

**PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
ATLANTIC STRIPED BASS MANAGEMENT BOARD**

**Webinar  
March 16, 2021**

**Approved August 3, 2021**

**TABLE OF CONTENTS**

Call to Order, Chair David V. Borden.....1

Approval of Agenda .....1

Public Comment.....1

Consider Ad Hoc Committee Recommendations Regarding Circle Hook Issue.....1

Adjournment.....32

## INDEX OF MOTIONS

1. **Approval of agenda** by consent (Page 1).
2. **Approval of proceedings of May 6, 2020** by consent (Page 1).
3. **Main Motion:**  
**Move to approve the following guidance for state implementation of circle hook measures for the recreational fishery: circle hooks are required when fishing for striped bass with bait, which is defined as any marine or aquatic organism live or dead, whole or parts thereof. This shall not apply to any artificial lure with bait attached** (Page 10). Motion by Mike Armstrong; second by Justin Davis.  
  
**Motion to Amend**  
**Move to replace “as any marine or aquatic organism live or dead, whole or parts thereof” with “the living or dead, whole body or part of a body of an animal, or a processed product from an animal or vegetative source”** (Page 15). Motion by Mike Luisi; second by Dennis Abbott. Motion failed (Page 19).  
  
**Main Motion**  
**Move to approve the following guidance for state implementation of circle hook measures for the recreational fishery: circle hooks are required when fishing for striped bass with bait, which is defined as any marine or aquatic organism live or dead, whole or parts thereof. This shall not apply to any artificial lure with bait attached.** Motion carried (Page 19).
4. **Move to allow anglers to keep striped bass that are incidentally caught** (Page 20). Motion by Dennis Abbott; second by Tom Fote. Motion failed (Page 24).
5. **Move to approve the following guidance for state implementation of circle hook measures: striped bass caught on any unapproved method of take must be returned to the water immediately without unnecessary injury** (Page 25). Motion by Eric Reid; second by Mike Armstrong. Motion carried (Page 29)
6. **Adjourn** by consent (Page 32).

## ATTENDANCE

### Board Members

Pat Keliher, ME (AA)	Adam Nowalsky, NJ, proxy for Asm. Houghtaling (LA)
Sen. David Miramant, ME (LA)	Kris Kuhn, PA, proxy for T. Schaeffer (AA)
Cheri Patterson, NH (AA)	Loren Lustig, PA (GA)
Ritchie White, NH (GA)	G. Warren Elliott, PA (LA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	John Clark, DE, proxy for D. Saveikis (AA)
Mike Armstrong, MA, proxy for Dan McKiernan (AA)	Roy Miller, DE (GA)
Raymond Kane, MA (GA)	Mike Luisi, MD, proxy for B. Anderson (AA)
Sarah Ferrara, MA, proxy for Rep. Peake (LA)	David Sikorski, MD, proxy for Del. Stein (LA)
Jason McNamee (AA)	Pat Geer, VA, proxy for S. Bowman (AA)
David Borden, RI (GA)	Bryan Plumlee, VA (GA)
Eric Reid, RI, proxy for Rep. Sosnowski (LA)	Shanna Madsen, VA, proxy for Sen. Mason (LA)
Justin Davis, CT (AA)	Chris Batsavage, NC, proxy for J. Batherson (AA)
Bill Hyatt, CT (GA)	Jerry Mannen, NC (GA)
Jim Gilmore, NY (AA)	Bill Gorham, NC proxy for Rep. Steinberg (LA)
John McMurray, NY, proxy for Sen. Kaminsky (LA)	Marty Gary, PRFC
Joe Cimino, NJ (AA)	Max Appelman, NMFS
Tom Fote, NJ (GA)	Mike Millard, USFWS

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

### Ex-Officio Members

Kevin Sullivan, Technical Committee Chair	Mike Celestino, Stock Assmnt. Subcommittee Chair
Kurt Blanchard, Law Enforcement Representative	

### Staff

Bob Beal	Katie Drew
Toni Kerns	Emilie Franke
Tina Berger	Chris Jacobs
Pat Campfield	Deke Tompkins

### Guests

Karen Abrams, NOAA	Jason Boucher, DE DFW
Taylor Ailtmar, CBF	Matthew Broderick
Gerald Audet	Delayne Brown, NH F&G
Lawrence Audino	Jeff Brust, NJ DEP
Matt Ayer, MA DMF	Peter Cilento
John Azzinaro	John Clayton
David Behringer, NC DENR	Allison Colden, CBF
Rick Bellavance, N. Kingston, RI	Heather Corbett, NJ DEP
John Bello, CCA VA	Nicole Lengyel Costa, RI DEM
Jessica Best, NYS DEC	Caitlin Craig, NYS DEC
Lawrence Blake	Jack Creighton
Kalil Boghdan, Hamilton, MA	Greg Cudnik
	Brian Curry

## Guests (continued)

Jessica Daher, NJ DEP  
Andrew D'Angelo  
Bob Danielson, S. Setauket, NY  
Maureen Davidson, NYS DEC  
Jeff Deem, Lorton, VA  
John DePersenaire, RFA  
Roman Dudus  
Wes Eakin, NYS DEC  
Peter Fallon, MaineStripers  
Lynn Fegley, MD DNR  
Jim Flora  
John Gans, TRCP  
Matt Gates, CT DEEP  
Barry Gibson  
Lewis Gillingham, VMRC  
Angela Giuliano, MD DNR  
Fred Golofaro  
Kurt Gottschall, CT DEEP  
Saverio Governale, NYS DEC  
Steve Haasz  
Nathaniel Hancock, NC DENR  
Brendon Harrison, NYS DEC  
Rich Hittenger  
Carol Hoffman, NYS DEC  
Jeffrey Horne, MD DNR  
Ron Huber  
Alan Huberman  
Robert Hunter  
Bob Humphrey  
Jim Hutchinson  
Dan King  
Alan Koop  
Peter Lopez  
Chip Lynch, NOAA  
Shanna Madsen, VMRC  
John Maniscalco, NYS DEC  
Robert McDowell  
Dan McKenna  
Dan McKiernan, MA (AA)  
Conor McManus, RI DEM  
Stephen Medeiros

Jeff Merrill  
Nichola Meserve, MA DMF  
John Migliori  
Steve McKinnen, FL FWS  
Chris Moore, CBF  
Jerry Morgan, Madison, CT  
Susanna Musick, VIMS  
Anthony Nascimento  
Emily Olson, NYS DEC  
Patrick Paquette, MA SBA  
Justin Pellegrino, NYS DEC  
Olivia Phillips, VMRC  
Michael Pierdinock, Plymouth, MA  
Mike Plaia, Newtown, CT  
Nick Popoff, FL FWS  
Anthony Pucci  
Michael Purvin, Purvin Law  
Jill Ramsey, VMRC  
Stephanie Rekemeyer, NYS DEC  
Luis Sandoval  
Kyle Schaefer  
Jared Silva, MD DMR  
Amanda Simmonds  
Andrew Sinchuk, NYS DEC  
Thomas Sminkey, NOAA  
Somers Smott, VMRC  
Ross Squire  
Scott Steinbeck, NOAA  
Michael Toole  
Beth Versak, MD DNR  
Mike Waine, ASA  
Megan Ware, ME DMR  
Brian Williams  
Chris Wilson, NC DENR  
Barry Winter  
Charles Witek, W. Babylon, NY  
Steven Witthuhn, Greenlawn, NY  
Chris Wright, NOAA  
Joseph Yoffa  
Kenneth Ziminski  
Erik Zlokovitz, MD DNR

The Atlantic Striped Bass Management Board of the Atlantic States Marine Fisheries Commission convened via webinar; Tuesday, March 16, 2021, and was called to order at 1:00 p.m. by Chair David V. Borden.

### **CALL TO ORDER**

CHAIR DAVID V. BORDEN: Welcome to the Striped Bass Management Board meeting. Today's date is March 16, 2021. I'm David Borden; I'm the Chair, so welcome all. The purpose of the meeting is to deal with the circle hook issue, and receive a report from a subcommittee.

### **APPROVAL OF AGENDA**

CHAIR BORDEN: I would just take the items in the order that they appeared on the agenda. Are there any comments, additions, deletions on the agenda? Any hands up, Toni?

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

CHAIR BORDEN: If there are no hands up, I'm going to declare the agenda approved as submitted.

### **PUBLIC COMMENT**

CHAIR BORDEN: Public comments, we normally take public comments at every board meeting, and we'll try to take comments during the Board meeting, depending upon the volume of comments we might get, and number of individuals.

But at this stage, I'm just looking for comments on issues that are not on the agenda. Are there any individuals, some members of the public that want to make comments on issues not on the agenda? I don't see any hands up, so we'll take the agenda in the order that it appears, and I'll try to weave in public comments as we move along.

## **CONSIDER AD HOC COMMITTEE RECOMMENDATIONS REGARDING CIRCLE HOOK ISSUE**

CHAIR BORDEN: The purpose of today's meeting is basically to deal with the Circle Hook Ad Hoc Committee recommendations.

Just for background, what we intend to do is to have a report by Emilie, and then I'm going to ask Toni or Emilie to just quickly brief us on how some of the recommendations in the report might be used, in terms of process. Then I'm going to move to Dr. Davis, who Chairs the Subcommittee, and ask him whether or not he wants to ask any questions or offer any thoughts on the issue.

Then what I intend to do is go back to each issue, and deal with the Committee recommendations one at a time. The staff has prepared a draft motion, so we'll follow the normal process, and take questions first, comments, and then put up a draft motion, and see if we can get a quick resolution on these issues. Any process questions before we start? I see no hands up, so let's start out with Emilie's report. Emilie, thank you.

MS. EMILIE FRANKE: Thank you, Mr. Chair. Again, my name is Emilie Franke, and I am the new FMP Coordinator for Striped Bass, and I'll be providing an overview of the Ad Hoc Committee's recommendations today. These recommendations were provided in a memo from the Committee that was included in the meeting materials for today. To start off, just as a quick reminder. Addendum VI includes the following language on the circle hook requirement. The use of circle hooks as defined herein, is required when recreationally fishing for striped bass with bait. The Addendum also states that the use of circle hooks by anglers targeting striped bass with bait, live or chunk, has been identified as a method to reduce the discard mortality of striped bass in recreational fisheries.

As a quick reminder, in October, 2020, the Board approved state implementation plans for the circle hook requirement, and at that time the Board did not permit any exemptions. After October, the Board and

several states received some questions and comments from the public about differing interpretations of the circle hook requirement.

As part of the February, 2021 meeting, the Board created this Circle Hook Ad Hoc Committee to address some of these questions. There were 10 members on the Committee, all of whom were nominated by the Board from different states along the coast. The Committee was a mix of managers, industry, scientists, as well as enforcement officials.

The Ad Hoc Committee met twice via webinar, to develop recommendations to the Board on the following three tasks. Task 1 was to develop a definition of bait that would require the use of circle hooks. Task 2 was to identify methods of fishing that would require the use of circle hooks, and Task 3 was to discuss how to handle incidental catch of striped bass when targeting other species with non-circle hooks.

I'll provide a brief overview of the Committee's discussion on each task, and their recommendations. Starting with Task 1, the definition of bait. The Committee came to a relatively quick consensus that the use of any aquatic or marine organism, live or dead, whole or part, used as bait should require the use of circle hooks.

The Committee did discuss using the term natural in the definition, as in natural bait, but after the discussion the Committee determined that using the term natural was not necessary, and that the simple definition of a marine or aquatic organism was sufficient here. The Committee also did consider whether the definition of bait should be extended to all organisms, including terrestrial organisms.

After that discussion the Committee noted that there is a relatively low incidence of using non-marine or non-aquatic organisms as bait, and the Committee agreed that including terrestrial organisms would create complications around the use of materials such as bucktail and pork

rinds. Ultimately, the Committee recommends defining bait here as any marine or aquatic organism, live or dead, whole or part.

Moving on to Task 2, which is methods of fishing. The Committee agreed that the circle hook requirements were not originally intended to apply to actively fished artificial lures with bait attached, and that there should be an exemption for this. The Committee considered including language specifying what those active fishing methods are, specifically language stating any artificial lure that is trolled, cast and retrieved, or vertically jigged. However, Law Enforcement noted that including these terms describing the active fishing methods could create potential complexity for enforcement officers, who would have to define each of those actions. The Committee agreed that that language specifying the active fishing methods was not necessary in the exemption, and that the exemption could simply focus on the use of artificial lures, and that would still capture the intent of exempting those active fishing methods.

In summary for Tasks 1 and 2, the Committee came to consensus, and recommends the following language. Circle hooks are required when fishing for striped bass with bait, which is defined as any marine or aquatic organism, live or dead, whole or parts thereof, and this shall not apply to any artificial lure with bait attached.

Again, the Committee agrees that this language reflects the original intent of the circle hook requirement. The use of rigged eels was raised, and there was some extensive discussion by the Committee. Under the Committee's recommended language, a rigged eel would require a circle hook, because it is a marine organism, which is the definition of bait, and although it essentially functions as a lure, it is not artificial.

One Committee member did propose adding an exemption for rigged eels, but after some discussion, the Committee agreed that their recommended language should not include specific exemptions beyond the artificial lure exemption. The Committee noted that recreational fisheries vary widely among

the states, and so the recommended language should be clear and simple guidance, intended to cover the majority of scenarios when circle hooks should, and should not be required.

In the future states could pursue exemptions for fishing methods that are not covered by the recommended language. States would need to request the exemption, and propose additional specific language via the state implementation plans, which would be reviewed by the Striped Bass Plan Review Team, and considered for approval by the Board.

The Committee also noted that states requesting any exemptions in the future should consider working with industry, and collecting data to determine if the potential exemption aligns with the intent of the circle hook requirement. That wraps up the discussion around Tasks 1 and 2, so now moving on to Task Number 3, which is incidental catch. The Board had raised questions about how to address the incidental catch of striped bass when targeting other species with non-circle hooks with bait attached.

After extensive discussion, the Committee could not reach consensus on this task, and so has provided two options for the Board to consider today. Option A would be to allow anglers to keep striped bass that are incidentally caught in the scenario, and Option B would require anglers to release striped bass that are incidentally caught in this scenario.

Option A would be allowing anglers to keep striped bass that are caught incidentally, and Committee members who supported this option noted that requiring anglers to release striped bass in this situation, does not align with the goal of reducing discards in the fishery, since this would essentially be requiring a discard. Committee members in support of this option also noted that requiring the release of a fish that has a small probability of surviving, would not be reasonable to anglers. A Committee member also noted that it's difficult

to require release without data on the rates of incidental catch of striped bass in other fisheries. Finally, it was also noted that requiring the release would go beyond the mandate language in Addendum VI, and that language predicates the circle hook requirement on the targeting of striped bass specifically.

Option B would require anglers to release striped bass that are caught incidentally, except for artificial lures. Committee members who supported this option noted that requiring release is the only means to provide enforceability of the circle hook requirement, and that enforcement cannot prove angler intent or target species.

Without this requirement to release, the circle hook mandate would not be enforceable. Committee members in support of this option also noted that although there is a chance of release mortality, keeping the fish would guarantee mortality. Then finally, requiring release of incidentally caught striped bass may encourage anglers to use more circle hooks when targeting other species.

Again, just to summarize this task. The Committee could not reach consensus, and is presenting these two options for the Board's consideration around the issue of incidental catch. Option A, allowing anglers to keep the striped bass that are incidentally caught, would not require any additional regulatory language.

Option B, which would require anglers to release striped bass that are incidentally caught, would require some additional language. If the Board decides to pursue Option B, the Committee proposes the following language, it's listed here in blue on the bottom of the slide. Striped bass caught on any unapproved method of take, must be returned to the water immediately, without unnecessary injury. That brings me to the end of the presentation, so I'm happy to take questions.

CHAIR BORDEN: All right, thank you very much, Emilie, let's just hold off on the questions just for a minute. Toni, regardless of which way the Committee goes on the recommendations, could you just describe to everyone how this would be put into place? What

process is the Commission going to follow to put this into place? Then everyone has a good understanding of how that will work. After that I'm going to ask them to at least give them an opportunity to make any comments. Then we're going to go right back to Task 1 and take questions. Toni.

MS. KERNS: Sure, David. If the Board decides to provide any clarifications or guidance on the Addendum VI language, it would be making motions for guidance to the states on the implementation of circle hook measures. We're not making changes to the Addendum itself, but we're providing additional guidance to the states, as they are implementing vertical hook measures. It would not require states to submit new implementation plans, since the Board would be providing you all additional definitions or guidance, et cetera, depending on the actions that the Board takes today.

CHAIR BORDEN: Thank you very much. Dr. Davis, would you like to add anything to what Emilie just said?

MR. WILLIAM HYATT: Toni, this is Bill Hyatt. I just got a text message from Justin saying that he lost all audio, so he may be out of commission for a short period.

CHAIR BORDEN: Okay, thank you, Bill. What I would suggest is we'll go back to Justin later, and see if he has any input. Okay, so at this point we're going to go back to Emilie. Emilie, could you go back to your PowerPoint on Task 1, and put that up, and I'll ask for any questions from members of the Committee. Are there any members of the Committee that would like to speak on this issue, and if so, please raise your hand?

MR. KELIHER: David, this is Pat Keliher. My hand is up, but it was in relation to a shift to what Toni had just said.

CHAIR BORDEN: Go ahead, Pat.

MR. PATRICK C. KELIHER: I just want to make sure I understand, Toni, what you said, just to clarify. Anything we're doing here today, for the most part, is just clarifying what was meant within the Addendum, is that what you're saying?

MS. KERNS: That is correct, Pat.

MR. KELIHER: I think the only difference would be under incidental catch, depending on the direction we go there, because one of them, frankly, could become a compliance issue if we went in the wrong direction. I just want to flag that for you, Mr. Chairman, that one of those issues under, I believe Option A under incidental catch. If we went in that direction would create potential conflicts with some existing rules, and make things unenforceable, in probably more than one states.

CHAIR BORDEN: All right, thank you. Questions, Toni? Any hands up?

MS. KERNS: Yes, we have hands up from Roy Miller and John McMurray, and then let me know if you are going to accept questions from the public as well.

CHAIR BORDEN: Okay, Roy first, and then John McMurray.

MR. ROY W. MILLER: Thank you, David. I have a question for Emilie. Did the Committee discuss artificial bait such as Gulp, Fishbites, PowerBaits, those kinds of baits that may include fish oils, shrimp oils, other ingredients from live organisms, but are a manufactured bait? Did the Committee discuss them at all, and if so, are they okay to use, because that question has been posed to me? Thank you.

MS. FRANKE: Thanks for the question, Roy. Yes, the processed baits did come up in discussion, and Toni, correct me if I'm wrong here. But I believe those would be allowed under this definition, as this definition is focused on sort of those unmodified whole or parts of marine or aquatic organisms.

MS. KERNS: Yes, Emilie, I would concur with that.

MR. MILLER: May I follow up, David?

CHAIR BORDEN: Yes, certainly.

MR. MILLER: Let me make sure I understand that. Those types of baits are okay to use, according to the recommendations. Is that what you're saying?

MS. FRANKE: Yes, that is correct.

MR. MILLER: All right, thank you.

CHAIR BORDEN: John McMurray.

MR. JOHN G. McMURRAY: Emilie, I'm wondering if there was any Committee discussion about the term lure. What constitutes lure? Perhaps an attempt to define lure, because at first glance I can't help but think we'll be seeing people paint eyes and tie a little hair on a snag hook. I'm wondering if that was talked about at all.

MS. FRANKE: Thanks for the question, John. There was some discussion about defining the term artificial lure, but the Committee members determined that that term artificial lure is a pretty well understood term in itself, so they ultimately decided there was not a need to define that.

MR. McMURRAY: Thank you, I guess there is more discussion to be had on that point.

CHAIR BORDEN: Go ahead, John.

MR. McMURRAY: No that's okay, I'll save my comments for later.

CHAIR BORDEN: Toni, I'm not seeing any hands up, I'm not sure why. You're going to have to tell me if individuals put their hand up.

MS. KERNS: Right now, I don't have any, okay, Mike Luisi has his hand up.

MR. MICHAEL LUISI: Yes, thanks, Toni, can you guys hear me okay.

CHAIR BORDEN: Yes.

MR. LUISI: Thanks, Mr. Chair. I'm just wondering, so we have a defining, and it's okay. I mean our definition of bait in Maryland is a little more restrictive than this. I'm just wondering why the recommended language was focused on just aquatic organisms, live or dead. I just wonder where that conversation went.

Our definition here is any live or dead part of any animals, no matter what it is. Emilie, was there a conversation about aquatic organisms versus, you know other sources of bait? I'm just a little uncomfortable with the idea that there are other sources of bait, whether they are artificial, not artificial, but they are as Roy mentioned, synthetic versus just the aquatic organisms. How did that conversation go with the group?

MS. FRANKE: Yes, thanks for the question, Mike. This focus on marine and aquatic organisms sort of came up as folks were discussing bait that would occur naturally for striped bass in the marine environment. At first it was just marine, and then one of the Committee members suggested adding aquatic to encompass, you know any potential bait that originated from fresh water as well. But ultimately, the question of including all organisms, including terrestrial organisms, the Committee felt that the focus for circle hooks really just needed to be on that marine and aquatic component.

MR. LUISI: Okay, so a worm doesn't count, right? I mean dig up a worm in your back yard, you put it on a hook.

MS. FRANKE: Correct.

MR. LUISI: Okay, I'm not sure I can support the recommended language at this point, with that said. We'll see how things go. But thanks for that.

MS. KERNS: David, Justin Davis is back here. If it's okay, can we try to get his audio sorted?

CHAIR BORDEN: Justin, would you like to offer any comments in regard to Committee deliberations?

DR. JUSTIN DAVIS: Sure. Thanks. Sorry about that earlier. I guess really quickly, I would just start by thanking the members of the Committee. We had a really excellent committee of folks from diverse backgrounds, diverse geographically up and down the coast. But I think what everybody has in common was in-depth knowledge of the striped bass fishery.

That was really helpful to have those perspectives from up and down the coast, and from different portions of the fishery. Something I'll just touch on really quick. I think Emilie's presentation did a great job of capturing the results of the Committee's deliberations. A couple things I want to touch on really quick.

The thing that we came to consensus on very quickly, was the idea that the circle hook mandate was not originally intended, nor was it really necessary for artificial lures, or essentially active presentations that incorporate bait. You know we had a bunch of people with really good experience in the striped bass fishery who all generally agreed that circle hooks aren't necessary, or an important part of reducing discard mortality from the use of those kinds of fishing methods.

If we were to adopt this recommended language that would exempt artificial lures with bait attached, essentially that would take care of a lot of the issues that have been raised, concerns from the angling public about the circle hook mandate, and the no exemptions vote that was taken earlier last year. The other thing I'll just bring up really quick, and I can already see this emerging in the discussion. The Committee originally started out with much more complicated definitions of bait, and much more complicated language around the artificial lure exemption. The place we sort of came to is that simpler was better for a couple reasons. One was that you know for instance, there is no definition of artificial lure that you could engineer, that some creative person couldn't take a look at and find some way to fish

something with a J hook, and call it an artificial lure under that definition, when it's really truly not by most people's standards.

We spent a lot of time trying to develop really complicated language around things, and quickly decided that any time you introduce a new term or create additional language, you're just creating additional opportunity for a loophole, and in reality, people are creative. People who don't want to follow the rules will find a way to not follow the rules, unfortunately so.

That really segued into the final point, which was, I think there was consensus among the Committee that the focus should really be on outreach and education around the discard mortality in the striped bass fishery. This circle hook mandate is definitely part of that, but attempting to engineer a perfect set of language around this mandate, is really sort of a fool's errand. It can't be done.

We should try to develop language that will cover most circumstances, and then focus on sending the message to the public that they should be using circle hooks, and doing a host of other things to reduce discard mortality in this fishery. I just wanted to offer some of those perspectives on the Committee's deliberation. Thanks.

CHAIR BORDEN: Thank you very much, Justin, and while I've got the microphone, just let me thank you and all the members of the Committee. I think you did a really fine job. It sounds like it was an exceptionally productive Committee, it worked well together. Toni, I am having some kind of technical issue, so I can't see the hands. You're going to have to tell me who's hands are up.

MS. KERNS: Yes. Next, we have Cheri Patterson, and Pat Keliher, and then one of the Committee members, Bob Danielson also has his (fuzzed out) speak first.

CHAIR BORDEN: Okay, Cheri, and then Pat.

MS. PATTERSON: Yes, thank you, Mr. Chair. My question is, there was a law enforcement officer in the

Committee. Did he feel that this recommended language would pass muster in a courtroom?

MS. KERNS: Mr. Chairman, Kurt is on the line, so I think he can answer, Kurt Blanchard.

CHAIR BORDEN: Kurt Blanchard.

DEPUTY CHIEF BLANCHARD: Thank you, Chairman Borden, Kurt Blanchard. Cheri, we did weigh in on this definition, and we do support the wording.

CHAIR BORDEN: Thanks, Kurt.

MS. PATTERSON: Thank you.

CHAIR BORDEN: Pat Keliher.

MR. KELIHER: I don't know who this question is directed to, but Mike Luisi, I think may have been getting ready to touch on this. Were there any conversations around earthworms, night crawlers associated with this? I do know we do have, when you get into the upper parts of our larger rivers, people who will target striped bass using nightcrawlers. If they had a nightcrawler instead of a marine or bloodworm, sandworm on, they could say that they were not in violation.

MS. KERNS: Justin Davis has his hand up. I don't know if he is wanting to respond to Pat.

CHAIR BORDEN: Dr. Davis.

DR. DAVIS: Yes, there was discussion around that topic. We were working with a definition at one point that did include sort of all organisms, including terrestrial organisms. Part of the complication there was that then that would necessitate some language to exclude things like bucktail and pork rinds, which were a commonly expressed concern from anglers, that they wanted to know whether or not those materials would be considered bait that required circle hook they are typically used in an artificial lure presentation.

I think that is why the terrestrial organisms did not end up in the original definition. There was also at least a thought amongst the Committee that the use of terrestrial organisms for bait, while it might happen in some places, it's probably not a very common practice. We were sort of coming around to this place of wanting to develop simple language that would cover most situations.

Without trying to get wrapped up in covering every possible situation that might arise, where people might use different things to fish for striped bass. All that being said, I think if there was strong consensus on the Board that this definition needed to be extended to include terrestrial organisms, it would be simple enough to do that, by just modifying the language here slightly. That would be my thoughts on that.

CHAIR BORDEN: Thank you, Justin. Pat, have you got a follow up or not?

MR. KELIHER: I would just say, I'm not sure if we wanted to make a modification, if we would need to go as broad as terrestrial, because that will bring in potentially a lot of different organisms. But narrowing it down more might help solve the problem, and we can discuss that when we get to that point.

CHAIR BORDEN: Toni, hands.

MS. KERNS: We don't have any additional Commissioners with hands up. But as I said before, Bob Danielson, a member of the Ad Hoc Committee has his hand up, and then we also have a member of the public.

CHAIR BORDEN: Okay, so Bob, did you say? Bob, if you would like to speak as a member of the Committee.

MR. BOB DANIELSON: Yes, thank you, Mr. Commissioner. I would like to address Mike Luisi's question about the terrestrial, and Pat as well. If you ban the use of all terrestrial animals, you're just taking all the fly fishermen out of the striped bass fishery, for the most part. They could use circle hooks to retie every fly in their arsenal, but that was one of the

things that I had, as a member of the Ad Hoc Committee in my head, when this discussion arose. I was very comfortable with the recommended language, especially when Law Enforcement backed it.

I think that was where many of us on the Committee were, when developing the language, and I just wanted to add that into the discussion, so the Commissioners and the Board members in particular, understood what our thought process was, not including things like chicken feathers and rabbit strips for the fly fishermen, as part of the ban on J hooks for striped bass fishing. I hope that helps explain the thought process that I had. Thank you.

CHAIR BORDEN: All right, Toni, you said we had one hand up in the public?

MS. KERNS: John McMurray has since raised his hand, and now there are two members of the public. Just as a reminder to the public, this is for questions on the Committee recommendation.

CHAIR BORDEN: Right, so I'm going to take John McMurray first, then I'll take the two. I would ask Toni, since I can't see who has their hands up, to call off the two individuals. They can ask their questions, and then what I would like to do is go back to see the draft motion. All right, so John.

MR. McMURRAY: Yes, thank you, Mr. Chairman. This isn't a question, but it did occur to me that maybe there is an easy fix to Mike's concern and including language like terrestrial and vertebrates. Just throwing that out there. Sorry, that was not a question.

CHAIR BORDEN: Thanks, John. Toni, could you call off the two individuals that have their hands up from the public?

MS. KERNS: Will do. Mike Waine first, and then Anthony Nascimento, I hope I didn't totally butcher that.

CHAIR BORDEN: All right, Mike Waine.

MR. MIKE WAINE: Mike Waine from the American Sportfishing Association. I just wanted to echo Justin's comments about how well this process worked. AP members working with a subgroup of the Board members and the public, to try to come up with the specifics that are presented today.

I just have a question about kind of the intent of the decisions that get made by the Board here, and what the states ultimately implement, based off of those decisions. Commissioner Keliher asked the compliance question, and I thought that got at some of it, but I just wanted to kind of confirm that the intent of doing this exercise was to bring some consistency in how bait in the circle hook definition is going to be implemented in all of the states. I'm trying to figure out if there is not kind of a binding component to the decisions that are made by the Board here. How do we still achieve the intent of this action, which is to try to bring consistency across the geographic range of this fishery, and have the states follow through on that intent?

CHAIR BORDEN: Thanks, Mike, does somebody on the Board or in the Committee want to offer a response?

MS. KERNS: Bob Beal.

CHAIR BORDEN: Bob.

EXECUTIVE DIRECTOR ROBERT E. BEAL: Yes, to answer that question and reflect back on Pat Keliher's comments from earlier. I think, you know this is a clarification of the circle hook and bait language that was included in Addendum VI. I would argue that the definitions that are approved today of bait and fishing methods, you know when circle hooks are required, are compliance criteria.

It is clarifying the intent of the Board. We're not modifying the Addendum; we're just clarifying what the states are obligated to implement under the provisions of the Addendum. I would argue those are compliance criteria and binding. You know the one issue that Pat suggested we may want to discuss later, is the notion of incidental take.

I think we can tackle that when we get there, because the Addendum doesn't include incidental take language as it's written right now. That one may be a little bit different conversation, but I think on these first two tasks, I think the outcome of this meeting would be binding on the states.

CHAIR BORDEN: Toni, the other gentleman in the audience.

MS. KERNS: It is Anthony Nascimento.

MR. ANTHONY NASCIMENTO: Tony Nascimento. Good afternoon. My question is on the method of snag and drop with the weighted treble hook. I understand that once you catch a bunker on the treble hook you have to bring it in, and transfer it to a circle hook. That is pretty much understandable. What happens to the incidental catch of striper hitting it before you bring it in, and the striper perhaps swallows it, and it winds up becoming a mortality. What is the discretion that you may have had on that?

CHAIR BORDEN: Emilie, or somebody on the Committee.

MS. FRANKE: Thanks for the question. To my knowledge the Committee did not address that scenario specifically, so I'm not sure I have an answer for you on that one right now.

MR. NASCIMENTO: Okay, thank you. It's something to think about.

CHAIR BORDEN: We're going to have to go back to the Board, and Emilie, the staff prepared a draft motion. Could you put the motion up, the first motion, please?

MS. KERNS: Mr. Chairman, since you can't see hands, I'm just going to interrupt. I think we have an additional question, or maybe a point of clarification from Ritchie White and Jason McNamee.

CHAIR BORDEN: Ritchie, we haven't heard from you today, so would you like to go first?

MR. G. RITCHIE WHITE: Yes, my question was a follow up on Mike Waine and Bob Beal's answer. Doesn't a state have the ability to be more conservative on this? If a state decided that they wanted to leave in place the original circle hook requirement, that would be more conservative than this change. A state would have the ability to do that. That would be a question.

CHAIR BORDEN: Bob Beal.

EXECUTIVE DIRECTOR BEAL: The answer is yes. States can be more conservative. If a state wants to only allow circle hooks for anything anywhere, that is up to the state. That is applicable, or completely in bounds in the Commission process. States can always be more conservative.

CHAIR BORDEN: Dr. McNamee.

DR. JASON McNAMEE: I just had a question on what this applies to. I think this definition is meant to apply just to the recreational fishery, and so first I'm wondering if that is correct. Then if so, I wonder if we need to add something into that motion that was up a moment ago. That's my question, thank you.

MS. KERNS: Do you want me to respond, David?

CHAIR BORDEN: Please.

MS. KERNS: Addendum VI specifically states that the circle hooks are applied to the recreational fishery, Jason, not the commercial fishery.

DR. McNAMEE: If I could follow up, Mr. Chair. Just to make sure I understand.

CHAIR BORDEN: Go ahead.

DR. McNAMEE: Okay, thanks, Toni. Because of that we don't need to be more explicit with this definition, this definition would kind of sit under that as a subsection, therefore it's only applicable to the recreational fishery. Is that the implication?

MS. KERNS: Yes, but if it helps with clarifying language, of course we can add it to any motion that is made.

DR. McNAMEE: Okay, thank you.

CHAIR BORDEN: All right, so you have a suggestion from the staff for a draft motion. Does someone care to make this motion?

MS. KERNS: Mr. Chairman, Dennis Abbott has his hand up with a question.

CHAIR BORDEN: Dennis.

MR. DENNIS ABBOTT: Dr. McNamee said something and it got me thinking. In Massachusetts, commercial fishermen fish with rod and reel. Are we saying that they wouldn't be required to comply with these regulations, because they are not recreational, but they are commercial?

CHAIR BORDEN: Does someone want to respond?

MS. KERNS: Sure, Mr. Chairman. That is how the Board worded Addendum VI, Dennis, so under the provisions of Addendum VI, the circle hook requirements were for the recreational fishery.

CHAIR BORDEN: On the draft motion, does someone care to make the draft motion?

MS. KERNS: You have Mr. Armstrong.

CHAIR BORDEN: Mike Armstrong. Mike, would you like to read it into the record, please?

**MR. MICHAEL ARMSTRONG: I move to approve the following guidance for state implementation of circle hook measures: circle hooks are required when fishing for striped bass with bait, which is defined as any marine or aquatic organisms live or dead, whole or parts thereof. This shall not apply to any artificial lure with bait attached.**

CHAIR BORDEN: Motion by Mr. Armstrong, is there a second? Toni.

MS. KERNS: Justin Davis.

CHAIR BORDEN: Seconded by Dr. Davis, discussion on the motion. Any hands?

MS. KERNS: Yes, we have Pat Keliher, Jim Gilmore, John McMurray and Mike Luisi.

CHAIR BORDEN: Pat Keliher.

MR. KELIHER: We have several very large river systems in the state, where when you get above the salt water wedge up into the fresh water, you have a lot of people who will target striped bass using a mix of both marine worms, which would include blood worms and sand worms, as well as earthworms. I would hate to have a situation where people are targeting striped bass in the Kennebec River in Mary Meeting Bay, using J hooks, with an earthworm on it. It would defeat the purpose of what we're trying to do, especially considering in that particular area, we do have a very small native population of fish that are spawning. I would want to see; I would love to see a friendly amendment here that would include the use of earthworms when we define bait. Bait which is defined as marine or aquatic organisms live or dead, but somewhere in there include earthworms.

CHAIR BORDEN: All right, thanks, Pat. That is one suggestion. Toni, the second name that you called out, you were a little broken up.

MS. KERNS: It was Jim Gilmore, but he put his hand down.

MR. JAMES J. GILMORE: Yes Toni, I'm good. Pat actually covered it, so thanks.

CHAIR BORDEN: All right, so hop back to Pat Keliher's question in a minute. I've got John McMurray and then Mike Luisi.

MR. McMURRAY: My only problem with this is, and I brought this up before. By not defining artificial lure, we're kind of offering that loophole to people who

want to get around this, and arguably folks could paint an eye and put some hair on a snag treble hook, and call it a lure. That is really my primary concern is the snag and drop fishery here. I actually have a friendly amendment that would fix that, if the maker of the motion would accept one, and it's very simple. This shall not apply to any single hook artificial lure with bait attached.

CHAIR BORDEN: Mike Armstrong, John just suggested a friendly amendment. Are you receptive to that or not?

MR. ARMSTRONG: Well, yes. John, could you say it again? I missed part of it.

MR. McMURRAY: Yes, Mike, I would just insert single hook before artificial lure, and that negates the loophole for folks to legally snag and drop.

CHAIR BORDEN: Mike Armstrong, any reaction to that?

MR. ARMSTRONG: I'm trying to think of what it does, I'm sorry.

CHAIR BORDEN: We'll keep going, I've got one. Mike Luisi, and then I'm going to go back to Pat Keliher's suggestion, and then we'll go back to John McMurray's suggested perfection. I've got Mike Luisi.

MR. LUISI: I don't have any trouble with the artificial lure side of it, because there have been enough discussions over this time period, as we've discussed this. I have no trouble with that. What I'm struggling with is kind of the door that's opened when we refer to just the marine or aquatic organisms. Our regulations, and I don't know if you would want a motion to amend.

The regulations that we have here in Maryland state that bait means an attractant to fish, which includes the living or dead, whole body or part body of an animal, or a processed product

from an animal or vegetative source. It includes all the different types of bait that you would, in my mind it's fully inclusive of all the different synthetic, not even synthetics, but just the different sources of what you would put on a hook. I'm just going to say it. I don't think this motion is strong enough. I think there are going to be more people, they are going to try to find holes in it, and try to figure out how to continue to use J hooks.

If we get to the point where we're getting ready to vote on this, Mr. Chairman, I probably would, I'm going to draft it up right now, but I'll probably make a motion to amend. Maybe if you would come back to me, just I need to give it a little bit more thought, and kind of draft it up a little bit. But I'm just not comfortable with the way this is worded.

CHAIR BORDEN: Okay so thank you, Mike. Pat. Let's go back to your suggestion. What is your exact perfection, and then I'm going to ask Mike if he accepts that and Dr. Davis? If they do, we'll perfect the motion, if not then if you want to make a motion to amend, you can make a motion to amend.

MR. KELIHER: No, as I'm thinking about this, Mr. Chairman. The state of Maine just made the determination to require circle hooks when you're using earthworms. I would argue that we're being more conservative, and we would not be out of compliance. We're actually, we would more conservative. If you agree with that.

CHAIR BORDEN: I totally agree with that.

MR. KELIHER: Disregard my earlier comment.

CHAIR BORDEN: All right, so John McMurray, you're up next with your perfection. Mike Armstrong, do you want him to characterize it again? Mike.

MR. ARMSTRONG: Okay, well my question is, so this shall not apply to any single hook artificial lure with bait attached. That is the perfection, right? Doesn't that then mean any multi-hook artificial lure can be fished? I'm struggling to understand exactly what this accomplishes.

MR. McMURRAY: If I may, Mr. Chairman.

MR. ARMSTRONG: Please.

CHAIR BORDEN: John.

MR. McMURRAY: Okay, I'm sorry. I kind of assumed folks knew what snag and drop was, it's a weighted treble hook that they find a bunker school and rip it back, and snag a menhaden and let it swim, and then the striped bass, that is really what I'm trying to avoid here. Put a bucktail on the thing and paint some eyes on it, now it qualifies for a lure. I'm trying to stop that from happening, simply by putting single hook on an artificial lure. Maybe we could clarify to say J hook. I'm just trying to avoid the use of weighted treble hooks as artificial lure.

MR. ARMSTRONG: Mr. Chairman, I think what John is saying. I do not want to see this motion allow snagging and dropping. I'm not sure what John has proposed does that.

CHAIR BORDEN: Mike, so you are clear, it is your prerogative whether or not you accept it. If you don't accept it that's fine. Then Mr. McMurray can make a motion to amend, and we'll vote that motion to amend up or down.

MR. ARMSTRONG: Yes, I don't accept it.

CHAIR BORDEN: Okay, so John McMurray, have you got a motion to amend?

MR. McMURRAY: Yes, I suppose I'll move to amend. But I'm not sure what I'm not being clear about. Snag and drop are done with a weighted treble hook. If you simply add single hook to this language, it prevents from happening. Maybe I'm not doing a good job of explaining myself, somebody else can weigh in and try to clarify what my intent is, before I make a motion.

MS. KERNS: Mr. Chairman, may I ask John a question, to try to help here?

CHAIR BORDEN: Certainly, Toni, we need help.

MS. KERNS: John, are you trying to say then that for the last sentence. Are you trying to say this shall not apply to any artificial lure with bait attached and any single hook artificial lure with bait attached? Like, are you wanting both?

MR. McMURRAY: No, no, no. This shall not apply to any single hook artificial lure with bait attached.

MS. KERNS: I think that what I'm hearing Mike Armstrong say that is if you add that qualifier in there, then artificial lures with multiple hooks could be fished, and they don't want to see that. By saying single hook artificial lure, you are really narrowing that focus of the artificial lure.

MR. McMURRAY: Okay, well, maybe somebody could help me out with language here, now that we understand what I'm getting at.

MS. KERNS: I'm going to go to our chairman of the, well I'm not going to, but David Borden, Justin Davis has his hand up as the Chairman of the Committee. I don't know if you want to go to him, and then I have a line of folks that have had their hands for you.

CHAIR BORDEN: Dr. Davis.

DR. DAVIS: I'll take a shot at this. The first sentence of what is up on the board here says that circle hooks have to be used when fishing with bait, as defined. Then the second sentence is creating an exemption for that requirement. As it currently reads, it would exempt any artificial lure with bait attached, and I think John's intent is to only exempt single hook artificial lures with bait attached, such that multi-hook lures with bait attached would not be exempt, and would be subject to the language up above. Basically, saying that if you're fishing some sort of multi-hook lure with bait attached, those hooks would have to be circle hooks. Does that represent your intent, John?

MR. McMURRAY: I think it does, Justin. I'm trying to process it. My first reaction is it does.

CHAIR BORDEN: Justin, following up on your point, would you just change the location of the word single hook, and put it after lure to do that?

DR. DAVIS: I don't know that the placement of the word single hook matters to the meaning. I think single hook artificial lure represents an artificial lure with only one hook. I'll add a general comment that there was an array of artificial lure presentations that are actively fished that were of concern, or sort of brought up by Committee members and members of the public, as things that should be exempt.

I would ask members of the Committee to weigh in if they think I'm wrong here. But most of those are single hook artificial lures. I think the one notable exception would be eel skin plugs, which is a method in which the skin of an eel is put on a swimming plug that typically has multiple hooks attached and fished. I think by changing this to single hook artificial lure, we would be now saying that eel skin plugs are no longer in bounds for use with non-circle hooks.

CHAIR BORDEN: let me just ask, do we have a specific motion to amend? If not, then I would encourage people to debate the motion on the board. Toni, what do you have for hands up?

MS. KERNS: I have Tom Fote, Pat Keliher, and Justin, I don't know if you still have your hand up on purpose or not, and then we have two Committee members with their hand up, and one member of the public.

CHAIR BORDEN: Okay, so we'll take the two Board members first. Tom Fote and then Pat Keliher.

MR. THOMAS P. FOTE: Yes, I understand what John is trying to get at, but the intention of the wording he is using is not really clear. A bunker snag is a very particular piece of equipment, it's basically a weighted treble, it's got lead put on it, and it actually could have more, put three treble hooks above it, and throw it out and try to snag multiple bunkers at one time.

That is the way a lot of us fished it when we basically fished it from a boat and snagged it before everybody started casting it. But it is a problem. I don't wind up concerned about people painting eyes on it, because Law Enforcement has the discretion would basically look at, and a bunker snag with eyes on it doesn't make it nothing but a bunker snag. We all know the bunker snag if you're out in the fishery, and we know that is not supposed to be drop and snag.

I think the drop and snag definition is in the understanding of the language, unless we want to clarify that and make sure what drop and snag means. Once you snag a bunker, you need to bring it in and put it on the circle hook. That would be a clearer clarification. The problem here is, I don't want to make it so complicated that people try to read into this thing and get all confused, especially with striped bass fishermen. I mean striped bass fishermen, when I used to fish and I used to travel. I used to fish in North Carolina to Maine fishing for striped bass. It makes it very difficult in the states that have different regulations. I had a charter boat captain that went to Maine, because he had a pork rind on the end of his hook. He wasn't able to take it, and he said, I never heard of that before. What I don't want, because most of what Law Enforcement goes on in the recreational sector is peer pressure for doing it a certain way.

If the public, they are so disillusioned with a lot of the regulations we have right now, whether it's fluke or other species, that we don't want to get to use that where they basically lose confidence in our regulations and do whatever the hell they want. That is why I think we need to be clear on what we are basically saying, and clear to the public, and they can accept what we're putting out there, and address their problems. We addressed it with the buck tail.

I think the definition handles almost 99 percent of the problem we were dealing with. I mean I fly fish for them. We were talking about, I had rabbit fur, moose mane, and everything else I used to make flies out of. I don't want to be not able to use those materials when I'm tying flies. The other problem here, we needed to figure out a rigged eel.

For those of you not familiar, I've rigged hundreds of rigged eels in my life, with real eels and then we would use rubber eels. On a rubber eel and a rigged eel, you could put a circle hook and a tail hook, but basically putting on a tin squid only has a single hook. There is the problem when you're using a rigged eel. The front hook, and just using a front hook and you're not putting a tail hook on it, you've got a J hook on it. You don't pour tin squid with a circle hook on it.

CHAIR BORDEN: All right, Tom, thank you. Pat Keliher.

MR. KELIHER: I support this language as it is just right now. I think this issue that we're kind of straying to is really about incidental catch. If somebody was going to try to paint eyes on a treble snag hook that is weighted, and they snag a fish and then catch a fish and bring it in and retain it, they would be in violation of a rule like this. I'm happy with the language the way it exists.

CHAIR BORDEN: All right, Toni, could you call out the two names of the Committee members that wanted to speak on this? I think we owe them the right to comment.

MS. KERNS: Will do, and I just want to let you know that two additional Commissioners have raised their hands as well, so the two Committee members are Delayne Brown and Andy Dangelo.

CHAIR BORDEN: The first one, please.

MS. KERNS: Delayne, Lieutenant Delayne Brown.

LT. DELAYNE BROWN: Thank you, Toni, thank you, Mr. Chairman. I don't want to muddy the waters. We have a statutory definition in New Hampshire that states what a single-hook artificial lure is, and it's a lure with one single hook with not more than three hook points, so that would include, a treble hook is considered

a single hook in New Hampshire. Because choosing with everything else has been closed. Thank you.

CHAIR BORDEN: Thank you. Andy, do you want to comment?

MR. ANDY DANGELO: Basically, you know if you're snagging and dropping to try to catch a striped bass, you're targeting striped bass, and you know the motion that we have here says that when you're fishing for striped bass, you've got to use a circle hook. If you're snagging and dropping, you are targeting striped bass, and that is illegal according to the motion. I agree with what the motion says right now. Thank you.

CHAIR BORDEN: Thanks, Andy. Back to the Committee, Toni, you said you had two hands up, and then I've got to go back to Mike Luisi.

MS. KERNS: Yes, okay we have Max Appelman and Jason McNamee, then you'll go to Mike.

CHAIR BORDEN: Mike.

MR. LUISI: Am I up now, or do you want to go to somebody else first?

CHAIR BORDEN: If you're going to raise a different subject, let me come back to you.

MR. LUISI: Yes, I was going to make a motion to amend after you hear from a few other people. Whenever you're ready just come back to me, I'll take my time and read it slowly, but that's my plan.

CHAIR BORDEN: Okay, so Toni, who is the first person on the list?

MS. KERNS: We have Max Appelman and then Jason McNamee.

CHAIR BORDEN: Okay, Max.

MR. MAX APPELMAN: I'll start this and just say that NOAA Fisheries can support this motion. But something I wanted to add was just what resonated with me listening to that Ad Hoc Committee

discussions, and the collaborative nature of that group when coming to consensus on recommended language.

I think that means a lot. You know they run in circles in sort of the same way that I hear this Board going right now. They came to the conclusion that simple is best, and I would hate to see us fall into that same pit. I think the consensus recommendation speaks for itself, and we can support this motion. Thank you.

MS. KERNS: David, you had Jason next.

CHAIR BORDEN: Jason McNamee.

DR. McNAMEE: I may be, so what I intend to offer is what I think is a perfection of the motion that is on the board, if that is appropriate to do right now. It's a simple, I think non-significant one.

CHAIR BORDEN: Go ahead.

DR. McNAMEE: This gets back to the comment I raised earlier about this being specific to the recreational fishery. I think it couldn't hurt to clarify that in this motion, and so what I would suggest we could do is simply add before the colon, you know after the word measures, the phrase "for the recreational fishery" and that would make it nice and clear that that is what we're talking about.

CHAIR BORDEN: Thanks, Jason. Mike Armstrong, will you accept that as a perfection?

MR. ARMSTRONG: Yes.

CHAIR BORDEN: Dr. Davis.

DR. DAVIS: Yes.

CHAIR BORDEN: You have a perfected motion, thanks, Jason. Anyone else other than Mike Luisi on the list, Toni?

MS. KERNS: Just a member of the public.

CHAIR BORDEN: I'm going to take Mike Luisi first. Mike.

MR. LUISI: I realize that there is a lot of support. Here is how I look at circle hooks. We're moving in the right direction, but I feel like this motion allows for too much, it's too liberal, and it's not constrictive enough. It's much more liberal than our state rules, and it's going to be challenged.

I think that if we're going to go in the direction of you know applying circle hooks, which you know we've already done. But determining what bait is, then we should be as inclusive in all forms of what that term is. I read it into the record earlier. I feel that our state has a definition of bait, which I strongly support.

I think that the marine and aquatic organism part is a little too liberal, in my opinion. I would offer a motion to amend. What I would like to do is after the word, which is defined as, so after as I would offer that bait be defined as the living or dead, whole body or part of a body of an animal or a processed product from an animal or vegetative source.

That is what we have in our regulations. That includes all the different products that are on the market, all the different things you can buy. If I get a second on this, I can offer a little more thought, but let's just see. Let's see how that goes. That would replace the section in the original motion after the word as, and we'll see how it goes. But I do support the artificial lure part of this. I don't want that to be replaced. I think artificial lures, if you're actively working an artificial lure, I have no problem with that. But it's basically the definition of bait. We'll see what happens. Thank you.

MS. KERNS: Mr. Chairman, before we get a second, can we make sure that we know exactly what we're replacing or adding here?

**MR. LUISI: Yes, so Toni, what I would like to replace, motion to amend, so after "which is defined as" that is where. Instead of any marine or aquatic organism live or dead, whole or parts of thereof. I would replace that one part of that motion with the statement that I made, so defined as the living or**

**dead, whole body** product, you know, I would just like to replace that wording to strengthen this circle hook requirement, which I feel is too weak at this point.

MS. KERNS: Yes, thanks, Mike, I have what you're saying, so Maya if you could say Motion to amend to replace, and then copy that language.

MR. LUISI: We could substitute. We could just put a whole new motion up with the different language. I thought just an amendment was appropriate, because it was only that one piece of the language that I thought I just wanted to strengthen.

MS. KERNS: That's okay, I just want to make it very clear to everybody what text is being replaced, that's all, Mike. Now we can get a second.

MR. LUISI: Thank you, Mr. Chairman for allowing me the opportunity to make that motion. We'll see if we get a second.

CHAIR BORDEN: All right, do we have a second? Toni.

MS. KERNS: Dennis Abbott, is your hand raised as a second?

MR. ABBOTT: I'll second the motion.

CHAIR BORDEN: Seconded by Mr. Abbott. Discussion on the motion to amend.

MR. ABBOTT: As the seconder can I comment?

CHAIR BORDEN: Certainly.

MR. ABBOTT: Thank you. At this point, I'm not so concerned with whatever the language is, because I think they were really getting too far down into the weeds. I don't believe that regardless of what we finally decide on, that we are going to affect mortality one little bit. I think we should leave as much of this up to the

states as possible, so I'm probably willing to go along with anything to reach a conclusion on this, because again I'll repeat, I do not believe that this will affect mortality nor end overfishing. Thanks.

CHAIR BORDEN: Thanks, Dennis. Any other comments on this? Toni.

MS. KERNS: Yes, we have Roy Miller, Chris Batsavage, John McMurray, Pat Geer, and Jim Gilmore. Then we have members of the public as well.

CHAIR BORDEN: All right, so we're going to deal with Roy Miller first. Roy.

MR. MILLER: I am not going to vote for the amendment to the motion, because of what we discussed earlier. By including vegetative source and processed product from an animal, I think we're precluding baits like PowerBaits and Gulp and Fishbites and all of them, by adding this perfection. My view of this is if a state wants to be more restrictive, they can. I favor the original motion, which gives the states the latitude to be more restrictive if they so choose.

CHAIR BORDEN: Thanks Roy, Chris Batsavage.

MR. CHRIS BATSAVAGE: Yes, Roy pointed out, I guess a question I had. But I think I understand that this would include things such as Gulp and Powerbait, which are lures that are made out of some sort of natural material, we're not really sure what. That is problematic, I think for a lot of our regulations. The regulations in North Carolina are more restrictive, they include basically any plant or animal material. We don't get into synthetic baits.

I know the way the language in the amended motion would include things such as fur and feathers, and ours doesn't exempt that, but we could definitely make that fix, while being more restrictive at the same time. I have to stick with the original motion, just knowing that the Committee really kind of threaded the needle, so to speak, on trying to find language that gets to where we need to be, without creating any more unforeseen, unintended consequences. Thanks.

CHAIR BORDEN: Thanks, Chris, John McMurray.

MR. McMURRAY: I just wanted to point out that Mike's amendment would support the use of pork rinds, which is something that the Committee was expressly trying to avoid.

CHAIR BORDEN: Okay, thank you. Toni, you're going to have to give me the last name. I couldn't write fast enough.

MS. KERNS: I apologize if I mess up the order, but I believe it was Jim Gilmore, and then Tom Fote.

CHAIR BORDEN: Okay, Jim Gilmore.

MR. GILMORE: I just will let go the last couple of comments. It really comes down to the first motion, the language is simpler, and I think more understandable. I know Mike's trying to get at being a little bit more prescriptive, but in doing that we start going back down that rabbit hole, where we've got so many words in there.

I think that actually may provide for more loopholes in it, so I would prefer the earlier language. However, I would like to hear, I don't want to put Justin on the spot as the head of the Committee, but both them and law enforcement, it's like is this making this better or worse, I guess would be, and the fact that the Committee, who I think did a great job in putting this language up, kept it simple. I still think we should be going with that.

CHAIR BORDEN: We've got Tom Fote.

MR. FOTE: I just agree with Jim Gilmore and Roy Miller, that's it.

CHAIR BORDEN: Thanks, Tom. We've heard a number of comments from Board members who basically have indicated they intend to support the underlying motion and not the motion to amend. Is there anybody that has not raised their hand that wants to speak in favor of this motion to amend? If not, I'm going

to call the question. Is there a hand up from a member of the Board that wants to speak in favor of this?

MS. KERNS: Mr. Chairman, you have Max Appelman. But before Max goes, can I just ask Maya. We actually don't need, which is defined, in that first sentence of the motion. That should actually stay. Thanks, Maya. David, your microphone, it sounds like you're in the wind, and so when you keep your microphone live, it causes sort of a feedback for the webinar. Just as an FYI.

CHAIR BORDEN: Who was it you wanted to call on next?

MS. KERNS: It was Max Appelman, and then you do have members of the public that have their hands raised.

MR. APPELMAN: I'm going to jump in. I don't know how I'm going to vote on the amended motion, but I feel like NOAA Fisheries can support both of these motions. I want to poll from some of my fellow Commissioners. Is this going to create more work? It sounded like covering the entire gambit might create more work down the road, as we exempt this, that and the other of these unintended types of bait that really aren't the target of this provision. I think I can support both of these. But I don't want to create more work for us in the end. I fall back on simple is probably best here.

CHAIR BORDEN: Okay, thanks, Max. Let me just point out that we're an hour and a half into a two-hour meeting. We haven't gotten to the most controversial part of the recommendation, and we need to move along here. Are there any other Board members who want to speak on this issue?

MS. KERNS: No hands raised.

CHAIR BORDEN: Okay, I'm going to take two public comments, and then I'm going to call the question. Toni.

MS. KERNS: You have Patrick Paquette first, and then Mike Waive.

CHAIR BORDEN: Pat.

MS. KERNS: I think I have Patrick muted, hold on. He put his hand down, so I can't find him as fast. Mike Waine, why don't you go first?

MR. WAINE: Mike Waine, American Sportfishing Association. We do not support the motion to amend. The Working Group, members of the Advisory Panel, Public, all put their heads together and tried to come up with a consensus recommendation here. I'm not sure why some of the Board members don't believe in that process.

I think the original motion is what their consensus recommendation was with some minor perfections that can be palatable. I guess I would just say that there has been some discussion about implementation of more conservative measures than what is agreed upon in this action. As Dennis Abbott said, these decisions will likely not have a conservation benefit to the resource.

I think that sometimes the states choose to be more conservative than the Plan requires. If there is a real conservation benefit to that action, I would argue that the intent here is instead to have consistency in the measures across the states. I hope with whatever decision occurs from today's Board action, the states can live with that decision, implement the intent of the Board decisions today, and leave actions that are more conservative than the plan requires for issues that would actually achieve that conservation benefit. Thank you.

CHAIR BORDEN: Thanks, Mike. Pat Paquette.

MR. PATRICK PAQUETTE: Thank you, Mr. Chairman. Patrick Paquette, Mass Striped Bass Association. I am a member of the AP. I just wanted to offer a couple of comments as the Board considers this motion. First of all, this is an impossible task, and I very much agree with what the Chair of the Working Group stated,

that there is no way to write a bullet proof regulation here.

I can come up with loopholes to anything you can write. I've been doing this too long. That being said, fishing with worms is common across every river and estuary in New England, especially in the spring, when small striped bass are the target and most popular thing being done in salt water. It needs to be clear that any type of a worm should be on a circle hook.

Also, in my state in Massachusetts, there is no difference, boats that are recreational, commercial and for-hire are all in that snag and drop fishery, are all doing the same thing. I am absolutely baffled as to why we would separate out one of the three, or two of the three, and not have it have all anglers targeting striped bass need to follow this regulation. Thank you.

CHAIR BORDEN: Thanks, Pat. Okay, at this point I'm going to declare a two-minute caucus, so you can caucus among your delegations. In the meantime, Toni, if you could just stay on the line and you and I can figure out what my technical issue is. Two minutes.

MS. KERNS: David, when you come back from the two minutes, Delayne Brown has his hand up. He's the New Hampshire LEC rep, so I don't know if you want to go to him.

CHAIR BORDEN: Sure, I'll take him last, and then I'm going to call the question. We're back in session at this point. We have one of our enforcement officers would like to comment. Is it Delayne from New Hampshire?

LT. BROWN: Thank you, Mr. Chairman. My hand was raised for a little while. This goes back to the motion to amend to replace, by Mr. Luisi. I would just caution the use of processed product in the amended definition. I know New Hampshire has had at least one case, where we were unable to prove the ingredients of products.

In this case with PowerBait, because this particular product is patented and proprietary. When it comes to that, as a law enforcement officer, if it can't meet the burden of proof that a processed product has

animal parts in it, you can't make the case. That's all I had to add, thank you so much.

CHAIR BORDEN: Thank you. We're back in session, any more discussion on this? We've had a lot of discussion, and we're way behind schedule. Does somebody want to make a point that has not been made at this point? I do not see any hands up. Toni, have you got any hands up?

MS. KERNS: No, I do not.

CHAIR BORDEN: Okay, so all those in favor of the motion to amend by Mr. Luisi and Mr. Abbott, please signify by raising your hand. Toni, could you read the jurisdiction that vote yes, please into the record.

MS. KERNS: I have Pennsylvania.

CHAIR BORDEN: That's the only yes vote then.

MS. KERNS: Let me make sure I have that correct, hold on. Yes, that is the only state that I have.

CHAIR BORDEN: Okay, so we have one yes vote. Take down those hands, please. All those states in opposition to the motion to amend, please raise your hand. Then Toni, would you please read the states into the record.

MS. KERNS: I have Massachusetts, Connecticut, Maine, Delaware, New York, Virginia, Rhode Island, New Jersey, New Hampshire, North Carolina, PRFC.

CHAIR BORDEN: Is that 11?

MS. KERNS: I think so, Emilie, do you have 11?

MS. FRANKE: Yes, that's 11.

CHAIR BORDEN: We have 1 state in favor, 11 noes, any abstentions? Any hands up?

MS. KERNS: I have NOAA Fisheries and Fish and Wildlife Service. Pat Keliher, your hand is up. Is that intended? I thought you voted against.

MR. KELIHER: No, no, it was unintended. I get easily confused, Toni, you know that. Sorry.

MS. KERNS: Okay, thank you.

**CHAIR BORDEN: He's a typical Chairman, trying to vote twice. We have 1 yes, 11 noes, 2 abstentions, any null votes?**

MR. LUISI: Yes, Mr. Chairman, Maryland is a null vote.

**CHAIR BORDEN: Maryland is a null vote. Okay, so motion fails.** We're back to the main motion. We've had a lively discussion. Does someone want to raise a point that has not been raised? Mike Luisi, your hand is still up.

MR. LUISI: Yes, I just wanted to make a really quick point. We're going to support the motion. I feel like this is good progress, and there was a lot of work that went into this motion. The state of Maryland will support the motion, based on the fact that we're making progress and implementing circle hook requirements. Thank you.

CHAIR BORDEN: Given that observation, it would appear appropriate to ask, is there any objection to the main motion as written. Any hands up? Tom Fote, your hand is up, are you objecting?

MR. FOTE: I just have a question to ask. Listening to Pat Paquette, I basically wondered, are the states that have commercial hook and line fisheries are they going to stop drop and snag?

CHAIR BORDEN: Tom, I think we already went through that. In other words, my understanding, and Toni can correct me if I mischaracterize it. This whole Amendment was focused on recreational issues. Toni, correct me if I misstated that.

MS. KERNS: You're correct. Well, we just have provisions for the recreational fishery, not the whole amendment.

**CHAIR BORDEN:** Is there any objection to the motion? There are no hands up, motion is adopted by consensus. Now we're going to move on to the second task, Emilie.

MS. FRANKE: Maya, if you could pull up the second to last slide, it summarizes Task 3, which is the Incidental Catch. Perfect. Here again at the top it just defines the scenarios and incidental catch of striped bass when targeting other species with non-circle hooks with bait attached. Again, there is the Option A, allowing anglers to keep striped bass in that situation. Option B, requiring anglers to release striped bass in that situation, and then at the bottom there is the proposed language, if the Board decides to pursue Option B. Thanks.

CHAIR BORDEN: Thank you, Emilie. You've got two options, and you've got some language that has been suggested if you want to adopt Option B. Does someone care to make a motion on this issue? Dennis Abbott.

**MR. ABBOTT:** I make a motion that we allow anglers to keep striped bass that are incidentally caught.

CHAIR BORDEN: Do I have a second? Seconded by Mike Armstrong. Are you seconding it?

MR. ARMSTRONG: Sorry, no. That was unintentional.

CHAIR BORDEN: Tom Fote, are you seconding the motion?

MR. FOTE: Yes, and I'll explain why.

CHAIR BORDEN: You have a valid motion on the table with a second, as made by Mr. Abbott, seconded by Mr. Fote. Discussion on the motion. Mike Armstrong, you have your hand up.

MR. ARMSTRONG: Okay, this one is for real. During our discussions of the Work Group, it was very clear, and enforcement was emphatic

that if we allowed this as written in the motion, it takes a very difficult to enforce rule, the circle hook rule, and makes it darn near impossible. You know maybe regionally that it's different.

We have a striped bass fishery that overlaps very heavily with bluefish. In effect, you would never have to use circle hooks, because you're always fishing for bluefish, and you happen to catch some striped bass. Because of those reasons, we can't support this motion.

CHAIR BORDEN: Next on the list I have Justin Davis, and then Tom Fote.

DR. DAVIS: I do support the motion, although I certainly respect the arguments on the other side, particularly the sentiment from law enforcement that by preventing anglers from keeping legal size striped bass that are caught incidentally, it might add some enforceability to the circle hook mandate.

I guess I just feel that not allowing incidental catch, will probably only provide a small amount of enhanced enforceability at the expense of potentially provoking backlash from the angling public, in that we are now essentially telling them that if they are not targeting striped bass at all, there are plenty of fisheries where anglers use bait, and they are not targeting striped bass, you know bottom fishing for scup and sea bass and fluke, and things like that, where occasionally an angler may catch a legal size stripe bass.

To tell those anglers they have to release those fish, because they weren't using a circle hook, to me just seems like a step beyond the original intent of this mandate, which was predicated on anglers who are targeting striped bass. I would also find it difficult to make an argument, based on data that it will provide enhanced conservation for the striped bass stock, by making folks release those fish. I'm sure the information might exist, but we don't have it on hand, on sort of rates of incidental capture of striped bass in other fisheries. I guess I come down on the side of supporting this motion. I can understand and respect the arguments on the other side, but I think this is the best path forward.

CHAIR BORDEN: Thanks, Justin. I've got Tom Fote and Pat Keliher on deck.

MR. FOTE: The reason I seconded the motion with Dennis was because, I'll just give you an example. I've got the Governor's Surf Fishing Tournament coming up May 23rd. Summer flounder season will be open at that time from the surf also. I help people fishing in squid to catch summer flounder, particularly if they want to eat it.

If they accidentally catch a striped bass, of the probably 600 kids that I have fishing, because it's a family tournament. I will have to make them release the fish, and I don't want to really do that. I think we incidentally catch all fish. I can't remember one fish we had circle hook rules that if you catch, when you are tuna fishing and you're using a lure, I just don't understand it. I've really got to support this, just because a lot of kids catch the first striped bass as an incidental catch.

CHAIR BORDEN: Thanks, Tom, Pat Keliher and then Pat Geer, you're up next.

MR. KELIHER: I want to echo Mike Armstrong's sentiments, and would encourage people to vote no on this motion. We just spent a lot of time working on some language to clarify the use of circle hooks, and now all of a sudden, we are going to put language on the table that says, all you have to do is say I'm fishing for something else, and go target striped bass.

I know we've had circle hook regulations on the books, well this will be our eighth year, I believe. If we had to follow this, it would make it a non-enforceable situation. Everybody would know just to say no, no, I'm fishing in the upper part of the river, fishing for small mouth, or I'm in the lower part of the river, and I'm fishing for striped bass. I would very much caution any support on this language, and I will be voting no for the reasons stated. Thank you.

CHAIR BORDEN: Thanks, Pat, Pat Geer.

MR. PAT GEER: I'm sympathetic to both sides in this situation. I can see arguments on both sides, but I think Mr. Keliher made a very good point about the enforceability. What is the purpose of having circle hooks if we're going to allow retention without them? What I would really like to hear, is I would like to hear from Law Enforcement about their opinions on this, because they are the ones that are going to be on the water, having to enforce this. What are their thoughts on it, Mr. Blanchard, and other folks that may have been on the Work Group?

CHAIR BORDEN: Deputy Chief Blanchard, do you want to comment?

DEPUTY CHIEF BLANCHARD: Yes, Mr. Borden. I was quite vocal on the Committee meeting on this particular issue. This takes a, as Mr. Armstrong stated, this takes a very, very difficult regulation that we have to identify an individual actually fishing on the water, bringing the fish over the rail, and determine whether he's legal or illegal in his fair take. When we put this in here as incidental take, all that work and all that effort that is going into creating that regulation with this bait definition, the hours that have gone in the Committee work, the hours going to the Board work, all makes this completely unenforceable.

There is no way that we would have the ability to enforce incidental take at that point. We've worked with everybody to come up with that definition that is simple and understandable. We have included openly, and agreed to the lure allowance, and we're really getting into a situation of just a really isolated fishery on fluke or sea bass, where you might be using J hooks with bait, and you might take a fish.

To allow for that one-time effort that we may have an incidental catch, to throw everything else out the window. I just don't think that this is prudent, I really don't. I would abdicate against this motion, not that that is my position in Law Enforcement, but I do not see where this makes any sense in the overall picture.

The other discussion about first time takes and things like that. I really think that this is, I spoke to this on the Committee. I really think that that is our opportunity to talk to young folks, and others that

may be new to the fisheries, to talk about what conservation means, and take the opportunity to highlight why you're returning that fish, caught incidentally, back to the resource, and what that means for the future of the stock.

I just think we're kind of, it's exciting to take that one fish, maybe bring it home, take a picture, whatever. But it really is the point it gets released back. I feel strongly, and I think law enforcement across the Board would feel strongly about this. We have to go with Plan B, Option B. Thank you.

CHAIR BORDEN: Thanks, Kurt. We also have Delayne Brown, Officer Brown on the call, so Mr. Brown, would you like to comment on that, to follow up on Kurt?

LIEUTENANT BROWN: Thank you, Mr. Chairman. I think Deputy Chief Blanchard hit the nail on the head. Well said.

CHAIR BORDEN: Okay, so back on the list then. I've got Roy Miller.

MR. MILLER: It's probably not necessary, but I would agree with the sentiments expressed by Kurt Blanchard. I think if you take lower Delaware Bay, where you have a mixed fishery for bluefish, weakfish, summer flounder, lots of other species, and the occasional striped bass is caught. You just could not prove that they weren't fishing for something else.

Up on the Delaware River, where we currently have a circle hook requirement, it's less problematic. You really only have three choices up there. You've got striped bass, white perch, and catfish. Less of a problem in the river on the spawning grounds. We haven't had a problem with our circle hook requirement there, but I think Option A would be problematic in Delaware Bay. Therefore, I favor Option B, thank you.

CHAIR BORDEN: All right, I've got Bill Hyatt, and then David Sikorski.

MR. HYATT: I also want to speak in opposition to this motion. Prohibitions on retaining incidental catch or otherwise illegal catch are commonplace, and they are generally done for two important reasons. The first is to avoid perverse incentives. You know we don't allow anglers to keep gut hooked fish that are outside the allowed size limit, because it incentivizes cheating. Maybe more important in this case, we have these prohibitions on retaining incidental and otherwise illegal catch, to underscore the importance of the regulations, and to communicate that importance. Circle hook regulations are already difficult to enforce, because they involve intent. This has been mentioned many times.

There is already a running joke among Connecticut anglers that now they are all fishing for bluefish. If we were to further confuse this message by allowing incidental take to be kept, we're going to seriously undercut this effort even further. We would be telling people in effect, not to take the circle hook rules seriously.

I'll say that again, if we do this, we would be telling people not to take circle hook rules seriously. We'll be making it easy for anglers to rationalize gamesmanship, and I don't think we want to do any of that. Again, I'm against this. Thank you.

CHAIR BORDEN: Thank you, Bill, David, you're up next.

MR. DAVID SIKORSKI: I wanted to speak in support of Dr. Davis' comments previously, and all others who spoke in support of this motion. I was part of the Work Group, and I highly respect all the comments that are in support of B. But thinking about it from a Chesapeake Bay perspective, we're kind of a one-trick pony at this point, with folks fishing with bait.

We've put rules in place to make sure that circle hooks are used, and unfortunately recent enforcement actions were basically thrown out by judges. It was a harsh reminder that circle hooks at large are difficult to enforce. While I want what's best for this resource coastwide, I really do think we're shooting for the moon to land amongst the stars, and we have to really consider how this can affect the universe of

recreational anglers out there. It really is a difficult decision to make here, but I do support the motion. Thank you.

CHAIR BORDEN: I've got Mike Luisi. He may have had to step away from his microphone. I'm going to take one comment from the public, then I'm going to go back to Dennis Abbott, ask him whether or not he wants to make any further comments, and then I'm going to call the question. Patrick Paquette.

MR. PAQUETTE: Thank you, Mr. Chairman. Every single internet forum and every single Facebook page that has been discussing this, has somebody who has commented, while I'll just go blue fishing. This is the mother of all loopholes. This motion has to fail, if you want this to have any peer pressure behind it, this has to fail.

In addition, on February 22, the ASMFC released the hearing document that bluefish are in a rebuilding amendment. Maybe we should be encouraging circle hooks for bluefish too. But this absolutely kills the circle hook regulation, if you allow me to go blue fishing. Because bluefish forage on the exact same thing, and oh by the way, people are concerned legitimately on this Board with snag and drop. There is not a seminar speaker or a mainstream fisheries article writer who hasn't written or read or seen in a show, somebody talk about how bluefish are raging a school of bunker, and below it is the big striped bass. These two species are together. You can't target one without the other. This motion needs to fail. Thank you.

CHAIR BORDEN: Thank you, Patrick. I'm going to take one more comment from the audience, and then I'm going to come back to the Board. I'm going to take Andy Dangelo, who is also a member of the Subcommittee. Andy.

MR. DANGELO: The problem I've got, and I talked to Kurt about this at the Committee. I know it says incidentally caught, but if you go,

you know as a charterboat captain here, we'll go striped bass fishing a lot of times first, and then go to fluke fishing or sea bass, something like that. Is enforcement going to be a problem for striped bass that we have on the boat that were caught while targeting striped bass, and then go catch something else? That's my question. That is where I'm a little on either side here. That's what I had to say, thank you.

CHAIR BORDEN: Kurt, do you want to speak to that point? Kurt Blanchard.

DEPUTY CHIEF BLANCHARD: Yes, Andy and I did discuss this, and quite honestly, there will be no, the way I understand the regulation and following laws that support them all, these provisions is that possession of striped bass while fishing for these other species, it would not be prohibited. It's going to be strictly a take situation, so we're really going to have to observe the taking of striped bass for this to be enforceable. You may have possession on the water, it's not going to be sufficient enough to prove a case.

CHAIR BORDEN: Thank you, Kurt, let me go back, I've got Mike Luisi, and I'm going to go back to the maker of the motion. Dennis Abbott is going to get the last comment, and then I'm going to call the question. Mike Luisi.

MR. LUISI: I apologize, I had to switch devices, and I was on mute by the organizer, so I'm now back. I just want to echo what Dave Sikorski said. You know we implemented circle hook rules, I don't know a couple years ago now. One of our big points that we made in Maryland was that if a fish is caught without a circle hook it's okay to keep it, as long as it's legal.

I don't know how. I think we have a hard time here in our state implementing measures that incidentally caught fish without a circle hook would have to be returned to the water. I think we would have a really hard time here. I'm going to stay with Dave on this one, and support this motion. I just wanted everyone to know that. Thank you.

CHAIR BORDEN: Thanks, Mike. Dennis Abbott, you get the last statement, and then I'm going to declare a

two-minute break, and then we're going to call the question.

MR. ABBOTT: Thank you, Mr. Chair. I made this motion with good intentions, but listening to my more learned colleagues, I can see there is more to it. I do think the issue is unenforceable, for the most part. But I think the educational benefit of going in the other direction might be more beneficial, so I will probably vote against my own motion. But I do thank Mr. Fote for seconding my motion. I think good points have been made on both sides, but we'll go. Let's go.

CHAIR BORDEN: All right, I'm going to have a two-minute caucus. We'll reconvene in two minutes. Toni, do you have any hands up?

MS. KERNS: I took everybody's hand down to clear the slate for voting, since you said you were calling the question. But Dave Sikorski has his hand up.

CHAIR BORDEN: Okay, David, I'll go through that introduction again if you want to speak, and then I'm going to basically call the question. David.

MR. SIKORSKI: I just had one last point I forgot to make when I spoke previously, and you know I view this through the lens of all states can be more conservative in this action, and it will be difficult in Maryland for us to implement the Option B, thank you.

CHAIR BORDEN: All right, thank you, David. I'm calling the question. The motion is to allow anglers to keep striped bass that are incidentally caught. Motion by Mr. Abbott, it is seconded by Mr. Fote. All of those in favor of that motion raise your hand.

MS. KERNS: I have New Jersey and Maryland. I'll go ahead and clear the hands for you guys so it's easy. Okay, David.

CHAIR BORDEN: You are a little broken up, you have New Jersey and Maryland.

MS. KERNS: That is correct.

CHAIR BORDEN: Okay, so we have two in favor. If you take those hands down, we'll vote the noes. All those in opposition to the motion, raise your hand. Then Toni, please call the states so it will be reflected in the record.

MS. KERNS: I have Mass, Delaware, Virginia, Fish and Wildlife Service, NOAA Fisheries, Rhode Island, New Hampshire, Pennsylvania, PRFC, and New York.

CHAIR BORDEN: The total is?

MS. KERNS: Go ahead, Emily, thanks.

MS. FRANKE: I have 10 noes.

CHAIR BORDEN: We have 2 yesses, 10 noes. If you take down the hands, please.

MR. KELIHER: Mr. Chairman, I'm sorry, I was running back from a UPS driver who came to the door during the break, and I apologize, but I just put my hand up. That would have been 11 noes.

CHAIR BORDEN: Okay, 11 noes. Maine votes no. Take down the hands then, any abstentions?

MS. KERNS: I see no abstentions.

CHAIR BORDEN: No abstentions, Toni.

MS. KERNS: That is correct.

CHAIR BORDEN: Any null votes? No null votes.

MS. KERNS: You didn't let me speak, we have 2 null votes, Connecticut and North Carolina.

**CHAIR BORDEN: Okay, thank you. The vote is 2, 10, 0, 2. Motion fails.** Do I have another motion? Mr. Reid's hand is up.

**MS. FRANKE: Mr. Chair, the total for the noes was 11.**

CHAIR BORDEN: Oh, excuse me, thank you for correcting me. 2 to 11. Mr. Reid, you have the floor. Eric, are you on?

MR. ERIC REID: Yes, Sir, I am.

CHAIR BORDEN: Would you like to make a motion?

MR. REID: Yes, I would. Maya, I think you have the motion for Option B. I'm glad to read that for the record.

CHAIR BORDEN: Please.

**MR. REID: Okay, I move to approve the following guidance for state implementation of circle hook measures: striped bass caught on any unapproved method of take must be returned to the water immediately without unnecessary injury.** If I get a second, I don't think there is any rationale other than to support Law Enforcement in their efforts.

CHAIR BORDEN: Mike Armstrong, I see your hand up. Do you want to second this?

MR. ARMSTRONG: I do.

CHAIR BORDEN: Mike, do you want to speak in favor?

MR. ARMSTRONG: No, I think we've probably talked about it enough.

CHAIR BORDEN: Okay, so I'll open the floor. I would just comment that there has been a lot of discussion around this motion already, in terms of the pros and cons of the strategy. A number of states have already gone on record, kind of voting against the concept. I would ask members to refrain from being redundant. Anyone want to make a new comment on this? I don't see any hands up. Given the sensitivities on this, I think it's better if we vote, so the

states that may want to vote against it are clearly part of the record. Is there any objection to me calling the question? Does somebody want to make a point that has not been made so far?

MS. KERNS: Mr. Chair, you have Bill Gorham.

CHAIR BORDEN: Bill.

MR. BILL GORHAM: I was part of the Working Group, and I just believe that passing this it's in the name of enforcement or for enforcement on something that is extremely hard to enforce anyways, is an extremely disconcerting overall justification. I would like some more clarification upon the having possession of striped bass while targeting other species, and what that does with enforcement. I was a little confused on that last comment. Thank you.

CHAIR BORDEN: Are you asking for Deputy Chief Blanchard to expand or restate what he stated before?

MR. GORHAM: Yes, it's where if you have a charter that may be targeting multiple species, or at least rockfish, what impacts that has to enforcement for this rule.

CHAIR BORDEN: Okay, Kurt, would you mind repeating what you said before?

DEPUTY CHIEF BLANCHARD: No problem with that, Mr. Chairman. My understanding of the way this provision is being written and being pursued is that the requirements are while in use, so it's while taken. If you're just in mere possession of striped bass while you're at sea, and you're targeting other species at this point.

You're fishing for other types of species like sea bass, scup, fluke or whatever, and using different means to catch those fish, and you've already caught striped bass and you have it in possession. That would not be a violation. The violation would be documented, if in fact you were using those methods and bringing a striped bass over the rail with prohibited methods. This new motion that is being presented, that is where this would come in and strengthen the circle hook provisions.

MR. GORHAM: Just a follow up, if possible, Mr. Chair.

CHAIR BORDEN: Okay, go ahead.

MR. GORHAM: In your experience, is that type of enforcement more likely to happen to shore-based anglers or boat anglers?

DEPUTY CHIEF BLANCHARD: That is really difficult to answer, it really is. In this particular situation the enforcement difficult comes in with the wording of targeting versus take and possess. We advocate, you'll see on our Guidelines for Resource Managers document, we talk about promoting the wording of take and/or possess. Those words have very strong meaning, and enforceability is gained with that type of wording. When we get into targeted, you start to talk about somebody's intent or what their acts are, it becomes much more difficult to enforce. I really can't measure shoreside versus at-sea, that question, I just can't.

CHAIR BORDEN: Thanks, Kurt. Anyone else on this subject? Mike Luisi.

MR. LUISI: Yes, I think in talking with Dave, Maryland is going to, we are not going to be able to support this. We have so many, our fishery here in the Chesapeake Bay, and I'll speak to the Chesapeake Bay. We have all along expressed our interest in educating and abdicating for circle hooks for the last few years, with the exception that if somebody does catch a striper that is a legal sized fish, you know fishing for something else, they are able to keep it.

We're going to have a really, really difficult time implementing something like this, and the messaging in our state is going to be very, very difficult. I just want the Board to understand that. We just have such a mixed fishery up here, with you know bottom fishing. It's going to be really hard. Just because we've got the resident fish, they are smaller. I don't need to

educate the Board; the Board understands that. But it's kind of a mixed bag.

In my opinion, I think that we need to take steps forward, which I think we are. We're taking the steps forward, but I think this is too restrictive. To ask somebody who catches a striper that is of legal size with a J hook to throw it back. I've listened to the discussion, and I understand the other side of it, but it's going to be really hard on our end, and I just want to make everybody aware of that. I'll stop there.

CHAIR BORDEN: Anyone else care to make a point that has not been made, a new point? If not, I'm going to call the question. I see no hands up.

MS. KERNS: David, you have two hands up, well, you have three hands up, two members of the Board and one member of the public. You have Pat Keliher and Tom Fote, do you see them?

CHAIR BORDEN: No, I don't see either one of them. Pat Keliher, and then Tom Fote, and then we'll go take one comment from a member of the public, and then we're going to call the question.

MR. KELIHER: I'll try to be brief here. I mean if anybody is going to retain a striped bass that is caught on unapproved methods, then they're in violation, and I think that is what Kurt is saying. I'm not saying I'm necessarily opposing this, but it kind of goes without saying. You can't retain anything with an unapproved method.

When I had these conversations with Marine Patrol, it was clear that we would be writing a violation in any of those type of situations. I would also go back to the very beginning of the meeting. I think Bob made a comment that the incidental catch is not part of the current Addendum. How are we going to address that? Are we going to now have to bring this into the Addendum at a later date, if this does pass? I am going to need some clarification there.

CHAIR BORDEN: Toni or Bob Beal.

EXECUTIVE DIRECTOR BEAL: This is Bob. The answer to Pat's question. It's a little bit tricky. You know

Addendum VI is finished, and it did not include this notion of incidental take and incidental catch, so adding that to a document that didn't contemplate this issue when it went out for public hearing is a little bit risky. You know there are a couple ways to do it.

You could start a new Addendum, but we're right in the middle of Amendment 7 process, that may not be the best way to do it. You could add this notion to Amendment 7, but it probably wouldn't be in place for a year plus. There is no real easy way to get this approved and required as a compliance criterion right now. It's clear that this is the direction the Board wants to go, or a lot of people on the Board want to go this way. I think that if this motion passes, I think that is probably the next discussion.

CHAIR BORDEN: Pat Keliher, did that answer your question?

MR. KELIHER: Yes, Mr. Chairman. It seems to me that we're going to be opening a door up for modification to the document if we load in the affirmative on this. Again, I would go back to what Kurt said, if I heard him correctly. I'm not sure if this strengthens the position of law enforcement or not. I don't think it would with the Maine Marine Patrol, based on the conversations I've had back home.

Again, if you're fishing with an unapproved method of gear and you retain a fish, you're in violation. I'm not sure we need to reiterate that in any document. It's clear, at least it will be clear for the enforcement standpoint in Maine, I don't want to speak for the other states. If Kurt wants to weigh in on that.

DEPUTY CHIEF BLANCHARD: Mr. Chair, I'm happy to comment if needed.

CHAIR BORDEN: Please.

DEPUTY CHIEF BLANCHARD: I was a little confused on what Pat was saying, but I think I

understand the tail end of what he was getting at. I believe that this wording absolutely strengthens what was already agreed upon in the previous discussions. Whether it's needed or not I think would be a Commission position.

I think by placing compliance measures, or wording the compliance measures that are already in place by default, this wording is there, it's just not stated. If I'm making myself clear on that. I think obviously whenever you put a regulation in place, you have to comply with that regulation. When the states adopt this and put it into their basic regulations back home, fishermen have to be required to comply.

If we're saying that these are the only approved methods. By default, any fish that are caught by unapproved methods should go back, and I think that's what Pat was getting at. I believe that we would have no problem enforcing that. I just do agree that this wording here strengthens that. I'm not sure how it might hurt the process for Amendment 6.

MR. KELIHER: Mr. Chairman, if I may follow up.

MS. KERNS: David, you're on mute if you're speaking.

CHAIR BORDEN: Okay, so I'm back on. Thank you, Pat, sorry about that. I've got Bill Hyatt on the list who wants to speak.

MR. HYATT: If I'm understanding this correctly, what Pat is saying is that the intent of this motion is implicit in the measures that have already been taken, and it's raised as guidance. As such, wouldn't passage of this motion simply be a clarification? I guess it's a question through you to Bob.

CHAIR BORDEN: I actually was going to say something similar, Bill, because of the word guidance in it, and the fact as Bob Beal related earlier in the dialogue. States always have the right to do something more restrictive. Between those two, if this is guidance, I think some of the problem that people are trying to characterize goes away. Is there anyone else that feels a compelling need to speak on this issue? I have no hands up.

MS. KERNS: I do have some hands that are raised. As I said before, there is one member of the public that has had their hand raised for a little bit, and then we have Max Appelman and Tom Fote.

CHAIR BORDEN: All right, we're going to take those three individuals, then I'm calling the questions. Tom Fote, you're next.

MR. FOTE: Yes, one of the things that concerns me, where we didn't put this in the Amendment, a lot of people supported the circle hook thinking it wasn't going to eliminate incidental catch. I think of tackle store owners that basically cater to the surf fishermen, basically went ahead and started stocking circle hooks.

But they also continued buying the mullet rigs. Unless you're a surf fisherman, you don't know what I'm talking about. A mullet rig is basically what you fish mullet with. It's a split hook, you know it's a two-prong hook that you put the mullet through, and you put this two-hook on. You catch bluefish, you catch kingfish, you catch whatever is in the surf, but it does catch striped bass.

You basically want to keep a fish, and it might be bluefish, striped bass. It does away with the mullet rigs. This is a big expense for tackle stores, because they basically stock up mullets for probably a year, so they have it in the spring, because they catch it in the fall. Now they have the hooks all set, means thousands of them in each tackle store, and they are basically going to stop selling those rigs.

The impact, at least with the circle hook they had time to basically get rid of their old stock, and I don't know what they're going to do with the stock now. They've had a hard time with the virus to begin with, and now they're going to have a further hard time. They wondered whether this would impact them that way, so I just wanted to bring that to your attention.

CHAIR BORDEN: Thanks, Tom, I've got Max, and then I'm going to take one comment from the public.

MR. APPELMAN: I might be getting even more confused by the second. I'm reading the Addendum, and I heard a lot of emphasis from Kurt on words like take versus target, and the Addendum doesn't specifically say the word target, but it says when recreationally fishing for striped bass with bait.

To me that is different than what we're trying to do here with this motion. I'm seeing a difference here. I think this does strengthen it, it is not implied in the way the Addendum is written now, in my opinion. I'm just getting a little confused here, and I just wanted to make sure I have that right, that this is not necessarily implied in the Addendum as it's currently written.

CHAIR BORDEN: Toni, who is the member of the public that you have?

MS. KERNS: You have Mike Waine.

CHAIR BORDEN: Mike Waine, you've got the last word, Mike.

MR. WAINE: Mike Waine with the American Sportfishing Association. I won't echo the comments that Tom Fote just made about the tackle shops scratching their heads. I think a lot of the angling community is going to be scratching their heads about the intent here. I just wanted to bring up a comment that I didn't really hear amongst the Board discussion.

I'm really hopeful that as states commit to education and outreach, assuming this motion passes. I think that's going to be a really critical component of getting the angling community onboard with the intent here. I really do hope that the states, and the Commission, frankly, take that education and outreach very seriously. Thanks.

CHAIR BORDEN: Thank you, so we're going to do a two-minute caucus, and then I'm going to come back and I'm going to call the question. Toni, are you back on?

MS. KERNS: Never left, David.

CHAIR BORDEN: Thank God!

MS. KERNS: Couldn't leave you guys.

**CHAIR BORDEN: Okay, so I would like to call the question. I'll just read the motion: Move to approve the following guidance for state implementation of circle hook measures, striped bass caught on any unapproved method of take must be returned to the water immediately without unnecessary injury. Motion by Mr. Reid, seconded by Mr. Armstrong.** All those in favor of the motion, please signify by raising your right hand. Toni, if you would, call the roll, please.

MS. KERNS: Will do. I have Massachusetts, Connecticut, New York, Maine, Delaware, Virginia, NOAA Fisheries, Fish and Wildlife Service, Rhode Island, Connecticut, Pennsylvania, and PRFC. I will take the hands down for you all. I'm sorry, a hand came in. I don't know if I said New Hampshire.

MS. FRANKE: Mr. Chair, with New Hampshire, that would be 12 yesses.

CHAIR BORDEN: We have 12 yesses, the hands are taken down. All those opposed, raise your left hand.

MS. KERNS: It's like a trick. I have New Jersey. That's all I have, Mr. Chair.

CHAIR BORDEN: We have one no vote, any abstentions? Toni.

MS. KERNS: I see no abstentions.

CHAIR BORDEN: Any null votes?

MS. KERNS: I have one null vote, North Carolina.

**CHAIR BORDEN: We have 12 in favor, 1 opposed and 1 null vote, correct?**

MS. KERNS: Yes.

**CHAIR BORDEN: Okay, so motion passes.** Is there any other business to come before the Board today? If not.

MS. KERNS: Sorry, David, since you can't see the hands, we have Pat Keliher and then Justin Davis have their hands up.

CHAIR BORDEN: Okay, thank you. Pat Keliher and then Dr. Davis.

MR. KELIHER: I was muted by the Organizer, I think Toni had enough of me, Mr. Chairman. At the last Striped Bass Board meeting we spent a lot of time discussing the study that Maine and Massachusetts were going to do regarding tube and worm. To me this conversation today, as it pertains to circle hooks, bait, and all these definitions, would now speak to the fact that that is now no longer needed. I just want to make sure we clarify that to today's meeting.

MS. KERNS: David, would you like me to respond?

CHAIR BORDEN: Please.

MS. KERNS: Pat, I agree that the tube and worm lure would be covered under the motion that was approved today, so you would not to do that study any longer.

MR. KELIHER: Great, thank you, Toni. That would be my belief as well. Do we need to memorialize this any way, Mr. Chairman, or do you feel like this has just been made clear in the record?

CHAIR BORDEN: Yes, I think I would ask the staff to make sure that point is clear in the record. That's all. I don't think we need a motion on the subject.

MR. KELIHER: Great, thank you, Mr. Chairman.

CHAIR BORDEN: Okay, and then Dr. Davis. Justin.

DR. DAVIS: I just wanted to clarify that there is no need here for anything like an implementation date or something, in that the rules that states already have had to put on the books to meet the original mandate

are more restrictive, I guess, than what we've agreed to today.

Although I wonder about this last bit with the guidance on incidental catch. Because like from Connecticut's standpoint, the rules we currently have on the books would allow take of incidental catch, and so we will have to revise our rules. I just wonder, is there any need for an implementation date?

CHAIR BORDEN: I would just offer the comment that that would be desirable, but I'm a little bit reluctant to get into that discussion. I think that one way you could handle it without us arbitrarily picking an implementation date, would be that all states communicate to Emily what their intentions are.

In terms of either modifying their regulations, in other words so that we have some understanding of what is going to take place in what timeframe. Does that make sense? Any further comments? Any other business to come before the Board? If not, the last thing I would like to do is once again, thank the Subcommittee.

MS. KERNS: David, I'm sorry. I can't get you fast enough. Ritchie White has his hand up.

CHAIR BORDEN: Ritchie White.

MR. WHITE: I guess I didn't quite understand what Pat just stated. This whole process began with the study. We implemented these regulations quickly, to undo what we had done or partially undo, I should say, what we had done when we first passed the circle hook mandate.

Then this regulation was based on proving that tube lures do not cause increased mortality using J hooks, as opposed to circle hooks. Also, to prove that circle hooks could or could not be used in tube lures. I guess I don't understand why that study is going away all of a sudden,

with the passing of these last two motions. Thank you.

CHAIR BORDEN: Pat, do you want to follow up on that?

MR. KELIHER: Sure, I would just point to the fact that we passed a motion today that specifies that circle hooks are required when fishing for striped bass with bait. It goes on to describe that bait, and it says this shall not apply to any artificial lure with bait attached. A tube and worm are an artificial lure with bait attached. If we've just approved that, why do we need to study it?

MR. WHITE: Follow up.

CHAIR BORDEN: Yes, Ritchie, go ahead.

MR. WHITE: Well, we need to study it to see that there is not increased mortality. This all started with, it's fine to exempt tube lures, which now has morphed into quite a lot more, because there is no increased mortality using J hooks and those methods, compared to circle hooks. Now, just by passing these, that goes away. Now we won't know whether tube lures with J hooks creates more mortality than circle hooks. Just because we passed this, I don't see why the study should go away.

CHAIR BORDEN: Thanks, Ritchie. I would ask the same group of states, and I think New Hampshire was part of it that discussed the need for studies originally, to at least caucus and talk through Ritchie's point. Maybe there is one state that wants to do a project with their constituency without some kind of mandate. I'm just a little bit reluctant to dive into this issue at this point on the agenda.

Anyone want to offer anything different on this? Pat, would you be willing to arrange a dialogue conference call between the states that expressed an interest, you, Massachusetts, I think New Hampshire, Rhode Island and staff can correct me. I think those were the states that wanted to talk about the details, and then address the point that Ritchie has made. Are you willing to do that?

MR. KELIHER: Sure, I would be happy to, Mr. Chairman.

CHAIR BORDEN: Thank you.

MR. WHITE: Dave, excuse me, another clarification, please?

CHAIR BORDEN: Go ahead.

MR. WHITE: I mean I think this issue is not between the states that were going to do the study, and New Hampshire was not part of that group. I think it's for the Board to determine. The Board voted to give an exemption to mandatory circle hooks that were in place, and the reasoning for that was to implement a two-year study.

The regulations were supposed to be in place for two years, while a study was conducted to look at the mortality of tube lures. Then at the end of the two years it would be analyzed whether the tube lures could continue with J hooks, or that it would have to revert to circle hooks if there was an increased mortality. The Board owns this, from the way I view this, not a couple of states that were going to do a study. I think that the Board passed this with the study as part of what we passed. I think the minutes would reflect that. Anyway, that is just my take. Maybe there is other Commissioners, or most other Commissioners don't agree. I don't know.

CHAIR BORDEN: Any other Commissioners want to discuss this? Bob Danielson.

MR. DANIELSON: As a member of the Advisory Panel and a member of the Committee, the Ad Hoc Committee on Circle Hooks. One of the first things that was pointed out to the Committee was the fact that the circle hook regulation was never intended to target lures that were being actively moved through the water, as opposed to something sitting static on the bottom.

I think based on that, I believe the second slide of Emilie's presentation this afternoon stated that fact outright, and I think that's why the thought was that with the exemptions put forward by the Committee, the study on the tube and worm rig was no longer necessary. I could have misinterpreted, but that was my takeaway from the discussions we had at the Subcommittee. Thank you, Mr. Chairman.

CHAIR BORDEN: Thank you very much, Bob. Is there anyone else? I have no other hands up on this, other than the point that Ritchie has made.

MS. KERNS: You have Dennis and Tom Fote, and then Ray Kane.

CHAIR BORDEN: Dennis Abbot.

MR. ABBOTT: Yes, thank you, Mr. Chair. I would like to hear Mike Armstrong's comments. It was my understanding that the Commonwealth was undertaking a two-year study regardless of whatever, before this even became, before we got to where we are today. Mike Armstrong is just dropping this, because we passed what we did today? I thought he made some sort of a promise or whatever that the Commonwealth would conduct a two-year study. That's my remembrance.

CHAIR BORDEN: Mike, do you want to follow up on this?

MR. ARMSTRONG: Sure. Boy, let me remember. I mean I think it is a moot point now. I think the language we just passed exempts tube and worm. We're not sure if we're going to do it or not now, if the Board allows us to not do it anymore, which I think it's probably the right thing to do.

At the time it was just purely to get an exemption for tube and worm, which anecdotally from all reports doesn't deep hook fish. We wanted to get that for our anglers, so we agreed to do the study. Now that it has been exempted by the Board, I don't see why we need to do it. We may in fact still do it, but I'm not going to promise that, because we may get interesting information from it anyway.

CHAIR BORDEN: Thanks, Mike. I'm just going to go back to the same point I made before. Pat Keliher has agreed to coordinate among any states that have an interest in this, to talk about is there still a need to do a study on this? It seems to me that a conclusion will come out of that. Let's just take the state of Maine at their word that they will do that. Then they can report at the next meeting. Any objections to doing this? I don't see any hands up, so any other business to come before the Board?

MS. KERNS: Just to confirm, Ritchie White has his hand up.

CHAIR BORDEN: Ritchie.

MR. WHITE: Sorry, just didn't get it down.

#### **ADJOURNMENT**

CHAIR BORDEN: All right, so any other business? If not, meeting is adjourned.

(Whereupon the meeting adjourned at 3:40  
p.m. on March 16, 2021)