the next meeting of the steering committee and the comments are still coming in now. I mean, you could get a draft now, Pete, because I think Jeff Brust has been the main coordinator of all the comments that have come in.

And that has been a problem. It encompasses quite a wide area, as you all know. So, January, I think, was the time that the meeting would synthesize all the input and then be sent for review, but I don't think it's going to be formally presented to the Full Commission at that time. Does anybody know from staff? Bob.

MR. JENSEN: I would appreciate getting a copy of the draft.

CHAIRMAN SHIPMAN: Yes, this is the document -- correct me if I'm wrong -- this is the one that's going to go out to commissioners for your review and feedback back to Lisa or Geoff, I guess, by mid-November.

MR. STEWART: Mid-November, okay.

CHAIRMAN SHIPMAN: It's the same document that several arms of the Commission, if you will --

MR. JENSEN: I think you know my interest, Susan, and that is that's one of the NAPA study issues, and I'd like to have it for that purpose.

CHAIRMAN SHIPMAN: But we'll get yours to you very quickly, Pete.

Okay, anything else for Lance? Any other questions for the Habitat Committee? Okay, thank you very much. Now, Damon, back to you.

MR. DAMON TATEM: Thank you, Madam Chair. We had an LGA meeting yesterday. We had 21 folks that attended, which was great attendance. We had a real good meeting with lots of participation.

We primarily focused during the meeting on the advisory panel process and ways to continue to try to improve it. We still are very concerned about this process as it appears that it's not achieving the goals for which it was created originally.

Throughout the meeting, the Board reaffirmed, or members of the Board reaffirmed their commitment to establishing a process that's effective and credible.

To that end, we requested that the Policy Board use the Weakfish Management Program and its advisory panel as a case study in improving the Commission's advisory panel process. We selected weakfish for a number of reasons.

One is that the plan amendment process has just begun. We're getting in right there at the bottom of the beginning of the process.

The advisory panel has not met in some time, and members have expressed concern about a lack of involvement on their part in the process and there have been some other concerns that several of them have mentioned to me.

The species range is pretty well coastwide from Massachusetts to Florida, and the panel is composed of a good distribution of user groups, recreational, commercial and for hire. To further the process along, a subset of the LGAs have volunteered.

We had lots of volunteers to meet with a subset of the advisory committee in December with the help of a facilitator. The LGAs and the advisors who volunteered to join this working group were Melvin Shepard, Bill Goldsborough, Gil Pope, Bill Adler, Pete Jensen, Dennis Abbott, Cathy Barco, myself, John Connell and Artie and Bud Brown and Pat Keliher from the advisory panel.

I'm sure we'll have some more folks. Everybody seemed to be very interested and aggressive about doing something and working on this face to face more or less.

In preparation of that meeting, the staff has indicated they will collate information already gathered about the AP process, including the large survey that was done a couple of years ago that I think everybody has been distributed two or three times and previous discussions that the advisory committee has had about problems within the process and the LGAs discussions.

The goal of this meeting will be to develop a list of recommendations and strategies that can be implemented for improving the weakfish advisory panel process and at the same time all the advisory panel processes, since they all share a lot of things.

The LGAs all feel very strongly that they have a primary responsibility to enhance and oversee this advisory panel process, and they request that they be given the authority to do so.

There were several motions made. There was a motion made and approved unanimously to recommend to the ISFMP Policy Board approval of the Advisory Panel Primer that staff worked so hard on and all the advisors had a big hand in and the LGAs had a hand in.

The second motion was that the LGAs recommend to the ISMFP Policy Board that the Weakfish Fishery Management Process be used as a pilot program to improve the Commission's overall advisory panel process. That passed unanimously.

There was a third motion involving the National Governors Association Policy on Marine Fisheries, which suggested that we just forward that to the Commission for any necessary review and discussion. Any questions?

CHAIRMAN SHIPMAN: Thank you, Damon, excellent report. I heard you had an excellent meeting. I'm sorry I couldn't get in to participate. Some of us were in the ACCSP meeting, but I heard it was outstanding, and it sounds like attendance is probably a record for what we've had.

It appears to me you've got three items. Do you want to take those one by one as far as motions?

MR. TATEM: Yes, the first one was move that the LGAs recommend, which we did, to the ISMFP Policy Board approval of the Advisory Panel Primer.

CHAIRMAN SHIPMAN: Okay, we have a motion by Damon Tatem to approve the Advisory Panel Primer. Is there a second? Second by Bill Adler.

Is there discussion on this? This is the document also known as Tina's book, I believe, that we reviewed. That was some time back and it's an outstanding document, and I believe it was further refined by the LGAs.

Is there discussion? All those in favor of the motion, signify by saying aye; all those opposed; any abstentions. The motion carries without objection, unanimously. Okay, Damon.

MR. TATEM: The second motion is that you all allow us to embark on

this Weakfish Management Process Study, more or less a pilot program, to improve the Commission's overall advisory panel process as a whole through a facilitated meeting among some of the LGA members and the advisory committee members.

CHAIRMAN SHIPMAN: Okay, my understanding is we have money in the budget. This would be within this year's fiscal budget and we do have money to do this in December.

MR. TATEM: Yes, ma'am.

CHAIRMAN SHIPMAN: So, your motion would be approval by the Policy Board of utilizing the Weakfish Management Program as a pilot study to improve the participation of the advisors in our management process.

MR. TATEM: Yes, ma'am, through the process that I outlined.

CHAIRMAN SHIPMAN: Okay, there's a motion by Damon Tatem, seconded by Ritchie White. Discussion on the motion? I think everyone knows what the motion is.

We'll get it down for the record and, of course, Joe has it as well. All those in favor, signify by saying aye; all those opposed; any abstentions. The motion carries unanimously. Damon.

MR. TATEM: And the third motion was just to forward the National Governors Association Policy on Marine Fisheries back to the Board for potential review and discussion. There were several comments made during the course of the meeting about ITQ's and a little concern shown by the members of the Board.

CHAIRMAN SHIPMAN: Okay, I don't know that that is an action item that we need to take up, other than you all will be forwarding that for our review.

We'll put that on the agenda, and what I would request of staff is that we get that out to everyone ahead of time, ahead of our next meeting, in our meeting materials and we can set aside a little bit of time for discussion on that.

Any other questions for Damon or the Legislators and Governors' Appointees. Okay. Thank you for an excellent report. Our next item is Item Number 7 on our agenda, and that's review, prioritize and approve the plan of work under the 2002 action plan.

As you know, we spent a considerable amount of time this morning doing the review and I believe the prioritization, and I'm going to turn this over to John now for remarks and a motion.

MR. JOHN I. NELSON: All right, thank you, Madam Chair, just, again, some brief comments. The staff and the AOC have worked on

the action plan components over the past several months. We've developed the draft, which was distributed to everyone on Monday.

The document lists the seven goals, associated strategies and tasks, along with estimated dollars in a spreadsheet. As you said, we had a good review of it this morning. We have two new species, Atlantic herring and winter flounder, added to ten others which need development of addenda/amendments and ten additional species, which will be actively monitored.

It basically provides -- I guess I could characterize it as a hefty but, I hope, manageable workload for the staff and the commissioners for the year 2000; and also the staff is planning on providing us semi-annual updates to the Commission for the plan's progress.

I think, Madam Chair, I would like to offer a motion and then we can have whatever discussions we would like to have on the plan. So, on behalf of the AOC, I recommend approval for the Action Plan 2002, with the understanding that staff will revise budgeted dollars to have a balanced budget and will make editorial changes approved by the Commission Chair.

CHAIRMAN SHIPMAN: We have a motion by John Nelson, a second by Pat White. Discussion on the motion? Tom.

MR. THOMAS W. McCLOY: Considering the discussion we had this morning regarding the law enforcement element, I'd like to know where that stands if this plan is approved by this Board?

CHAIRMAN SHIPMAN: What I plan to do is get with Jack and with staff and look at the funding avenues for that work for the coming year.

We are still exploring, with the National Marine Fisheries Service, some options for potentially funding that in the immediate year need through the state-federal cooperative funding that is, hopefully, coming through Congress.

But we're going to look at all those funding scenarios, as Jack noted to me during our discussion. Our budget documents, I believe, the proposal for our ACFCMA grant is going to need to be submitted in the very near future.

So, we're going to have to look at this very quickly, but we are short certainly that \$50,000 funding and we're short the other 50 to 60. So, we're going to have to go back and relook this clearly. Tom.

MR. McCLOY: If I could just follow up, in the event that those sources of funds are not available for the law enforcement coordinator, does that mean by approving this that that doesn't get

done again this year?

CHAIRMAN SHIPMAN: Well, there's still a level of coordination that's being done, but it's not the full staffing support that they would like.

So, I think we would continue at our continuation level, providing them as much staff support as we can from us and from Tom Meyers through the National Marine Fisheries Service.

MR. McCLOY: You've answered my question, thank you.

CHAIRMAN SHIPMAN: Other discussion on the motion? All those in favor of the motion, signify by saying aye; all those opposed; any abstentions. The motion carries unanimously.

Again, if you have comments, do continue to look through this and provide us your comments on this, and I will work with Jack and staff and John to incorporate those. Okay, thank you very much.

Next item we have is to discuss potential Commission reorganization. If you wonder what this is, this is also known as discussion of the pink paper and I'll let Jack address this.

EXECUTIVE DIRECTOR JOHN H. DUNNIGAN: Thank you, Madam Chair. The Administrative Oversight Committee started meeting early in the year with its new Chair, the Vice-Chair of the Commission, and talked about a number of issues that the Chairman and I felt we needed some advice on as to how to proceed.

The AOC Chairman's response to every one of those was, well, let's just have the staff do a white paper, let's have the staff do a white paper, and, finally, I decided we weren't going to do any more white papers, we were going to make them pink papers.

The only one that we've really been able to spend a lot of time on -- I mean other issues, for example the long-term litigation funding strategies is something that needs to be addressed.

But the only one we've really been able to spend a lot of time on this year was the question of simplifying the organizational structure of the Commission and its various boards and committees.

The AOC worked through a couple of drafts of this paper and on September 4th, I sent it out to all commissioners for comment by e-mail, and it basically dealt with three major sets of issues.

One was a restructuring within the ISFMP of our management boards so that rather than having individual boards for each fishery management plan, we could consolidate them somewhat, and the assumption was that that would provide us some benefits in terms of simplification and scheduling and transparency.

The second issue had to deal with the Policy Board itself, recognizing now that we have much greater involvement of all of our sections of commissioners, administrators, legislators and governors appointees.

There's a question as to whether the Policy Board is redundant with the Commission, and is it something that we need to maintain or can we get some efficiency and transparency simply by eliminating another level of review and having the Commission itself be doing a lot of the business that's done at the Policy Board.

The third issue had to do with the Executive Committee, and was there anything really significant that the Executive Committee does during our meetings that couldn't just as easily be done by the full Commission meeting.

On those last two issues, one thing that needs to be considered is what is it that you see the Commission as? Is the Commission sort of a final stopping point where everything just gets looked at and quickly blessed, or does it become a real functioning, decisional forum?

So, those issues were laid out and a pink paper sent to you on the 4th of September. I have received two comments on that document, and there were some very significant issues that were raised by those comments.

There was some concern that the objective of the analysis was not well articulated. There was some concern that the assumption that there were benefits that automatically accrued from a simplified structure relative to scheduling and transparency would actually accrue to the program.

There was some sense that we might be just be making change for the sake of change without really understanding whether it was beneficial.

The Administrative Oversight Committee has looked at those comments and has determined that, really, there were two sets of issues, essentially, that were raised, one having to do with board structure and the other one having to do with the ongoing role of the Policy Board.

For the moment, the AOC has decided to set aside the Board structure issues and is going to focus more on the role of the Policy Board question, and that doesn't mean that the AOC has decided that a change in the role of the Policy Board or an elimination of the Policy Board is appropriate.

There are still some serious issues that need to be discussed there. They will continue to work on it and we will keep you apprised as this project continues to go down.

There was some hope that at this meeting we would have a decision to bring to you, but it was apparent from the nature of the comments that we received, even though there were only two of them, that there were still some serious issues out there and some concerns on your part that we needed to address.

So, the AOC will continue to work on this and be reporting back to you as it proceeds and we may be revisiting the question during the spring meeting next year.

CHAIRMAN SHIPMAN: Discussion on this item? I would urge you to take a look at that document Jack forwarded some time back. I think it was, what, in September, maybe, Jack -- yes, September 14th -- take a look at that, particularly with regard to the Policy Board issue and we welcome your input. We may want to just e-mail you the document again with that part excerpted and get some additional comments. John.

MR. NELSON: I think what we would like to do is have members of the AOC contact other commissioners and try to get direct comments from them. I realize it's difficult.

It's difficult for me sometimes to sit down and type a response or e-mail and whatnot. But I think we had a lot of -- even though we had a limited number of comments, I think they went right to the heart of what is it that we're trying to do and how we're looking at it.

Again, periodically, we all should be looking at the process, our management process and how is it working, and that's really what the intent is here; and if we have redundancy, we ought to be looking at eliminating that so we can become more efficient.

So, we're going to be giving you a call and see what additional thoughts you have, and we'll put those together and see which way the Commission wants to go on this item.

CHAIRMAN SHIPMAN: Thank you, John. Any questions or discussion on this item? You'll be hearing from us. When you get a telephone message from one of us, please call us back or take our call. We would like to get feedback. Gil.

MR. POPE: I don't know if this is the time to bring this up, but we had been talking before and Jack had brought up -- he seemed to have increasing problems with non-compliance before, and I don't know if this is the time to talk about that.

And I had talked to you about this before or a number of people about the idea of a non-compliance review board. I know it's adding something and not taking something away, but I didn't know if this was the time to bring that up.

CHAIRMAN SHIPMAN: Well, I think that will be looked at in the context of the Policy Board. I mean, right now, the Policy Board is, in a sense, the review or the appeals board, if you will, with regard to compliance and what structure do we retain the Policy Board in if we retain it and what is the role and depending on any structural changes, what is the role of compliance?

As I mentioned in my luncheon remarks yesterday, I want to review this whole issue about compliance in the coming year. Is non-compliance symptomatic of larger issues there, and is the compliance process that we utilize broken; and if so, how do we fix it. So, yes, I plan to look at that.

Other questions, discussion, comments on this issue of Commission reorganization or Commission functional efficiency, I would like to think of it as another term?

Okay, we'll move along. I believe, Pete Jensen, you're going to discuss this next item for us; State/Federal Cooperative Protected Species Management.

MR. JENSEN: Some of you are familiar with this, but for those that aren't, there was language in the 2001 Appropriations Committee, and I'll read it so everyone understands the background for what I'm going to talk about.

This is a quote from the Appropriations Committee report:

"Cooperative activities by federal and state agencies are a vital part of conservation programs for many endangered and threatened species under the jurisdiction of the National Marine Fisheries Service.

"Among other things, state agencies offer knowledge, personnel, expertise, resources and legal authority to help carry out urgent research and management tasks.

"The Committee encourages NOAA to examine the existing and potential role of state agencies in carrying out recovery programs for threatened and endangered species.

"Where appropriate and not already in effect, the Committee encourages NOAA to develop cooperative agreements with states under Section 6 under the Endangered Species Act to establish or clarify state agency involvement in those recovery programs.

"The Committee expects NOAA to request appropriations in their fiscal year 2003 budget under Section 6 to support cooperative state activities that contribute to the recovery of endangered marine species."

I have had discussions with Jack, with Bill Hogarth and Don

Knowles, who's the director of the Protected Species in NMFS, about what's intended.

The NMFS people tell me that they fully intend to request money in the 2003 budget, and, of course, that's not public yet and so we don't really know, but they stated an intent.

Further, as part of the background, there are agreements with North Carolina, South Carolina, Georgia, New York, Massachusetts and Maryland. South Carolina has had an agreement since 1984, Massachusetts was in '96, Maryland was in '98, New York was in '92, Georgia was in 1990 and North Carolina was in 2000.

So, those agreements are really boilerplate basic agreements that say here's the agreement, they don't include any money, and they are agreements that continue in effect until something happens for them to be modified or abrogated.

What they basically do is they authorize the states to enforce federal endangered species rules, to participate in takings, which are otherwise prohibited, in order to salvage a dead animal or save one that's living that needs some attention and can be moved or whatever.

The question before the Commission is whether member states want to pursue this suggestion by the Appropriations Committee and in what form and to what extent. The discussions I've had run along these lines.

NMFS is interested in doing it. They want to try to negotiate some agreements prior to the budget cycle in order to demonstrate that the states are really interested, if the states are interested.

The question for the states is whether they will be the same boilerplate agreements that are in existence now involving takings and law enforcement or whether the states have an interest in going beyond that and actually participating in setting the policy and doing other things in endangered species, with the recognition that, as we have said many times, endangered species are going to become more and more a part of all management plans because of the possible involvement of these declared species.

The specific discussion I had with Don Knowles -- and he expressed support for this -- is whether we want to approach it as individual state agreements, or whether the Commission would be interested in entering into a broad agreement with the National Marine Fisheries Service and then having separate agreements with the states to carry out some coastwide program of state involvement in endangered and threatened species programs.

Well, I guess we all have to enter in this discussion with the recognition that language written during a time of budget surplus

may not be fully recognized in times of budget deficit, and so that's my report, Madam Chair, on the issue that's before the Commission.

CHAIRMAN SHIPMAN: Thank you, Pete. I imagine there will be some discussion. I can just give you my experience from 12 years ago when Georgia entered ours in 1990.

That was the culmination of about two years of work between attorneys. Different states have different endangered species statutes.

While certainly perhaps an umbrella agreement with the Commission might be preferable, I don't know that our own legal intricacies of each state will allow that type of thing. I don't know that.

MR. JENSEN: And I should point out that every one of these agreements is different. The format is different, the content is different, and it's because of what you just cited.

CHAIRMAN SHIPMAN: Pres.

MR. PATE: Susan, as you know, this is a subject that's very near and dear to my heart and it's one that I --

CHAIRMAN SHIPMAN: That's why we put it on the agenda, Pres; it's just for you.

MR. PATE: -- honestly think it's important enough where we should identify some extended time for discussion in more detail with the Commission.

This is a very, very serious issue confronting us all; and as I explained before, North Carolina has now had three years of experience in trying to develop a partnership with the National Marine Fisheries Service for managing our fisheries with respect to the minimization of impacts on sea turtles.

So far that partnership has consisted of nothing more than the National Marine Fisheries Service telling North Carolina what to do and expecting us to do it. That is not going to work in the long run.

They're killing the fishermen, they're killing me, and they're killing my staff, and there has got to be some relief given at some point to that management approach.

We do have an agreement with the National Marine Fisheries Service to establish that cooperation. It has absolutely no bearing whatsoever on our fisheries management. It's with an agency that is not mine, and they are tasked with counting turtles and telling the National Marine Fisheries Service how many strandings occur in

North Carolina.

Subsequently, that information is used to shut down fisheries. That's not a good cooperative agreement to have with an agency that has the management responsibilities that we do, and this is going to grow.

It has consumed the largest estuary on the east coast that's within the confines of a single state. We're just drowning under those ESA requirements right now, and it has serious implications for the remainder of our state as they expand their concern and their oversight into the water bodies. So, I honestly encourage the Commission to set aside ample time to air all of these concerns with NMFS.

CHAIRMAN SHIPMAN: Let me just throw an idea out. Would you want to have some sort of a forum like we had yesterday on conservation equivalency to brainstorm some of these ideas; perhaps, at our February meeting, set aside a two- or three-hour block of time. Pete, I don't know what kind of time line you're on with Don and what kind of feedback they wanted.

MR. JENSEN: Well, they're into their 2003 budget cycle now, even though they can't make it public, and I'm certain there is some money in there, so I think they would like to see some clear expression from the state as to what they want to do and whether we do want to do it or don't want to do it, and then what the terms of those agreements might be both in substance and also form.

So, I think you need to do something about it as quickly as possible so we can reaffirm that there is this desire for this closer partnership on endangered species.

CHAIRMAN SHIPMAN: One of the difficulties my state has with responding to that is I need to go back and collaborate with the sister division.

I'm not comfortable in committing them to what direction they want to go with regard to endangered species, and I think many of us have different structures with regard to endangered species. George.

MR. LAPOINTE: Notwithstanding a pending lawsuit with the National Marine Fisheries Service and some others about salmon, we are moving forward on some cooperative work on marine mammals, and that's moving forward pretty well.

I mean, you're right, it's cumbersome. Just making sure the agreements are all lined up is tough, but it strikes me that as this becomes an increasing part of everybody's portfolio, the idea of partnership and some help with funding as we move forward makes sense. So, my short answer to Pete is, yes, I'm interested, but

the devil will be in the details.

CHAIRMAN SHIPMAN: David.

MR. CUPKA: I certainly support what Pres has said, and we are beginning to see more and more impacts particularly on our fisheries.

A good recent example is our crab fisheries with the dolphin interactions and things like that. I don't think, obviously, we're going to come to any conclusions today.

We're kind of in the same boat that you are with another division and our particular agency involved. I think it's something we need to move ahead and try and work something out on, because it is going to have more and more impact on our fishery activity, there's no doubt about it.

CHAIRMAN SHIPMAN: Our next meeting would be February and there does seem to be some sense of urgency. At the same time, we need to really give this the attention and the deliberation that it deserves.

So, I'd suggest we have a forum, have a workshop. In the meantime, Pete, you can tell Don or the administration to certainly put some money in there. We'll be glad to take it, whether it's a direct pass through or a pass through to the Commission.

MR. JENSEN: All right.

CHAIRMAN SHIPMAN: Pres.

MR. PATE: Susan, I appreciate that and I think it would be a good idea to invite those other agencies that don't sit with us normally that do have oversight over these management matters to join us in that forum.

CHAIRMAN SHIPMAN: I think that's an excellent idea. Is that satisfactory, Pete? Does that approach work?

MR. JENSEN: Yes, I think so. I think I would repeat what I said before, and that is these are not agreements that need to detail money.

They become, in one case, either an umbrella agreement within the state or an umbrella agreement, and so we can begin negotiating these agreements before the money is available and then the agreements become the vehicle for the states and/or the Commission to get the money. So, we don't have to wait until the budget is finished; we can start on these as soon as we can.

CHAIRMAN SHIPMAN: Good point. I'm just always thinking about the

checkbook. Well, we'll make that a priority, Bob, if you will. Tina, I know you work with protected species, so we'll work to have that as a discussion with ample time, inviting sister agencies as appropriate to participate in that.

The next item is actually is Other Business and I did have an item I should have mentioned for the agenda for this. I have asked Pres, if he would, to report to us on the Summer Flounder, Scup, Black Sea Bass Work Group Meeting that was held, I believe, in Baltimore.

It was alluded to this morning during our action plan discussions. Three individuals from the Council and the Commission, each of the council and the Commission, participated in that, and I'd like for him to give us a brief report.

MR. PATE: Thank you, Susan. At the last meeting of the Summer Flounder, Scup, Black Sea Bass Management Board, jointly with the Mid-Atlantic Council, there was a recommendation made that a work group be put together to try and focus in on all of the actions that we have pending before those bodies and address some issues that had not been discussed formally before those bodies, but had been alluded to in previous Board meetings.

As Chairman of the Board, I took the initiative to put together that work group, and it consisted of Gordon Colvin, David Borden, Rick Cole, Jim Logan, Ron Smith, Pete Jensen and Chris Moore.

Jack Dunnigan and I and Bob Beal and Mike Lewis came as staff support for that. We met in Baltimore and went through a number of issues that were divided up into the categories of short term-Commission issues, joint management issues affecting all three species and joint management issues affecting only a single species.

We had a very good meeting. I felt very encouraged afterwards that we had identified at least a plan on how to get some structure into the process for dealing decisively with some of these matters that have been before us for a long time.

The staff has developed a set of draft minutes of that meeting, which I and others are reviewing now, and we'll have those available to the full Commission once they are completed.

I'll just run through very quickly what those specific issues are and not belabor the details or the recommendations that came out of them at this point.

We discussed the 2002 quarterly trip limits for black sea bass; the state-by-state commercial allocations for the summer fishery for scup; the quota rollovers for unused commercial allocation as it affects the harvest of all three species that are managed under a

quota; the very important and hard nut to crack on how to deal with overages in the recreational fishery; conservation equivalency for recreational fisheries; a multi-year management approach, which has been discussed at some detail before for a variety of management plans; the completion of the biological reference points; analysis for summer flounder that was before the Board at its last meeting; the continuation of the facilitated process through the Hines Center with the Council and the Commission on fluke management; the allocation of the commercial quota, which came up in the context of fluke but concluded with a discussion that is really something that goes beyond just that single species and should be looked at more broadly by the Commission in terms of all of its process for establishing the allocation of quotas; the completion of Amendment 13 for the black sea bass component of the plan; the setting of targets and thresholds for the black sea bass harvest; examined the assessment approach for scup, with the goal of setting targets and thresholds; the resolution of state and federal quota differences for scup; state option of opening summer quota period for scup on April 15; and the makeup of the Technical Committee, whether or not it's sufficiently broad to serve our current needs.

As I said, there were recommendations for almost all of these, which will be spelled out in the minutes of the proceedings and brought to the Board at its next meeting, which I think is jointly with the Council in December.

CHAIRMAN SHIPMAN: Thank you, Pres. It sounds like you all made considerable progress.

MR. PATE: We did. It was a good atmosphere to work in. We had a good group there that could let their hair down and get some work done. So, I appreciated everybody's participation in that.

CHAIRMAN SHIPMAN: And I would take it one of the recommendations from that meeting would be appointment of a state-by-state allocation systems work group --

MR. PATE: Yes.

CHAIRMAN SHIPMAN: -- to deal with broader issues. We've discussed this issue of quotas, state-by-state allocations. We've had various groups in the past that have tried to get a handle on this.

We've not made as much progress, I think, as everyone would have hoped, and this is in past years working through the Policy Board, and I'd like to give it another crack.

That said, without objection from the Policy Board, I would like to appoint a state-by-state allocation systems work group comprised of the following individuals: Pres Pate, Pete Jensen, Gordon Colvin, David Borden, David Pierce and Bruce Freeman.

Additionally, if there are additional legislators or governors' appointees that would like to work on this, I would welcome you seeing me, and I would be happy to appoint you.

Also, I will request that the Mid-Atlantic Fishery Management Council appoint someone to work on this group as well. If there's not objection, that would be my intention as Chair, to appoint this group and get that working. I appreciate the progress you all have made to date. Pres.

MR. PATE: Are you going to Chair that?

CHAIRMAN SHIPMAN: Me? I don't think you heard my name on that list, did you? Gil.

MR. POPE: Thank you. I'd like to volunteer for that and also I have a question for Preston on that. Was there even a whisper at that time when you were talking about the recreational conservation equivalency in the summer flounder, did they even brush by the commercial side of that as to why they either have it or they don't?

MR. PATE: No.

MR. POPE: No; I didn't think so. Is that a possibility to talk about, maybe, at the next meeting?

MR. PATE: Yes, I assume so.

MR. POPE: Okay, thank you.

CHAIRMAN SHIPMAN: Yes, if you've got an issue specific to that board, just get with the Board Chair and see about adding that to the agenda.

Does anyone else that participated on that work group have anything to add or want to comment on that? Okay, thank you all very much for your time in attending that meeting, and it sounds like you all made more progress in that one sit down than has been made in quite a while.

I commend you and the representatives from the Mid-Atlantic Council on that. That was the Other Business item I had. Does anyone else have other business? Ritchie.

MR. W. RITCHIE WHITE: I had an idea that I guess is not new, in talking to Dave Borden, but it was something that he supported; the idea of keeping a block of time during meeting week, possibly three hours, and allowing a management board to have that time if it didn't complete its tasks during the week.

It just seemed like that would increase efficiency, to not put

stuff off until the following meeting, if possible, and I know there are problems with that. They might look at having that extra time and not completing what they're supposed to do in the given time.

But I look at this week and look at striped bass and we just had more than we could do and it's putting us behind. If we did have another three hours, I think we could have accomplished it. I throw that out.

CHAIRMAN SHIPMAN: So you're suggesting a reserve time slot, if you will, for an additional make-up activity?

MR. WHITE: Yes, and it probably would have to be in the middle of the week or after -- before the meetings, you pretty much know which management boards may run over. It's somewhat obvious. So, if it was right after those couple of issues, then --

CHAIRMAN SHIPMAN: That's certainly something for us to consider. We've got, obviously, so many demands for time and meeting space, but that's a good suggestion.

We'll take a look at that and see if there would be a way we could accommodate that. Hopefully, you'll have some time this afternoon because I plan to finish the business meeting certainly before we're scheduled to. Bruce.

MR. FREEMAN: Susan, I had one additional item. I should have brought it up under the Action Plan, but that deals with a long-range plan, and what I want to raise is the issue of the Commission staff having stock assessment people.

I know we discussed about this, but we depend on states to do the work, and in the past it has worked, but the system is becoming very strained. We saw the issue with lobster.

We see it with almost every species now and we've had people that worked for the Commission through the goodwill of the states providing funding of people, but it's kind of off and on, and I think we need to give serious consideration of finding funds so that we have our own staff. It's becoming a very important issue and I'd just like to raise that.

CHAIRMAN SHIPMAN: Bruce, we actually discussed that to a limited degree among the AOC and senior staff when we were talking about the action plan, and that is an identified need.

As Jack pointed out, the question is would we want to take Atlantic Coastal Fishery Act money and almost do, again, what was suggested this morning, a stock assessment assessment, if you will, to each state.

Would the states be willing for the Commission to hold back more of their money, and this is something we're all going to have to really do some soul searching on, as we go back home and look at these budget cuts we're all facing.

My immediate response to Jack was right now I need every dime of ACFCMA money. But I think if we have a time horizon to plan for redirecting some money, we may be able to --

MR. FREEMAN: I realize, Susan, this is a difficult issue because of the budgetary constraints, and that's why I raise it under long term, because it's not something we're going to do immediately.

But, looking at our experience when states were willing to donate people to do the striped bass analysis, it required a lot of people, but as time goes by, there's more and more.

Now, we're under the strain on every species, and it seems to me the way from the Commission, we need a staff, at least as the Councils do, to have at our disposal to deal with these issues, more than just asking the states.

I still see the need for the states to contribute. That becomes absolute necessity, but because of the other states needs, particularly on these budgetary constraints, those people are being put into other capacities, and it makes the situation even worse.

CHAIRMAN SHIPMAN: That's a very good point. Jack, did you have a comment you wanted --

EXECUTIVE DIRECTOR DUNNIGAN: I agree.

CHAIRMAN SHIPMAN: Yes, I think we all agree we've got to look at that. And particularly as we send these individuals to the stock assessment training workshops that research and science and statistics, Lisa's program is providing to all of us, we've got to consider the responsibility we have there to take those skills that the Commission is helping us hone in our staff, and how can we use that to benefit the Commission process?

I think we all need to give some long hard thought to that, too, as we send these individuals and get them trained. What is the reciprocal responsibility on the states to help the Commission out?

But we will add that to the list of things to continue to look at in long-term planning, Bruce. Thank you very much. Other business to come before the Policy Board. Dick Schaefer.

MR. RICHARD SCHAEFER: Thank you, Madam Chairwoman. Those of you who attended the luncheon the other day where Bill Hogarth gave his talk, you'll recall he mentioned the fact that I have been reassigned to take over a new office in the National Marine

Fisheries Service, and the office that I had been directing up until the present, the Office of Intergovernmental and Recreational Fisheries, now ceases to exist.

Paul Perra, Tom Meyer and Anne Lange on my staff have been transferred to the Office of Sustainable Fisheries and with that my personal responsibilities in any official capacity regarding this Commission have come to an end.

The new director of the Office of Sustainable Fisheries will take my spot, or his or her designee as the case might be. I say this with a great deal of sadness.

My first meeting of the Atlantic States Marine Fisheries Commission, believe it or not, folks, was in 1958 when it was nothing more, in my opinion, nothing more than a good old boys social club.

I guarantee you there were no women there, let alone a chairwoman. But it has evolved into what I consider to be a very effective management body, and I wouldn't have believed it in 1958.

I've been proud to have been a part of the working proceedings of this Commission, and I think a lot of progress has been made and there's a lot more to be made, but it's my time to walk away from the table and I've enjoyed the discussions.

I've enjoyed the debate, even with Pete Jensen, and it has been really a fun time. But everything comes to an end and it's time for me to leave this table, and I just want to say I thank you all for allowing me to be a participant. Thank you. (Applause)

CHAIRMAN SHIPMAN: Dick, I just want you to know you may be leaving the table, but I hope you never leave the room. We always have that seat at the end, typically behind Joe Graham, for public comment and input, and we hope through your new role with constituency affairs we'll keep a close contact with you.

Thank you so much for you input, Dick. And as a David H. Hart Award winner for your contributions not only to this Commission, but to the National Marine Fisheries Service, we value every insight you have and please keep those coming to us. Thank you.

Any other business to come before the Policy Board? If not, we'll stand adjourned.

(Whereupon, the meeting adjourned at 11:50 o'clock a.m., October 18, 2001.)

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