

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

**The Westin Crystal City
Arlington, Virginia**

May 3, 2022

Approved August 3, 2022

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1. **Move to approve agenda** by Consent (Page 1).
2. **Move to approve proceedings of January 27, 2022** by Consent (Page 1).
3. **Move to approve Option 4: Remove 2020 data and add 2021 data into the Draft Addendum** (Page 9). Motion by John Clark; second by Dennis Abbott. Motion carried 15 in favor, 1 opposed, 1 null) (Page 11).
4. **Move to remove Option B: Two-tiered fixed minimum approach from Section 3.1.1. in Draft Addendum I** (Page 14). Motion by Megan Ware; second by John Clark. Motion carried by consent (Page 15).
5. **Move to remove Option 4c: Limiting landings used in calculation of moving average from Section 3.1.2 Draft Addendum I.** Motion by Nichola Meserve; second by Steve Train. Motion carried (16 in favor, 1 opposed) (Page 20).
6. **Move to remove Sub-Option 1: Catch Cap equal to 1% of the annual TAC and 10% exceedance management trigger and Sub-Option2: 1% set aside of the annual TAC exceedance management trigger from Section 2A: IC/SSF Management Triggers** (Page 28). Motion by Megan Ware; second by Robert LaFrance. Motion carried by consent (Page 30).
7. **Main Motion**
Move to remove Sub-Option 2: Pound-for-pound payback from Section 2B: IC/SSF Management Trigger Response (Page 30). Motion by Nichola Meserve; second by Cheri Patterson.

Motion to substitute
Move to substitute to add Sub-Option 3 if the IC/SSF trigger is tripped the Board must take action to reduce IC/SSF landings and the overage will be deducted on a pound per pound basis in the subsequent year (2 years) (Page 31). Motion by Allison Colden; second by Robert LaFrance. Motion failed (2 in favor, 14 opposed, 1 null) (Page 34).

Main Motion
Move to remove Sub-Option 2: Pound-for-pound payback from Section 2B: IC/SSF Management Trigger Response. Motion by Nichola Meserve; second by Cheri Patterson. Motion carried (10 in favor, 6 opposed, 1 null) (Page 35).
8. **Move to remove option 4 under 3.3.1 Timing of IC/SSF provision: Full closure when allocation met, no IC/SSF provision** (Page 37). Motion by Lynn Fegley; second by Joe Cimino. Motion carried by consent (Page 38).
9. **Move to remove Section 3.3.5: Allow access to EESA at <100% state allocation** (Page 38). Motion by Eric Reid; second by Matthew Gates. Motion carried by consent (Page 38).
10. **Motion to adjourn** by Consent (Page 38).

ATTENDANCE

Board Members

Megan Ware, ME, proxy for Pat Keliher (AA)	G. Warren Elliott, PA (LA)
Steve Train, ME (GA)	John Clark, DE (AA)
Sen. David Miramant, ME (LA)	Roy Miller, DE (GA)
Cheri Patterson, NH (AA)	Craig Pugh, DE, proxy for Rep. Carson (LA)
Ritchie White, NH (GA)	Lynn Fegley, MD, Administrative proxy
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Russell Dize, MD (GA)
Nichola Meserve, MA, proxy for Dan McKiernan (AA)	Allison Colden, MD, proxy for Del. Stein (LA)
Raymond Kane, MA (GA)	Pat Geer, VA, Administrative proxy
Sarah Ferrara, MA, proxy for Rep. Peake (LA)	Bryan Plumlee, VA (GA)
Conor McManus, RI, proxy for Jason McNamee (AA)	Chris Batsavage, NC, proxy for K. Rawls (AA)
David Borden, RI (GA)	Jerry Mannen, NC (GA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Bill Gorham, NC, proxy for Sen. Steinburg (LA)
Matt Gates, CT, proxy for J. Davis (AA)	Mel Bell, SC (AA)
Rob LaFrance, CT, proxy for B. Hyatt (GA)	Malcolm Rhodes, SC (GA)
Jim Gilmore, NY (AA)	Chris McDonough, SC, proxy for Sen. Cromer (LA)
Scott Curatolo-Wagemann, NY, proxy for E. Hasbrouck (GA)	Doug Haymans, GA (AA)
Joe Cimino, NJ (AA)	Spud Woodward, GA (GA)
Tom Fote, NJ (GA)	Hannah Hart, FL, proxy for J. McCawley (AA)
Kris Kuhn, PA, proxy for T. Schaeffer (AA)	Marty Gary, PRFC
Loren Lustig, PA (GA)	Karen Abrams, NMFS
	Rick Jacobson, USFWS

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

Ex-Officio Members

Joshua Newhard, Technical Committee Chair

Amy Schueller, Stock Assessment Subcommittee Chair

Staff

Bob Beal	James Boyle	Chris Jacobs
Toni Kerns	Katie Drew	Jeff Kipp
Lisa Carty	Maya Drzewicki	Sarah Murray
Tina Berger	Emilie Franke	Mike Rinaldi
Pat Campfield	Lisa Havel	Deke Tompkins
Kristen Anstead		

Guests

Mike Armstrong, MA DMR	Karen Bradbury,	Benson Chiles, Chiles Consulting
Pat Augustine, Coram, NY	Ofc. of Sen. Whitehouse	Heather Corbett, NJ DEP
Russell Babb, NJ DEP	Bill Brantley, NC DENR	Nichole Lengyel Costa, RI DEM
Rachel Barales, CCCFA	Delayne Brown, NH F&G	Caitlin Craig, NYS DEC
Robert Beal, ME DMR	Michael Brown, ME DMR	Maureen Davidson, NYS DEC
Alan Bianchi, NC DENR	Jeff Brust, NJ DEP	Monty Deihl, Ocean Fleet Svcs.
Colleen Bouffard, CT DEEP	Andrew Button, VMRC	Chris Dollar

Guests (continued)

John Duane
Dawn Franco, GA DNR
Tony Friedrich, SGA
David Frulla, KDW, LLC
Alexa Galvan, VMRC
Shaun Gehan, Gehan Law
Lewis Gillingham, VMRC
Angela Giuliano, MD DNR
Pam Lyons Gromen, Wild Oceans
Marin Hawk, MSC
Helen Takade-Heumacher, EDF
Jocelyn Higgins, TRCP
Peter Himchak, Omega Protein
Carol Hoffman, NYS DEC
Harry Hornick, MD DNR
Jesse Hornstein, NYS DEC
Jeff Kaelin, Lund's Fisheries
Julia Kaplan, MA DMF
Pat Keliher, ME (AA)
Ben Landry, Omega Protein
Tom Lilly
Carl LoBue, TNC

Brooke Lowman, VMRC
Mike Luisi, MD DNR
Shanna Madsen, VMRC
Jason McNamee, RI DEM
John Maniscalco, NYS DEC
Genine McClair, MD DNR
Dan McKiernan, MA (AA)
Steve Meyers, Williamsburg, VA
Mike Millard
Drew Minkiewicz, Kelley Drye
Chris Moore, CBF
Clinton Morgeson, VA DWR
Kathy Rawls, NC (AA)
Kirby Rootes-Murdy, USGS
Thomas Newman
Jeff Nichols, ME DMR
Derek Orner, NOAA
Willow Patten, NC DENR
Michael Pierdinock
Will Poston, SGA
Jill Ramsey, VMRC
Harry Rickabaugh, MD DNR

Mike Ruccio, NOAA
Brendan Runde, TNC
Chris Scott, NYS DEC
Tara Scott, NOAA
David Sikorski, CCA MD
Ethan Simpson, VMRC
Melissa Smith, ME DMR
Somers Smott, VMRC
Chris Ura-neck, ME DMR
Kate Wilke, TNC
Angel Willey, MD DNR
John Page Williams
Dan Zapf, NC DENR
Erik Zlokovitz, MD DNR
Jordan Wisecup,
Congressional Sportsmen
Chris Wright, NOAA
Phil Zalesak, Tall Timbers, MD
Erik Zlokovitz, MD DNR
Renee Zobel, NH F&G

The Atlantic Menhaden Management Board of the Atlantic States Marine Fisheries Commission convened in the Jefferson Ballroom of the Westin Crystal City Hotel, Arlington, Virginia, via hybrid meeting, in-person and webinar; Tuesday, May 3, 2022, and was called to order at 12:45 p.m. by Chair Robert E. Beal.

CALL TO ORDER

CHAIR ROBERT E. BEAL: Well, good afternoon, everyone. It's 12:45 by my clock. My name is Bob Beal; and I would like to call the Atlantic Menhaden Management Board meeting to order. As the agenda notes, Mel Bell is the actual Chair of this Board, but Mel was unable to make it today, but he's online and may chime in with some comments as we go along.

The Vice-Chair of this Board is Conor McManus, and Conor wanted to sit as part of his state's delegation, and participate in the discussion today, so that leaves me. I'm going to Chair the meeting this afternoon. Before we get too far into the meeting, I want to give one quick presentation. As everyone knows, we're about two plus years behind on awards and recognitions and all sorts of other things at the Commission.

RECOGNITION OF PAT KELIHER AS COMMISSION'S PAST CHAIR

CHAIR BEAL: I want to try to dig out of that hole a little bit with one fairly quick but very important presentation and recognition of someone. Pat Keliher, can you come up from the very back of the room up here, if you don't mind. He's reluctantly and slowly getting up, let the record show. As Pat wanders up here. I just want to thank Pat for the previous two years as the Commission's Chair.

You know as Spud likes to note, Pat only actually presided over one in-person meeting, so we still got him a full-sized recognition, even though he only did one of the meetings. But actually, the fact that Pat wasn't here, we weren't here for a number of those meetings, actually made his job a lot harder to Chair.

He helped a whole lot shepherd all of us through COVID, which was a bit of an experience for all of us. We made it up as we went along, but I called Pat a lot and frequently at odd hours, and all kinds of different times to ask for advice and guidance, and he was always there to help out. I just want to thank him for that and really appreciate everything he did for the Commission, to keep us moving along.

We weren't able to get together in person, but with Pat's guidance and working with Spud as Vice-Chair at the time, he was able to get us through a lot of confusing times, and keep the Commission working and get everybody together virtually. A lot of the sort of protocols and practices for our virtual meetings all went through Pat, and we really appreciate his guidance and his thoughtfulness in making sure that we all stayed productive during our two years apart from each other. With that help me in thanking Pat for his time as Chair. (Applause)

MR. PATRICK C. KELIHER: Thank you very much, Bob. I appreciate it. It certainly was a different time being Chair. I really did enjoy every moment of it. It's a privilege to be voted in by your peers to sit in the chair up front. Bob is right, we did talk at a lot of very odd hours, every time he was on vacation or I was on vacation, or early in the morning or late at night.

There was a lot of juggling to do, but I was pleased to do it, and very pleased that Spud stepped up into the role that he's in now. The best part about COVID is, I told Bob and Laura right from the beginning, I didn't want a hospitality suite in my room, and then COVID hit. Worked out great, worked out great. Thank you very much.

CHAIR BEAL: Pat, before you run off, I want to present this commemorative clock recognizing your time as Commission Chair, and something you can keep to remember the COVID years, apparently. Here you go. Congratulations. All right, while he figures out the box to put his clock in, we'll go ahead and get started with the Menhaden meeting.

With that we'll go ahead. Again, before we get into the agenda, just a reminder we've got a hard stop at about six o'clock tonight. I know that seems like a long way off, but this is the Menhaden Board meeting so you never know. We'll take some breaks as needed during this meeting. At a minimum we're going to have a break at 2:30, because the desert from lunch is being brought out, and we can get a little sugar to energize us, and carry us through the rest of the meeting.

Plan on a break at 2:30, but if we all feel that we need one before then, or it seems appropriate we might do one, or after that. We'll just sort of play that by ear.

APPROVAL OF AGENDA

CHAIR BEAL: With that let's jump into the agenda. Are there any changes or additions to the agenda that was provided in supplemental or in the briefing materials? All right, seeing no hands we'll approve the agenda by consent.

APPROVAL OF PROCEEDINGS

CHAIR BEAL: Same question for the proceedings from January of 2022. Any changes or additions or modifications to the proceedings that were provided in the briefing material? Yes, Nichola.

MS. NICHOLA MESERVE: A point of clarification, potentially for the minutes. At one point Mr. Geer had noted that the menhaden fleet had lost a certain number of days, and I believe the minutes say 39. I've since heard 59, and I just was hoping that I wanted to make sure I knew the minutes properly reflected the number.

MR. PAT GEER: Thanks for bringing that, it was 59.

CHAIR BEAL: Thanks for that catch, Nichola, and clarification. Pat, we will make that change in the minutes going forward. Any other changes? Seeing none; the minutes will stand approved by consent.

PUBLIC COMMENT

CHAIR BEAL: Now we get into the Public Comment portion of the meeting, and again this is for items that are not on today's agenda.

I know of two individuals, Phil Zalesak and Tom Lilly both would like to make a comment. Are there any other individuals in the audience here or online that would like to make a comment to the Board during this public comment period? I don't see any other hands in the room or online, is that correct, Toni? Okay, so no other hands. We'll give Phil and Tom each three minutes, and take it away, Phil.

MR. PHIL ZALESAK: Thank you very much. I'm going to talk about the striped bass dependency on Atlantic menhaden, and all you have to do is follow the science. This Board and the Striped Bass Board can actually solve this problem. Why worry about striped bass? Well, it's a 7.7-billion-dollar GDP for the Atlantic coast. That's a lot of coin, plus there is 104,000 jobs associated with it.

In the state of Maryland, it's 10,000 jobs and 800 million dollars. That's for one fishery. All right, so you may say well, I don't live in Maryland, and I don't really like striped bass, you know, I don't really care, I live in Maine, or something like that. Well, according to Dr. David Secor, 60 percent of the ocean stock of striped bass comes from the Chesapeake Bay.

We might want to be concerned with that. From Amendment 7, for the striped bass, here is some data. We've gone from 2010 up to about 5.5 million fish down to about 1.7 fish. That is over 60 percent drop in recreational harvest across the Atlantic coast. Well, how about Maryland? Maryland had gone from about 2.3 million fish down to 787,000 fish. That is about a 62 percent drop in recreational harvest.

Well, that's all right, Phil, there are plenty of fish in the Chesapeake Bay, let's not worry about it, a lot of little guys out there. Not so. Here is the October graph, showing the long-term index for the Maryland portion of the Chesapeake Bay at 11.4.

What do you think it was last year? It was 3.2, and it's been three straight years of very low juvenile productivity, if you will. It kind of looks like the early eighties.

We've been talking about overharvesting Atlantic menhaden in the Chesapeake Bay since 2004. To the credit of this Board, you funded a study by Dr. Matt Cieri in January of 2020. He reported out and said, you know the higher mortality rate for Atlantic menhaden, the higher the mortality rate for striped bass. Here's a nice little graph that shows it.

You go below the mortality rate, you go past the threshold, and you go all the way up to the target, and you can get there. You have the data. Well, that's all right, Phil, we'll just move on. What did this Board do? To the Board's credit, you cut the total allowable harvest for the entire Atlantic coast from 216,000 metric tons down to 194,400 metric tons. You said, we've got to cut it by 10 percent. But you really did nothing about the Chesapeake Bay.

CHAIR BEAL: Phil, let's go ahead and wrap it up.

MR. ZALESK: I'm almost done. The press release says the Board will be accounting for the species role as an important forage fish. I haven't seen it, and this is the key Board right here. Almost done. The ERP Committee reported out last year, it said, you know it will take five to seven years to determine what the biomass of Atlantic Menhaden in the Chesapeake Bay. We don't have time. We've got to make a decision now, so here is a recommendation. Prohibit the commercial reduction fishery of Atlantic menhaden in the Chesapeake Bay, specifically push out that reduction three nautical miles off the Atlantic coast.

CHAIR BEAL: Great, thanks, Phil, appreciate the comment.

MR. ZALESK: Well, I have one other recommendation, sir, and that is to put this on the agenda for August, and I want to hear a discussion on it, and I want to see a vote on it, because we're out of time and there is no more science to be reviewed. Thank you for your time.

CHAIR BEAL: Thanks, Phil, and Tom Lilly go ahead, you have three minutes, please.

MR. THOMAS LILLY: A lot of Marylanders supported the Maryland State Resolution that asked this Board to decide whether factory fishing should continue in Chesapeake Bay. That was in the Maryland Senate this year. These concerned Marylanders include 70,000 Sierra Club members, 3,000 Shore Rivers members, the leaders of 10 state-wide fishing clubs, the charter captains, scientists, and importantly the Maryland senators and delegates who make up what they call the Maryland Legislative Sportsmen's Caucus.

These are the senators and delegates in Maryland concerned with protecting our conservation and fishing interests. I guess the question for the Board is, will you do what over a million Marylanders are requesting? Maryland, keep in mind, is the state most affected by what you allow in Virginia.

The amount of menhaden in the Bay has a direct impact, as you know, on our striped bass and nesting ospreys, and it directly affects the quality of life and experience 8 million days that Maryland friends, family and children spend out of doors fishing and enjoying Chesapeake Bay. Eight million days a year. Every one of those days is affected by your decisions.

Just moving the factory fishing into the U.S. Atlantic zone would get 50,000 tons of menhaden forage to our fish and wildlife when they need it the most. Increasing days fishing, and enjoying the wonders of Chesapeake Bay, as Sierra Club put it, by just 15 percent. Fifteen percent would add over a 1,200,000, more days for Marylander's fishing and enjoying the Chesapeake Bay.

Repeat, 1,200,000 additional days a year, and the physical and mental health benefits, which have been scientifically proven, and given to you in the things that we have submitted, which follow. Those million plus days as a generator, would be a generator of hundreds of millions of dollars of economic impact. The question again, will this Board place these essential issues on the agenda for

the August meeting. Thank you all very much, have a great meeting.

CHAIR BEAL: Thanks, Mr. Lilly, appreciate the comment. All right, any other public comment either online or in the room? Seeing none; we'll go ahead and jump into the agenda.

REVIEW OF THE 2021 LANDINGS DATA

CHAIR BEAL: The next agenda item is a Review of the 2021 Landings Data, and James Boyle is going to give that presentation.

I don't think many of you guys have met James, he's a new FMP coordinator. He's unable to be here today, but hopefully in August you'll get to meet him actually in person. But he'll be giving that update and available for questions at the end of it. With that go ahead, James, if you are ready to go.

MR. JAMES BOYLE IV: Thank you very much, and yes, nice to virtually meet everybody. I hope to see you all in person in August. As he has mentioned, I'm going to be giving an update on the 2021 landings data ahead of the full FMP review process plan for the next Board meeting in August. This way you'll have the most up to date information going into the discussion of the Draft Addendum today.

Just a quick overview of the presentation. Essentially, it's a pared down version of the FMP Review to focus just on landings, with a quick reminder at the beginning of what are the current status of the FMP. I have that quick reminder, Amendment 3, which was approved in 2017 and implemented in 2018, is the most current management document that the fishery operates under.

For notable changes, as most of you I'm sure are still aware. The Chesapeake Bay cap was exceeded in 2019, and to account for that overage, the cap was adjusted for the 2020 fishing season down to 36,000 metric tons. But after 2020, where the reduction fishery finished below that cap, it was returned to 51,000 metric tons, as outlined in Amendment 3. For 2021 it is back at the normal

level. Just another reminder that the new TAC for the 2021/2022 fishing season is 194,400 metric tons, based on the Board approved ecological reference points or ERPs.

Moving on to 2021 landings. The total commercial Atlantic menhaden landings, including directed - incidental catch/small scale fisheries and episodic event set-aside or ESA landings, are estimated at 195,092 metric tons, or about 430 million pounds, which is an approximate 6 percent increase relative to 2020, and 0.36 percent over that new TAC, which as mentioned is 194,400 metric tons, or about 428.6 million pounds.

However, the non-incidental catch fishery landings, so that would be directed landings plus ESA landings. Total is estimated at 189,343 metric tons, or 417 million pounds, which is also a 6 percent increase from 2020, and represents about 97 percent of the coastwide commercial TAC. Landings from the incidental catch fishery are estimated at 5,750 metric tons or 12.7 million pounds, which is a 9 percent decrease from 2020, and do not count towards the coastwide TAC.

Next to look at the reduction fishery, the 2021 harvest for reduction purposes is estimated at 136,690 metric tons, or 301.3 million pounds, which is a 10 percent increase from 2020, and 0.06 percent or less than 200,000 pounds above the previous 5-year average of 136,614 metric tons. Omega Protein's plant in Reedville, Virginia is still the only active menhaden reduction factory on the Atlantic coast.

In the Chesapeake Bay, Amendment 3 implemented a 51,000 metric ton harvest cap, as I mentioned. The reported reduction landings from Chesapeake Bay in 2021 was about 50,000 metric tons, or under the cap by approximately 1,000 metric tons. This figure shows landings from the reduction bait sectors through time.

Reduction landings are using the left-hand access, and bait landings on the right-hand access, so please know that they are different scales. Reduction landings are an order of magnitude larger

than bait landings. But generally, reduction landings have been declining over time, and relative to last year bait landings had a slight drop, and reduction landings had a slight uptick. But the overall trend remains fairly consistent. Next is a breakdown of the incidental catch or small-scale fisheries landings. As I mentioned previously, incidental catch landings in 2021 are estimated at 5,750 metric tons, or 12.7 million pounds, which is a 9 percent decrease relative to 2020. Maine, Massachusetts, Rhode Island, Connecticut, New York and New Jersey all reported incidental catch landings, about 88 percent of which were for purse seines, and 9 percent from gillnets.

Maine counted for 96 percent of the total incidental catch fishery landings in 2021, and incidental catch trips were lower than trips in 2020, but still higher than from 2016 through 2019. For the EESA, landings were 2,213 metric tons, or 4.9 million pounds. Maine, Massachusetts and Rhode Island were the only participating states.

Their combined landings were over the total set-aside by about 592,250 pounds. But transfers or donations to the EESA in November and December of last year and April of this year were enough to cover the overage, so there will be no overage going into 2022 fishing season. This last slide is just to demonstrate the quota performance, in terms of number of transfers.

Quota transfers remain high for the 2021 fishing season. There were 17 instances of quota transfers, sometimes involving multiple states, which was one more than last year at 16. That is all I have. Are there any questions before we move on to discussion of the Addendum?

CHAIR BEAL: Great, any questions here in the room or online? I've got one question. Allison Colden, go ahead.

DR. ALLISON COLDEN: I just want to clarify; I have a clarifying question. James, you said the total landings were over the TAC by 0.36 percent, and that the incidental catch does not count towards the TAC. However, the directed harvest was below

the TAC. Can you tell me where exactly the overage is coming from?

MR. BOYLE: Yes, so the overage, because it doesn't count toward the TAC maybe it's not quite right to use the word overage, because it is the incidental catch that puts it over the TAC. Technically, the directed landings plus the EESA are under the TAC.

DR. COLDEN: Okay, so it's the addition of the incidental catch that puts the total landings above the TAC for this year.

MR. BOYLE: Yes, that's correct.

DR. COLDEN: Thank you, for the clarifying question.

CONSIDER DRAFT ADDENDUM 1 TO AMENDMENT 3 FOR PUBLIC COMMENT

CHAIR BEAL: Great, other hands either online or here in the room. All right, seeing none, we will jump into Draft Addendum 1 to Amendment 3. Good news, we only have one more agenda item, so we're in good shape. With that, Toni is going to give the majority of the presentations on the status of things. Essentially a report out from the PDT. With that, if you're ready to go, Toni, it's all yours.

MS. TONI KERNS: Thank you, Mr. Chairman, and I thought I would give James one meeting reprieve before I put him into the thick of things for Draft Addendum 1. Please bear with me as I go through the document. What we're going to do is go through it piecemeal today for our discussions.

In your meeting materials you have a memo from the PDT with some recommendations, and I'm going to include those in my recommendations. We'll start with an overview and a timeline. The first piece we'll get to is considering what years of data to include in the Draft Addendum. We'll review the draft options themselves, and then consider action today on what years of data we're going to include.

We'll talk about hopefully removing some options from the Draft Addendum, and then determine

whether or not we're going to consider it for approval for public comment, and the deciding factor of that will actually be the first decision that we make today, on whether or not we include 2020 or 2021 data in the document.

The current timeline for the draft document right now is we have provided some feedback from the PDT from the January, 2022 meeting. The PDT made additional edits based on the Board's feedback over the winter/early spring, and we are considering that feedback and approval for public comment today.

If we do that, then we would have hearings this summer, and consider the document for final approval in August of 2022, which would put us in time for an implementation in 2023, if that is the pleasure of the Board. The first thing that we want to discuss is the landings, and what years of landings that we're going to use in the document.

REVIEW 2020 LANDINGS PROPOSAL

MS. KERNS: In March, additional information was brought forward to the PDT regarding whether 2020 landings were representative, due to the impacts of COVID-19. Specifically, the PDT had heard a proposal from the state of Virginia to allow for adjusted 2020 landings, to account for lost fishing days due to the pandemic.

The PDT was concerned that all states fisheries may not have been impacted by COVID-19, to the extent of which is unknown and possibly variable across the states. Therefore, if the Board was going to allow for adjusted data, then all states should have that opportunity to bring forward proposals. The PDT did not specifically discuss Virginia's proposals, but instead crafted some options for the Board to consider.

But Virginia's proposal had presented the PDT with evidence that their 2020 landings were atypical of the recent time series. Not all states experienced impacts to their fisheries in 2020, and the impacts were disproportional across the states. The PDT noted that addressing this issue could set a

precedent for 2020 data for allocation, as well as set a precedent for not using it.

The Menhaden Board may want to consider recommending to the Policy Board considering the utility of 2020 data in management decisions across all species. The Policy Board can consider an overarching policy, although such a policy may be difficult, due to the differing degrees of data collected for each species harvest. The first option would be just to remain status quo, keep the data as is, and use the data through 2020. It would not have any impacts to the timeline, and we could have possible implementation in 2023. Based on discussions with PDT members who have reviewed their state's 2020 data, the PDT has determined that it is an abnormal year for more than one state.

Option 2 is to allow for the adjustment of 2020 data. All states would have the opportunity to present proposals for adjustments to their 2020 landings. This would delay the addendum process, and could impact the Board's ability to implement in 2023. The PDT is concerned about the precedent that this would set for other species, as well as the process to develop standards to review the proposals, and the time to draft and review proposals would be very complicated and a very time-consuming process.

The PDT did not recommend this option. Then the Option 3 is to remove the 2020 data from the time series, because there are concerns with 2020 data it could be dropped, and not be used for any menhaden allocation decisions. This could delay the Draft Addendum by one meeting cycle, but the PDT doesn't anticipate it would delay implementation for 2023. Final action could be taken on the document at the annual meeting, and by removing the 2020 data the PDT is concerned that the data time series would not reflect recent fishing activity.

The most recent year in the document would then be 2019, and that would not be representative of the goals and objectives of the Draft Addendum as currently written. The PDT did not recommend this option. The final option is Option 4, it would be,

remove the 2020 data and add 2021 to the time series. This could delay the Draft Addendum as well by one meeting cycle, while the 2021 data is validated.

But the PDT doesn't believe that this would delay implementation for 2023. By adding 2021 in the time series, it would alleviate the concerns that the PDT has with dropping 2020 data, and adding an additional year in the time series would help reflect the current fishing activity, and this is the preferred option of the PDT. I'm going to pause here to see if there are any questions, and then see if we can have a motion on this to help us move forward with the document.

CHAIR BEAL: Great, thanks. Yes, let's dispense with this decision on how to handle the 2020 data, because it will affect kind of everything else carrying forward in this meeting. We'll tackle this one first. I saw Pat Geer's hand up.

MR. GEER: Yes, I just want to thank the Commission leadership and the PDT for considering this. It was never our intent to delay the implementation of this, but as Toni pointed out, there is more than one state that 2020 was an abnormal year. My personal feeling is that we have to look at those 2020 data for allocations very carefully.

I mean because different states and different sectors within states got impacted differently, it was highly variable. I would hope that we can support Option 4, which seems to be the most straightforward. I am not supportive of delaying this implementation at all, and Option 4 would also give us the most up-to-date data. Again, I would like to just thank the PDT for all the work they did on this.

CHAIR BEAL: Great, thanks, Pat. Other questions on Toni's presentation or the options and sort of process moving forward. Yes, Jim Gilmore.

MR. JAMES J. GILMORE: I understand that logic, Pat, and really the question comes down to, you know we can make arguments about what the best dataset is based upon our personal circumstance.

We're once again going down this road that have gone many years before, and we're going to pick some numbers. How are we going to fix it later on if it turns out it disadvantages one state? That is my concern.

I mean what's in here right now will really need to go out to the public. But we're going to get into some sort of allocations that are based upon really, I mean we're talking about data during COVID, and we're making some pretty significant decisions. Let me go back to a statement that was made by my predecessor a year ago. While we'll agree to it now, as long as we can get out of it later, and we never were able to get out of it later. There is my concern.

I'm not that concerned about which one we pick, but when we get new data, we've got to be able to change this, and I don't know if that's how we would do that other than trying to do another addendum. But I don't want to get us into a situation where we make decisions now, and then we have the haves and the have nots and back into that same fight we get into all the time. Anyway, thank you.

CHAIR BEAL: Great, thanks, Jim. Other comments or questions about the options on the board now. Seeing none online and none here. Oh, sorry, Lynn, I didn't see that.

MS. LYNN FEGLEY: That's okay, just really quick. I just feel compelled to put on the record that I think, and certainly COVID is extraordinary, but if next year we have an issue where we have a large hurricane that runs up the coast and it blows closed inlets across the south, because they can't get their fishing fleets out.

You know that is also an extraordinary circumstance. I would just suggest that maybe whatever we decide today, maybe the Policy Board would want to take up some sort of conversation on guardrails going forward, so we're not always in this sort of wondering what is extraordinary and what is not for data impacts.

CHAIR BEAL: Other comments, or are we ready for a motion? Megan.

MS. MEGAN WARE: Yes, I wasn't sure if we were questions or comments right now, because we don't have a motion yet. But I can predict maybe what the motion is going to be, so I'll try and work off of that. I understand why Virginia is putting this forward. I'm not at all disagreeing with the statement that COVID probably had some impacts on that state.

I guess maybe to piggyback off of Lynn's point here, I think COVID may have been atypical, but I don't think it's atypical for a state to not be able to harvest its full quota for one reason or another, whether that's as Lynn mentioned a hurricane, or market conditions, or whatever. I think there is a lot of situations where states can point to an allocation where they said that year in the allocation isn't representative for a reason X, Y, or Z. That is why we use averages. I think if we are going to change the data, I think it's really important for the Board to be clear how this is different than Hurricane Sandy or name some other situation the state has had that's impacted their ability to harvest quota. I'll also say, and maybe this is a question for Virginia. But I guess I'm a little confused about the timing of the proposal. We've been working on the document for, I don't know a year and a half at this point.

I would be curious maybe why it's coming forward now. I think the challenge is states now have both 2020 and 2021 landings. I think it provides an opportunity for states to compare their landings against those two years, and make a decision based for that. I think if we had had the proposal earlier, we wouldn't have had 2021 landings, and it would be a very different context for the discussion. I'm curious to hear more about that, if Pat can answer that.

CHAIR BEAL: Mr. Geer, go ahead, please.

MR. GEER: If you go back to the minutes from any Board meeting or any PDT meeting, we have brought this up at every single meeting. We've

talked about our concerns with the 2020 data. It wasn't until I went on a tirade at the last Board meeting in January that leadership, Bob and Spud, approached me and said what is this, what is going on? That's why we put forward the proposal then. We have been bringing this up time and time again, so it wasn't the first time it got brought up.

CHAIR BEAL: Ms. Meserve.

MS. MESERVE: If we're on to comments, I guess I would say that I agree completely with Option 2 and Option 3 not being the path forward for us here. I struggle a little bit with changing the data, because we haven't, the Board at least, didn't see a proposal from Virginia and any of the specifics to justify the reduction in landings.

I guess my question, other than yes, it was COVID, and many states had impacts. They were disproportionate. But I guess my question would be to Toni, perhaps, if the PDT had any discussion about other elements that play in 2020 that could have impacted Virginia's 2020 landings, weather or the reduction of the Bay cap for example, and whether they looked for correlation between those lost days and the landings that resulted.

MS. KERNS: The PDT did not dig too deep into the Virginia proposal, because they one, didn't have a directive from the Board to review the proposal, and two, they were thinking about it more on okay, so if Virginia brings a proposal forward then do we expect proposals from other states.

How do we think about it in the context of the full coast versus the actual proposal itself? I don't recall us asking specifically any of those questions, because again, we didn't even start to dig into the proposal. I don't think that any of that information, I'm trying to remember, was in the proposal that would have sparked those questions right away anyway.

CHAIR BEAL: Tom Fote, please go ahead.

MR. THOMAS P. FOTE: I can understand the problem. When we had Sandy and basically the following spring, when we opened up the fishery

and none of the marinas were open, our numbers were crazy. We were told live with it. I mean we go through the years. But the other problem is you open up that can of worms, where do you start?

We have hurricane events every year, we close ports down, we close inlets down. I mean it's like bluefin tuna has gone through this. We caught the biggest catch of bluefin tuna during a hurricane one year. The numbers are the numbers. The bad numbers, we always know they're bad numbers and we deal with them. But I don't want to start changing in the middle of a thing. I think we should stay where we are.

CHAIR BEAL: Ms. Patterson.

MS. CHERI PATTERSON: I don't like to see any delay of this decision-making process. I understand Virginia's concerns. However, as stated already, there has been other concerns due to natural events that have caused various states issues in the past, in regards to their data or their statistics. I agree.

I think that this needs to go back to the Policy Board, and have a discussion if we do move forward with Option 4, have a discussion how 2020 data can be used in the future, and have the PDT take a closer look at some of these issues that Nichola came up with, to see if there could be some moderation to 2020 data. I don't like the thought of it disappearing.

CHAIR BEAL: Other comments. Yes, Conor.

DR. CONOR McMANUS: There has been a lot of discussion on the removal of 2020 as it pertains to Option 4. I just didn't want to lose sight of the other element of adding 2021 data for the Board's consideration, given that in many ways this aligns with, in my mind, the mission of the Addendum to try and be contemporary of where fish abundance is, and the current fisheries activities. I just would like to have the Board be thinking about both elements, to think about them independently or not may be a different discussion.

But within Option 4, I think adding 2021 data really furthers the Addendum in trying to be consistent with what we're looking at now as a 2023 implementation date. I think adding the data further connects us between the data we're using and reality of when the Addendum could be in effect. I just wanted to bring that to light again in the midst of the holistic Option 4.

CHAIR BEAL: Great, thank you. Other comments, questions. Seeing none; is anyone ready to make a motion? Mr. Clark, go ahead please.

MR. JOHN CLARK: Toni, I submitted the motion up there, and very simple, just want to approve Option 4 for inclusion in the Draft Addendum. Based on the PDT recommendation, I'm assuming, is that the only option that would be in the Addendum, or just in addition to status quo?

MS. KERNS: John, it's not inclusion in the Addendum, **it's how we would actually change the Addendum. I would say just move to approve Option 4: Remove 2020 data and add 2021 data into the Draft Addendum.**

MR. CLARK: Sounds like a plan, that works.

CHAIR BEAL: Is there a second to this motion? Mr. Abbott, thank you. Mr. Clark, do you want to provide any additional background on your motion?

MR. CLARK: Sure, I think the document itself from the Plan Development Team says it all. I think 2020 was extraordinary, and obviously there are problems every year, but this was a first time in 100 years we've had a pandemic like this that has so affected every part of the country, every part of the economy. In particular for a fishery like this, which is not a sport fishery, it's entirely an industrial and bait fishery.

That much more dependent on supply chains and other things happening in the economy. I just think that it just makes a lot of sense for menhaden to go with the 2021 data, and just remove 2020. I understand the precedent it's setting, and that is certainly something that I agree should be discussed

at the Policy Board. But I just think for menhaden in particular that this is the way to go.

CHAIR BEAL: Mr. Abbott, you're all set? All right, David Borden had his hand up online and it's gone down. Mr. Borden, would you like to make a comment now? Your hand is back up, David, so go ahead if you're ready. We'll try to get the microphone sorted out.

MR. DAVID V. BORDEN: I would just like to support the motion. I think John Clark, I won't repeat his points, but I think he made a good point. We're dealing with a one-off event that happens once every hundred years. I also agreed with the point that was made by others about the variable impacts on the states.

The final point I would make is that I have not objections to approving this motion, but then also having the Policy Board take up the general discussion, because I think there is going to be a lot of discussion on some of the other Policy Board matters and species management matters that are going to relate to this. It might be a useful exercise to have a more inclusive discussion of that.

CHAIR BEAL: Just so everyone knows. If this motion were to pass, functionally the way it would operate is, any of the options that are in the draft document 2020 data is pulled out, and 2021 data is plugged in. It doesn't change the range of options, other than just swapping out those two years' worth of data as it functionally will be applied. Senator Miramant, did you have your hand up?

SENATOR DAVID MIRAMANT: Yes, thank you, Mr. Chair and folks. The problem I see with starting that is that with the climate change we're seeing in the Gulf of Maine affecting so many things. Places like Maine or other states could start to say, well we had this affect us. Those incidents seem to be more frequent and more severe. Unless we think that we should start adjusting to every storm that comes along or other issues societally that affects the fisheries, we better just stick with a path that is pretty even handed. If we find real problems with

it, we can adjust, but this isn't a real problem to start adjusting for, so thank you.

CHAIR BEAL: Mr. Train, do you have your hand up?

MR. STEPHEN TRAIN: I guess I have a question, and most of you know I spend most of my time on the water, 59 days is a lot of days. Is this, 59 boat days? Was the whole fleet in? Did the factory shut down? I mean there was six months and you were shut down two of them.

MR. GEER: The factory did not shut down. Mr. Diehl is here, if you want to hear from him directly.

MR. TRAIN: I'm just trying to figure out the 59 days is huge.

MR. GEER: It was 59 vessel days.

MR. TRAIN: Vessel days, so one boat 59 days out of the eight, well not all eight boats.

MR. GEER: Out of a 200-day season.

MR. TRAIN: Thank you.

CHAIR BEAL: I'll kind of move down the line. Mr. Pugh, go ahead, please.

MR. CRAIG D. PUGH: The discussion is not necessarily about weather events. They do come and go often. This is a one-off, because we were instructed not only federally, but by our states also to shut our businesses down. That is what the COVID start was in 2020, was to shut things down. The proof of that is in the pudding, the amount of days that Virginia states. It was a one-off, it is 100-year anomaly. I support the motion.

CHAIR BEAL: Lynn Fegley, go ahead, please.

MS. FEGLEY: I would support the motion. But I do want to make sure that we have had sufficient conversation on the record that this will go forward to the Policy Board to review the concept of how we're going to use 2020 data going forward across

the board, and also how we're potentially setting guardrails on this idea of just removing years.

CHAIR BEAL: I don't want to relate it to this motion, necessarily, but based on the comments around this room, it sounds like bringing something to the Policy Board and having a conversation later this week, or at least starting a conversation, is appropriate. I think that should happen regardless of what happens with this motion.

I don't want to link those two together, but Toni and I will bring that forward to the Policy Board. With that, other comments on the motion? Seeing none; are we ready to caucus? All right, we'll do a two-minute caucus, because I realize some folks aren't necessarily in the room. Does anyone need more time to caucus, is everybody all set? Massachusetts, are you guys, okay? You're all set. Okay, I just wanted to make sure. Since we are in this kind of hybrid format here, voting is going to be a little bit different than standard in-person voting. What we're going to do is I'll call on hands in favor. Keep those hands up.

Toni is going to read off the state and names associated with each hand, just so the people that aren't here know who is voting in what direction, and then we'll lower those hands and go through the rest of the voting. All those in favor please raise your hand, and keep them up until Toni calls your state name, please.

MS. KERNS: Rhode Island, Commonwealth of Massachusetts, Connecticut, New York, Pennsylvania, Florida, Georgia, South Carolina, North Carolina, Virginia, Potomac River Fisheries Commission, Maryland, Delaware, New Hampshire.

CHAIR BEAL: I counted 14 in favor. Hands down.

MR. CHRISTOPHER WRIGHT: And National Marine Fisheries Service, Bob.

CHAIR BEAL: Okay, I'm sorry, Chris, which way is National Marine Fisheries Service voting, Chris, in favor?

MR. WRIGHT: Yes, please.

CHAIR BEAL: Great, thank you. All right, with that vote I counted 15 in favor. Any states or jurisdictions in opposition, please raise your right hand.

MS. KERNS: Maine.

CHAIR BEAL: Any others, seeing no other, any null votes, n-u-l-l?

MS. KERNS: New Jersey.

CHAIR BEAL: Any abstentions? Seeing none; that motion carries 15 in favor with 1 vote in opposition and 1 null vote. Thank you, and Toni, are you ready to carry on to the next elements of the Addendum?

MS. KERNS: Yes. As it stands the document has 48 options in the Addendum, 27 of those options are allocation options, 5 of them are episodic events options, and 16 are incidental catch, small scale fishery options. Several of you have been on webinars that we've had recently for striped bass and summer flounder, scup, and black sea bass, where the public has noted that the length of the document or the notions that are being contained in the document have been difficult for the public to follow along, and comment on our documents.

With 48 options, 27 of those being allocation, I fear that we will continue the pattern of making it difficult for the public to follow along. The PDT is very concerned with the number of options that we have in the document, and is hopeful that the Board will remove some of the options, in particular some of the allocation options, so it makes it easier for the public to follow and understand and make comments on the Addendum. Staff also pleads for that from the Board. Thank you for my indulgence of my double-duty of staff and PDT member. Moving forward.

As a reminder of the objectives of the allocation section of the document, it's to align with recent availability of the resource, to enable states to maintain current directed fisheries with minimal interruptions during the season, and to reduce the

need for quota transfers and to fully use the annual TAC without overage.

The PDT used the same two-step approach as outlined in Amendment 3. We first consider the fixed minimum allocation, and then second allocate the remaining TAC based on timeframes. Just as a reminder to the Board that when we do the allocation, the episodic event allocation comes off the top, and then we set the individual state allocations, just as a quick reminder. That got a little confusing last time.

Thinking about the fixed minimum approaches. The PDT developed the options to reduce the amount of TAC that was reserved for the minimum allocation, while still allowing states to acquire the necessary allocation when combined with the second step allocation. At the last meeting the Board moved Florida and Delaware from Tier 1 into Tier 2 of Option 3, but they left those states in Tier 1 in Option 2.

These states were placed in the lowest Tier by the PDT, because the 0.1 percent minimum, when combined with Step 2 and the incidental catch/small scale fishery options would provide sufficient coverage to the minimal amount of landings these states have landed over the last 12 years. In addition, by altering these options it results in no significant difference in the minimum allocation between the two options.

The PDT is recommending either restoring the original options or removing one of the two. The other thing that the Board moved was New York went from the second tier into the third tier of Option 3. The PDT is concerned that the Board misunderstood the overall outcome of the fixed minimum approach.

Under the original options there were very few instances of lower tiered states exceeding their allocations at the end of the allocation process. However, those states that did come up short, which is very minimally short, would be made whole under the additional provisions of the Plan, so thing like the incidental catch/small scale fishery.

The states that do come up short do not have high volume landings, thus would be able to land using incidental catch and small-scale fisheries, even if they were restricted by this document. Then for the second step of the allocation, we have the first option is status quo, and Option 2 are pretty straightforward.

It's just the average landings from the timeframes listed, status quo is using 2009 to 2011, and Option 2 is just using the most recent three years. It will be 2018, 2019, and 2021, based on the action just taken by the Board. It reflects recent landings stock distributions, but obviously does not take into account historical. For the weighted timeframe allocations, the PDT is recommending removal of Timeframe Number 2. The Board had previously requested two versions of the weighted allocation timeframe be developed. While the state allocations vary slightly between the two options, they are conceptually the same. By having two options it increases the number of options in the document, and so the PDT reiterates its recommendation that Timeframe 2 be removed, because it achieves the same objective, and Timeframe 1 utilizes the original time series from Amendment 3, plus the most recent three years.

The bright yellow circle is the one the PDT is recommending removal, 3B. Then the other option for the second step of allocating is the moving average. In response to the Board's concern about the types of landings that can affect the moving average, the PDT split Option 4 into three sub-options, 4A through C. The PDT drafted two new options based on the Board feedback.

Option 4A represents the original moving average method that includes all catch types, including the episodic events and the incidental catch/small scale fishery landings to most accurately reflect the distribution of the stock and effort. The PDT continues to support the retention of this option, as it is the most responsive to the current fishery.

But if the TAC is exceeded it could impact the states that utilize their full quota. Option 4B, which is a new option for the Board, only uses landings under

or equal to the TAC in the moving average calculation. It recognizes the importance of incidental catch/small scale fishery and episodic landings, and a state's total landing where there is extra fish available, such as when a state does not achieve its allocation due to low availability or low market demands.

However, it doesn't reward states for activities that could lead to overfishing, meaning exceeding the TAC and/or damage, existing markets and other states, by shifting quota from states that fully utilize their allocation. Proportional allocations of those two types of landings, the incidental catch, small scale fishery and episodic, among participating states eliminates concerns about differences in timing and availability of the extra fish when it might be available.

The PDT supports retention of this option, as it adds protection for states that fully utilize their fishery. But it doesn't represent the current fishery as well as Option 4A does. Option 4C is an option that the Board asked the PDT to put together. It eliminates incidental catch, small scale fishery landings and episodic landings from the calculation of the moving average.

This limits the average to landings acquired under state's annual allocation or quota transfers only. As written the option no longer achieves the purpose of the moving average by inaccurately representing a state's landings. Using such a limited amount of data in the calculations would not allow for movement of quota in any meaningful way, and would not meet the goal and objectives of the Addendum.

In addition, the PDT sees the three-year timeframe of the average as sufficient in eliminating the outside influence of a single year, and presenting a race to fish. That was one of the concerns that the Board had raised for putting this option together at the last meeting. The PDT recommends removal of Option 4C. I can go through, if the Board would like, all the tables that go along with this document. But I recognize they are pretty hard to see. They are in the document, and so I think I'm going to skip it and

just see if we have any questions for me on the allocation part of the Addendum.

CHAIR BEAL: I guess first question is, given how hard these numbers are to see, you know is there value in going through step by step through all these different options? They really are unchanged from the January meeting. They are in your document probably a lot easier to read in your document, and if we don't have to go through them it would save us a lot of time. But if there is a need, we can do it.

MS. KERNS: In addition, they will change now the 2020 data is out and '21 data will be in.

CHAIR BEAL: Yes, exactly. In the slides that Toni just presented, anywhere it said 2020, view that now as 2021. Not seeing any hands or any interest in going through slide by slide, we'll go ahead and Toni, can you go back to your slide with the tiers on it? Are there questions on how this works, and what the Plan Development Team has recommended, as far as changes and/or removals? All right great, so this is a starting point. Mr. LaFrance, go ahead, please.

MR. ROBERT LaFRANCE: I just have a question. If you could go back to the slide where you had the objectives. Could you just go back to that slide for a second? You had the objectives of what we were trying to do with this Addendum. I just want to get clarification on Number 4, fully utilize the annual TAC without overage.

I think it kind of comes into what this question is going to be about. The way we have it currently is incidental catch and the incidental catch numbers are not included in the TAC. I guess I'm trying to understand how that relates to some of the other things you're taking out. In other words, given that the TAC. When we talk about fully using the annual TAC, are we also including in that bullet there the TAC that is associated with the incidental catch?

It's kind of an in the weeds question, but I'm just trying to make certain when we're talking about the TAC, we're talking about all landings being

underneath the TAC. Right now, incidental catch is out, and it may impact some of the other questions is my point. I just raise that as a question, to make certain. I believe when that was put forward as an objective, it was to make certain that all landings were considered under the TAC. That is my point of view, sitting on the Working Group that was our understanding of the TAC.

MS. KERNS: Rob, I think that that could be in the eye of the beholder of the Board member. I will say that the PDTs objective of making changes to the fixed minimum was to turn a lot of the incidental catch/small scale fishery landings into TAC landings, into directed fishery landings. Previously, roughly 8 percent of the quota was allocated under those fixed minimums.

Under the new options I think it's closer to like 5.2 percent would be under the fixed minimum. It does shift some of those landings into directed landings. It is the pleasure of the Board to determine whether or not incidental catch/small scale fisheries are counted in that TAC or not.

MR. LaFRANCE: That's why I raised the question.

CHAIR BEAL: Before I go to the next questions or comment, I had a request to make sure everybody gets pretty close to the microphone when they're speaking, just so everybody in the back of the room and online can hear you. We are broadcasting out, and we want to make sure everybody can hear, so pull the microphones pretty close and speak directly into them if you can.

Other comments or questions, starting with the Tiers probably is a reasonable place, as well as the placement of the states within those Tiers. Any other comments, please? All right, seeing none. There was a PDT recommendation to restore or remove Option 2 or 3. Any takers on that one? Yes, Megan.

MS. WARE: I had sent a motion to staff if they are able to get that up. Awesome, thank you, Maya. **Move to remove Option B, which is the two-tiered fixed minimum approach from Section 3.1.1 in**

Draft Addendum I, and if I get a second, I'll provide some rationale.

CHAIR BEAL: Okay, John Clark is that a second? John Clark seconds that, and I'm back to you, Ms. Ware, please.

MS. WARE: I didn't really agree with the PDT that the two-tiered approaches that are left are basically equal in their objective. I don't think we need both, and I'm leaning towards keeping the three-tiered option, because in my mind I think there is a difference between states which have had no commercial fishery to date, and states which have had small commercial fisheries to date.

I think the three-tier option better distinguishes between those two different categories of states. Then I also think at their last Board meeting the Board spent a lot of time working on that three-tier option, so I would rather preserve that work of the Board moving forward.

CHAIR BEAL: John, do you have any follow up comments on the motion?

MR. CLARK: No, Mr. Chair, Megan covered everything well, thank you.

CHAIR BEAL: Super, thank you. Roy Miller, you had your hand up a moment ago online. Do you still want to make a comment, or it was on a different subject?

MR. ROY W. MILLER: No, I had my hand up to second Megan's motion.

CHAIR BEAL: All right, excellent, thank you, Roy. Other comments on the motion that is on the board to remove Option B. All right, seeing none in here or online, is everyone ready to caucus? Maybe a one-minute caucus. We'll see if that's enough time, and then we'll vote on this. All right, any additional time needed to complete your caucuses?

Seeing no hands here or online, let me try this. Is there any opposition to the motion that is on the board? All right, seeing no hands online or here in

the room, there seems to be no opposition. Are there any abstentions to the motion that's on the board? All right, seeing no opposition or abstentions, the motion carries by consent. We're making progress. We'll get up the slide with the next issue here in a second. The next two slides kind of relate to each other. The Plan Development Team is recommending removal of Option 3B and 4C, and then there is some consideration for Option 4B as well. It's probably easier to work through these individually, is that right? Let's go back to Option 3B. Is there any appetite for following the recommendation by the Plan Development Team, and considering removal of the Option 3B with the slightly different timeframe from Option 3A is the only difference? The only difference is 2011 and 2012 is included or excluded. Any thoughts or motions relative to Option 3B. Yes, Mr. Cimino.

MR. JOE CIMINO: You could call me Joe, Bob. I have to respectfully disagree with the PDT on this. I think having a longer historical period in a time before we had quotas is important. There is some interannual variability in this fishery. Now with our recent decision, where we're going to have options to include 2021.

Albeit dropping a year, we are bridging a four-year period for the more recent years as well. I still would prefer to see Option 3B, and I do agree that they are very close, so I would be willing to drop 3A. I wanted to put that out there for discussion before a motion comes up.

CHAIR BEAL: Thank you, Joe. Any other comments relative to 3A versus 3B, removing one or keeping both. Ms. Meserve, please.

MS. MESERVE: My preference would be to follow the PDTs recommendation here. I think that the first weighted option clearly builds upon Option 1 and Option 2. Going back to 2012 feels to me like we're re-litigating the decision made in Amendment 2 with those years, and I think that the objective to incorporate more recent history, and that 3A better achieves that.

CHAIR BEAL: Other comments on the difference between these two options? One of the things that is going to complicate the discussion throughout the rest of this meeting is, okay, you don't necessarily know what these options look like, because we don't have the 2021 data included in these two options. Between this meeting and the August meeting, the plan seems to be staff and PDT will put the 2021 data in here.

That is going to change some of the percentages in the associated tables and associated Option 3A and 3B. Not that I want to defer anything until August. But if the Board is not ready to decide between 3A and 3B at this point until they see exactly what the 2021 data does to those different options. One approach would be to wait until the August meeting, see what that looks like and then the Board can go from there. It's up to the group, but just wanted to get that on the record. Ms. Fegley.

MS. FEGLEY: I really appreciate that, and I'm just going to be perfectly honest. Maryland does a little better if we leave 3A and it does a little better if we do the reverse than what we're trying to do. But it's not substantial, but I think it might be helpful to see. It's nice to make a decision based on the facts, and not necessarily on the numbers. But I think in this case some numbers might just be helpful to keep us all in good faith negotiations.

CHAIR BEAL: Is there another hand? Dennis Abbott, go ahead, please.

MR. DENNIS ABBOTT: Option 2 is an example will read 2018, '19, and 2021 when we revise?

CHAIR BEAL: Yes, that is what it will be, 2018, 2019 and 2021 will be what Option 2 is.

MS. KERNS: I'll, as staff from my original request is just because the PDT did not ask you all to remove something, it doesn't mean that you cannot remove something, because again, even with the few options that the PDT does recommend taking out of the document. There still are a ton of allocation options in this Addendum.

As you ponder the '21 data when we get it over the summer, I would just suggest thinking really hard about whether or not all of the options are viable options in your minds, and really think about what we're going to take to the public for comment. Even with removing some of the ones that we will, we'll still have, I think at least 15 options in the document, which is still a lot of allocation options.

CHAIR BEAL: Great, Toni, thanks for that reminder. Mr. LaFrance, go ahead, please.

MR. LaFRANCE: Just a question on process. If in fact the staff were to run these both 3A and 3B, at our next meeting we could decide after the numbers were in front of us whether or we would include these to go to the public. I just wanted to get that clarification.

CHAIR BEAL: Yes, that is correct. The Board still has that latitude in August. I guess to follow up Toni's point about paring this down anywhere and any way the Board feels is appropriate. Anything we could take out today will save the PDT some work between now and August. Anything you take out after August will save some confusion and complication at the public hearings.

That's kind of a two-step process here to follow up on Mr. LaFrance's comment. Kind of reset when we get to August, and once you see the final document things can be changed at that point. With that understanding, is there any appetite for a motion on 3A, 3B or Option 1 and 2 at this point, or do you want to see what the final numbers look like when we get back in August?

MR. BOYLE: Sorry to jump in here. I just want to make a quick comment that for Option 3B the later, more recent time series is 2017 to now 2021, was 2020. The length of time series for the old and recent data is the same. It's four years.

CHAIR BEAL: Great, thanks for doing that reminder, Jim, a typo on the slide. I appreciate that. With that, that probably even means more that you want to see what those numbers look like coming forward. I didn't see any hands when I asked for

motions. I'm going to assume we'll get the PDT to crunch the new numbers, come up with different tables, and come back in August and do that. Seeing no opposition to that. Toni, do you want to give a quick summary of where we are with Option 4 again, just so everybody is fresh in their mind?

MS. KERNS: Will do. Again, this is just thinking about the moving average. At the last meeting the Board requested an option that took out incidental catch, small scale fishery and episodic landings from the moving average in total. The PDT felt by doing that it no longer achieved the objective of the moving average, so they created a middle ground option, which becomes 4B, which allows for the episodic, incidental catch and small-scale fishery landings to be used up until the TAC, and then anything over the TAC would not count.

States that had incidental catch/small scale fishery landings and episodic landings would be proportional that's below the TAC to be included in their three-year moving average. I recognize that we don't have '21 data, but conceptually if you wanted to remove an option here we could, or not. The PDT has one option for removal, but it doesn't mean that you can't remove more than one option.

CHAIR BEAL: With that; Ms. Fegley, please.

MS. FEGLEY: I have a question about how this might work, 4B. It says that it's only going to consider landings up until the TAC. Maryland, this is a year that is stationary. It doesn't move. We have no ability in our state to go where the fish are. If we get a slug of fish through the Bay, and into our pound nets in October, and the TAC has already been met. Does that mean that we don't get, there is no acknowledgement that we had an appearance of fish in our stationary gear?

MS. KERNS: No, the reviewers, I'll call it the Plan Review Team, would look at all landings that occurred under episodic, incidental catch and small-scale fisheries. Then we would look at each state's catch proportionately, and then reduce those landings down to whatever the TAC was, and you

would get your proportion up to the TAC to count towards your three-year moving average.

MS. FEGLEY: It's poundage, not anything to do with timing.

MS. KERNS: Say the last part of your question.

MS. FEGLEY: It doesn't have anything to do with timing when the fish are.

MS. KERNS: Correct, yes.

MS. FEGLEY: Okay, thank you.

CHAIR BEAL: Other questions or comments on Option 4 or the sub-options, or motions to adjust these.

MR. LaFRANCE: I would just like to be heard in favor of keeping 4C. I recognize that it may be something we want to take out when we go to public. But I do think it's going to be helpful for us to understand the analysis, in terms of the information, to basically take a look at the moving average, just as it relates to the allocations without including the EESA and the IC/SSF. My sense is that that data would be helpful to us in better understanding what we go to the public with.

MS. KERNS: Rob, just so that the PDT understands. I'm trying to see maybe if the PDT can provide you with additional information, because the moving average is trying to reflect the availability of the fish and what states are actually harvesting. That is the goal and objective of the moving average itself. The 4C Option does not meet that goal and objective at all. I'm trying to understand what you are trying to get out of it by keeping it in the document, so the PDT can make sure that they bring that information to you.

MR. LaFRANCE: What I see happening is the information that you have for each state's individual allocations will be what's moving. What I guess I'm trying to make certain is that we understand what the EESA is, it's a percentage. But

we don't know what the IC/SSF is in terms of actual poundage.

By taking them out and then comparing those to the actual allocations, we can get a sense as to how that's playing out, and how the moving average would be impacted. What I guess I'm trying to say is the moving average is going to calculate how people catch up with everything, as well as transfers.

The point here is you're capturing, I believe in 4C, any of the transfers that are happening between states, because they are now from one state to another, in terms of how they look. I think it also gives me some sense as to how large, for example we have some data in the report showing how big the incidental catch is in a state like Maine. I want to make certain that we're capturing that as we understand that before we go to public.

MS. KERNS: We won't be able to show you individual incidental catch small scale landings by state, because some states are confidential. I'm not sure we'll be able to achieve the objective that you're looking for. But I guess we'll do our best. I just want to make sure that the Board recognizes that 4C does not achieve the objective of the moving average.

CHAIR BEAL: I've got one comment online, Allison Colden, then I'll come back to the table.

DR. COLDEN: Toni, I'm trying to understand for Option 4B, you know you ran through these options and brought up some of the concerns with the moving average that the Board brought up and the PDT brought up, particularly with respect to incentivizing a race to fish, to possibly bump up a moving average for landings that are included that are above and beyond the directed allocation for a state.

States that remain within their directed allocation and quota transfers losing out over time. I'm looking at 4B and relating back to Lynn's question. Even if it's based on a proportion of landings, it's still the proportion of landings above and beyond

an individual state's directed allocation. I guess my question is, I'm not quite understanding how 4B addresses the Board's concerns about "race to fish" and equity concerns between the states. Could you elaborate on that a little bit more?

MS. KERNS: The PDT felt that by being a three-year moving average, a "race to fish" doesn't come into play. If Nichole is online when I'm done answering the second part of your question, if you want to add to that I would be happy to have you do so as my PDT member backup. Then in terms of the equity for the incidental catch/small scale fishery landings, every state would still have the opportunity to catch fish under the incidental catch/small scale fishery through the end of the year, and then it's just proportionately counting the poundage to the total of incidental catch/small scale fishery that would be included in your three-year moving average that is under the TAC. Equity wise, every state would still have the opportunity to catch those fish, and then your landings are just reduced proportional to how much you caught. Well, relative to everybody else.

DR. COLDEN: Just a quick follow up, Mr. Chair.

CHAIR BEAL: Yes, please go ahead.

DR. COLDEN: Thanks for that, Toni. I guess I don't want to beat a dead horse here. I'm trying to imagine this playing out. Say for example you have a state that consistently fully exploits its directed allocation, but has little to no incidental catch or small-scale fisheries landings. At the end of the day the TAC is the TAC, and I guess this again gets to the question of whether or not we're going to land on the incidental catch becoming counted towards the TAC or not.

It's all one pie, and it all has to come out of somewhere. Does that mean that states that are consistently landing under the incidental catch and small-scale fisheries above and beyond their directed allocation would be taking quota away from states that stay within their directed allocation over time?

MS. KERNS: If a state does not fully utilize their TAC, then one may argue that they don't have availability of fish to utilize them. Therefore, a state that now has fish available to them would be getting those fish, which is reflecting the moving average then as the PDT put most accurately reflects the current availability of the fish. Obviously, it would change over time, as each state either does or does not fully utilize their TAC. I don't know if I said that straightforward.

CHAIR BEAL: That's good. All right, other follow up questions. I had Jim Gilmore, Joe Cimino and then Steve Train.

MR. GILMORE: Toni, your response back to Rob before, so I understand that it essentially said that well, the incidental catch in the small-scale fishery, really, we can't get that information. It goes back to the initial objectives of the Addendum was we were supposed to try to really characterize what the actual landings are.

But if we can't get that, so if we can't get it 4C makes no sense, because essentially, we're not going to put data in that. I don't know, that just concerns me, because there has always been that discussion about, well really, what are the landings from that? Are we going to at some point be able to figure that out?

MS. KERNS: We can tell you the overall. It depends on the year. Some years states have confidential data and some years they don't. It depends on the year. We can give you the total coastwide amount. Maybe we might be able to break it out by regions, it depends. But specific to, I can't give you poundage for each state currently.

CHAIR BEAL: Joe Cimino.

MR. CIMINO: I hope James appreciates you sitting on the hot seat all day, Toni. I was first looking at 4C as really being dependent on quota transfers, but then your comment about if a state wasn't able to utilize their entire quota that would suggest something about the moving averages. Then that put 4C kind of back into play for me, unfortunately.

I think overall I could support its removal. But I guess what you were trying to explain in 4B is the importance of a state's percentage of the coastwide landings. Is that really what's going to be the overall formula? It will go beyond TAC; it will be back to sort of how we see these tables with a state's percentage of the coastwide landings.

MS. KERNS: If you're looking at what is the heart of the moving average, and you want it to be at its most optimal use, let's call it. Then you would choose 4A, because that takes all landings from the states and moves quota around on an annual basis, based on where the availability of the fish is.

That takes the TAC, transfers, episodic, and incidental catch/small scale fisheries into play, and it really tells you what a state's quota is based on availability and the current fisheries, 4 B is going to do that kind of, but it keeps it in check to the TAC, and it's going to proportionally adjust the incidental catch/small scale fishery landings and episodic landings for each of the states. It's almost there but not quite totally there.

CHAIR BEAL: Follow up, Joe, or are you all set? All right, great, thanks. I had Steve Train and then Lynn Fegley.

MR. TRAIN: I have to simplify these things in my mind to make them work. To me this all goes back to the Baltimore meeting, when we started trying to figure out where the fish were going to be and who was going to get it, what it was going to be. No state every wanted to give up quota in any fishery that it had, any more than any fisherman ever wants to give up quota he had, even if he's not catching a fish. What I see is 4A and 4B are the same thing, as far as redistribution of quota, except 4A does it more aggressively, 4C is stay where we are.

We'll have to keep trading stuff, as was just said. I think it's very important to understand that these incidental catch fisheries and episodic event fisheries allow us to show the reflection of the shift in the fishery, and allow us to shift that quota. To lose that option and stick with something like 4C

totally doesn't reflect everything we talked about back at the Baltimore meeting when we started. I think it's important that 4C is eliminated and we look at 4A and 4B. Unless I've totally got confused in this discussion.

CHAIR BEAL: How could anyone get confused in this discussion, Steve? Lynn, go ahead please.

MS. FEGLEY: I think Steve and I were going to the same place. First of all, with 4C, I think the issue there is that particularly for these gears that are fishing that don't move, which are incidental. They should be considered almost a sampling gear in this case. They are, you know when the fish are showing up in those gears the fish are there. When the fish are not showing up in those gears they are not there. If you remove those gears from this calculation, you're removing your signal, and what's telling you that the stock is shifting. I just want to be sure that when we're thinking about this that everybody understands, and that is something Mr. LaFrance said that under the incidental, those fish are counted and there is a full accounting of what is being caught. We just might not have the exact information because of confidentiality issues.

But we do know if we're catching fish under the incidental catch provision in Maryland, there is a very clear accounting of every fish that goes into that net. I want to follow that through with, if we're in a situation where we're closing something like a pound net fishery, what we're not going to be starting to count is all of the dead fish that are released from those nets, because we have to shut down.

I just kind of want to make that clear that 4C, and I really do like this idea, because I think it's creative. It's something we haven't done, and it could actually get us into a new place with allocation. I mean these are sort of brutal arguments that we have to have over and over again. If we can figure out a way to get this in here and help the public understand it, I think it would be worth our time.

CHAIR BEAL: Good, thanks, Lynn. Nichola, go ahead please.

MS. MESERVE: I really agree with Lynn's comments. I also see Option 4C as making the fight for transfers a real food fight among the states. There is already a lot of states in the last year who have been trying to negotiate and do things collectively. But if we're relying on solely transfers to document and show moving the distribution, I think 4C may have some unintended consequences for cooperation among the states. **Based on this discussion thus far, I would be willing to make a motion to remove Option 4C. Let's see, it's Option 4C from Section 3.1.2.**

CHAIR BEAL: Great, thank you, Nichola. Is there a second? Steve Train seconded the motion. Any additional support or comments, Nichola?

MS. MESERVE: I don't believe so, thanks, Bob.

CHAIR BEAL: Steve, you're all set as well. Great, comments on the motion. Allison, do you have your hand up on this one or is that left from previous comment?

DR. COLDEN: No, I had my hand up, but it was up before this motion, so I can save it until after you dispense with this motion if you would like.

CHAIR BEAL: You were going to make a comment on a different topic, not relative to this motion?

DR. COLDEN: Yes, a comment on Option 4, but not specific to this motion.

CHAIR BEAL: Okay, let's tackle this motion. Then we'll come back to you. Mr. LaFrance, go ahead.

MR. LaFRANCE: I appreciate everyone's comments, but I would say that I believe that the Option C brackets this question in a way that is worthwhile for further discussion, so I'll probably be a vote no.

CHAIR BEAL: Other comments in favor or in opposition? Ms. Ware.

MS. WARE: Yes, I'm going to support this motion. I agree with Nichola that specifically for Maine, 4C is just a barometer of how successful I am at calling

you all to get transfers. It is really not a metric of our landing in any way, and unfortunately those calls tend to happen on July 4th weekend, so depending how patriotic people are feeling sometimes, I'm less successful.

I just don't see how this is really solving our issue. To Lynn's point about small scale landings and incidental being kind of a barometer of changes in the distribution of fish. I think if the menhaden leave New England, the first place we're going to see that is in our small-scale landings. I actually think it's really important to include those in the moving average, because that is going to give us the first tip off that something is really changing in New England.

CHAIR BEAL: Other comments in favor or in opposition. Seeing none in the room and none from the virtual participants, are we ready to caucus? It looks that way. One minute caucus please. All right, any additional time needed for a caucus? Seeing no hands; let's go ahead and vote. Since there were a couple comments that may not necessarily all vote in favor, we'll go ahead and same plan, raise your hands and keep them up until Toni calls your state. All those in favor, please raise your hand.

MS. KERNS: I'll start at the other side to give their arms less time up. New Hampshire, Maine, Delaware, Maryland, Potomac River Fisheries Commission, Virginia, North Carolina, South Carolina, Georgia, Florida, Pennsylvania, New Jersey, New York, Commonwealth of Massachusetts, Rhode Island and Fish and Wildlife Service, I'm sorry and NOAA Fisheries, wrong agency.

CHAIR BEAL: That's 16 votes in favor, like sign votes in opposition.

MS. KERNS: Connecticut.

CHAIR BEAL: Any null votes, n-u-I-I? Seeing none, any abstentions? Seeing none; the motion carries 16 in favor and 1 vote in opposition. Before I go

back to Allison, Toni has a comment to make, and then Allison I'll come right back to you.

MS. KERNS: As my backup, Nichole just reminded me. It's just that for the moving average is that the Board is thinking about how they're reallocating all of the landings. Right now, you're thinking about reallocating all the landings, and the moving average allows you to continue to do so through time, without doing another addendum. That is what one might say the beauty of the moving average, if that is something that you're interested in doing throughout time, without coming back to the table.

CHAIR BEAL: Great, thanks. Allison, go ahead now, please.

DR. COLDEN: I think Toni's comments, just to put another point on this before we move on. Obviously, a lot of these options in this document are intimately connected and dependent upon one another, and this one in particular I think how well it works and what kinds of incentives it creates, and how it will work in reality is based a lot on the options that we will consider later on in the document for incidental catch in small scale fisheries.

There has been a lot of discussion on this option about how this better reflects the distribution of the fish. But I do think there is a distinction to be made between directed fisheries and non-directed fisheries, with respect to reflecting solely the distribution of the fish versus the capitalization of the fisheries.

I do think this is a creative option. I do think it provides an interesting amount of flexibility, which is kind of rare in the allocation context. But I just wanted to flag for the Board that how this will work in reality is going to depend upon a lot of the decisions that we make further along in the document.

CHAIR BEAL: This is kind of a natural break point. I think there are some snacks in the back of the room. It's a couple minutes before 2:30. Let's take

about a ten-minute break or so, grab some snacks and get up and stretch, and we'll come back at 2:40.

(Whereupon a recess was taken.)

CHAIR BEAL: All right, we'll go ahead and bring the Atlantic Menhaden Board back together, and Toni is going to jump into the episodic event set aside section of the Draft Addendum. Go ahead, Toni, when you're ready.

MS. KERNS: Thank you, Mr. Chairman. As a reminder to the Board, the objective of the episodic even set aside program, or the options in the Addendum for episodic, is to ensure sufficient access to the episodic changes in regional availability, in order to minimize in-season disruptions, and reduce the need for quota transfers and incidental catch/small scale fishery landings.

For clarity, the options related to the timing of establishing the episodic set aside have become sub-options in this management section. The sub-options would allow the Board to decide how the set aside could be adjusted, either as a static value during final action of this Addendum, or dynamically during specification proceedings.

There are only two main options here, one status quo, the set-aside would be 1 percent. The other option is that the Board could increase the set-aside up to 5 percent. You would either set a value through final action, it could be anywhere between 1 and 5 percent or the Board would dynamically set them during specifications.

That could range between 1 and 5 percent each time specifications came up. It can be set either on an annual basis for specifications or on a multiyear basis. Before I noted that this note only applies if a tiered minimum approach, as I had said previously, the minimum allocation under Amendment 3 allocated 8 percent of the TAC to the timeframe, based on the allocation of state quotas. I said before the new three-tiered approach allocates 5.53 percent of the TAC to the minimum allocation. The amount of quota left by selecting this Tier as

2.47 percent and that would be reallocated to the states.

But if we increase the episodic to 2.47 or less that would result in a similar value in pounds being removed from the TAC, prior to the timeframe-based allocations. In Amendment 3, 9 percent of the TAC either went to the episodic or the fixed-minimum approach, if that makes sense. These are the new options. The PDT did not make any recommendations for changes.

CHAIR BEAL: All right, any questions or comments for Toni on these two options under episodic event set aside and/or the comments she made at the end, sort of the interrelationship between the tiers and the episodic event set aside, and how the minimums may change depending on how much is set aside for episodic events.

Any questions on these options, or is everyone comfortable with these two options and two sub-options going forward in the document. Seeing no comments or no hand either real or virtual. I will assume everybody is comfortable with these two options going forward, and the two sub-options for Option 2. With that Toni, carry on to the next topic.

MS. KERNS: Then moving on to the incidental catch and small-scale fisheries. As a reminder, the objective for the options in this document are to sufficiently constrain landings to achieve an overall management goal of meeting the needs of existing fisheries, reducing discards, and indicating when landings can occur and if those landings are part of the directed fishery.

The first part is looking at the timing of the incidental catch and small-scale fishery provisions. This looks at when a state begins fishing under the provision, since it impacts the duration of landings that occur. Right now, Option 1 is status quo, no change, no specific direction on when they occur, except for after the state fishery closes.

As we have noted, in some states they will divvy up their quota to certain gear types, and when that gear type catches its full quota, that gear type can

then move into the incidental catch, so they call that a closure under their state regulations, which we do allow for in the plan. Option 2 sort of looks at that and addresses it, so it's clearer and more specific in the FMP.

It looks at allowing states to further divide their state allocations into sector and gear type specific allocations, and then the provision would confirm that once that sector, fishery or gear type specific allocation is reached that sector, fishery or gear type can begin landing under the incidental catch small-scale fishery provision. Option 3 looks at the entire state's allocation has to be met before you can start landings incidental catch small-scale fisheries, regardless if a state allocates their quota out in any way.

Then there is also Option 4 looks at full closure when allocation is met, and no incidental catch small-scale fisheries can occur. Then moving on is the permitted gear types of the incidental catch small-scale fishery. For this we are trying to address the volume of landings under the provisions by removing some gear types that are allowed to catch incidental catch and small-scale fisheries. Option 1 would be no change, continue to allow all the current gear types that are catching IC/SSF landings. Option 2 is to not allow purse seines. All other small-scale and non-directed gears could be maintained. The provision would apply to both small-scale directed gears and non-directed gears, but exclude purse seines. This option is included due to the growth of directed landings from small scale purse seine gears in recent years. Landings from purse seine gears would count against a state's directed fishery quota.

Option 3 would be to only allow non-directed gears in the incidental catch/small scale fishery landings. This provision applies to non-directed gears only. Under Amendment 3 this includes pound nets, anchored bait gill nets, drift gillnets, trawls, fishing weirs, fyke nets and floating fish traps. Then moving on looking at the trip limits for the directed small-scale fisheries and incidental catch.

The goal of these options is to limit the annual volume of incidental catch small-scale fishery landings by reducing the trip limit. Option 1 is status quo. We would maintain the 6,000 pounds for all gear types. It still includes the 12,000-pound provision when you have two people on the vessel. For both options 2 and 3, the proposed change in the trip limit would only apply to small scale directed gears.

Those gear types are listed in the document, but as a reminder they are cast nets, traps, excluding the floating fish traps, pot, haul seines, fyke nets, hook and line, bag nets, hoop nets, handlines, trammel nets, bait nets, and purse seines, which are smaller than 150 fathoms long and 8 fathoms deep. Non-directed gears and stationary multi-gears would still be able to land up to 6,000 pounds of menhaden per trip per day, with two individuals working from that same stationary multispecies gear, and together they can land up to 12,000 pounds.

That could still apply for Options 2 and 3, but the total pounds would just be double what the trip limit is listed. Option 2 being 4,500, double that you get 9,000 pounds. For Option 3, 3,000 pounds. Double that you get 6,000 pounds. I'm going to pause here and see if we have any questions, before we get into the PDT recommendations for the next set.

CHAIR BEAL: Questions on incidental catch/small scale fishery provisions up to what Toni has presented. Jim Gilmore, go ahead please.

MR. GILMORE: Can you go back to the first slide under this?

MS. KERNS: The objective one?

MR. GILMORE: I'm sorry, the next one.

MS. KERNS: Timing.

MR. GILMORE: Yes. Okay that one's fine, go to the next one. Option 3, and I won't put up a motion to take it out yet. For New York we don't have a purse seine. Purse seines are prohibited by law now, so

we can't even use them. Our entire fishery is by seine, and now if seine is a non-directed gear, I don't have a fishery anymore. My preference clearly would be to move to take that out, but I would like to have some discussion, to see if there are other states that have a strong opinion about leaving that in.

CHAIR BEAL: Other comments or questions, or response to Jim's comment? I've got Roy Miller online, go ahead, Roy.

MR. MILLER: I have a relatively small point to make concerning the definition of trammel net where they are characterized. I used trammel nets many years ago we used them interchangeably with gillnets. I don't understand why trammel nets aren't listed as SSF type gears along with gillnets.

MS. KERNS: Roy, it was a little difficult to understand. Are you asking why trammel nets were not included in the directed or non-directed fishery?

MR. MILLER: I would classify them the same as anchored or staked gillnets, fixed or floating gillnets.

CHAIR BEAL: Roy, we're having trouble understanding you. Your comments earlier in the meeting were really clear, this one is kind of, it sounds like you're under water a little bit.

MR. MILLER: Let me try again. It's a minor suggestion, but I just wondered why trammel nets weren't classified the same as gillnets, because I used them interchangeably many years ago.

CHAIR BEAL: Roy, you're saying trammel net and what other net?

MR. MILLER: Trammel nets and gillnets are pretty much used for the same purposes.

CHAIR BEAL: Okay, great. No, we were just having trouble hearing you. We will take that question back to the PDT and bring back a response in

August. Is that right, Toni? Thanks, Roy, for that. I've got Lynn Fegley and then Allison Colden.

MS. FEGLEY: Just in response to Jim's query about Option 3. You know that really goes back to the original spirit in 2012 of this provision, which was to figure out a way to handle these gears that are not specifically directed on menhaden, but they are encountering menhaden, and it might be hard to get the menhaden out of those gears if you catch them.

Then you're just going to wind up with a bunch of floating fish, which doesn't do anybody any good at all. I think the reason to leave it in, is because it is sort of the original spirit. But I'm curious about what you said. You said your fishery is now just seine, and if this is chosen then you won't have a fishery. Could you help me understand what you mean by that, how that would play out?

MR. GILMORE: The entire fishery has turned into a shore-based beach seine fishery, and it is completely a beach seine. In fact, we had some out of state permits that would come in, but again, the legislature banned any kind of purse seining. The entire, at least the targeted fishery comes down to being a beach seine. Because of the definition under non-targeted gear, the majority, there is some extra landings, but the vast majority of the landings come from the purse seine. If that option went through, it would close New York's fishery.

MS. FEGLEY: Because you don't have enough quota to cover that fishery, because they would be fishing under your quota, right? I'm just trying to understand how.

MR. GILMORE: Yes, they are fishing under our initial quota or whatever, and then they can go to, yes, it's essentially, they are fishing under our base quota or whatever, and it's the only gear we have, well primary gear. Like we do get some catch I think in gill nets, whatever, but the bait fishing industry in New York that is targeting it is all doing it by beach seine.

CHAIR BEAL: Are you all set, Lynn? All right, great. Allison Colden, go ahead please.

DR. COLDEN: Lynn covered some of this. I have the same question for Jim, because I originally had written down that seine was non-directed gear. I got that clarified, thank you, Jim. You know I think to reiterate Lynn's point, the non-directed gears only is sort of a direct mirroring of Amendment 2, and where this provision initiated or originated.

I think that with respect to the objectives of this Addendum, the whole goal that we talked about previously in today's conversation is to get more of those landings included under the TAC through reallocation to the states in their directed landings. If that is the case then we should be minimizing the amount of landings that are occurring under incidental catch and small scale fisheries, by moving those landings into directed allocations to the states.

Personally, I think there is precedent for Option 3 in Amendment 2 for this fishery, and I think that by keeping it in we can achieve our goals of reducing any regulatory discards, while also achieving the other objectives of the Addendum by working on the directed allocations in other parts of the document.

CHAIR BEAL: Tom Fote.

MR. FOTE: Jim, I'm just curious what the bycatch is. Any observers looking at the bycatch of when they haul seine from the beach? Historically there are a lot of fish sitting underneath it. Usually, they get a chance to escape when you're basically doing it out in the boat and you're purse seining, but when you're just pulling everything on the beach. Because I used to go out to Montauk years ago when I live in New York, and watched when they haul seined for striped bass. There was a lot of bycatches in that. Any idea what the bycatch is in the purse seine fishery?

MR. GILMORE: Again, we don't have a purse seine fishery.

MR. FOTE: I mean a seine fishery.

MR. GILMORE: The seine fishery again, they are targeting. The problem with this is that they are the only gear we have targeting, and so we go through our quota. Then they get to incidental catch, the only gear they have left is beach seine. Maybe a suggestion, instead of eliminating it is to essentially non-directed gears, and beach seines, you know add that in, because we went through this a while ago with our official definitions of gear being targeted versus non-targeted, and we had some kind of squirrely things we did. But if we added that in, then I think that would solve the problem.

CHAIR BEAL: Great, thanks, Jim. See if there are other questions then, you can see if you want to try a motion to do that. Other questions or comments on incidental catch/small scale fisheries. Toni has some additional slides that will summarize the Plan Development Team's recommendations relative to this issue. Any other comments? I don't see any. Jim, I don't know if you want to do it now or you want to hear what else Toni has to say, and then come back to your idea of Section 3.3.2, Option 3.

MR. GILMORE: Why don't we finish Toni's, and then maybe we can do, if we've got another piece, we can do it in one motion.

CHAIR BEAL: All right with that I don't see any other hands here or there, so Toni, you're up.

MS. KERNS: I'm going to start with the PDT recommendations on this one, and it's relative to the section that I'll go over on catch accounting for the incidental catch/small scale fisheries. As a whole the PDT believes that catch accounting options for these fisheries are not effective or efficient, and the goal of the catch accounting approach can be achieved through a combination of the reallocation alternatives and the incidental catch small-scale fishery subtopics, such as gear restrictions and trip limits.

Even after editing the options in this topic, based on the Board direction from the February meeting, the PDTs concerns still remain, and they urge the Board

to remove this section in its entirety. Options 2 through 4 would need to operate under considerable time lag, as the landings are not finalized until the fall of the following year.

Under Option 2, the Board would be unable to make timely decisions and take action until two years after the management trigger is tripped. For example, if landings have exceeded the cap, more than 10 percent in 2022, the Board would take action in 2023, and implementation would occur in 2024. Under Options 3 and 4, the proposed adjustments to the TAC or set-aside would similarly not be addressed until two years after an overage occurred.

Additionally, Option 3 could result in more latent quota if the set-aside is not fully used. The Board has indicated that latent quota is an issue that should be addressed through this Addendum, and this option may exasperate that issue. Finally, both Options 3 and 4 could result in overages caused by a minority of states that impact many.

If there is an overage by one or a few states in one year, it would reduce the available set-aside, Option 3, that all states could access, or potentially reduce all state's quotas in Option 4. Additionally, these options could therefore potentially result in constant overage payback cycle, creating a new management problem for the Board. As a reminder, here are the options themselves. The goal of these management options was to create a system where annual incidental catch and small-scale fishery landings are limited, and there is accountability for overages. Under Option 2, landings under this provision shall have a catch cap equal to 1 percent of the TAC. The cap is not a set aside, and landings would still not count against the TAC. Landings are reported by states as a part of the annual compliance reports, and if reported, landings exceeded the cap by more than 10 percent in a single year, or exceeds the cap two years in a row, which would be the trigger.

Regardless of the percent overage, the management trigger is reached, and the Board must take action to reduce the incidental catch/small

scale fishery landings. Option 3, landings under the provision shall count against a 1 percent set aside of the overall TAC set annually at the beginning of the fishing season.

If the set aside is exceeded in a given year, the overage will be deducted on a pound for pound basis from the next subsequent year set aside. For Option 4, the total landings under the provision would be evaluated against the annual TAC. If the total landings exceeded the TAC, the overage would be deducted on a pound for pound basis from the next subsequent year's TAC.

Just to reiterate. If the Board takes additional action through the gear provisions, the trip limit provisions, the PDT is not concerned about the TAC being exceeded through the incidental catch, and they are not concerned about the stock status for menhaden. That is why they are recommending removal of these options, because of the administrative burden and the inefficiencies of the lag that would be caused through these options.

Then the last piece for the incidental catch/small scale fishery management options is to allow access to the episodic at less than 100 percent of a state's allocation. Currently under the Addendum, a state has to achieve 100 percent of its state's allocation before it can declare into episodic events set aside, and under Option 2 a state can begin fishing under the episodic event set-aside once they've landed or projected to have landed 95 percent of their quota.

Under the option a state can participate without having fully utilized their allocation. The 5 percent reserve of the state's allocated quota could then be used, after the episodic set-aside has closed, and allow a state to remain open under the directed landings, rather than proceed directly into incidental catch/small scale fisheries. The process for declaring participation into episodic event set aside would slightly change, but the provisions would be similar.

The topic is included in the Addendum, incidental catch/small scale fishery section, due to the decision-making process for addressing small scale

purse seines. This option can only be pursued in the current version of the document if either Option 2, no purse seines, or Option 3, non-directed gears are chosen under the permitted gear types for incidental catch/small scale fisheries.

The PDT notes that allowing states to participate in episodic events when they have 5 percent of their allocation remaining, could lead to fairness and equity concerns, as 5 percent of one state's allocation may be significantly different than another states. Timing and availability of fish among the northern states could exasperate this issue, with one state having access to episodic, while other states still have a large volume of quota remaining, and fish may not have migrated into their state waters yet, and thus not have an opportunity to harvest their quota to opt into episodic. Additionally, several other options in the document, including revising the commercial allocations, and increasing the percentage that can be allocated to the episodic event could alleviate the need for this option, and the PDT recommends removal of this option from the document. That's all I have for this.

CHAIR BEAL: Questions or comments or any reaction to the two recommended removals by the PDT. Let me go to Allison Colden, she had her hand up, and then I'll go to you, Lynn.

DR. COLDEN: I really appreciate all of the work that the PDT has done in considering this section. I know particularly when it comes to the catch accounting section, a couple of the PDT calls I was on there was a lot of deep thought on this. I do appreciate all the thought that went into it.

But I do have to push back a little bit on the recommendation that we remove all of those options. Specifically, Toni brought up a point that I think is included in the memo that there is no concern about the stock status of menhaden, but really ever since, you know two years ago it's not about only the stock status of menhaden.

We're operating under ecological reference points, and our management framework with menhaden

now takes into account its role in rebuilding the ecosystem, in particular our focal species in the ERP model striped bass, which we know is in a rebuilding timeframe right now. To say that we have a TAC that is based on a level that is supposed to support the rebuilding of striped bass.

To say that exceeding that TAC is not an issue, or that there should be no Board action when that occurs is something that I personally can't get behind. I think it's important that we are accountable to that TAC. I mean just earlier today the landings are preliminary obviously, and we'll hear them again in August.

But our 2021 landings are over the TAC. We heard that as we moved on. Granted we have an agenda to get through today, but there was no immediate jump to action going on there. I believe some of the options that are included in this section that account for overages or require a payback. I know the PDT recommended that they are too complicated.

But to be completely honest, to me it sounds like some of the accounting that would be required would be similar or exactly the same as the moving average option that we just approved or discussed earlier this afternoon. I think if we achieve our goals of moving landings into the state allocations, as we're trying to do with other parts of this document, then this shouldn't be an issue. But that doesn't mean that we shouldn't be accountable to the TAC, and we shouldn't keep our eye on the prize, with respect to menhaden's role in the ecosystem.

CHAIR BEAL: Ms. Fegley.

MS. FEGLEY: My question is on these accountability measures. They often default to 2B, which is what the response is. My question is, if there would be a way under Sub-Option 1 to bolster what is happening. Right now, if you default to Sub-Option 1, it says the IC/SSF management trigger is tripped. The Board must take action to reduce those landings. I'm just wondering if we were to have a more general response to a TAC overage. But if we

could bolster the language in Sub-Option 1 that would prescribe what the Board will do.

For example, if we have a TAC overage then we would have to consider what gears are allowed in the provision. Consider trip limits permitted under the provision. Consider shortened seasons. I just wonder if that would help alleviate some of the concerns, and that it would really give the Board the latitude to move right away with an action if we see an overage.

MS. KERNS: Lynn, the PDT can add some additional provisions, but moving right away would be difficult, because you wouldn't have that final overage until the fall. I don't believe that would be fast enough for a change in the trip limit overall for all the states administratively. I guess that would be a question to the states.

Just how fast could you move come February? Because I don't think we would be able to give you final overages until February, depending on the timing of the annual meeting. Then would you be able to make a move in your regulations for that current year in February?

CHAIR BEAL: Lynn, are you all set? Great, thanks. The next hand I have up online is Chris Wright. Go ahead, Chris.

MR. WRIGHT: I guess we have at NOAA Fisheries some concerns about eliminating accountability measures of any kind, because we have TACs for a reason. We don't want to go over its total. I think there is an optics issue here too, because we just heard public comment about concerns about having forage fish available for striped bass and what not. But we need to at least have accountability and count things.

This just leaves a bad taste in my mouth, in regards to not having accountability for this fishery. If it's complicated then you need to consider the sector and allocate to that sector. We do it for other fisheries. But I think we have a little bit of concern about eliminating these options from at least public comment at this point. They should at least go out

to the public and the public should have their input on this, so that we can make better decisions.

CHAIR BEAL: Great, thanks, Chris, Toni, do you have a comment?

MS. KERNS: I just want to clarify. It's not that the PDT doesn't think that there should be accountability, it's that the PDT is not concerned that we would be exceeding the TAC, if the Board takes action through other provisions of the plan, thus having a more simplified accountability.

You know right now we have almost unrestricted incidental catch/small scale fisheries landings. This was the first year we exceeded the TAC, and we exceeded it by 0.36 percent. We've been doing this for a lot of years where the TAC has not been exceeded. The PDT is thinking about the ecological reference points when they say they're not concerned at this time, because of what has happened, and because of the potential provisions the Board has the opportunity to put in place through the other sections of this plan. I just want to make sure that it's clear that they are not saying that they don't think accountability is needed. It's that they think it can be achieved in a more effective and straightforward manner in other sections of the plan.

CHAIR BEAL: Mr. LaFrance, go ahead please.

MR. LaFRANCE: I just want to associate my remarks with Allison Colden. I do believe that there are for a lot of reasons that she described, are valuable reasons to keep this catch accounting provisions in. However, listening to what some of the debate has been, I wonder whether some of the options could maybe be restricted.

I understand that perhaps the more complicated of the two options that are up there, Option 2 and Option 3, we are actually looking at a percentage of the annual TAC. It seems to me that Option 4 up there, which I think is now in this one, is actually Sub-Option 3. It does make sense and may simplify the analysis for the public.

But to actually put in there for public comment the notion that this is an issue related to both how much is actually captured and caught under the incidental catch, but also to sort of indicate how that relates to the ecological reference points, I think is a very valuable and transparent for our constituents to understand what's happening here. I understand the desire to try and reduce some of the options, but I do think we need to keep something in, and at a minimum I would like to see up on that screen the status quo option in Option 4 maintained.

CHAIR BEAL: Ms. Ware, go ahead, Megan.

MS. WARE: I'm prepared to make a motion if that is helpful at this time, to kind of get the discussion going.

CHAIR BEAL: Please do.

MS. WARE: I'm not prepared to take out this full section at this time. I think the question of what happens if we exceed the TAC is a fair management question to be asking. But like Rob just mentioned, I am happy to pare down some of these options, because I do get that this section is complicated. I sent a motion to staff to remove Options 2 and 3 on the screen here.

I apologize, I referenced them as Sub-Option 1 and Sub-Option 2, since that is how it's written in the document. When we have that up, I'll read it into the record. **Move to remove Sub-Option 1, catch cap equal to 1 percent of the annual TAC and 10 percent exceedance management trigger, and Sub-Option 2, 1 percent set-aside of the annual TAC exceedance management trigger from Section 2A IC/SSF management triggers**, and if I get a second, I can speak to why I think these options are less optimal than the fourth one.

CHAIR BEAL: Great, is there a second? Rob LaFrance seconds the motion. Go ahead, Megan.

MS. WARE: Again, I'm not prepared to remove the whole accounting section. But I have some concerns with these specific issues, and that's why

I'm willing to take them out. Specifically on the 1 percent set aside of the TAC, I actually agree with the PDT that this could result in some latency, and I think that's counter to what we're trying to do in this document. I'm not a big fan of that option. For both of these, they were looking at 1 percent of the TAC. I think a 1 percent, in my opinion, is somewhat arbitrary, and I think if we exceed 1 percent that doesn't tell me a lot. We could exceed 1 percent and still be well below the TAC, and I would not have biological or management concerns.

But Option 4, which was previously on the screen is focused on exceeding the TAC, and I think that is a better assessment of how our management and our biological reference points are performing. I think one other thing I'll say about the 1 percent set asides or catch caps. I think the idea is that we would kind of set these and evaluate them at the next FMP review, so there wouldn't be active accounting against the 1 percent in season.

I think the reality of the situation is states are going to want to have a sense of what other states may be landing, if they're participating in the small-scale incidental catch provision. I know how complicated it is to administer the 1 percent set aside for the episodic between three states, so I get nervous about the level of communication that may be needed under these options for 15 jurisdictions potentially harvesting here.

CHAIR BEAL: Rob, do you have anything else to add in support of the motion?

MR. LaFRANCE: I can't beat what Megan just said, so thank you.

CHAIR BEAL: All set. Just so everyone knows, for consistency of verbiage here, the slide that Toni had up with the big yellow circle. This is the equivalent of taking out Option 2 and 3 in the slide that Toni had up, so it is very similar to what I think Rob's comments from earlier in the meeting. With that any other comments on this motion, either in favor or in opposition? Joe Cimino.

MR. CIMINO: I have a question before we vote. I guess to Toni. Moving past this Addendum, if we felt like things weren't working or needed to be adjusted, would it take another addendum to get back into the process of fixing this?

MS. KERNS: At this time, yes, unless you want to put a provision into the plan that you could use Board action to adjust some aspect of the incidental catch/small scale fishery. But it would be good to be specific about what aspects you might want to adjust, so that the public understands what provisions could be taken through Board action.

MR. CIMINO: Follow up, Mr. Chair, sorry. If I'm not mistaken, we did something like that when we changed small scale and incidental, right that there is sort of a clause that the Board can take action. Sorry to put you on the spot there, but pretty sure through the Working Group and PDT that we noticed that.

CHAIR BEAL: All right, I think Toni is looking at that but Megan is recalling her previous days at the Commission, and she's saying yes. Megan, can you comment on that?

MS. WARE: Yes, I can look at the exact language, sure, but I think it says something to the effect of if there is a significant increase in that provision the Board can take action to adjust it. But I think that action would still be an addendum, it's not a Board vote.

MS. KERNS: I did look that language up today, and it is through adaptive management, but it is adaptive management in the form of an addendum or amendment. If it's something that the Board is interested in having the PDT explore, then you know the PDT can do that. But again, I would just think it's important that we specify which aspects would be done, and if it were to be changed when it would be changed. I assume it would be during specification process, but that would be to the Board's pleasure.

CHAIR BEAL: You know just editorializing, there is a lot of latitude the Board can set for themselves

through actions that can be done through the specification setting process on an annual basis. But they have to be spelled out really well. There is kind of this threshold, you know it when you see it kind of thing, where if you put too many things in there, we are short circuiting potentially a public comment process, and that sort of thing.

It's a balance in there on what the Board can and can't do, but there is a real need to do things quickly at times, but there is also the need to get public comment when we have the ability and timing to do that. With that I think I see Allison Colden's hand is up, and then we'll go back to the table.

DR. COLDEN: Yes, I just wanted to follow up on Joe's comments and to yours as well, Bob, that the two provisions or the two things that can be changed per Amendment 3 are the trip limits and the gear types included. If we did want to add that in, I would be supportive of that as to things that could be addressed through the spec setting process.

CHAIR BEAL: Great, thanks. Any other?

MS. KERNS: Allison, that would be just for the incidental catch/small scale fishery, just to be very, very clear.

DR. COLDEN: Yes.

CHAIR BEAL: Ms. Meserve.

MS. MESERVE: I do support this motion for the reasons that Megan laid out so well. I do have a question about the remaining sub-option though, which on the previous screen was presented as Option 4, which is if the landings exceed the annual TAC, then there is going to be a management trigger response. Option 4 here has it as the payback provision. However, there is actually two sub-options in the document. One is that the Board must take action to reduce the landings, and the other is that there is a payback provision.

As part of this motion, I kind of want to address what's left, Option 4, and that I don't support the payback provision as one of those sub-options under the next tier of options. I find that a payback provision that doesn't address the root cause of the overage is going to be problematic year over year, potentially. Maybe after we dispense with this motion, I would want to make another motion to eliminate Sub-option 2 from 2B, if I'm interpreting what's left after this option is voted on correctly.

CHAIR BEAL: All set. Other comments on the motion. All right seeing none; one minute for a caucus. I'm going to give this a shot. **Any objections to this motion? All right, seeing none; any abstentions from voting on the motion? Seeing none; this motion carries by consent,** and Nichola, do you want to go back to your thought from a moment ago?

MS. MESERVE: Yes, thank you. With the passage of this option what we're left with is that if the landings exceed the TAC, the management trigger is prompted and there are two options in the document. Again, I don't think the overage payback, Sub-Option 2 addresses the root cause of those landings exceeding the TAC, **and so I would make a motion to remove Sub-Option 2, thank you, staff, pound-for-pound payback from Section 2B, the incidental catch and small-scale fishery management trigger response.**

CHAIR BEAL: Thank you, is there a second to Ms. Meserve's motion? Cheri Patterson, thank you. Any additional comment from what you've already made? All right. Cheri, no. All right, seeing no additional comments from the maker and seconder, are there other comments around the table? I've got Allison Colden online followed by Chris Wright, so Allison, go ahead please.

DR. COLDEN: Maybe this question is for Toni. These two seem like relatively distinct sub-options that don't necessarily have to be mutually exclusive to get to Nichola's concern. I'm just wondering, does the selection of the first sub-option under this option necessarily preclude that overage payback? Could we at the conclusion of this Addendum

process, keep both of these as our management framework moving forward?

MS. KERNS: Meaning?

DR. COLDEN: Instead of choosing between the two, you could do both. You address the root of the issue as well as seeing the year that it happens requiring the overage payback.

MS. KERNS: The Board could, if that was the pleasure of the Board. But if that is the intention of the Board today, then it's best to make that the intention of the Board and make it clear in the document.

CHAIR BEAL: Allison, I think if this motion carries and you take out the pound-for-pound payback concept, then it's no longer available to the Board. The Board fully considered it and removed it. If you wanted that concept to be left in, in combination with Sub-Option 1, I think the Board should tackle that question now, and include this sort of combination of the two sub-options.

DR. COLDEN: Okay. Well, I'm prepared to often a motion to substitute to that regard, if that is the appropriate action.

CHAIR BEAL: Yes. Let me go to Chris Wright, and then I'll come back to you, Allison for that motion if that's okay. Chris Wright, go ahead please.

MR. WRIGHT: I had a similar concern, and if what I think she's going to do is propose to leave that in there in some way, then I would support that, because I think the public should have some option like this that they can comment on.

CHAIR BEAL: All right, Allison, do you have your motion ready to go?

DR. COLDEN: Kind of winging it here. I would move to substitute to add Sub-Option 3 if the IC/SSF management trigger is tripped the Board must take action to reduce IC/SSF landings and the overage will be deducted on a pound for pound basis in the subsequent year.

CHAIR BEAL: All right, Allison, we're perfecting that here. One thing is that the pound for pound basis is really a one-year lag, so it wouldn't be the subsequent year it would be sort of year plus two, just because the data takes a little while to get caught up.

DR. COLDEN: Sure, I was just reading that directly off of the language that is currently in the Addendum.

CHAIR BEAL: Yes, that's a verification we needed regardless. Allison, can you see the motion on your screen? Are you comfortable with that wording?

DR. COLDEN: Yes, it looks good to me, thank you.

CHAIR BEAL: Great, is there a second to Ms. Colden's motion? Rob LaFrance, thank you. All right, Allison. You made some comment, rationale for why you want to make that motion. Do you have anything else to add to that?

DR. COLDEN: No, I think I covered it, thank you.

MR. LaFRANCE: I just want to add that I think this is a tough issue for everybody to deal with, and I think both sides have some value. I think this motion does allow us a little bit more time to think through this question, and clearly when we come back to address this at our next meeting. We can decide which of these two options come in. I hear what Ms. Meserve is saying, I think there is some value in what she's saying. But I also think that this option should be looked at, and we should be thinking about what we're going to do in the event we're over here. That's why I'm supporting it.

CHAIR BEAL: Nichola, do you have a comment?

MS. MESERVE: I think one of the additional problems with the pound for pound payback, now that we have scaled back the options, is that there is no cap or set-aside for the incidental catch/small scale fishery landings. If there is a pound for pound payback, that is going to affect all of the states, as opposed to just those that contributed to that overage. That would be another reason not to

move forward with a pound for pound payback, and why I won't support the substitute.

CHAIR BEAL: Any other comments, we can mix the comments together on Main Motion or the Motion to Substitute. Ms. Fegley.

MS. FEGLEY: Yes, I think like Nichola said, the issue is that we don't really know the way that this is now crafted, where that payback is going to, it doesn't really address that root problem. It doesn't tell us where the pound for pound payback is going to go. I still think what we need to do. I don't know that I can support this motion, which we may be divided as a state and that's okay.

But I think we need to just figure out a way to be more specific on the original motion as to what the Board is going to do if there is an overage. I don't think it's satisfactory to the public to say, hey we're over and we're going to all see that we're over and we're going to nod and move on. I think we need to be able to say, these are the things that we're going to proceed to do. If the public needs reassurance, we're going to actually do something. There is a happy median here somewhere.

CHAIR BEAL: Sorry for the little sidebar between Toni and I. I'll go to Eric Reid; he's going to get us out of this mess.

MR. ERIC REID: No, I'm not going to get you out of anything, Bob. I appreciate the thought though. I'm reading the motion to substitute. My question is about the motion to substitute. It says if the IC/SSF is tripped. What are we tripping? Maybe we are tripping, maybe that's how I'm going to get us out of it. But I don't see the mechanism there, to me that's confusing, and I can't support it because I just don't see what it even actually is going to do. Maybe somebody could clarify that for me.

CHAIR BEAL: I think the intention was if the TAC was exceeded, but I'll let Allison or Rob comment on that, since they made the motion. Rob, go ahead please.

MR. LaFRANCE: I believe it's covered in Sub-Option 3, where it basically says, if you read it. It says exceeded after IC landings to total landings that occurred in state quotas. You could say the trigger is tripped. That's the trigger I believe that we're referring to.

CHAIR BEAL: We probably need to add that wording, if the trigger is tripped, if that is okay with everyone to make it more clear what we're saying here. With that Joe Cimino, you have your hand up.

MR. CIMINO: I want to speak against this, because I think it creates a dangerous and negative feedback loop, because the corrective action we're taking is to get back to a TAC that's a safe harvest level. But with the penalty we have a moving target that is now lower, and our management action isn't for necessarily that, but to get back to the TAC. If year after year we keep taking these penalties, granted with a two-year delay, I think this has some potential unintended consequences that make me nervous.

CHAIR BEAL: What's the will of the Board here? We've got a substitute motion, a main motion, and then there are a number of suggestions. Joe made some earlier about potentially removing gears and doing some other things that sort of get at this idea of the root problem of why there is an overage in the IC/SSF and those sorts of thing.

I guess the question before the Board is, is everyone comfortable with voting on these motions now, or do we want to sort of pause on these and provide some feedback and guidance to the PDT, since we do have the option of tackling this again in August, and ask them to sort of review his conversation and comment on exactly how some of these things would work, and sort of hybridize some of these ideas that are around the table.

Because I think there are a lot of good ideas, but trying to craft them on the fly when there is some uncertainty. I think that may be what is hanging us up. I don't want to slow down the Board. If the Board is ready to vote let's vote. Making decisions

is always better than not, but if you guys don't think you have enough information to make a decision.

I suggest we may want to consider other paths forward. If you're not ready to vote, we'll just need a motion to postpone these two options. With that, what do folks want to do? Are folks ready to vote, or do you want to do something different? Any hands or any thoughts? Jim Gilmore.

MR. GILMORE: If we sent it back to the PDT what does that do to the schedule, Bob, in terms of finalizing this?

CHAIR BEAL: I don't think it should do anything to the schedule, necessarily. You know the PDT has time between now and the August meeting to work on this, and we could bring it back in August, and theoretically bring it out for public hearing in August, final approval in October, and implement in 2023.

Sending it back to the PDT shouldn't do anything, but it's really up to the group. If you want to vote on just the motion to substitute. All these options are in play, but I think there is some confusion or some reluctance to go too far too fast right now, without full suite of information from the PDT. Mr. Gilmore.

MR. GILMORE: I'm in favor of that option, Bob, to send it back, just because after this motion and we get done with this, then I'm going to have to go back to start modifying the gear, because that really wasn't considered. I think this discussion may help the PDT to refine this a lot more, because I was of the opinion.

I was getting to the point my thought was, maybe we should take the whole thing out, because it was just getting very confusing. We're having trouble understanding it, and you know when we go to hearings, the public is going to go, could you explain it to us, and we're not going to be able to. I think your suggestion is a good one and I support it.

CHAIR BEAL: Toni's got a comment sort of that may help clarify the direction to the PDT, or at least get

an understanding where the Board wants the PDT to go.

MS. KERNS: I think it would be helpful if the Board voted on at least the substitute motion, and then maybe we could have a conversation about Lynn's comment about making, well even if you voted on Nichola's as well, about making the actions more toothy, as I think Lynn said. What types of management responses the Board would want the PDT to explore in order to do that?

Then give us an idea of the timeline of when you would want to take those actions, and then the PDT could bring something back? But if we don't vote on these things then the PDT has a lot of range, and that could leave us in a danger zone of not approving the document in August, which that would put us in trouble for timelines. Not to counter what Bob just said.

CHAIR BEAL: Why would you think that? Any other comments or thoughts on a path forward? Ms. Ware.

MS. WARE: I'm comfortable voting on these, because I think the PDT needs some guidance, and I don't want to jeopardize not being able to approve this document by the end of the year. But I'm happy to have more discussion on Sub-Option 1, which I don't think either of these motions are about, as well as Jim's comment about the gears in the other section. I don't think either of these motions are specific to that. I'm comfortable voting on these, and then maybe moving to discussion on those two topics.

CHAIR BEAL: Well, I don't see anyone jumping with their hands up, or anyone online with hands up. I guess in order to not vote on these today we need a motion to postpone until the August meeting. But we can go ahead and vote. Seeing no hands; let's vote. We'll give a two-minute caucus, because this is a little complex, on the motion to substitute.

Is everyone ready to vote? Does anyone need more caucus time? Are they okay? Steve and Megan. All right, good. Seeing no need for an additional

caucus time, I think we'll go ahead and actually vote on this one. I'm not sure I can get a consensus out of the group. With that same voting procedure, hands up until Toni calls your state, please. All those in favor of the motion please raise your hand, motion to substitute, I'm sorry.

MS. KERNS: I have Connecticut and NOAA Fisheries.

CHAIR BEAL: All right, those in opposition like sign please.

MS. KERNS: I'm going to start on this side of the room. Rhode Island, Massachusetts, New York, New Jersey, Pennsylvania, Florida, Georgia, South Carolina, North Carolina, Virginia, Potomac River Fisheries Commission, Delaware, Maine and New Hampshire.

CHAIR BEAL: Any null votes n-u-l-l, 1 null vote from Maryland. Any abstentions? Seeing none; the motion fails, 2 votes in favor, 14 votes in opposition, and 1 null vote.

That brings us to the main motion. Potentially considering removing Sub-Option 2 from Section 2B. Are you ready to vote on that one as well? Do we need to caucus again? All right, one-minute caucus. Mr. Haymans, yes, sir.

MR. DOUG HAYMANS: Mr. Chair, would a motion to table until the next meeting be appropriate for this one, so that the IPT could inform this one?

MS. KERNS: Doug asked if motion to table is appropriate here on not.

CHAIR BEAL: Doug, obviously it's the pleasure of the Board to decide if that would be helpful or not. But if this is tabled, I think some more guidance to the PDT on what exactly they are being asked to work on will be really helpful, regardless of what happens to this motion. If someone wants to table this until the next meeting that's fine. But even with that we need to give the PDT something to work on. Is that helpful, Doug?

MR. HAYMANS: Yes, I was actually asking, because I thought your previous conversation was that you felt like the PDT needed to provide us a little more before we made a decision here. I was sort of asking you that direct question.

CHAIR BEAL: Doug, trying to answer your direct question, which is always good to have direct questions. You know if this motion were to pass, pound for pound payback would be taken out of the document, and the PDT couldn't work on that any more that's out, not to come back in August.

It's really a decision of the Board. Does the Board want more work on some options that may consider pound for pound payback, or do you want to vote this up or down, and pound for pound payback is in or out? But if you want some more clarity on what pound for pound payback means, and when you payback and those sorts of thing, the PDT would need some more time to work. With that, Lynn, go ahead please.

MS. FEGLEY: You know I just want to be clear. I'm not particularly opposed to the concept of a pound for pound payback, but the way this is written right now is, you know the Sub-Option 2 as it is written states that the pound for pound payback, the overage would be deducted from either the set-aside or the overall TAC. We don't have a set-aside anymore, because we removed those options.

I think what we need to ask, is in the event that the incidental catch/small scale fishery causes this quota to go over, what is the most equitable mechanism for a pound for pound payback? Because if it's coming off the overall TAC, then the consequence is you're going to be penalizing states who didn't have anything to do with it. I think we just need to be really clear, and ask the PDT to think through what that pound for pound payback might look like.

CHAIR BEAL: Thanks, Lynn, that is getting towards good guidance for the PDT. Hold that thought and we'll see where we end up here. Allison has her hand up, and then we'll see. It's a little awkward we were kind of mid-caucus apparently, but we're

going to make a comment. But Allison, go ahead please.

DR. COLDEN: Sorry, appreciate another bite at this. I think with respect to the option at it currently exists in the document. You know I think the PDT has made their opinion on this specific option very clear twice. If we're going to send it back to the PDT, I think we need to provide some additional options or additional guidance. I think that's what you've been saying, Bob, and Lynn, maybe you brought up a good point, like we need to provide some additional guidance on alternate tweaks to this that we want them to explore, in terms of feasibility. I just want to go back to a previous comment that I made with respect to how reminiscent this option as written is to our moving average option earlier in the document.

In that option that was put forward by the PDT, you know they had developed a mechanism by which the overage would be proportionally attributed to the states once the TAC is exceeded. Maybe some guidance to the PDT as how they could apply that framework in this regard, which would hopefully alleviate some of the equity concerns that Lynn and others may have, but I'm hoping if this goes back to the PDT, they can explore some ways to make this a workable solution.

CHAIR BEAL: I'll look around the table. If anyone wants to make a motion to postpone or substitute or do anything else, let's do that now, and seeing no hands we'll go back to the caucus that we're sort of in the middle of, and we'll finish that caucus, and we'll go ahead and vote on this. Are there any hands to make a motion to postpone or do anything else?

I don't see any hands, so let's finish the caucus and go ahead and vote on the main motion. All right, is Maryland all set, Lynn? Maryland is all set. It doesn't look like we need any time to extend the caucus, so let's go ahead and vote. We'll do a vote, because again, I don't think those would necessarily be a consensus. Those in favor of the motion to remove Sub-Option 2 from Section 2B, please raise your hand and keep them up.

MS. KERNS: We'll start on the right side this time. New Hampshire, Maine, Delaware, Virginia, Potomac River Fisheries Commission, North Carolina, New Jersey, New York, Massachusetts and Rhode Island.

CHAIR BEAL: Those in opposition like sign.

MS. KERNS: Maryland, South Carolina, Georgia, Florida, Pennsylvania and NOAA Fisheries.

CHAIR BEAL: Any null votes? One null vote from Connecticut. Any abstentions? Shouldn't be any, I think we're out of votes. All right, the motion carries 10 votes in favor, 6 in opposition and 1 null vote.

MS. KERNS: What I heard from the Board, in terms of actions that the Board can take to address the root of the problem is, there is some interest in the Board being able to take action. I am assuming through specifications, but in your discussion please correct me if there is another time that you would want to do this, to look at gear types as well as trip limits. If there are other areas that you would want to consider for changes through Board action during specification, please let me know, so the PDT can explore that.

CHAIR BEAL: Ms. Ware.

MS. WARE: I think for Sub-Option 1, I think that is what Lynn was talking about, in terms of providing more guidance. I think maybe an option is to just reference whatever section it is in the document that has the different tools like the trip limits and the gear types, and say something to the effect of, the Board could consider these tools in Section (fill in the blank) as a potential management response.

I don't want to be too prescriptive, but I'm happy to point to some tools that the Board could consider. In terms of whether it is through Board action, like a specification process or an addendum. I guess I'm a little concerned about the Board action, given how important those incidental small-scale landings have been for some states, and we'll see what happens after this action.

But I can see it being tough for a state to not have a public hearing process on something that maybe is critical to their fishery. I'll put that out there for a concern, and maybe that is something that the PDT can talk about, is the best way to handle public comment on something that could be quite critical to a state.

CHAIR BEAL: Any other thoughts or comments on where to go with this and PDT guidance? Oh, Joe Cimino, sorry.

MR. CIMINIO: No, that was a half-hearted hand. I don't blame you. Just to Megan's point. This is a similar discussion that is going to be had with striped bass. I think a lot of the states have to go back and do have a public hearing process. You know we have Councils or Commissions at the state level that these types of management changes come up again. I don't know if the PDT could do that type of research, how many states would need to do that anyway. But I think a lot of time that process happens just at the state level.

MS. KERNS: I guess, Megan, I know you said you didn't want to limit the Board, but in Board action it tends to be helpful if the public knows what we're talking about. The only two opportunities to change things are the trip limits and the gear types in the document right now.

If those are the only two things that the Board is interested in, then the PDT can just focus on those. But I can ask the PDT if they have any other ideas, and if we do have any, we'll bring them back to the Board for their consideration, unless Lynn, you have an additional end, which is fine for the PDT to think about.

CHAIR BEAL: Lynn, go ahead please.

MS. FEGLEY: I'm back to the payback under specification if there is an opportunity for the PDT to think about. I mean did we just remove all options to discuss that? We did.

CHAIR BEAL: Other thoughts, Mr. Gilmore.

MR. GILMORE: Yes, and just in terms, back to the gear question. If the PDT can look at just, we're using traditional nameplates for things, small-scale fisheries, you know the different categories we used, and they may have to be a little creative. We may have some new categories that are more inclusive. Instead of calling a non-directed fishery, maybe there is a non-directed fishery plus or something, I don't know. Just so we can get around that.

CHAIR BEAL: Jim, that goes back to your beach seine comment earlier. Ms. Meserve.

MS. KERNS: Bob, before we go to Nichola, I'm sorry. Just so it's very clear to the PDT. For these non-directed gears. Jim, I understand that you're looking for the beach seine, but I guess it would be good for the PDT to understand what category of gears are you trying to focus on in these non-directed gear types?

Because if we add the beach seine, I'm assuming the PDT took those as a directed gear type. If the Board is interested in us changing that category, the PDT needs to know what that change is, so that they can think about what other gears need to be included in there or not. I just don't want to focus just on that one gear type if we should be considering others.

CHAIR BEAL: Yes, Jim, follow up.

MR. GILMORE: Yes, that is kind of the complication, because we were talking about, it's called a small-scale fishery, and that's what that beach seine is, but now we're calling it non-directed gear. Then we throw in purse seines, which are massive gear, and a beach seine is being kind of synonymous with a purse seine and it's really more synonymous with a smaller gear. Essentially, I don't know what the answer is. It's complicated. Again, using the terminology we use we've gotten into this problem a couple of times.

MS. KERNS: Jim, if I understand the document correctly, and Shanna will correct me if I'm wrong in the back of the room, as a PDT member. But your

beach seines would be allowed under Option 2 of the document. There is an option that would go out for public comment that will allow for those beach seines.

It's only in the non-directed gear type that the beach seines would not be allowed. I don't know if that covers you totally, or if you want your beach seines to be covered under that non-directed gear type as well. Then I think we should change the category names then, perhaps.

MR. GILMORE: I would be concerned, because the motion I was going to put up was that it would be non-directed fishery and beach seines, because that option staying in there eliminates my fishery. If that stays in and we get back here and someone suggested, well, we're going to have a really longer meeting, because we will fight tooth and nail for it. I'm trying to get a simple way to fix it, so it doesn't get to that point.

CHAIR BEAL: Ritchie White, you had your hand up, did you take it down intentionally?

MR. G. RITCHIE WHITE: Yes, I did. That last discussion answered my question, thanks.

CHAIR BEAL: I have Megan and then Lynn, please.

MS. WARE: Just a food for thought, Jim, on your comments there. I think, and Toni can correct me. I think your idea of non-directed gears plus beach seines, I'll call it, would already be in the range of options that is in this document. I think at final action you could make a motion for that, because that is within the range of options. I don't know if that helps or not, but Toni can correct me if I'm wrong about that.

MS. KERNS: If it is the pleasure of the Board at the meeting, it is within the range of the things that we're taking out, so if at the meeting the Board agrees that that is within the range, then the Board can take action on that.

CHAIR BEAL: Lynn, please go ahead.

MS. FEGLEY: I admit, I might have passed out. I blacked out for a minute, but I was really hoping to make a motion back on the directed gear, the timing of the IC and the SSF provisions. We seem to have just gotten through that to accountability, and I hope I didn't miss my chance, but I had a motion to remove an option under there, if I may.

CHAIR BEAL: I don't think you passed out, Lynn, you're still here. We're doing good. We're going to bring that slide back up, and then just so everyone can get a refresher on what that issue is. Is this the one, Lynn? Go ahead.

MS. FEGLEY: I think it's the next one. No, okay go back one. I'm back, I'm back in the timing. We're still in catch accounting. I'm back in timing. There it is, we got distracted by the gear types, I think. If I may. **I did have a motion to remove Option 4, which is the full closure when the allocation is met, and having no IC/SSF provision at all**, and if I get a second, I would be happy to speak to that.

CHAIR BEAL: Great, thanks Lynn, is there a second to that motion? Mr. Cimino, thank you. Back to you, Lynn.

MS. FEGLEY: Again, I appreciate the forbearance of the Board in going back here. But I just for one, I think that this provision, although it may need some adjustment here and there. I think it's so important to many of us around the table, in terms of how we go forward in negotiating this allocation. I would hate to see it go away.

I also just want to, because I'm a broken record, you know this is really essential for us to take, because we don't have the mobile gears, we don't allow any gears to move, so if we don't have this at all and we have to close our fisheries, we're just going to have a lot of dead discards. For that reason, it's very important to us.

CHAIR BEAL: Another reminder, Lynn, some people are saying they couldn't hear you well, so just next time get close to the microphone please. Joe, do you have any comments as the seconder?

MR. CIMINO: Yes, I mean I think it's an important provision for many of the states, and we're talking about a potential option where there is a three-year moving average that decides allocation based on where these fish are moving. I think this provision is going to be more important than ever if that comes into play.

CHAIR BEAL: Are there other thoughts or comments on this motion? Seeing none; do we need a caucus? **I don't see any hands that look like they need to caucus. With that, is there any opposition to the motion to remove Option 4 under Section 3.3.1? Seeing no opposition are there any abstentions? All right, the motion carries by consent.** Thank you, Lynn for bringing that back and not letting us forget that one.

MS. KERNS: Coming back now, Maya to Slide 30. The only other one the PDT had recommended and you know, pleasure of the Board is when you can declare into the episodic event set-aside, whether you have to have achieved 100 percent of your quota, or if you can come in at 95 percent of your state's quota.

The PDT recommended removal based on sort of a fairness and equity when 5 percent of one state quota is left, may be very different than 5 percent of another state, and timing and availability of when fish are available to different states can be quite different.

CHAIR BEAL: Great, any thoughts on following the PDT recommendation to remove Section 3.3.5 about when the episodic event can be harvested? Eric Reid.

MR. REID: I would move to remove Section 3.3.5: Allow access to EESA at less than 100 percent of the state's allocation from the document.

CHAIR BEAL: Is there a second to the motion from Mr. Reid. Mr. Gates, thank you. Any follow up Eric, or new rationale?

MR. REID: I think the PDT's rationale is fine with me, no need to add to that, thank you.

CHAIR BEAL: Matt, you're all set? All right, great. Any need for a caucus or anything else on this motion? All right, seeing none; let's try this as well. **Is there any opposition to the motion that is on the board? Seeing none; any abstentions from commenting on the motion on the board. Seeing none, this motion carries by consent.** Thank you.

MS. KERNS: I just want to say thank you to the PDT members for really helping myself and James out on this. I think I had all of their names listed at the end. Maya had it up before, but thank you to those states that have given us some really wonderful folks. They have done a lot of hard work on this document, in particular to keep me straight, so much appreciated.

CHAIR BEAL: I think that is everything for Draft Addendum I to Amendment 3. The Plan Development Team will do some more work between this meeting and the August meeting. We'll bring the document back, and the Board can consider approval for public comment at that time, and hopefully Mel Bell is able to be here and Chair that meeting that would be great.

ADJOURNMENT

CHAIR BEAL: Is there any additional business to come before the Atlantic Menhaden Management Board today? Seeing no hands the Board stands adjourn. Thank you all for your time.

(Whereupon the meeting adjourned at 4:00 p.m. on Tuesday, May 3, 2022)