



Atlantic States Marine Fisheries Commission

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MEMORANDUM

TO: Atlantic Menhaden Management Board

FROM: Michael Waine, Plan Development Team Chair

SUBJECT: Review of Amendment 2 Management Sections

DATE: February 12, 2013

Enclosed are the management sections of Amendment 2, adopted by the Board at its December 2012 meeting. The PDT requests the Board review the language in these sections to ensure the Board's intent was captured accurately. The full Amendment will be published on the Commission's website upon confirmation of the language in the enclosed sections and completion of the episodic events set aside section.

2.5 BIOLOGICAL REFERENCE POINTS

Current Overfishing, Overfished/Depleted Definitions

The current overfishing definition is a fecundity-per-recruit threshold of $F_{15\%MSP}$ and a target of $F_{30\%MSP}$. The current fecundity-based overfished definition is a threshold of $SSB_{15\%MSP}$ and a target of $SSB_{30\%MSP}$. Benchmarks are calculated using all years, 1955-2011. Reference points are recalculated during an update and benchmark stock assessment, see the latest stock assessment for point estimates of reference points and stock status determination (ASMFC, 2012).

2.6.2 Stock Rebuilding and F Reduction Schedules

F Reduction Schedule

Ending Overfishing (Reducing F to the threshold)

Through implementation of Amendment 2, the Board is taking immediate action to end overfishing.

Timeframe to Achieve the F Target

Upon receipt of results from a new benchmark peer-reviewed assessment, the Board shall specify a timeframe and take action to reduce F to at least the target $F_{30\%MSP}$.

3.6.1.2 Quota Monitoring

The Board adopted a state-by-state quota system (*Section 4.2.1.3*), with a 100% payback of quota overages (*Section 4.2.1.6*). Each state will implement timely quota monitoring systems in order to be accountable for its annual quota and minimize the potential for overages. Each states timely quota monitoring program must be approved by the Board as it relates to the state's specific fisheries using the following guidelines:

The approved methodology for timely monitoring,

- must be approved by the Board as a valid method for monitoring (high probability of success)

- must require menhaden purse seine and bait seine vessels (or snapper rigs) to submit Captain's Daily Fishing Reports (CDFRs) or similar trip level reports as implemented in Amendment 1.
- is recommended to have trip level harvester monitoring within 7 days of actual landing date, unless a different timeframe is approved by the Board.
- is recommended to collect the ACCSP data elements listed below.

Recommended data elements for Atlantic menhaden (see **Error! Reference source not found.** and **Error! Reference source not found.** for details)

(1) trip start date (2) vessel identifier (3) individual fisherman identifier (4) dealer identification (5) trip number (6) species (7) quantity (8) units of measurement (9) disposition (10) county or port landed (11) gear (12) quantity of gear (13) number of sets (14) fishing time (15) days/hours at sea (16) number of crew (17) area fished

3.6.2.1 Biological Data

Biological Data Requirement

Each state in the New England (ME, NH, MA, RI, CT) and Mid-Atlantic (NY, NJ, DE) regions are required to collect one 10-fish sample (age and length) per 300 metric tons landed for bait purposes. The TC recommends collecting the samples by gear type. One 10-fish sample consists of 10 fish collected from a distinct landing event (e.g., purse seine trip, pound net set). Each collection of 10 fish is an independent sampling event; therefore, multiple 10-fish samples should not be collected from the same landing event.

Each state in the Chesapeake Bay (MD, PRFC, VA) and South Atlantic (NC) regions are required to collect one 10-fish sample (age and length) per 200 metric tons landed for bait purposes. The TC recommends collecting the samples by gear type. One 10-fish sample consists of 10 fish collected from a distinct landing event (e.g., purse seine trip, pound net set). Each collection of 10 fish is an independent sampling event; therefore, multiple 10-fish samples should not be collected from the same landing event.

The TC recommends that the NMFS Beaufort Lab maintain or increase its current biological sampling of the Atlantic menhaden reduction fishery.

3.6.2.2 Adult CPUE Index

Adult CPUE Index Requirement

At a minimum, each state with a pound net fishery must collect catch and effort data elements for Atlantic menhaden as follows, total pounds (lbs) landed per day; number of pound nets fished per day. These are harvester trip level ACCSP data requirements. In order to characterize selectivity of this gear in each state, a goal of collecting five 10-fish samples annually is recommended. One 10-fish sample consists of 10 fish collected from a distinct landing event (e.g., pound net set). Each collection of 10 fish is an independent sampling event; therefore, multiple 10-fish samples should not be collected from the same landing event.

The TC is currently analyzing the data needs for other stationary gears that encounter Atlantic menhaden to develop a more robust CPUE index of adults across the species' range. Based on the TC's recommendations, the Board may approve additional adult CPUE index requirements through Board action.

4.2 COMMERCIAL FISHERY MANAGEMENT MEASURES

4.2.1 Total Allowable Catch (TAC)

4.2.1.1 TAC Specification

The Atlantic Menhaden Management Board will set an annual or multi-year TAC based on the following procedure.

The Atlantic Menhaden TC will annually review the best available data including, but not limited to, commercial and recreational catch/landing statistics, current estimates of fishing mortality, stock status, survey indices, assessment modeling results, and target mortality levels. The TC will calculate TAC options based on the Board selected method of setting a TAC (see *Section 4.2.1.2*). The Board will set an annual TAC through Board action with the option of setting a multi-year TAC, reviewed annually.

At its December 2012 meeting, the Board implemented a TAC of 170,800 MT using the ad-hoc approach to setting TACs described in *Section 4.2.1.2*. This TAC represents a 20% reduction from the recent three year average of catch (2009-2011). The 170,800 MT TAC will begin in 2013 and remain in place until reviewed after the next benchmark stock assessment is completed, currently scheduled for 2014.

States have the responsibility to close directed commercial fisheries in their state once the TAC (or a percentage thereof) has been reached. Every state is required to submit their official dated closure notice to the Commission as part of their annual compliance criteria.

4.2.1.2 TAC Setting Method

The Board will set the TAC based on the best available science (e.g., projection analysis), but if the projections are not recommended for use by the TC, the Board will set a quota based on the ad-hoc approach used by the Regional Fishery Management Councils (ORCS 2011).

Given the uncertainty in the most recent stock assessment update (ASMFC 2012), the projection analysis that explored constant landing scenarios with a probability and timeframe to achieve the target F , are not usable for setting a TAC. This means that the level at which the Board needs to reduce landings to achieve the target F over a set time frame is unknown. However, because overfishing is occurring, the Board is using the ad-hoc TAC approach to end overfishing and reduce F to the target level.

At its December 2012 meeting, the Board implemented a TAC of 170,800 MT using the ad-hoc approach described below. This TAC represents a 20% reduction from the recent three year average of catch (2009-2011). The 170,800 MT TAC will begin in 2013 and remain in place until reviewed after the next benchmark stock assessment is completed, currently scheduled for 2014.

4.2.1.3 TAC Allocation

The Atlantic menhaden commercial TAC will be managed on a state-by-state basis using an average of the historical state landings of bait and reduction fisheries combined from 2009 through 2011 (see allocation table below).

State	TAC Percentage (%)
Maine	0.04
New Hampshire	0
Massachusetts	0.84
Rhode Island	0.02
Connecticut	0.02
New York	0.06
New Jersey	11.19
Delaware	0.01
Maryland	1.37
PRFC	0.62
Virginia	85.32
North Carolina	0.49
South Carolina	0
Georgia	0
Florida	0.02

Allocation Revisit Provision

TAC allocation will be revisited 3 years from Amendment 2 implementation, or may be revisited at any time through the adaptive management process (*Section 4.6*).

4.2.1.4 Quota Transfers

Two or more states, under mutual agreement, may transfer or combine their Atlantic menhaden quota. These transfers do not permanently affect the state-specific shares of the quota, i.e., the state-specific shares remain fixed. The Executive Director or designated ASMFC staff will review all transfer requests before the quota transfer is finalized. Quota transfer agreements should be forwarded to the Board through Commission staff.

Once quota has been transferred to a state, the state receiving quota becomes responsible for any overages of transferred quota. That is, the amount over the final quota (that state's quota plus any quota transferred to that state) for a state will be deducted from the corresponding state's quota the following fishing season.

4.2.1.5 Quota Rollover

The quota rollover option only applies if the stock status is not overfished and overfishing is not occurring. At that time, the Board can annually specify the percent of unused quota that can be rolled over. Any quota that is rolled over must be used in the subsequent fishing year, if it is not used the quota cannot carry into a second fishing year. Any rollover chosen would apply to all final allocations (including transferred quota if applicable).

4.2.1.6 Quota Payback

Any overage of a state's quota is subtracted from that specific state's quota the subsequent fishing year on a pound for pound basis. Overage determination is based on final allocations (including overages after transferred quota if applicable).

4.2.1.7 Bycatch Allowance

An incidental bycatch allowance is strictly for non-directed fisheries. States are not eligible to submit alternative state management regimes (*Section 4.5*) in lieu of the bycatch allowance as written.

No directed fisheries for Atlantic menhaden shall be allowed when the fishing season is closed. An incidental bycatch allowance of up to 6,000 pounds of Atlantic menhaden per trip for non-directed fisheries shall be in place during a season closure. The amount of Atlantic menhaden landed by one vessel in a day, as a bycatch allowance, shall not exceed 6,000 pounds (this prohibits a vessel from making multiple trips in one day to land more than the bycatch allowance). The use of multiple carrier vessels per trip to offload any bycatch exceeding 6,000 pounds of Atlantic menhaden is prohibited. A trip shall be based on a calendar day basis.

Bycatch Reporting

Bycatch landings by non-directed fisheries are required to be reported through the timely reporting system approved by the Board in *Section 3.6.1.2*. All bycatch from non-directed fisheries during a closed season must be reported separately from directed harvest in annual compliance reports. Bycatch landings will be reviewed on an annual basis by the Board to monitor the appropriateness of the bycatch allowance.

4.2.1.8 TAC Set Aside for Episodic Events

See memo titled “Episodic Events Set Aside”.

4.2.2 Atlantic Menhaden Chesapeake Bay Reduction Fishery Harvest Cap

The annual total allowable harvest from the Chesapeake Bay by the reduction fishery is limited to no more than 87,216 metric tons (a 20% reduction from 109,020 which was the average landings from 2001-2005). Harvest for reduction purposes shall be prohibited within the Chesapeake Bay when 100% of the 87,216 cap is harvested from the Chesapeake Bay. This cap is in place until modified by the Board through the adaptive management process (*Section 4.6*). Over-harvest in any given year will be deducted from the next year’s allowable harvest.

Annual Credit for Harvest Underages

The annual Chesapeake Bay harvest cap is not based on a scientifically quantified harvest threshold, fishery health index, or fishery population level study. Due to data limitations, it is unknown if exceeding the 87,216 metric-ton limit will negatively affect the health of the menhaden population. The cap is designed to prevent all of the reduction fishery harvest from occurring in the Chesapeake Bay, a critical nursery area for Atlantic menhaden.

The maximum rollover of unlanded fish is 10,976 metric tons (a 20% reduction from the prior maximum rollover amount of 13,720 metric tons). The rollover applies to the following year only, and will not be carried for subsequent years.

In years when annual menhaden harvest in the Chesapeake Bay for reduction purposes is below the 87,216 metric-ton cap, the underage amount shall be credited to the following year’s allowable harvest. Under no circumstances can allowable harvest in any given year exceed 98,192 metric tons. Such credit can only be applied to the following calendar year’s harvest cap and cannot be reserved for future years or spread over multiple years.

4.5.2 *De minimis* Fishery Guidelines

4.5.3.1 *Criteria for De Minimis Consideration*

A state can apply annually for *de minimis* status if a state does not have a reduction fishery, following the procedure in *Section 4.5.3.3*. To be eligible for *de minimis* consideration in the bait fishery, a state must prove that its commercial bait landings in the most recent two years for which data are available did not exceed 1% of the coastwide bait landings.

4.5.3.2 *Plan Requirements if De Minimis Status is Granted*

If *de minimis* status is granted, the *de minimis* state is required to implement, at a minimum, the coastwide management requirements contained in *Section 4.0* of Amendment 2. Additionally all *de minimis* states except New Hampshire, South Carolina, and Georgia must adhere to timely quota monitoring as approved by the Board (*Section 3.6.1.2*).

States granted *de minimis* status are exempt from collecting biological data and the adult CPUE index data (*Section 3.6.2.1* and *Section 3.6.2.2*).

If the coastwide fishery is closed for any reason through Emergency Procedures (*Section 4.7*), *de minimis* states must close their fisheries as well.

Any additional components of the FMP, which the Board determines necessary for a *de minimis* state to implement, can be defined at the time *de minimis* status is granted.



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MEMORANDUM

TO: Atlantic Menhaden Management Board

FROM: Michael Waive, Plan Development Team Chair

SUBJECT: Episodic Events Set Aside

DATE: February 12, 2013

The Board approved the use of an episodic events set aside in Amendment 2. In December the Board indicated it would discuss and finalize the episodic events set aside implementation details at its February 2013 meeting. This memo provides the Board with information to support that discussion.

Amendment 2, as written states:

One percent (1%) of the overall TAC (as determined in *Section 4.2.1.1*) may be set aside for episodic events. Episodic events are times and areas where Atlantic menhaden are available in more abundance than they normally occur. The set aside is designed to provide flexibility to states that experience episodic events to harvest menhaden in lieu of their original state by state allocation percentages (*Section 4.2.1.3*).

To qualify for the episodic events set aside a state's bait landings must have been less than 2% of the total coastwide bait landings from 2009-2011. ME, NH, RI, CT, NY, DE, SC, GA, and FL qualify and are eligible to opt into the episodic events set aside. A state that opts into the set aside forfeits their state allocation and harvests from the set aside quota pool (1% of the overall TAC). The set aside quota pool is shared among all states opting into the set aside. A state's forfeited quota is distributed to the states that do not qualify or did not opt into the set aside using historical allocation percentages from 2009-2011 recalculated without the states that opted into the set aside. On September 1, any unused set aside will be reallocated to all states (including states that opted into the set aside) based on the quota percentages in *Section 4.2.1.1*. A state must inform the Commission's Executive Director of its intention to opt into the episodic set aside for the following year by November 1 annually.

States that opt into the episodic events set aside must:

- Specify that any unused set aside will be rolled over into the overall quota after September 1.
- Specify that the Board will require states to implement effort controls to scale the fishery appropriate to the set-aside quota level given the number of states that opt into the set aside. For example the State of Maine currently restricts harvester vessels >50', restricts all vessels/carriers to land no more than 250,000 pounds per day and restricts carriers greater than 90'. Gear, time, season, trip limits and triggers etc are other options for different jurisdictions to consider.
- Require that reporting meet or exceeds requirements as specified in *Section 3.6.1.2*.

- Require that if the set aside is exceeded, any overages are reduced from the next season’s episodic events set-aside.

Potential TAC Set Aside Scenario (An Example)

Under the current quota, one percent of the 170,800 metric ton (mt) TAC results in a episodic set aside of 1,708 mt. If all nine states eligible for the set aside opt in, their combined state quotas (approximately 273 mt) are given up and those nine states share the 1,708 mt set aside quota pool. The relinquished 273 mt of quota would be reallocated to the states that were ineligible for the set aside resulting in a re-allocated TAC. The table below shows each states TAC if nine states (all that are eligible) opt into the set aside.

TAC	170800	1% Set Aside	1708	
State	*TAC (MT)	All eligible states opt in	TAC given up by states opting in	Re-Allocated TAC
ME	66.58	1	66.58	shared SA
NH	0.05	1	0.05	shared SA
MA	1417.94		0.00	1420.23
RI	30.29	1	30.29	shared SA
CT	29.50	1	29.50	shared SA
NY	93.76	1	93.76	shared SA
NJ	18924.42		0.00	18955.02
DE	22.33	1	22.33	shared SA
MD	2320.98		0.00	2324.73
PRFC	1049.69		0.00	1051.39
VA	144272.84		0.00	144506.06
NC	833.23		0.00	834.57
SC	0.00	1	0.00	shared SA
GA	0.00	1	0.00	shared SA
FL	30.39	1	30.39	shared SA
		9	272.9	

*State TACs after the 1% has been set aside and removed from the coastwide TAC

Development of the Set Aside for Board Consideration

The Plan Review Team (PRT) recommends the Board consider several criteria when reviewing how episodic events set asides will be implemented. The Board should consider developing criteria to address the below issues in order for set asides to function as conceptualized by the Board.

- Develop specific criteria to determine if a state’s effort controls scale their fisheries to the size of the set aside quota level. Add language that clarifies the proposed effort controls of states opting into the set aside must be approved by the Board.
 - For example at 250,000 pounds per day Maine has the potential to harvest the entire set aside in 15 days with one vessel.
- Consider a mechanism for states to adjust effort controls in the fishing year if a state(s) effort controls do not adequately reduce effort in their fishery. In season adjustments may be necessary to prevent set aside overages.

- For example a state may need to reduce its trip limit if the set aside is close to being harvested
- In order for the set aside to be monitored on a timely basis, the PRT needs to have specific criteria for how and on what time scale the quota will be monitored. The PRT recommends the Board specify minimum reporting requirements for states opting into the set aside. Section 3.6.1.2 specifies that states must implement timely quota monitoring (plans are approved by the Board), but timely is not specifically defined. The Board may consider requiring trip level reporting through the e-trips SAFIS system for all states that opt into the set aside. Without timely (recommend weekly) quota monitoring it is feasible that the set aside quota would be exceeded very quickly if states have large trip limits. The overages have the potential to be significant without proper monitoring.
- The current language states that the set aside quota pool would be rolled back into the overall TAC on September 1. States are concerned that if an episodic event is occurring, and states are still fishing, they would lose the opportunity to harvest at the levels that they were allowed under the set aside. The Board may consider if a percentage of the set aside quota is harvested by September 1, (e.g., 50%, 75%) then the set aside quota would be extended through the end of the year and would not be rolled over into the overall TAC for all states.
- The PRT recommends that state(s) opting into the episodic events set aside are not eligible for *de minimis* status to ensure that biological samples (age and length data) are collected by state(s) harvesting from the set aside pool.

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PROCEEDINGS OF THE

ATLANTIC STATES MARINE FISHERIES COMMISSION

ATLANTIC MENHADEN MANAGEMENT BOARD

**Best Western Plus Hotel
and Conference Center
Baltimore, Maryland**

December 14, 2012

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These minutes are draft and subject to approval by the Atlantic Menhaden Management Board.
The Board will review the minutes during its next meeting

INDEX OF MOTIONS

1. **Approval of Agenda** by Consent (Page 1).
2. **Approval of Proceedings** by Consent (Page 1).
3. **Move to adopt the MSP-based reference points, target equals SSB 30 percent, MSP and threshold equals SSB 15 percent MSP** (Page 20). Motion by David Pierce; second by Jaime Geiger. Motion carried (Page 24).
4. **Move to table the motion until the Board receives the peer reviewed benchmark assessment in 2014** (Page 21) . Motion by Jack Travelstead. Motion failed (Page 23).
5. **For Option B: move that harvest be restricted through the use of a TAC** (Page 24). Motion by Adam Nowalsky; second by Terry Stockwell. Motion carried (Page 24).
6. **Move to maintain the status quo until the Technical Committee provides guidance following the benchmark stock assessment on current fishing mortality levels** (Page 25). Motion by Peter Himchak; second by Jack Travelstead. Motion carried (Page 25).
7. **Move to use a three-year average landings for the '09 to '011 time period.** (Page 25) Motion by David Pierce; second by Peter Himchak. Motion carried (Page 26)
8. **Move to adopt A4, multiplier is equal to .75, meaning 25 percent reduction from recent three-year average resulting in TAC of 160,200 metric tons** (Page 26). Motion by David Pierce; second by Dennis Abbott.
9. **Substitute motion for a multiplier of .9, which would result in a 10 percent reduction in the harvest** (Page 28) Motion by Jack Travelstead; second by Bill McElroy. Motion fails (Page 33).
10. **Move to amend the substitute motion for a multiplier of 0.8 which would result in a 20 percent reduction of harvest and a TAC of 170,800 metric tons** (Page 33). Motion by Terry Stockwell; second by Rick Bellavance. Motion carries and becomes the main motion (Page 40).
11. **Move to amend the main motion to a multiplier of .85, which would result in a 15 percent reduction in harvest and a TAC of 181,475 metric tons** (Page 36). Motion by Jack Travelstead, a second by Bill McElroy. *The main motion then becomes the motion on the floor, a multiplier of .8, which would result in a 20 percent reduction of harvest and a TAC of 170,800 metric tons.*
12. **Move to amend the motion to implement in 2013 a multiplier of .85, which is 181,475 metric ton TAC and in 2014 step it up to a .8, 20 percent reduction of 170,800 metric tons to remain in place until the results of the benchmark stock assessment** (Page 37). Motion by Mary Beth Tooley; second by Jack Travelstead. Motion failed (Page 39).
13. **Move to choose Option C, to manage the TAC on a state-by-state basis** (Page 41). Motion by A.C. Carpenter; second by Jack Travelstead. Motion passed (Page 52).
14. **Move to substitute the motion, to change that to A, coastwide measures** (Page 42). Motion by Pat Augustine; second by Mary Beth Tooley. Motion failed (Page 46).
15. **Move to adopt a regional management approach for 2013 or '14** (Page 46). Motion by Pat Augustine; second by Mary Beth Tooley. Motion failed (Page 50).

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The Board will review the minutes during its next meeting

16. **Move to limit debate on the main motion** (*To choose Option C, to manage the TAC on a state-by-state basis* (Page 50). Motion by A.C. Carpenter; second by Adam Nowalsky. Motion carried (Page 50).
17. **Move that under C2 for a split of the TAC be allocated 30 percent bait and 70 percent reduction** (Page 52). Motion by Adam Nowalsky; second by Rick Bellavance.
18. **Substitute motion to adopt Sub Option C1-1 which allocates the entire TAC on a state-by-state basis based on the most recent three years available, 2009 to 20112011** (Page 53). Motion by Jack Travelstead; second by A.C. Carpenter. Motion carries and becomes the main motion (Page 56). Motion carries (Page 57).
19. **Move to revisit the allocations three years from Amendment 2 implementation** (Page 57). Motion by Terry Stockwell; second by Bill Adler. Motion carried (Page 57)
20. **Move to not adopt any percent closure criteria Section 4.2.1.1** Page 58). Motion by Mr. Carpenter; second by Mr. McElroy. Motion carried (Page 58).
21. **Move to allow a transfer of quota between states** (Page 58). Motion by Robert Boyles; second by Bill Adler. Motion carried (Page 58).
22. **Move to allow maximum percent rollover of unused quota as specified annually by the Board** (Page 58). Motion by Richard Bellavance; second by Terry Stockwell. Motion failed (Page 59).
23. **Move that the issue of quota rollover shall not be considered by the Board until the stock is recovered and at that time can be considered on an annual basis** (Page 59). Motion by A.C. Carpenter; second by Lynn Fegley. Motion carried (Page 60).
24. **Move to select Option B, 100 percent payback of quota overages** (Page 60). Motion by Robert Boyles; second by Bill McElroy. Motion carried (Page 61).
25. **Move to approve Option B2, a 2,000 pound bycatch amount for nondirected fisheries** (Page 61). Motion by Terry Stockwell; second by Doug Grout.
26. **Move to amend to change 2,000 to 6,000** (Page 62). Motion by Lynn Fegley; second by A.C. Carpenter. Motion carried, and the main motion becomes the 6,000 pounds (Page 64).
27. **Move to amend to require that the bycatch allowance count as part of the state-by-state allocation** (Page 64). Motion by Doug Grout; second by Pete Himchak. The motion failed to amend (Page 68), returning to the main motion, a 6,000 pound bycatch allowance (Fegley).
28. **Move to approve Option B, Section 4.2.1.9, the TAC set-aside for episodic events at one percent of the overall TAC until September 1 of each year, and after which the one percent returns to the TAC that has not been used** (Page 68). Motion by Terry Stockwell; second by Bob Ballou. Motion carried (Page 72).
29. **Move to approve Option C to reduce the Chesapeake Bay cap by 20 percent** (Page 72). Motion by David Pierce; second by Lynn Fegley. Motion carried unanimously (Page 73).
30. **With regard to Issue 3, Section 3.6.1.2, quota monitoring: Move to approve Option B, the approved state methodology for monitoring** (Page 73). Motion by Robert Boyles; second by A.C. Carpenter. Motion carried (Page 75).
31. **Move to approve Option B under Section 4.5.3, define de minimis** (Page 75). Motion by Doug Grout; second by Robert Ballou. Motion carried (Page 75).

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32. **With regard to item 7a, criteria for de minimis: Move to approve Option 1 under Section 4.5.3.1, criteria for de minimis will be not exceeding one percent of the coastwide landings of bait** (Page 75). Motion by Doug Grout; second by Robert Boyles. Motion carried (Page 76).
33. **Move to approve Option 4 under de minimis criteria, that would exempt states from both biological sampling and timely quota monitoring, but would still submit annual landings** (Page 76) Motion by Doug Grout; second by Robert Boyles.
34. **Move to amend to Option 3, states would be exempted from the biological sampling but still have to timely monitor their catch** (Page 77) with a friendly amendment (by David Pierce) accepted not to include the three states with zero allocation. Motion by A.C. Carpenter; second by Bill Cole. Motion carried (Page 79).
35. With regard to Issues 4a and 4b, biological data: **Move to accept Option B of Issue 4a that the Technical Committee's recommendation be used for the biological sampling**(Page 79). Motion by A.C. Carpenter; second by Bill Cole. Motion carried (Page 80).
36. **Move to approve Option B for Issue 4b** (Page 80). Motion by A.C. Carpenter; second by Pete Himchak. Motion carried (Page 80).
37. **Move to approve Amendment 2 as modified today and recommend approval by the full Commission; implementation plans will be due April 15th, 2013, and final implementation will be on July 1, 2013** (Page 81). Motion by Pat Augustine; second by Bill McElroy. Motion carried (Page 83)
38. **Move to approve Option B for Issue 4b** (Page 80). Motion by A.C. Carpenter; second by Pete Himchak. Motion carried (Page 80).
39. **Move to approve Amendment 2 as modified today and recommend approval by the full Commission; implementation plans will be due April 15th, 2013, and final implementation will be on July 1, 2013** (Page 81). **Motion by Pat Augustine; second by Bill McElroy.** Motion carried (Page 83).

BUSINESS SESSION

INDEX OF MOTIONS

1. **Move to pass on the the motion to the full Commission to approve Amendment 2 to the Menhaden Fishery Management Plan** (Page 83). Motion by Louis Daniel on behalf of the Menhaden Management Board. Motion carries (Page 84).
2. **Move to adjourn by Consent** (Page 84).

ATTENDANCE

Board Members

Terry Stockwell, ME, proxy for P. Keliher (AA)	Tom Fote, NJ (GA)
Steve Train, ME (GA)	Jeff Tinsman, DE, proxy for D. Saveikis (AA)
Mary Beth Tooley, ME, proxy for Sen. Langley (LA)	Roy Miller, DE (GA)
G. Ritchie White, NH (GA)	Bernie Pankowski, DE, proxy for Sen. Venables (LA)
Dennis Abbott, NH, proxy for Rep. D. Watters (LA)	Lynn Fegley, MD, proxy for T. O'Connell (AA)
Doug Grout, NH (AA)	Bill Goldsborough, MD (GA)
David Pierce, MA, proxy for P. Diodati (AA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Bill Adler, MA (GA)	Jack Travelstead, VA (AA)
Jocelyn Cary, MA, proxy for Rep. Peake (LA)	Jimmy Kellum, VA, proxy for C. Davenport (GA)
Robert Ballou, RI (AA)	Louis Daniel, NC, Chair (AA)
William McElroy, RI (GA)	Bill Cole, NC (GA)
Rick Bellavance, RI, proxy for Rep. Martin (LA)	Robert Boyles, SC (LA)
Dave Simpson, CT (AA)	John Duren, GA (GA)
Steve Heins, NY, proxy for J. Gilmore (AA)	Jim Estes, FL, proxy for J. McCawley (AA)
Pat Augustine, NY (GA)	Jaime Geiger, USFWS
Brian Culhane, NY, proxy for Sen. Johnson (LA)	Kelly Denit, NMFS
Peter Himchak, NJ, proxy for D. Chanda (AA)	A.C. Carpenter, PRFC
Adam Nowalsky, NJ, proxy for Asm. Albano (LA)	

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

Ex-Officio Members

Jeff Brust, Menhaden Technical Committee Chair

ASMFC Staff

Robert Beal	Mike Waine
Toni Kerns	Kate Taylor
Katie Drew	

Guests

Steve Meyers, NOAA	Ben Landry, Omega Protein Bret	Bill Bartlett, Potomac River Assn
Andrew Turner, NOAA	Scholtes, Omega Protein	Chris Yoder, Sierra Club MD
Josh Newhard, USFWS	Jeff Dameron, Omega Protein	Adam Davis, CRC/CBP
Josh Wrigly, Oceana	Jeffrey Hayden, Omega Protein	Kevin Robishaw, RISSA
Najih Lazar, URI	David Williams, Omega Protein	Paul Kennedy, RISSA
Ourmane Ndiake, URI	Raymond Fite, Omega Protein	Donald Smith, RISSA
Alexei Sharov, MD DNR	John Hild, Omega Protein	Toger Tellier, RISSA
Ken Hinman, NCMC	Ken Pinkerd, Omega Protein	Edwin Cook, RISSA
Bill Windley, MSSA	Jake Haynie, Omega Protein	Shaun Gehan, KDW
Fred Menage, MSSA	Jerry Held, Omega Protein	David Frulla, KDW
Ken Simmers, MSSA	Monty Diehl, Omega Protein	Julie Arner, PEW
Robert Houghton, MSSA	Thomas Moore, Omega Protein	Peter Baker, PEW
Kathy Koenigsdorf, MSSA	Paul Somers, Omega Protein	Elizabeth Silleck, PEW Env Grp
Robert Geisler, MSSA	Bill Burke, Omega Protein	Kristin Cevoli, PEG
Clint Waters, MSSA	Jon Somers, Omega Protein	Quynh Tron, PEG
Ron Lukens, Omega Protein	K. Hastings, Mason Springs Cons	Brooks Mountcastle, PEG

These minutes are draft and subject to approval by the Atlantic Menhaden Management Board.

The Board will review the minutes during its next meeting

DRAFT

DRAFT

DRAFT

Jan Pendlebury, PEG
Audrey Gorham, PEG
Kevin O'Reilly, PEG
J. Cowie, PEG
Josh Madeira, PEG
Ellen Cosby, PRFC
Tim Wheeler, Baltimore Sun
Dennis Doyle, Bayweekly News
Pamela Wood, Capital News
Larry Powley, CBCFA
Burt Lewis, CBCFA
Carol Kokinda, CBF
Mike Kokinda, CBF
Emmy Nichter, CBF
Laura Corby, CBF
Nick Carter, CBF
Thomas Rush, CBF
Laura Wood, CBF
John Rodenhausen, CBF
Susan Evans, CBF
Gayle Hobson, CBF
Ken Keppel, CBF
Laura Dinerman, CBF
Amy Dinerman, CBF
Tom Strachler, CBF
Raymond Kane, CHOIR
Robert Ruck, Sr., CCA MD
Chris Moe, CCA MD
Donald McDowell, CCA MD

Brian Pelessek, CCA MD
Jack Hansen, CCA MD
Larry Jennings, CCA MD
Terry Hill, CCA MD
Tom Kane, CCA MD
John Bella, CCA VA
Pete Kaizer, CCCHA
Maria Harwood, Natl Aquarium
Stephanie Pully, Natl Aquarium
Holly Fowler, Natl Aquarium
Laura Bankey, Natl Aquarium
C. Dahlenburg, Natl Aquarium
R. Conklin, M'haden Defenders
P. Eidman, M'haden Defenders
C. Archer, M'haden Defenders
Kevin Blinkoff, Falmouth, MA
Chris Megan, Falmouth, MA
Dick Russell, Boston, MA
Daniel Cambria, Harwich, MA
John Duane, Wellfleet, MA
Rick Quigley, SRRKC
John Veil, SRRKC
Kim Wilson, Open Door Media
Rhett Ruggerio, ODM
Kate Gilligan, ODM
Daniel VanDrew, ODM
Mike Beson, ODM
Jamie Pollack, NY, NY
Henry Dixon, Weems, VA

David George, Weems, VA
Keith George, Weems, VA
Gary Hough, Weems, VA
Zack Klyver, Bar Harbor, MD
Jay Harford, Trappe, MD
Richard O'Brien, Easton, MD
Roger Bowman, Easton, MD
Frederick Smith, Easton, MD
Michael Schmitt, Essex, MD
Frank Tuma, Annapolis, MD
Cathy Krikstan, Annapolis, MD
Lawrence Freed, Annapolis, MD
Gert VanSanten, Bethesda, MD
Matt Regan, Bethesda, MD
Jack Fisher, Sherwood, MD
Tom Polk, Bel Air, MD
Dave McCollum, Bel Air, MD
Jeff Raynor, Baltimore, MD
Samantha Healy, Baltimore, MD
Paul Kowanic, Baltimore, MD
Paul Ryberg, Baltimore, MD
Tony Perez, Landover, MD
Robert Brown, Coltons Pt, MD
Jill Greaney, Fairfax, VA
Al Erskine, VA
J. Fletcher, Manns Harbor, NC
Charles Poole, Raleigh, NC

The Atlantic Menhaden Management Board of the Atlantic States Marine Fisheries Commission convened at the Best Western Plus Hotel and Conference Center, Baltimore Maryland Friday morning, December 14, 2012 and was called to order at 8:30 o'clock a.m. by Chairman Louis Daniel.

CALL TO ORDER

CHAIRMAN LOUIS DANIEL: I'll ask for all conversations to head out the door. And we're going to start the Menhaden Board meeting in two minutes, so please take your seats and be as quiet as you possibly can. Thank you.

Good morning everybody. We are here. We are live streaming, so behave yourselves. The first thing I'd like to say before we get into the agenda is just how much I appreciate this Board and this commission and the expressions of sympathy to me about the passing of my mother.

It's been amazing, and I just want you all to know how much I appreciate that. She was a great lady. I'm going to miss her dearly. So, with that said, again, thank you all very much.

APPROVAL OF AGENDA

APPROVAL OF PROCEEDINGS

CHAIRMAN LOUIS DANIEL: You should have all of your meeting materials in front of you. We have an aggressive agenda. I intend to make it an aggressive agenda. We have discussed these issues for a long, long time. And so my hope is to keep this thing moving.

And it is not going to be my intent to upset anybody, but I'm getting a lot of comments from around the Board that they would like to see this move right along, and so that is my intent. So in front of you you have our agenda. You also have our proceedings from our August 8th meeting. Are there any additions to the agenda or any comments on our proceedings?

CHAIRMAN LOUIS DANIELS: Seeing none, I will accept those by consensus without objection. I'm going to say this a couple of times today: Help me; if I forget to do it, make sure before you start to speak you state your full name because we've got a new recorder. I want to make sure that everybody gets recognized.

Also for the public that's listening in live streaming make sure they're aware of who is speaking. We all know each other, but the public may not.

PUBLIC COMMENT

CHAIRMAN LOUIS DANIELS: So the first item on our agenda is public comment. I have made the decision not to accept public comment on Amendment 2. That time is over. But I would accept public comment on items that are not on the agenda.

I can't imagine that there would be anything not on this agenda because Amendment 2 is a very broad-reaching document. But if there is somebody out there who believes they have items that are not on the agenda, I would accept them to come to the table to the public microphone, and you will have very strict two minutes, and I will cut you off at two minutes. We have a lot of work to do today, and a lot of us have flights to catch on a late Friday afternoon.

So is there anyone that has an absolute burning desire to say something to this board? Mr. Price. Please state your name for the record and who if any you represent.

JAMES PRICE: My name is James Price, and I represent the Chesapeake Bay Ecological Foundation. The Mid-Atlantic board deserves credit for its current effort to manage the Atlantic menhaden.

To date, however, the board has not acknowledged the fundamental problem of ecological overfishing -- removal of forage fish 8-inch fork length. Amendment 2 fails to adequately address the problem of ecological overfishing even after 15 years of research, testimony, and debate.

The Board states the intent is to manage the Atlantic menhaden at sustainable levels to meet predator demands through sufficient SSB; however, Amendment 2 ignores the critical issues of what size menhaden to protect or when they should be protected in order to meet predator demands of Chesapeake Bay's resident striped bass population.

The stated goal of maintaining menhaden spawning stock biomass at levels that preclude overfishing there's no assurance that adjustable size menhaden ages zero to one, which are crucial to the Bay striped bass, will be protected from ecological overfishing by the reduction industry.

A NOAA study of Chesapeake Bay menhaden purse seine bait fish landings show that purse seine fishermen are capable of avoiding immature age one menhaden less than 8 inches.

Scientific studies indicate that protecting forage size menhaden less than 8 inches through harvest regulations put nutritional stress on Chesapeake Bay striped bass could be mitigated.

A Chesapeake Bay ecological study from 2006 to '12 found that resident Chesapeake Bay striped bass now contain diminished amounts of body fat in the fall. In summary Amendment 2 is an attempt to prevent Atlantic menhaden from being overfished, but a failure to protect the small immature menhaden that are crucial as forage fish with Chesapeake Bay striped bass and many other marine predators. Thank you.

CHAIRMAN LOUIS DANIEL: Thank you, Mr. Price. One minute, 53 seconds. Good job. James Fletcher. Two minutes, if you still want to speak under my conditions.

JAMES FLETCHER: James Fletcher, United National Fishermen's Association. The isotopes in the fish's body can be used to identify what they fed on, where they fed on, and the interactions of chemicals.

OSMOS regulation the ability of the fish to go to sea and change is a problem not only with menhaden, river herring, and shad. It's all brought on by chemicals.

Also, you have not heard that these menhaden hybridize, and it's not in the science. And the reason for all of this needing to be looked at is the Science Center -- and I'm jumping species on you -- says that dogfish feed 80 percent on jellyfish. Now, that science is wrong, but you can't prove it unless you do it.

The other thing of it is using electron microscopes will pick up where and when these fish got chemical contamination. That's not part of this discussion. That's what you asked for. And I thank you. I'll leave the rest of the time to somebody else.

CHAIRMAN LOUIS DANIEL: Robert Brown. Would you still like to speak?

ROBERT BROWN: Robert T. Brown representing the Maryland Waterman Association. Mr. Chairman, I hope I'm not out of order on this. I don't know

exactly the protocol of how we were to speak on this today but this will be devastating to the crab industry. We know it, and a lot --

CHAIRMAN LOUIS DANIEL: That's not consistent. I appreciate that. We'll be getting into those discussions later on. Thank you very much. And I'm sorry to cut you off. Larry Parley. On deck is Monty Beal, and that's all I have signed up to speak. And then we'll move on into our agenda.

LARRY PARLEY: I'm here to talk about the bait industry. And we're just on a small island, and we have more processing plants I guess for crab meat than any place there is in the State of Maryland, and our bait industry --

CHAIRMAN LOUIS DANIEL: That's an item on the agenda. That would not be consistent with the criteria for public comment at this time. Thank you very much. Monty Diehl.

MONTY DEAL: Thank you, Mr. Chairman. My name is Monty Diehl. I'm the general manager and director of fishing operations for Omega Protein, the general manager for the regional plant.

I am also a fifth generation menhaden fisherman, a retired military officer, and all I wanted to say was that the impact of the menhaden plant in Reedville, Virginia is over 88 million dollars a year in that area. It provides jobs, good-paying jobs --

CHAIRMAN LOUIS DANIEL: That doesn't work, dude. Sorry. That's not in the agenda. I appreciate it, but that's in the document. That's all I had signed up to speak, and that's all I intend to call on. I'd like to go ahead now and -- Bob.

ROBERT BEAL: Thank you, Mr. Chairman. Just a couple of quick introductions and also a reminder. It's a very big room with a lot of folks way in the back of the room, so the folks at the board, try to speak into your microphones. Speak as loud as you can. It's tough. The acoustics are tough all the way in the back of the room, so do the best you can there. I just want to introduce a couple folks around the table that may be new, some proxies and other folks that haven't attended a lot of ASMFC board meetings, just so the rest of the Board knows who they are. Mary Beth Tooley is serving as Senator Langley's ongoing proxy from the State of Maine.

Plus we have new around the table Kelly Bennett from National Marine Fisheries Service. I think she

sat on the Board at the last meeting, but relatively new as well.

Jim Estes is the proxy for Jessica Macauley from Florida. So I just wanted to introduce those folks since they're relatively new to this party and just make sure everybody knew who they were. Thank you.

CHAIRMAN LOUIS DANIEL: These name tags are very hard to see, and I do get a little bit flustered sometimes when I can't read them, and I can't remember sometimes either, so you're going to have to help me with the names.

Also, one other little point of order -- and we'll get more into how we're going to run this meeting after all of the reports that we're going to receive here in just a few minutes -- but that is folks in the audience, please don't approach the board table. I don't want to have a bunch of little conversations going around and people coming in and making suggestions I would prefer. I'm going to stop the proceedings if I see groups of people coming up to the table. So, please, just stay back from the table so that we can do our business amongst ourselves.

DRAFT AMENDMENT 2 FOR FINAL APPROVAL

CHAIRMAN LOUIS DANIEL: All right. With that we will move into the final approval Action Item 4. Mike's going to go through the options and review the public comment, and then Jeffrey Brust, our Technical Committee chairman, will provide the Technical Committee's report;

Mr. Winley to my left will provide the AP report, and we will begin our discussions on final approval of Amendment 2. So with that, Mike.

REVIEW OPTIONS

MICHAEL WAINE: Thank you, Mr. Chairman. My name is Mike Waine. I'm the species coordinator for Atlantic menhaden. I'm going to go through the public comment summary and draft Amendment 2 draft options right now.

So basically I'm running through the public comment summary. You don't have that in front of you on the board. Toni has a few extra copies, so flag her down if you need them. Just going into the time line, this document was sent out for public comment in September. We took it out for hearings and have collected comment bringing it back to this Board for

this meeting and final approval of draft Amendment 2. The purpose of this document, new fishing mortality reference points were approved last November.

Those are based on maximum spawning potential and were intended to provide increased protection for spawning adults. There is a new fishing mortality threshold and target. Currently we're overfishing, and the Board must take steps to reduce fishing mortality to a new target. To do this they have to consider changes to the current management program. Just to get a couple administrative things. This is a 143-page document, so the planning and development team found a couple of missteps, so they are recommending removal of these unless there is objection from the Board. First is there was some information documenting the nitrogen removal and menhaden play a minimal role regarding water quality in the Chesapeake Bay. That was based on a recent study. And so there is a couple of inconsistencies with that. On page 23 the PDT is recommending removing the section, which is struck out, which is, but also as filter feeders and the widespread abundance is considered beneficial to water quality. On page 24 the strike out is: As well as those who rely on or value clear water. And there on page 29, menhaden as being of interest to conservation since they are filter feeders, interpreted to mean that they clean the bay.

There is also a document which I think is just a misread. It's on page 30. There is a sentence that reads: Because Omega is only firmly engaged in the harvesting and processing of menhaden for reduction, economic impacts from reduction quota that take place outside Northumberland County area, can be assumed negligible. The PDT is recommending removing that statement.

One other thing that I wanted to add is that there was a couple regulations that were updated for the State of Virginia. Those regulations have been in place for some time so that PDT is recommending just adding that for clarity. So I'm now moving into the public comment summary.

PUBLIC COMMENT SUMMARY

MICHAEL WAINE: We received a lot of comment on this document. There is 128,303 comments received. 127,925 came from co-signed letters, 40 different letters. Fifty-four letters were from groups or organizations. Three hundred fifty-four were from personalized individual comment. We had 13 public hearings in 10 different states from Maine to North

Carolina, and approximately 502 individuals were assumed to have attended all the hearings combined. I'd like to take this opportunity to thank everybody who participated in the public comment process. I'd also like to take this opportunity to thank all the staff at the Commission for helping me with this immense workload. So I wanted to publicly recognize them for that assistance.

So moving into the document, here's an overview of all the issues. I'm going to walk through all of these one by one. So I'll move right into it. The first issue is the spawning stock biomass reference points. There's a technical mismatch between the current overfishing and overfished reference points based on the change they made last November. So Option A -- let me just explain sort of what you're seeing on the screen here. So I'm going to go through all the options, and you can see in the red parentheses is the number of comments that were received in favor of a specific option. So that's what all those numbers represent next to each option. And that's what you'll see as I move through the entire document is that same convention that I use there.

So the technical mismatch between the reference points, Option A is status quo, seven in favor. Option B is to match based on maximum spawning potential, and 114,244 were in favor. I do want to note that if Option B is selected, the stock status would change to overfished.

Issue 2 is F reduction schedule. So overfishing is occurring, the Board must take steps to reduce fishing mortalities for target. Because the reductions in the ocean plan to achieve that target the Board is considering this a two-step process. First it's end overfishing, reducing F to the threshold and the Board is going to take action today for document -- to immediately end overfishing. The second is the F reduction schedule. However, I actually remember we took projections out that use constant landing scenarios to set a TAC, but based on the 2012 stock assessment update uncertainties, those projections were unusable. Those were supposed to inform the Board on what the constant harvest scenarios would help us achieve the target fishing mortality rate. Those uncertainties in the stock assessment were overweighing of age composition data, lack of spacial modeling to address changes in the fishery over time, lack of an abundance index, the PRFC, the Potomac River Fisheries Commission index, and the strong retrospective pattern.

So given those uncertainties, the Board is considering recalling reductions schedule as a goal to

reduce F to the target level. Option A, status quo, no timeframe specified, three in favor. Option B, no longer than three years, 1,999 in favor. Option C, no longer than five years, 112,216 in favor. D, no longer than 10 years, two in favor. And Option E is upon receipt of the results from the new benchmark stock assessment the Board would specify timeframe. There was 302 in favor. Quota monitoring is Issue 3. Currently reporting does not provide complete data for the bait fishery. So a better report on what would allow industry and managers to monitor landings. Option A is status quo, retain current monitoring systems. Option B is weekly reporting states its plan to the Board, 17 in favor. Option C is require SAFIS plan, 25 in favor. Option D is require certain sea trips harvest daily reporting, seven in favor. And Option E was SAFIS eTrips when approaching 85 percent of the quota, eight in favor.

The next is Fishery Dependant data and that's split into two issues, biological data and the adult survey index. So currently several states provide length at age data for Atlantic menhaden, but they do that voluntarily. The plan does not require any specific biological monitoring. Option A is that biological sampling would remain not mandatory, and Option B is TC will review and recommend sampling targets. And the TC will speak later on that. And there were 65 in favor.

The next issue is the adult survey index. Currently the stock assessment uses a Potomac Remote Fisheries Commission pound net? index for adults. That's a relative index. This potential exists to enhance its index with data from other states. Option A is sampling for the adult survey is not mandatory, and Option B is all states with stationary gears, as an example, pound nets would collect catch and effort data including age and length. And there were 51 in favor.

The next issue is, moving into the commercial management options, the major commercial management option is total allowable catch or quota. And Option A, just to help with the flow of the document, we sort of put this right up front, which Option A, status quo, harvest will not be restricted through the use of the TAC, 594 in favor. And then Option B is that the harvest would be restricted to the use of a TAC, and 114,795 were in favor. And if in favor or selecting Option B, there's a whole suite of other issues that go along with the TAC. So the first one is specification of a TAC. The Board can set a TAC annually with the option of setting a constant TAC for multiple years. It put changes selected in the reporting requirements, as I mentioned, as an

issue in this document. It may take time to implement those reporting changes, so the Board may select a closure percentage that's lower than a hundred percent to act as a buffer for late reports. Option A is close at 85 percent of the TAC, 1,738 in favor. Option B was close at 90 percent of the TAC, two in favor. Option C, close at 95 percent of the TAC, five in favor. And Option D is Board specifies percentage annually for multiple years, 22 in favor.

The next issue is the TAC setting method. The intent is to set the TAC using the best available science. Remember with the uncertainty at this moment we do not have projections to be used to set a TAC, so there is some ad hoc approach that the Council uses in data poor situations. And I'll go into them in the next slide. So Option A is to set the TAC using the ad hoc approach used by the regional council. There was 24,573 in favor. And Option B would be the most flexible option, which is set the TAC based on the best available science, which is using the projections when those projections are deemed usable by the Technical Committee over this ad hoc approach. And there was 11 in favor of Option B.

So moving into that ad hoc approach, basically what that does it takes the average most recent years in catch, and it assigns a precautionary multiplier to adjust that catch to arrive at a final TAC. The selection of that multiplier is in fact ad hoc but it's based on ??? characteristics and the best available information in terms of stock status. So there's two major sub options in the document. One was basing this TAC off the most recent three years. That's Option A. And the second was to base a TAC on the most recent five-year average. So sub Option A, selection of a multiplier applied to the last three-year average. Two were in favor but didn't specify a multiplier. Sub Option A1 is a multiplier of one, which means a zero percent reduction. 1,118 were in favor. Option A2 is a multiplier of .9, which means a 10 percent reduction. Two were in favor. Option A3 was a multiplier of .8, means 20 percent reduction. One was in favor. Option A4 is .75 multiplier, meaning a 25 percent reduction. 10,119 were in favor. Sub Option A5 is a multiplier of .5, which means a 50 percent reduction. 1,723 were in favor. This shows sub Options B, which is basing the TAC off the most recent five-year, the same multiplier combinations here, same percent reductions, just basing it off of five-year average of a ??? of three. So I won't read all those again. I'll just tell you. There's one in favor of B but not selecting a multiplier. Two in favor of a 10 percent reduction from five years. 10,281 in favor of a 25 percent

reduction, and 101,691 in favor of a 50 percent reduction off a five-year average.

Moving into the TAC allocation, there's three options to allocate the TAC. The first is to do it coastwide, 14,574 in favor. The second is , Option B is a commercial TAC that's based regionally. There was eight in favor. And Option C is a TAC managed on a state basis. There was 31 in favor. I'm going to go through each one of these specifically through the next slides. So these are sub Options A, coastwide allocation. Option A1 is that menhaden commercial TAC will not be allocated by fishery, meaning it would be a coastwide TAC. It wouldn't be allocated to the bait fishery or the reduction fishery. There were five in favor of that. Option A2 is a commercial TAC that is allocated to each fishery, so there would be an allocation to the bait and the reduction fishery. There were 25 -- excuse me, 27 in favor of that. And then there are sub options that essentially go through different time frames that were sub options. So that was based on the most recent average in this fishery. Using the most recent average was essentially the intent there was to use the best data that was available, landings data that is. So I won't go through each one of these specifically, but you can see that basically if you base the allocation on history, the breakdown between bait and reduction is roughly 20 percent bait and 80 percent reduction depending on the selection of years. And then there were also options that were included in the document that were not based on history, and that was a 30-70, 40-60, 50-50 bait reduction split. Some of the justification for that was to account for growth in the bait market and the fact that it's believed that there's some under reporting or misreports in the history of the bait landings, so their landings may be higher to some unknown extent. So you can see on the panel on the left there showing the public comments submitted. Three people were in favor of the average of three years. One was in favor of the higher three years. 12,639 favored the 30-70 bait reduction spread. 2,453 favored a 40-60 split, and 2,457 favored a 50-50 split. All right. Thanks for bearing with me on this.

So, basically the TAC could be managed regionally, allocated regionally. Option B1 is the TAC not allocated by fishery only by region. So this is not making an allocation to bait and reduction. It's keeping them combined and just allocating to region. The regions here are: New England is Maine to Connecticut; the Mid-Atlantic is New York through Maryland coast; the Chesapeake Bay is Virginia; the Potomac River Fisheries Commission is in the

Maryland Bay, and the South Atlantic is North Carolina through Florida. These sub options represent the same time frames and sub options that I just explained, so I won't explain them again. And there was no public comment submitted in favor of those options. Option B2, the TAC is allocated by fishery first, and then the bait portion of that allocation is allocated by region. So this is a two-part step. The first part matches what you saw for the coastwide allocation, so it's basically splitting it by fishery bait and reduction. There were five in favor of an average of five years. There was nine in favor of the 30-70 bait reduction split, one in favor of the 40-60, and two in favor of the 50-50 bait reduction split. So, after that step in this regional allocation process, you go to Step 2, which is allocating just the bait portion from Step 1 further allocated to the region. So they do the same timeframe options. And one was in favor of an average of three years, and five were in favor of an average of five years.

The last option is a TAC that's managed at the state level. And the first is the sub option C1. Once again, this is the allocation option that doesn't separate out by bait and reduction. It keeps it all together. And you've got the same time frames that are being used for that to determine allocation. These tables are showing percentages. And so one was in favor of an average of three years, and one was in favor of an average of five years. Three were in favor of this option but didn't specify which timeframe to base the allocation off of. This is sub Option C2. This basically mirrors the regional C2 approach, which is first, you're splitting bait and reduction. That's the first step. And then the second step is you take the bait portion of that allocation. You further divide it by state. So three were in favor of this option but didn't specify a timeframe. One was in favor of the 30-70 bait reduction split. Three were in favor of the 40-60 bait reduction split, and three were in favor of the 50-50 bait reduction split. So after making that bait reduction allocation, the second step is taking the bait portion and allocating that to the individual states. And this is based off the recent history, which you can see here. And so these are the same options that you've seen. This table represents percentages. And there was no comment submitted in favor of that option, that C2 option.

This is the TAC allocation, the revisit provision. Basically, the Board has the flexibility in the plan to revisit allocation at any point through the addendum process, so that measures included in the adaptive management section; however, this allocation revisit provision would ensure that the Board revisits this allocation on a set timeframe. Option A is two years

from Amendment to implementation. There were 257 in favor. Option B is a five year from amendment to implementation. There were three in favor.

Six deals with quota transfers, and it actually contingent on the decision in the allocation section, so it's only if the Board selects region or state allocation for that section. It deals with the transfer of unused quota. So if there's unused quota during the season, it allows flexibility for that quota to be moved around. We do it with some of our other species that we manage, for example, bluefish. So Option A is no transfer of region or state quota. There were 35 in favor. Option B is allow transfer of region or state quota. There were nine in favor.

Quota rollover. If there's unused quota by the fishery, region, or state, it may be rolled over from one fishery season to the next according to the following options: Option A is that the quota may not be rolled over, 52 in favor; Option B is a hundred percent rollover of unused quota including transferred quota, 21 in favor; Option C is maximum percent quota rollover as specified by the Board, two in favor of that option.

And 5F deals with quota payback. If a fishery region, or state harvests over its respective quota, that fishery region or state specific to them would be responsible for that overage. And Option A is no payback of quota overage, and Option B is a hundred percent payback of the overage including transferred quota. Sixty-eight were in favor of that.

This deals with bycatch. So this is for nondirected fisheries for Atlantic menhaden during the closed season. The bycatch allowance has two main options. One is bycatch allowance based off pounds. The other is bycatch allowance based off a percentage. And the Board could select or elect to use these in combination, so it could be a pound-percent combination. Option A is that there would be no bycatch allowance, 10 in favor. Option B was the pound base. There were 31 in favor but didn't specify a pound. There was four in favor of a thousand - pound bycatch allowance. Twelve were in favor of a 2,000-pound bycatch allowance. And one was in favor of a 5,000-pound bycatch allowance. Option C is a percent-based bycatch allowance. That's a percent relative to the total catch, so menhaden can't make up the following percentages of their total catch in terms of weight. And there was no specific favor for those options.

This is the TAC set-aside for small scale fisheries. This option only applies if the Board selects coastwide TAC allocation. It's set-aside for traditional small-scale fisheries, but the plan development team struggled with defining exactly what a traditional small-scale fishery would be, so the Board would have to do that before implementing a TAC set-aside for said fishery. Option A is no quota set-aside for that small-scale fishery. Two were in favor. Option B is specifying a percent or a pound use of the TAC for small-scale fisheries. Forty-two were in favor.

This is a TAC set-aside for episodic events. Episodic events are times or locations in which menhaden appear in much higher abundances than they normally occur. This is more common to the New England region than any other region, and this option would only apply if the Board selects state allocation for the allocation section of this document. Option A is no quota set-aside option for episodic events, four in favor. And then the definition of this set-aside is a little bit complex, but essentially one percent of the overall TAC as determined in the TAC setting section would be set-aside for episodic events. And to qualify for that episodic event set-aside a state's allocation would have to be less than two percent for the state-by-state allocation in Option C2. So there is some criteria for opting into this program at the state and that they could do that, and that would qualify them for this one percent. The idea there is that they would have more than what their designated quota would be up to this one percent on the whole to give a little bit of flexibility for them to harvest if menhaden occur in those episodic events. And then there's also a provision in which if they don't occur, it could be rolled back into the overall quota to be harvested. So that's essentially that option, Option B. Forty-eight people were in favor.

Moving up to Issue 6, this is the Chesapeake Bay reduction fishery cap. It is the current management measure that we use in our FMP. It will expire in 2013. It caps harvests of menhaden in the Chesapeake Bay by the reduction fishery. So Option A is status quo. 2013 would be the final year. Ninety-five were in favor. Option B is extend the CV cap to any specified timeframe. 4 were in favor. And Option C is adjust the cap as it relates to any management option selected. 9,960 were in favor.

Moving on to Issue 7, this is de minimis. De minimis is essentially a state's conservation and enforcement action. Would be expected to contribute insignificantly to the required coastwide conservation program, meaning that a state harvests such a small

amount that it's relatively insignificant when you look at it in the big picture. We have this de minimis criteria and flexibility in a lot of our other FMPs. And so Option A is status quo, do not establish de minimis criteria to Amendment 2. Two were in favor. And Option B would be to define de minimis criteria in which states would apply for that annually for compliance reports. And those are restricted for states without a reduction fishery. Because remember the reduction fishery lands 80 percent of the quota, so they wouldn't be de minimis. Thirty-one were in favor of defining the criteria.

Test. Test. Is everybody still alive? All right. So the reason you heard that noise is 'cause we're trying to get me louder I guess. We're trying to plug into the system in the room, so maybe that helped. I don't know. There may be a few more interruptions. I'm going to continue. We're getting to the home stretch here. Okay.

De minimis criteria. First would be to determine what the criteria is. So Option 1 is a state could not exceed one percent of the coastwide total of bait landings over the last two years. Thirty-four were in favor. Option 2 is not greater than two percent. There were six in favor. And then after determining what the criteria would be, the second part is what exactly does that exempt them from. It actually doesn't exempt from any commercial management measures, for example, like what a subject quota would be; but it would be exempt from -- well, Option 3 is exempt from biological sampling, but they'd have to adhere to the timely quota monitoring. Thirty-five were in favor of that. And Option 4 is: exempted from biological sampling and timely quota monitoring but still submit annual landings. There were eight in favor of that. And just to clarify Option 4: These states would essentially maintain the same reporting that they have currently. It wouldn't represent a change. So we still would know what kind of landings they have, and they would use that to apply for de minimis criteria if it were less defined.

MICHAEL WAINE: The last issue in this document is recommendation for federal waters and the National Marine Fishery Service, our federal partner. So, if options were adopted by the Board, they would need to consider which if any were recommended to NOAA fisheries for implementation in federal waters. There were 104 in favor of doing that. Now I'm going to walk through -- so that represents a summary of all the comments received on that specific management options. We also, as you can imagine, received a lot of comments that didn't specifically specify a management option within the

document. So the following list, which I'm going to read, is commonalities from a lot of other comments that didn't fit into the document specifically. There was no tally or count on these, but they were ones that occurred frequently enough that they were included in this list.

So here we go. Amendment 2 catch reporting system for all commercial harvest must be put in place. Atlantic menhaden are critical to ocean ecosystems and coastal economies. Act now. Overfishing is a major problem. Conserve, restore, save, protect Atlantic menhaden. Reduce catch by at least 75 percent and consider a complete moratorium. Science does not support the large cuts being considered. Menhaden population is the same as it was 50 years ago. Vote for the least amount of direct economic impact. Atlantic menhaden fisheries are critical to livelihoods of coastal communities and alternative economic opportunities are scarce for the commercial fishing industry. Selective TAC allocation option that supports small bait fishermen. Implement sustainable catch limits because long-term benefits to preserve menhaden will end up benefiting all stakeholders. Defer action until informed and justified decisions can be made based on the reliable and verifiable scientific data expected in the next benchmark assessment in 2014. Atlantic menhaden abundance is at historic lows. Minimize opportunity for further population. Decline and reduce the risk of recruitment failure by reducing harvest. Proposed reductions in catch are actually higher if reducing from 2011 catch totals. Follow through on commitments made last November and manage F to the target. Strengthen the fishing mortality control rule language. Keep the harvesting of Atlantic menhaden outside of the Chesapeake Bay because it is an important nursery area for all fish and top predators. Consider other management alternatives besides a quota. Questions should be answered regarding the utility value and appropriateness of the maximum spawning potential base reference points. Use hatcheries to stock Atlantic menhaden throughout their native range. Implement a coastwide ban on Atlantic menhaden reduction fishing. Recreational fishery management should be considered. The industry is seeing more Atlantic menhaden on the water than ever before, and overfishing is not occurring. Drastic harvest reductions are not needed to meet management objectives. The Atlantic menhaden are important as forage as well as their use as bait in other valuable commercial and recreational fisheries. Allocation should be based on landings history for each fishery and not arbitrary. Reporting should be mandatory for dealers and harvesters, and ecological based

reference points are needed. Thank you, Mr. Chairman. That concludes my report.

CHAIRMAN LOUIS DANIEL: Any questions for Mike? Jocelyn. Last name?

JOCELYN CARY: Thank you, Mr. Chairman. Jocelyn Cary from Massachusetts. Thank you for that presentation. I just have a quick verification for Mike. In the other comment section, you brought up the 75 percent moratorium -- 75 percent reduction or a complete moratorium.

I know that came from mostly two form letters. Did those letters have about 10,000 comments? If they did, it's a high number. I just wanted to bring that to the Board's attention. Thank you.

CHAIRMAN LOUIS DANIEL: Thank you.

MICHAEL WAINE: Yeah. I was just going to mention all the form letters at the header or top of all the form letters is the number of the individuals that submitted those form letters. So that's where our count came from. Yes, that is correct.

JOCELYN CARY: Thank you.

CHAIRMAN LOUIS DANIEL: Any other questions for Mike? Mary Beth Tooley.

MARY BETH TOOLEY: Thank you, Mr. Chairman. Just a couple of quick questions. One is in the rollovers. Are the rollovers allowed from the bait sector to the reduction sector if you choose, for example, a 30-70 split and vice versa?

MICHAEL WAINE: Yeah, I think you're talking about quota transfers. It was specific to -- it wasn't the fishery. It was to the region and the state. So there is not an option -- excuse me, there is not flexibility in the plan to transfer from the bait sector to the reduction sector in the quota transfer section.

MARY BETH TOOLEY: Okay. Thank you for that. And one other quick one. In the payback section if it's a payback that occurs in a subsequent year, it means that if you exceed your harvest level in 2011, the payback will occur in 2012, or would you expect your quota monitoring calculations to be done in 2012 and the payback in actually year two? Have you gotten that specific in how that would function?

MICHAEL WAINE: Yeah, that's a good point. So essentially we would be monitoring -- I think the timing is still to be sorted out on that one. And

exactly when we would specify the season I think would influence whether that would happen in the subsequent year or the one following. So essentially, I assume this would have the information to determine whether a payback is needed or not. I think the Board at that point can make the decision on whether that payback would occur.

CHAIRMAN LOUIS DANIEL: Any other questions for Mike from his report? Doug Grout.

DOUGLAS GROUT: Thank you so much. De minimis state I was very interested in the de minimis aspect, and I just wanted some clarification as to one of the options we're talking about, still requiring states who are granted de minimis to have timely quota monitoring. And is there a specific definition of what timely is? Is that weekly, monthly, or annually?

MICHAEL WAINE: Well, that's going to depend on how this board acts.

DOUGLAS GROUT: You'll make that decision?

MICHAEL WAINE: Yeah, we'll make a decision on what the changes will be for the quota monitoring that's issued from the document. So that is the method into that option.

CHAIRMAN LOUIS DANIEL: Tom Fote.

THOMAS FOTE: I really don't have anything to say about the public hearing document. What I'm basically saying is the timing of the public hearing in New Jersey does not lend itself to public participation. As you know, the public hearing took place two days after the hurricane, and I could not make the hearing because I had no power at that time. I was still stuck in my house. And I think that happened with a lot of individuals when we couldn't get gas up in New Jersey to travel down. So I'm just explaining when you're looking at one person at the public hearing or two people, that was not reflective of what the interest was in New Jersey. And I just wanted to get that on the record. And I feel bad because a lot of people don't like to write. They're not great writers, so they like to show up for public hearing and make their public comments known. And that did not happen in New Jersey, and I think New York even actually had to cancel their hearings. So I understand that when we go through this process today that there might be some opportunity to listen to the public that could not attend the hearings because of either the weather or the cancellation of those hearings. I'd just like to put that on the record.

CHAIRMAN LOUIS DANIEL: Thank you, Tom. Anyone else? Pat Augustine.

PATRICK AUGUSTINE: Thank you, Mr. Chairman. An excellent report. I was concerned about the number of e-mails that I was receiving early on in the process, and after I reached about 537, I decided to start calling some of the people whose names, addresses and telephone numbers were on the documents, and much to my dismay, seven people in a row that I called had no idea that their letter had been forwarded with their name on it, that information that they were supporting. And my question was: I announced who I was and then asked the question did you know what menhaden were. Most of them said no. And the reason I did this was I'm interested in public comment. I think we all are. But when you see 10,000 of these and 20,000 of those and 30,000 of those, and they're all moved forward by an organization that has a vested interest, I'm not saying it's bad, but it does take away from I think those people that take time to write a three-line letter or a response saying that I would like to see you support this or do that. So I'm not sure how much value we can really put on those 100,000 letters that we received. I guess the question would be maybe those organization -- well, the point may be that those organizations that are sending out these mass letters might send a note to those members that allow them to send those letters out representing what they support and represent to find out whether they do have a clue as to what it's all about other than it's just a conservation measure.

Then I went further into the pile about the 22nd call I realized that most of these people had no clue. As you know, Sandy hit. We had letters from those areas. I had letters from those areas or e-mails from those areas that homes were totally destroyed with a date on them that occurred then. So that becomes a little disconcerting when we have organizations that are supporting an effort and an issue that is very, very important to the livelihoods and economic impact that occurs as a result of the action that this board takes. So, again, I don't know how, Mr. Chairman, you feel about this, but I think we need to clarify for those organizations: Please assure that your membership is surely aware of what it is you're sending out and asking us to believe that you support when in fact there's no proof to that fact. Thank you, Mr. Chairman.

CHAIRMAN LOUIS DANIEL: Thank you. I'm going to take a break to get these acoustics settled and everything. How long do you need, Bob? Five

minutes. So please don't go far. I'm going to start back promptly at 9:30.

[Break: 9:23 a.m. to 9:37 a.m.]

CHAIRMAN LOUIS DANIEL: Are we good? All right. We're going to get started. So I'm going to ask those folks that are speaking and standing up to please leave the room. Please sit down and stop your conversations now. Lord have mercy. Pat.

PATRICK AUGUSTINE: Thank you, Mr. Chairman. I've been approached by a couple of folks who have what I said and took what I said very seriously and to heart. They should have. I want to clarify what I said for those of you who didn't understand what I said.

There are organizations out there -- and I'll name Pew as one of them -- that does their homework. I carry with me most of their publications because they do do their homework. Kenny Hinman and his organization, several others do their homework. I do carry that information with me. But there are other organizations that carte blanche take their membership list and send letters out without ever verifying or validating with their membership what they're saying in those letters. So for those of you who were offended, I will apologize on the record. For those of you who didn't like what I had to say, well, that's just the way it is. And I didn't do it to offend. I did it because it's a reality. We the Board get bombarded with tons and tons of letters in positions, and many times the organization you belong to needs either membership or whatever the purpose is, and your name goes on a document that you have no idea what you are supporting. One of the reasons I don't belong to organizations that do that is for that very fact. It's your name and reputation that's going out there to the general public. It's on the record forever for something that you are supporting or not supporting that you have no clue what is out there on your behalf. So for those of you who heard what I said, I think letters are fine. They support the public. They support your opinion. But in reality if you could do an individual letter, although maybe you don't have time to put a one-liner out, you should consider doing it. It carries an awful lot of weight. Now, let's get on with this meeting and make the hard decisions we have to make. Thank you, Mr. Chairman.

CHAIRMAN LOUIS DANIEL: You're done. Pete Himchak.

PETER HIMCHAK: Yeah. Just very briefly, Mr. Chairman, New Jersey was certainly not unsympathetic to a natural disaster affecting many people's lives. The decision to have the public hearing November 1st and then Delaware had their public hearing I believe November 2nd. If that had not occurred and then the comment period I believe closes two weeks post following the last public hearing, if we had not stayed on that schedule, it's not likely we'd be meeting today, and we would not be implementing the measures for 2013 as we need to do. So, again, it was a tough call, but we had to proceed with accommodating Amendment 2's limitation schedule.

CHAIRMAN LOUIS DANIEL: All right. Mike's going to give us what's not on the agenda. Mike's going to give the LEC report, and then we'll hear it from the Technical Committee, the advisers, and then we'll move on. So we're going to run through this as quickly as we can. We're behind my schedule anyway, so I'd like to start moving this along.

LAW ENFORCEMENT COMMITTEE REPORT

MICHAEL WAINE: Thank you, Mr. Chairman. I'm going to give this report on behalf of Lloyd Ingerson. He was unable to attend the meeting. I'd like to thank Mark Robson who helped put all this together with LEC. So the LEC weighed in on the total allowable catch option. Enforcement of a TAC is difficult given the problems that come with harvest reporting in the bait fishery. The bait fishery is subject to varying levels of state reporting requirements, and an unknown yet possibly significant amount of menhaden harvested for bait are likely not being reported in some states or areas. So their recommendations are to require all menhaden harvested for sale as bait to be reported to licensed dealers. States that implement tough standards for license suspensions when there's a failure to report landings they should establish a process whereby commercial fishermen are required to declare their intent to harvest menhaden for sale as bait prior to a trip and ensure that a standardized and timely reporting system is applied to all gears and vessels harvesting menhaden for sale as bait.

Regarding the bycatch allowance, the LEC recognizes the intent of a bycatch allowance to minimize waste, but they prefer that no bycatch allowance be implemented for menhaden as this may encourage targeting menhaden during closed periods.

And if a bycatch allowance is implemented, the LEC strongly endorses the use of a poundage-based allowance rather than a percent-based allowance. And regarding the TAC set-aside for small-scale fisheries, the LEC is uncertain of what counts toward a traditional small-scale fishery. It recommended that a clear definition of a small-scale traditional fishery be included in the document. They said harvest for oneself and not for any sale should be the standard of personal use. A distinction needed to be made between commercial and recreational fisheries for menhaden. An example, Connecticut has a non commercial gillnet license and that New Jersey allowed a non commercial cast net fishery. They wanted to ensure that the distinction was made between commercial and recreational fisheries. That concludes the LEC report. Thank you, Mr. Chairman.

CHAIRMAN LOUIS DANIEL: Thank you. Questions on the Law Enforcement Committee report? If not moving on to the Technical Committee, Jeffrey Brust.

TECHNICAL COMMITTEE REPORT

JEFFREY BRUST: Thank you, Mr. Chairman. My name is Jeffrey Brust from New Jersey Division of Fish and Wildlife. I'm the chair of the Menhaden Technical Committee. My fillings are too close to the microphone here. I've got a quick presentation.

The Technical Committee considered the biological implications of the different issues included in the amendment, so I'll be presenting those today as well. I'll be responding to two requests from the Board to the Technical Committee.

The first is the biological sampling levels for the bait fishery. And also at the last couple of meetings the Board has requested some input on the reproductive potential of both the bait and reduction fishery, so I'll be reporting on that. Sorry folks.

All right. So I'll be going through these in the order they're here in the amendment. So the first issue is the biomass based reference points. The Technical Committee recommends switching to the MSP-based biomass reference points to maintain consistency with the fishing mortality reference point, which is also calculated using MSP. This will make it easier for us to evaluate stock status, maintain consistency for the overfishing and overfished definitions. Am I too loud? Excuse me, everyone.

As Mike noted earlier, if we do move to the MSP based biomass reference point, the TC will have to evaluate stock status. The F reduction schedule, overfishing is occurring according to the 2012 stock assessment update. We do need some harvest reduction to end overfishing.

Unfortunately, we don't know what the magnitude of fishing reductions are necessary, so the Technical Committee's recommendation is to delay the implementation of the F reduction schedule until you know how far you need to move.

We're not saying don't take any harvest cuts right now. We're saying don't set a time line for reaching a goal when you don't know what that goal is.

Quota monitoring we think this is very important. We need to know how much harvest is taken out to help us conduct a stock assessment. Also, if there's a quota setting, it's important to track the harvest over the season so that we know how close we are to the quota and we can close the fishery before we exceed the quota.

Right now the reporting system for the reduction fishery is sufficient. We get timely and comprehensive reports through the captains' daily fishing logs. We recommend an implementation of a mandatory bait fishery harvest reporting system for all gear types for the bait fishery.

Biological data this is one of the questions that the Board posed to the TC. Obviously, biological data is important. We think it should be mandatory to help us characterize the fishery, to characterize the harvest that comes out of the fishery.

For the bait fishery we did do an analysis based on the most recent three to five years worth of data, and what we came up with is target sampling sizes is one 10-fish sample per 300 metric tons landed for the New England and Mid-Atlantic regions, and one 10-fish sample per 200 metric tons landed in the Chesapeake Bay region. And these should be implemented for all states and all gears. Right now it's not mandatory, so not all states are contributing samples to the biological data. The sampling levels are slightly higher than what is being conducted right now, but they're not exceedingly higher. We think it will help us get better information to characterize the catch and give us better precision for conducting the stock assessment.

And we do reserve the right to evaluate this in a couple of years after sampling at these new levels. We would like to re-evaluate to make sure we're getting the data that we need.

The reduction fishery right now, the sampling levels are based on a 1984 study. We weren't able to re-evaluate those, so for now we recommend that the sampling for the reduction fishery continue at the current levels.

The adult survey index right now is based on the pound net fishery just in the Potomac River. The TC thinks it would be very important to get some catch and effort information from some of these other fixed gear fisheries to hopefully improve the reliability of the index that we have right now, so we are recommending catch and effort information be collected from all states with fixed gear fisheries for total allowable catch. Again, overfishing is occurring, and unless we see huge spikes in recruitment, the harvesting at current levels is going to continue that overfishing pattern. Large harvest cuts will be more risk adverse than small harvest cuts.

Again, we can't tell you what the level that you need to take is specifically, but the larger the harvest cut the more risk adverse you will be. It will give us a greater potential to increase spawning stock biomass and therefore hopefully recruitment as well.

In terms of when to close the fishery if a quota is implemented, TC was concerned that new reporting requirements are going to be unreliable in the early years mainly due to late reports and noncompliance people getting used to the new system.

If this noncompliance isn't accounted for when determining when to close the fishery, it's going to increase the chance of over harvesting. So the TC's recommendation is that the fishery should be closed at a lower percentage in the early years to account for these uncertainties in the reporting requirements, and after a few years as compliance improves and reporting gets better, the Board could reconsider closing the fishery at a higher percentage.

For setting the TAC, the TC thinks that it should be done using the best available science. Right now the 2012 stock assessment we aren't able to use projections, so for now we are stuck with the ad hoc method.

But in the future, we're confident that we can get a handle on the uncertainty in the stock assessment.

And when that happens, we think that projections would be more useful than the ad hoc method. But I believe the option that we're recommending is the best available science, so the most flexible option.

Okay. The TC considered allocation based on two different criteria. First is allocation by area, and this is either the coastwide versus state by state or regional. Overall allocation by area has limited biological implications, though there is the concern that allocation with fewer compartments, so coastwide rather than state by state.

The more you have actively participating in a given fishery the more likely you are to get a race to fish condition, which could lead to intense fishery in a limited temporal or geographic scope, and this intense fishery could be detrimental to the local abundance or the size structure which may have larger implications for the stock as a whole. Nothing that we could evaluate quantitatively at this time, though.

The second allocation question was allocation by fishery, and this is the question that the Board posed to the TC about the reproductive potential of the two fisheries.

We did an analysis using the biological data that we have, and basically what we did is we took a time from each of the fisheries and broke it down into the number of fish at size and fecundity of those fish at size, and we calculated the total fecundity of a ton of fish from both the bait fishery and the reduction fishery.

And the way it falls out is the bait fishery has a higher reproductive potential per ton than the reduction fishery. We looked at this in a couple of different ways. If you just take the fish, one ton of fish and look at the reproductive potential right now, the bait fishery has about a 2-to-1 reproductive potential relative to the reduction fishery. And this makes sense because the bait fishery is harvesting the larger, more mature animals. If you took those ton of fish and you turned off fishing mortality and you allowed the fish from each of those tons to mature and age and die naturally, the difference goes down to about 10 percent. The bait fishery has about a 10 percent higher reproductive potential than the reduction fishery.

Now, neither of these scenarios is actually -- it's not realistic. You don't have a hundred percent selectivity of fish that you saved this year, and you

don't have zero percent selectivity of the fish you saved this year.

The true answer is somewhere in between, but we need to know what the fishing mortality rate is to calculate the actual answer. Since we don't know that, we use these two values as bounds, and we investigated three potential scenarios, allocation scenarios that the Board might consider.

And I'll walk through these. If you have questions, please stop me and raise your hand. This does get a little bit technical. We had to make some assumptions for the inputs for this because a lot of it - the answers do depend on the allocation and the historical fishery and some of the other inputs that the Board has yet to make. But using the assumptions that we made presents some results. The first of the three options that we thought the Board might consider is harvest reductions from fisheries based on their contribution to the total harvest.

So, for example, if you're taking a 10 percent cut, if the Board chooses to go with the multiplier of .9 and take a 10 percent cut from average numbers, what this would amount to is each fishery would take a 10 percent cut, and the savings in reproductive potential would be 10 percent. It's straight across the board 10 percent.

The second option would be harvest reductions relative to each fishery's contribution to the total reproductive potential of what is harvested right now.

So, again, if you want a 10 percent reduction in harvest, you would take a slightly higher reduction from the bait fishery because it contributes more than 20 percent of the -- excuse me -- it contributes a higher percentage of the total reproductive potential.

It's not 20-80 anymore. It's depending on what your input is it's different than 20-80. But given those two bounds that we're looking at, this 10 percent harvest cut you'll get about a 10 or 11 percent is the maximum savings in reproductive potential.

The third option that we looked at was trying to maximize the reproductive potential savings with our allocation.

So, again, if we're looking at a 10 percent reduction in overall harvest, because the bait fishery has higher reproductive potential per ton, this 10 percent reduction in the overall harvest would come entirely out of the bait fishery.

Now, this would be a major impact to the bait fishery, but you would only see modest gains in those additional savings to reproductive potential.

So, again, if the bait fishery is 20 percent of the total and you want to take a 10 percent cut from the total, you're looking at cutting the bait fishery in half essentially, but you're increasing spawning potential - or your savings in spawning potential wouldn't exceed 16 percent.

So your first option was 10 percent cut you get a 10 percent savings in spawning potential. This one you take a 10 percent cut, you only get a 16 percent increase in spawning potential, but you've cut the bait fishery in half. So I'm not here to tell you what's right. I'm just telling you this is the biological implications of different allocations.

If you wanted to maximize the spawning potential savings, most likely it would come out of the bait fishery. It has major impacts to the fishery with only modest additional savings.

So moving on, quota transfers, the TC felt that quota transfers are generally acceptable, but being the nice guys that we are, we said that if any party wants the TC to review a quota transfer to make sure there are no specific biological implications for a given transfer, we'd be willing to do that.

Quota rollovers, the TC also felt that these were okay if the rollover was not too large. The large rollovers they increase the likelihood of over harvesting that successive year, so the Board should consider putting bounds on the amount of rollover that they would allow.

Quota paybacks are important accountability measures. They protect the stock against over harvest. The decision to require and the amount of payback should be based on the Board's risk tolerance. The bycatch allowance, we didn't have any recommendations on what the level should be, but we do request that if the Board does allow a bycatch fishery, that there should be a monitoring mechanism in place so that as you approach that bycatch allowance, there is also the ability to close that fishery so we don't exceed the amounts.

The set-asides the small scale fishery, we had the same problem as the other groups did. We had trouble defining what that is, and without knowing what a small-scale fishery is, we weren't able to decide how large a magnitude the set-aside would be, so it was hard to consider the biological implications.

Some of the possible implications might be, again, depletions of local abundance or changes in the size structure that might have larger implications for the stock.

And another implication would be if you have this set-aside and it's not used, what happens to what's left over: Is it given back to the fishery; is it rolled over? And the concerns are the same as what I've presented for those two issues separately. And we also considered set-aside for episodic events, and the same considerations: What's going to happen with the fish that are not used?

The Chesapeake Bay reduction cap, the TC stands by its previous determinations that given the current structure of the fishery and the information that we have, there does not appear to be any biological benefit to having the Chesapeake Bay harvest cap.

If there are changes to the fishery, if we get a large influx in effort or if we see a change in selectivity, we'd need to re-evaluate this issue, but right now it doesn't appear there is any biological benefit to the Chesapeake Bay harvest cap.

De minimis, the TC had no concerns with allowing states who apply for de minimis or how the Board chooses to define de minimis. In most cases exemptions from biological sampling are okay when the landings are low, but we did request that -- we require quota monitoring because in the event of an episodic event, it would be very useful to have the biological data from that.

So the quota monitoring will allow a state to notice an episodic event as it's happening and implement a biological sampling program to capture the fish from that. So that would be very useful for the stock assessment. And recommendation for federal waters, the TC felt it would be very important to maintain consistency in federal waters to maintain the integrity of the fishery management plan. And that concludes my report, Mr. Chairman.

CHAIRMAN LOUIS DANIEL: Thank you, Jeff. Excellent report, as usual. Mr. Adler. Bill Adler.

WILLIAM ADLER: Thank you, Mr. Chairman. Back to the first thing, overfishing. You indicated that it is overfished now, and we're using the SSB way of figuring it. Correct?

JEFFREY BRUST: If I said that, I apologize. We are overfishing based on the MSP-based fishing mortality reference point, but over fished status is

based on the medium recruitment, the old biological reference point; and under that reference point, the stock is not overfished. If we move to an MSP-based biological reference point, the TC will have to re-evaluate it.

WILLIAM ADLER: So do you feel that if we move to this MSP one, that there'll be overfishing and that the stock could be overfished as well? For right now it is not overfished. Is that the way it works?

JEFFREY BRUST: I believe that was the feeling of the TC. We just didn't want to make that statement without going back and reviewing all our numbers and the calculations. But it's very, very likely that if we move to the MSP-based reference point, there would be overfishing, and overfished.

WILLIAM ADLER: So, in other words, we're going to move the goal post here. Overfishing is it true that over the past I don't know how many years, we've been overfishing twice in all those years, or were we always overfishing?

JEFFREY BRUST: I'm sorry. I don't remember. What has happened -- I don't remember the number of years that any of this has happened. What happened most recently though is we moved the goal post for the fishing mortality reference point also.

You'll remember from the 2008 we were only -- oh here, Mike's pulled up a figure. Let me interpret it here. Which fishing mortality is that -- the new one or the old one? The new one. So I'm looking at a figure right now that shows we have been overfishing for most of the time series, using the new MSP-based reference point.

WILLIAM ADLER: Thank you.

CHAIRMAN LOUIS DANIEL: Terry Stockwell.

TERRY STOCKWELL: Thank you, Mr. Chairman. Great report, Jeff. I have a question for you. I'm supportive of the consistent measures but struggling with the TC's rationale for the new SSB reference points given that you'll need to take the time and expense to re-evaluate the stock status with an assessment update, but you also say precludes the use of projections at this time.

I'm trying to wrap my head around that, so can you provide some more rationale why we should approve these SSB reference points today?

JEFFREY BRUST: Well, you'll remember that we were very uncomfortable with determining your estimates for both fishing mortality and biomass from that, but given all of the other information that we had and the sensitivity runs that we did relative to fishing mortality, the result didn't change much. Every run that we did gave us the same number -- excuse me, the same result.

We were overfishing in every case. We can't tell you by how much, but we were confident that that result to the overfishing status was pretty clear. And I think we'd have to go back and just have those discussions: Do we feel the same way about the spawning stock biomass as well?

I don't remember off the top of my head what the results were in terms of did all the sensitivity runs give us overfished status if we used the MSP-based reference points. We'd have to go back and look at those.

And because we are very uncomfortable with the term of your estimates, it would have to be a professional judgement kind of thing like we used with the fishing mortality reference point.

TERRY STOCKWELL: It will be a brief follow-up, Mr. Chairman. So the time it would take for the TC to do this would be what, given that a number of you are about to start working on the benchmark?

JEFFREY BRUST: I think we could probably get it done in a conference call or two. That's my guess. It wouldn't take that long. I think it would be relatively quick.

CHAIRMAN LOUIS DANIEL: Bill Goldsborough.

WILLIAM GOLDSBOROUGH: Thank you, Mr. Chairman. Jeff, I'm curious about your statement about the TC seeing no benefit to the Chesapeake Bay cap. When we adopted that cap seven years ago, we did so out of concern that there would be localized depletion as a result of the concentrated pattern of the fishery in the Chesapeake Bay and the waters nearby.

At the same time we did that, we undertook a five-year research program to try and identify the nature of that concern, and I think it's fair to say -- and correct me if you see it differently -- that the results of that five years were inconclusive mainly because we were unable to come up with any way to actually document the biomass of menhaden in Chesapeake Bay at any one time.

So I'm curious about your statement which sounds a little more conclusive and wonder if it isn't more accurate to say we haven't been able to document the biological benefit of the Chesapeake Bay cap. There still might be some, in other words.

JEFFREY BRUST: I was afraid someone was going to ask me about this because these decisions were made before I was actually on the TC. So the best I can do is regurgitate the discussions that we had most recently. I see your point about possibly changing it to we see no biological benefit, but the statement that the TC made was that there is no observable biological benefit. The discussions we had were that part of the reason the cap was put in place was there was concern that there was going to be increased effort in the Bay, and so the cap was put in to prevent significant increases in harvest.

That didn't happen. Those extra vessels didn't come, and so that's why I caveated our statement with: Given the current structure of the industry right now. And the fish that they harvest and the biological information that we're collecting there doesn't seem to be any benefit.

If that changes, so if additional boats come in or say, for example, there's a coastwide quota and all of the boats end up fishing in the Chesapeake Bay, bait reduction everyone.

You know, if there's an increase in effort or if there's a change in the size selectivity of the fish they're taking, we would have to re-evaluate it. But given the discussions that I've been privy to regarding the cap, the statement was that given the structure of the industry, there is no observable biological benefit.

CHAIRMAN LOUIS DANIEL: Jack Travelstead.

JACK TRAVELSTEAD: Thank you, Mr. Chairman. Thank you, Jeff, for your report. I like the way the Technical Committee has provided us with advice on all the issues we're going to have to vote on today.

My question goes back along the lines of Terry's having to do with this re-evaluation of the new biomass reference point. And I've been of the impression that what we do here today will carry us forward until we get a new benchmark stock assessment in 2014.

So my question is: Will the TC's re-evaluation of stock status relative to a new reference point does that change that in any way?

JEFFREY BRUST: Does it change the timeline for the next assessment? Not that I'm aware of, no. I think we've even been put on the CEDAR schedule to complete the assessment in 2014.

JACK TRAVELSTEAD: Does it change the timeline on other actions that this Board might need to take, or is what we do here today going to carry us through 2014 when we have a new benchmark stock assessment?

JEFFREY BRUST: I'm not aware of any changes that it would require. If the Board chooses the MSP-based reference point, we'll have to re-evaluate stock status, but we'll still do the assessment in 2014, and the Board will continue to make all the decisions it chooses to make today.

CHAIRMAN LOUIS DANIEL: I'm going to ask Mike to make some additional clarifying comments, and if he doesn't hit what I want to hit, I'm going to make some, too.

MICHAEL WAINE: Thank you, Mr. Chairman. I just wanted to point out that in draft Amendment 2 on page 40 actually, there is statements about what exactly the Board is required to do given the stock status.

So, anyway, considering that we're in overfishing condition and the Board must act to reduce F to the target, I think that that same statement would apply to the overfished definition as well. But anyway, I just wanted to make that clarification.

CHAIRMAN LOUIS DANIEL: Yeah. I think it relates to the decision that the Board made two or three meetings ago that we're going to manage menhaden as an ecosystem component and not just as a fishery. And so if we retain the old currency, the thresholds are at a much lower level. The population biomass thresholds are at a much reduced level; whereas, the new MSP-based reference points clearly reflect the Board's desire to manage for a higher level of abundance at the 30 percent.

And so there's nothing that the Board will do today to get us on that trajectory specifically to get us on that trajectory to our 30 percent target, which we've all agreed is our goal.

We're going to have to wait until our stock assessment -- and Jeff will correct me if I'm wrong -- we'll have to wait until we get our stock assessment with the projections in order to determine how fast we will achieve that 30 percent reduction and

whether or not the reductions that we decide upon here today are going to get us there or whether or not we're going to have to come back and do more or maybe less depending upon the outcome of the assessment.

So we're selecting the new reference point that reflects that desire of the Board. Thirty percent is probably reasonable. We should know more when the new stock assessment is done. But I don't want us to get into a discussion on achieving the target at this point would be fruitless because we don't know. Until we get the stock assessment we won't know.

But I believe the 15-30 percent target and threshold is a reflection of the Board's desire to manage as an ecosystem component as opposed to just a fishery. Mary Beth Tooley. A follow-up to that statement?

MARY BETH TOOLEY: Thank you very much. Because that was clarifying. That was my understanding of what the status was. And as the discussions go on, it does get a little confusing.

And the one thing about the stock assessment it's my understanding that there will be a thorough review of the reference points at that point, so it does make you wonder if there's a need to act today or not.

And as you indicated, certainly, it doesn't preclude the Board from acting on other measures in the document at all. So thank you for that comment.

CHAIRMAN LOUIS DANIEL: Yes, ma'am. Pete Himchak.

PETER HIMCHAK: Yes. Thank you, Mr. Chairman. Different topic. Jeff, you talked about the increasing spawning potential bait versus reduction on a ton-to-ton basis. I'll keep it simple. So you're looking at a 10 percent advantage to the bait ton versus the reduction ton.

Now, what happens if you consider the total harvest? In other words, if you're harvesting an 80-20 percent; now you have four tons in your reduction side of the ledger and one ton on the bait side. So what does that do to the 10 percent benefit to increasing spawning potential?

JEFFREY BRUST: Well, those were the first two options that we looked at. If you just want to take the harvest reduction relative to the two fisheries' contributions to the total harvest, that's the first option.

The second option took the per ton reproductive potential for each fishery and multiplied it by the number of tons that are harvested by each of those fisheries and added them together, so the reductions were relative to the total reproductive potential of the harvest. And that takes into account the different magnitudes of the two fisheries. So that would be the second option: If you wanted to reduce relative to each of their contributions to the total reproductive potential. You look dumb founded, Pete. He really does. He really does. For those of you listening you should see this.

PETER HIMCHAK: Yeah. There's no simple answer I guess.

CHAIRMAN LOUIS DANIEL: Well, let me make an effort to see if I understand it. As we go away from the 80-20 historical split, as we allocate more fish to the bait fishery, our actual increases in spawning stock biomass decline.

JEFFREY BRUST: Yes. If you take fish from the reduction fishery and give it to the bait fishery, you're going to be actually harvesting more reproductive potential from the stock.

CHAIRMAN LOUIS DANIEL: Does everybody understand that? Okay. To me that's the key point, the key point to what Jeff is telling us because the bait fishery is catching the larger older fish that have higher reproductive potential; and as we stray from the 80-20 split going to 70-30, going to 60-40, actually the savings are mitigated -- some savings are lost by that regardless of the percent reduction that we select. John Duren.

JOHN DUREN: That's a very interesting concept. And I have a question. Is it intentional, or is it just that's the way it has been? I think the reduction fishery would like to have bigger earlier fish if they could get them, isn't that true?

CHAIRMAN LOUIS DANIEL: I can't speak on behalf of the menhaden fishery, but it's not intentional. It's just so happens that the historical allocation based on the most recent information is about an 80-20 split. And so the fact is is that they are catching the smaller fish and so their impact on the stock per ton is less than the impact on the bait fishery, per ton per fish.

JOHN DUREN: Thank you. But my point was I don't think they intentionally catch the smaller fish. It just happens that way.

CHAIRMAN LOUIS DANIEL: That I don't know. Any other questions for the Technical Committee? If not we will move into the Advisory Panel's report. Mr. Bill Windley.

ADVISORY PANEL REPORT

WILLIAM WINDLEY: This report is rather lengthy, so I'm just going to get right into it. No. 1 SSP reference points. Section 2.5. AP members felt that the current RSP reference points are robust, so they favor status quo.

All the members were in support of Option B because the Technical Committee recommended resolving technical mismatching. F Reduction Schedule 2.6.2, some AP members support Option E because they did not feel like other ASMFC species are managed at the target, and it is unnecessary to manage menhaden at the F target.

Other AP members support managing menhaden to the target and support Option C because it is the most reasonable and fastest for achieving the F target. Some members supported a combination of Option B and Option E, achieving the F target three years after the next benchmark stock assessment.

Quota monitoring. Section 3.6.1.2. There was consensus for mandatory catch reporting that is both comprehensive and timely.

Some AP members recommend daily reporting by both dealers and harvesters and to take that option out to public comment through a follow-up addendum. Some AP members also support Option B, because this option gives the states the most flexibility for the current reporting structure. AP members implied that daily reporting would be best, the best approach for managing quota.

Biological data. Section 3.6.2.1. The AP reached consensus that the Board should implement mandatory biological monitoring to obtain age and length information over the geographical range of the species. And in most of the state agencies, personnel is spread thin, and the industry should be a partner in obtaining and updating the target samples.

Adult survey index, 3.6.2.2. There was consensus recommending Option B to enhance the adult survey index. Some AP members suggested that aerial surveys be implemented to annually assess the adult abundance coast wide; and noted that more scientifically sound information is important for this resource. Total Allowable Catch. Section 4.2.1.

The AP has consensus for Option B using the TAC to manage Atlantic menhaden.

TAC Specifications, Section 4.2.1.1. The AP emphasized good monitoring is crucial for this closure mechanism to work. Some AP members support Option C because a reporting structure for the reduction fishery is very good. A 5 percent buffer is plenty and works well for Atlantic herring. Some AP members said a hundred percent of the TAC should be harvested so rollover is important if there are underages. Other AP members support Option B because the bait fishery reporting is not complete, and a larger buffer would help account for that.

TAC Setting Method, 4.2.1.2. The AP recommends using the ad hoc approach, but if and when projections are developed that could be used to set a TAC, those should be considered in the future.

TAC Setting Method. Don Swanson from New Hampshire was in support of Option B for a .75 multiplier. Ken Hinman had no preference on a three-year and five-year average, but the multiplier should be at least .75. He pointed out that using the ORCS approach considering the dire condition of the menhaden stock, overfishing and overfished coupled with these vital contributions to ecosystem health suggests the catch should be reduced by 25 percent at least. Jimmy Bichrest from Maine was in support of the three years average and a multiplier of 1 meaning zero percent reduction.

Brian Tarbox of Maine was in support of a three-year average and a multiplier of 1, meaning zero percent reduction. Given that there is no identifiable spawner/recruit relationship and that overfishing was not occurring in any significant way until the Menhaden management board arbitrarily changed the definition there's no valid way to choose reduction. Any reduction is purely a guess which I think is contrary to good management.

Ron Lukens from Virginia was in support of a three-year average and a multiplier of 1, meaning zero percent reduction. However, under the notion that there should be some reduction, he wanted to emphasize that it should be no more than 10 percent. The science does not suggest that we need a substantial reduction. The added zero percent reduction from a three-year average is a six percent reduction to harvest in 2011.

Jimmy Kellum from Virginia was in support of a three-year average and a multiplier of 1, meaning zero reduction. He added that closing on a

percentage of the TAC will mean that we'll probably end up leaving quota on the table.

Jeff Kaelin, New Jersey stated the abundance of fish today? should be reflected and therefore use 2012 landings in the average circulation calculations. Overfishing was marginal, and concerns about history of overfishing are not relevant. He was in support of a three-year average and, a multiplier of 1, meaning zero percent reduction.

Tom Ogle from South Carolina stated in the face of obvious and substantial overfishing he supports a .5 multiplier, meaning 50 percent reduction and reducing mortality to F target in five years.

TAC Allocation, Section 4.2.1.3. Some AP members recommend state-by-state allocation, Option C1 with a five-year revisit provision. They are also strongly allocation options that are not based on landing history. Other AP members recommended Option A 2.5, a 30 percent bait and 70 percent reduction split to allow for expansion in the bait fishery to the northern region as the population is rebuilt, and then it would be fair to allow for growth.

TAC Allocation, Section 4.2.1.3. Some AP members favored a coastwide quota, along with a set-aside option. They also noted that the markets will dictate the breakdown for bait and reduction fisheries, so it is unnecessary to allocate to the bait and reduction fishery. An AP member favored sub Option A1 do not allocate but keep a coastwide TAC. They also think the season should start July 1 and overall the season start should be considered at ASMFC level through the appropriate process. Some AP members felt that the bait market is saturated.

Quota Transfer, Section 4.2.1.4. Some AP members favor quota transfers, but noted that this is most relevant if quota rollover is not allowed. Some AP members did not have a position on this issue.

Continuing Quota Rollover. Some AP members support Option B, to allow a hundred percent rollover because sometimes natural events can devastate the fishery. That is to say Hurricane Sandy. An AP member favored Option A, no rollover, because there is conservation in saving fish and that will hopefully help the stock to grow faster. Some AP members favored Option C. If the Board decides little or no reduction, a rollover isn't warranted. If reduction are substantial some rollover is appropriate.

Quota Payback, 4.2.1.6. Some AP members were in favor of Option B, a hundred percent payback

because there needs to be an incentive not to exceed the TAC. One AP member was in favor of Option A because he specifies a closure percentage should mean that there will be no overages.

Bycatch Allowance, 4.2.1.7. Pound bycatch allowance was preferred, but agreed that there should be a mechanism to discourage direct harvest when the fishery season closes. The pound nets in Mid-Atlantic will have trouble because they have passive gears, so the AP was unsure what the best approach to deal with it is. They suggested that maybe a trip limit would be a better option for pound nets. The AP recommended that bycatch amounts be quantified in the fishery to understand the efficiency of bycatch allowance provision.

TAC Set Aside for Small Fishery. The AP recommended that the TC review the gears within each state and also look at the landings by year and month. This information may better inform when, where, and who would be eligible for the set-aside. The AP recommends that this issue be considered again in the future after this information has been obtained. Jeff Kaelin from New Jersey noted that there is a late fall New Jersey gillnet and pound net fishery which is valuable and should be considered for set-aside. He also noted there may be smaller scale fisheries in other states.

TAC Set Aside for Episodic Events, Section 4.2.1.9. AP members were in support of an episodic event set-aside, but they felt it would be more reasonable if it was a set-aside from unallocated coastwide quota. July 1st does not work as a rollover date. September 1 or some other date in the fall would work better.

The Chesapeake Bay Reduction Fishery Cap, 4.2.2. Some AP members support Option C, to adjust the cap and not eliminate it as the intent is to protect menhaden to rebuild it. Protecting them in the Chesapeake Bay is critical. Some AP members support Option A. With a new management regime, this will become obsolete, and the Board should let it expire. An AP member added the cap was not based on specific biological advice so it should expire in 2012 not wait until 2013. Some AP members favored Option B, to adjust it over a longer time frame as they view it has helped protect the Bay.

De Minimis, Section 4.5.3. An AP member suggested de minimis criteria should not be defined, but if it is defined, the criteria should be less than .25 percent of the total coastwide bait landings. Also de minimis states should not vote. Some AP members thought that we need the annual reporting but be

exempted from biological sampling and low landings would be okay. Some AP members felt that even if a state was granted de minimis status, the state should collect biological data.

Recommendation for Federal Waters, Section 4.9. Some AP members felt that this would be a good idea for consistency. They also recommended that MAFMC be contacted to construct a joint management plan for Atlantic menhaden. Other AP members felt that it is unnecessary as it is a fishery that is managed where menhaden are landed which is within the states.

Finally, General Comments. Historically, the AP and Technical Committee used to meet together. They look forward to another meeting when the TC sits down with the AP to review implementation of Amendment 2. He recommended having a joint meeting before the benchmark stock assessment. Melissa Dearborn from New York was unable to attend the AP meeting was concerned about the lost opportunity from the public hearings that were cancelled. AP members expressed concern about a record of poor attendance by some panel members in recent years and asked that the Board review membership to ensure that it is active and representative of stakeholder interest.

We do really need to reconstitute that board at this point. Thank you very much.

CHAIRMAN LOUIS DANIEL: Thank you, Mr. Windley. Any questions for Mr. Windley on the AP's report? Seems like we have a wide variety of opinions on the advisory report, very few consensus statements.

All right. That takes us to show time. You should have a memo from me to everyone sort of I tried to arrange how to handle these various issues so that they made sense and that we take them in logical order. And so that is in front of you, and so that will be the schedule of the issues that we will discuss.

Right now I am going to call for a roll call vote on Issue 1, 5, 5C, and 5A. Obviously, any board member may request a roll call vote for any of these items, but it would be my intent to at least go ahead and get on the record when I want to have roll call votes on some of the substantive items. And obviously, we will have a roll call vote when we take final action on Amendment 2.

A couple of ground rules before we get started. I don't want a lot of discussion without a motion on the

table. I want us to try to be thoughtful of our motions so that we don't end up in a Roberts Rules morass.

So, please, let's try to get our motions on the table and have them able to make simple adjustments rather than getting extraordinarily complicated because we do have basically 18 motions that we're going to need to get through between now and hopefully early afternoon.

The last thing I would ask is I have made the decision that I will rule any discussion of the ORC report or the Butterworth Fieldworth report out of order.

Those reports were not peer reviewed by the Technical Committee. They are not considered the best available science at this point. We have a peer-reviewed stock assessment that we are operating under, and I will not accept any discussion on those two documents. We will welcome anyone and everyone's participation in the updated stock assessment, and those folks will be included in that.

I would hope that some of the good work that was done by those two groups would be used and considered in the updated stock assessment, but it is not appropriate to discuss that here or today, so I will cut you off if you begin to speak about those two studies. And I hope everyone can agree to that.

I am going to try to move us along quickly. And if there are a lot of comments on a particular item, I'm going to go to for and against, and I'm going to really ask you to be judicious in your words.

And don't get mad at me if I don't call on you a third or fourth time 'cause I'm going to try to keep that from happening. So try to get your head right.

We've all had a lot of time to look and think about these issues, and so we should have a good sense of where we want to head with all of these I hope. Staff has been excellent with this whole process. All right.

CONSIDER FINAL APPROVAL OF AMENDMENT 2

CHAIRMAN LOUIS DANIEL: So the first item that I'd like discussion and I'd like to move forward with is Issue No. 1, the SSB reference points, and the decision we have to make is whether to maintain the old reference points that are contrary in currency or whether we accept the Technical Committee's recommendation and modify that currency to MSP with a target of 30 percent and a threshold of 15. So

I'll open it up to the Board for discussion. David Pierce.

DAVID PIERCE: Mr. Chairman, regarding the first issue, the SSP reference points, I'll preference my remark and motion I'm going to make relative to the reference points with the fact that throughout the course of today's proceedings and the issues that we'll discuss I'm going to be influenced very heavily by the objectives, the goals and the objectives that we have established for ourselves in this amendment, ecological objectives being, as far as I'm concerned, first and foremost.

Social and economic objectives, of course, are very important, but I think it's clear to me anyways where I need to go relative to what we have discussed already and those objectives that we have established for ourselves in this addendum. I do agree that with the Technical Committee perspective that indeed we're working with a different currency, SSB fishing mortality rate targets, thresholds. We have different currency now, and we have been advised by the Technical Committee, and we have been advised through the updated assessment on menhaden that we do need to have the same currency.

And we would be, as indicated in that updated assessment, overfished if we have the same currency, if we go to the MSP-based reference point. So I appreciate that fact.

I also appreciate the fact that Jeff did indicate that the Technical Committee would have to take another look at it, and I support that certainly, but as it stands right now that updated assessment says that if we do go to these new reference points, we will be overfished as well as overfishing will of course be occurring.

With that said, I would move that we adopt the MSP-based reference points, target equals SSB 30 percent, MSP and threshold equals SSB 15 percent MSP.

CHAIRMAN LOUIS DANIELS: Thanks you, Dr. Pierce. Is there a second? Second by Dr. Geiger. Is there discussion on this motion? Is that Jack or Jimmy? Jack. Jack Travelstead.

JACK TRAVELSTEAD: Thank you, Mr. Chairman. I fully understand the Technical Committee's recommendation, but it seems to be based solely on the fact that we now have targets and thresholds that are in a different currency, and so from that

perspective, yes, it is logical to have both the target and threshold in the same currencies.

But I'm reminded when we asked the Technical Committee to look at various reference points for this fishery, they came back to us on two different occasions and said MSP probably isn't the appropriate currency for this fishery.

Nevertheless, the Board went forward on the target, and now because we've developed that currency, we're being asked to make the same mistake twice. I am also concerned about the fact that the distance between the target and threshold is so wide.

I don't know of any other fishery where we see that wide of a difference between a target and a threshold. Obviously, we never want to exceed the threshold and we typically set a target at a level that prevents us from bumping up against a threshold, but here it's half a distance away from it, which I don't think is necessary. I think all of this needs to be re-evaluated. We're going to be going through the process of preparing a new benchmark assessment over the next year and a half to two years.

I think during that process we should develop a term of reference to ensure that the targets and thresholds are looked at once again. **And with that in mind, I would move to table this motion until the Board receives the peer reviewed benchmark assessment in 2014.**

CHAIRMAN LOUIS DANIEL: Postpone. And there was a second to that. I don't know if it needs a second, but we got one whether we need it or not.

I don't think that's debatable. It is? Okay. I'm sorry. Keep me straight. Don't get upset with me. All right. So discussion on the motion to postpone. Bill Goldsborough.

WILLIAM GOLDSBOROUGH: I think a lot of us will remember a year ago in Boston how much time we spent going through the development of the current F reference points that we have. And while percent MSP may not be the best currency, in the end we adopted them as the best interim reference points that we could come up with until we do have the next benchmark. What we didn't do at the same time we adopted new F reference points was adopt comparable SSB reference points as had been recommended by the peer review from the previous benchmark.

I still to this day don't know how we dropped the ball on that, frankly. Mid year last year I thought we

were doing both. But it clearly states in the peer review report the recommendation, the strong recommendation if you recall that we adopt stronger reference points both SSB and F that better protect the stock because the peer review panel was alarmed that the stock biomass was down to 8 percent of virgin levels.

So the Technical Committee in my opinion has taken stock of this mistake we made a year ago by not adopting new reference points for both and recognizes the disconnect and the problems that that causes and is suggesting that we make this change.

And, again, it's interim for the next two or three years. It will make our lives a lot easier, and it's appropriate and consistent with the last peer review. Thank you.

CHAIRMAN LOUIS DANIEL: Thank you. Just a comment to one point, and that is, I believe -- and Jeff can correct me if I'm wrong -- recognizing the highly variable and episodic recruitment in menhaden, that that was the reason for the wider split because traditionally we would go with a 20-30, as opposed to a 15-30.

And I think that was to try to accommodate for those wild swings that we made that we may expect. So it was a recognized difference or change in our traditional measures, and it would actually help the fishery by having that wider gap.

And really the fact that we're not going to be having any discussion on achieving the targets in this discussion, I don't know that this decision would impact anything we do for the near term before we get the stock assessment anyway.

So I think those are just some points from the chair that I think are pertinent to the discussion. Mr. Adler. Bill Adler.

WILLIAM ADLER: Thank you, Mr. Chairman. I'm trying to get a sense here, and you may have answered. If the MSP is adopted according to the Technical Committee, they would have to re-evaluate stock status relative to the new biomass reference points. So does that mean that if the MSP motion is adopted, what can we not do once that gets adopted? Do we have to wait for something? What does that do to the process here?

CHAIRMAN LOUIS DANIEL: I'm counting on Jeff to correct me if I'm wrong. Right now nothing. We don't do anything. They're going to go back, and

they're going to do a new stock assessment, and what they're going to do is they're going to analyze the stock and generate those reference points and find out where we are in relation those reference points.

Are we at 8 percent? Are we at 32 percent? Where are we in the status of the stock? So this decision will have no management decision bearing until we get the new stock assessment in two years.

At that point, the technical committee will know what our target and threshold is, and they will come back to us and tell us where in that continuum we are: Are we above or below the threshold, or are we above or below the target? So we take this action. And that's why I listed it first, because it is an issue that we need to take into consideration because if we have trying to achieve 30 percent recognizing then that we are overfished, it should have some bearing on what the Board does in terms of harvest reductions. Fair?

JEFFREY BRUST: If I may.

CHAIRMAN LOUIS DANIEL: Yes.

JEFFREY BRUST: Jeff Brust again. Yeah. If I add just a little bit more flexibility in there. If the MSP biological reference points are adopted, the TC then goes back. If we find that the stock is overfished, I guess the only amendment I'd make to what Louis said is that if the Board chose to, they could implement an amendment for a stock rebuilding schedule, but I think -- and this is my interpretation; obviously, it's up to the Board -- if you wanted to do that or if we got to that situation, you'd have the same problem you'd have right now with the F reduction schedule.

The TC's recommendation is delay until you know what your goal is or how far you have to move to get to that goal. You'd probably come to the same conclusion with your stock rebuilding. If you said you were overfished, we don't know how far we'd have to go to remedy that. So the only amendment would be -- excuse me -- the only addition to what you said would be the Board could choose to go through the amendment process -- excuse me -- the addendum process.

CHAIRMAN LOUIS DANIEL: Correct. Dennis Abbott.

DENNIS ABBOTT: Thank you, Mr. Chairman. I think the issue before us right now is whether or not we postpone this issue, not about what the Technical Committee may or may not do in the future.

With respect to the gentleman from Virginia, Mr. Travelstead, I think a more appropriate motion considering his feelings might have been Option A, status quo. But, however, going back a bit in history, I reviewed our board actions on our website, which we have back to 1999.

I was here in 1999 when we had the old style board. In 1999 we made a decision -- not made a decision. The Technical Committee told us we should be managing this fishery with a TAC and that we needed to take some action, and I think that's been what the Board has wanted to do for all these years. And I think today essentially put all this work aside is the wrong thing to do. We have had 31 board meetings since 1999. We have had six stock assessments. We have had technical reports most every year of what's going on in the fishery. And we've come to this point, and today is the day to make some decisions.

And I think that postponing any action is just wrong, so I would like to have this motion defeated and have a vote on the main motion. Thank you.

(Applause.)

CHAIRMAN LOUIS DANIELS: All right. All right. Any other discussion on the motion to postpone? Mary Beth Tooley.

MARY BETH TOOLEY: Thank you, Mr. Chairman. I would support the motion to postpone until the stock assessment. I think that, as you indicated, it's not going to change the decisions that are made here today relative to the fishery and its performance in the next few years.

And the one thing it does do is it changes the status of the stock, and given the current stock assessment which is highly uncertain, changing the status of the stock to overfished is very significant, and with the level of information available, I think the best thing to do is to wait for this assessment.

CHAIRMAN LOUIS DANIEL: All right. Any other comments on the motion to postpone? All right. Do we need to caucus? I don't think we do, do we?

DENNIS ABBOTT: I request a roll call.

CHAIRMAN LOUIS DANIEL: A roll call vote. Yes, sir. Motion to postpone. Roll call vote.

(Motion as voted.)

DRAFT

DRAFT

DRAFT

MICHAEL WAINE: Maine.

MAINE: Yes.

MICHAEL WAINE: New Hampshire.

NEW HAMPSHIRE: No.

MICHAEL WAINE: Commonwealth of Massachusetts.

COMMONWEALTH OF MASSACHUSETTS: No.

MICHAEL WAINE: Rhode Island.

RHODE ISLAND: No.

MICHAEL WAINE: Connecticut.

CONNECTICUT: No.

MICHAEL WAINE: New York.

NEW YORK: No.

MICHAEL WAINE: New Jersey.

NEW JERSEY: No.

MICHAEL WAINE: Delaware.

DELAWARE: No.

MICHAEL WAINE: Maryland.

MARYLAND: No.

MICHAEL WAINE: Potomac River Fisheries Commission.

POTOMAC RIVER FISHERIES COMMISSION: Abstain.

MICHAEL WAINE: Commonwealth of Virginia.

COMMONWEALTH OF VIRGINIA: Yes.

MICHAEL WAINE: North Carolina.

NORTH CAROLINA: No.

MICHAEL WAINE: South Carolina.

SOUTH CAROLINA: No.

MICHAEL WAINE: Georgia.
GEORGIA: No.

MICHAEL WAINE: Florida.

FLORIDA: No.

MICHAEL WAINE: National Marine Fishery Service.

NATIONAL MARINE FISHERY SERVICE: No.

MICHAEL WAINE: U.S. Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: No.

CHAIRMAN LOUIS DANIEL: Motion carries with two in favor and the remainder opposed and one abstention.

(Applause.)

CHAIRMAN LOUIS DANIEL: **Motion defeated. Sorry.** Whoops. I need Joe here. I can't see. All right. So the main motion is back on the floor, and that motion, I'm going to read that motion. Where is it? *Move to adopt the MSP-based reference points with the target set at 30 percent MSP and the threshold set at SSB 15 percent MSP. Motion by Dr. Pierce. Second by Dr. Geiger.*

Roll call that one? Okay. I had already said that, hadn't I? All right. We're going to do another roll call. Here we go.

(Motion as voted.)

MICHAEL WAINE: Maine.

MAINE: Yes.

MICHAEL WAINE: New Hampshire.

NEW HAMPSHIRE: Yes.

MICHAEL WAINE: Commonwealth of Massachusetts.

COMMONWEALTH OF MASSACHUSETTS: Yes.

MICHAEL WAINE: Rhode Island.

RHODE ISLAND: Yes.

MICHAEL WAINE: Connecticut.

CONNECTICUT: Yes.

MICHAEL WAINE: New York.

NEW YORK: Yes.

MICHAEL WAINE: New Jersey.

NEW JERSEY: Yes.

MICHAEL WAINE: Delaware.

DELAWARE: Yes.

MICHAEL WAINE: Maryland.

MARYLAND: Yes.

MICHAEL WAINE: Potomac River Fisheries Commission.

POTOMAC RIVER FISHERIES COMMISSION: Yes.

MICHAEL WAINE: Commonwealth of Virginia.

COMMONWEALTH OF VIRGINIA: No.

MICHAEL WAINE: North Carolina.

NORTH CAROLINA: Yes.

MICHAEL WAINE: South Carolina.

SOUTH CAROLINA: Yes.

MICHAEL WAINE: Georgia.

GEORGIA: Yes.

MICHAEL WAINE: Florida.

FLORIDA: Yes.

MICHAEL WAINE: National Marine Fishery Service.

NATIONAL MARINE FISHERY SERVICE: Yes.

MICHAEL WAINE: U. S. Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: Yes.

CHAIRMAN LOUIS DANIEL: Motion carries with one in the negative. Thank you. No no votes, no abstentions. None of that. It was just a clean everybody but one.

(Applause.)

CHAIRMAN LOUIS DANIEL: All right. The next item on the agenda is item Issue 5. It was kind of like when you give awards out to your younglings in soccer practice or something and they say hold the applause until the very end.

If we could do that, that would be great just to kind of keep things flowing and also to keep things from being thrown. I would appreciate that from the audience. I appreciate your passion for this issue, and it's clear, so.

The next item I'd like to take up is Item No. 5. This is where we will decided are we going to use a TAC to manage this fishery, as Mr. Abbott clearly reminded us of our desire there or not to use a TAC. So I will accept discussion from the Board on that item, Issue No. 5. Adam Nowalsky.

ADAM NOWALSKY: Thank you, Mr. Chairman. I'll get right to the meat of it. **I would make the motion for Option B: Harvest will be restricted through the use of a TAC.**

CHAIRMAN LOUIS DANIEL: Thank you, Adam. Is there a second? By Terry Stockwell. Is there discussion on this motion?

CHAIRMAN LOUIS DANIEL: Seeing none, is there any objection to this motion?

CHAIRMAN LOUIS DANIEL: **Seeing none, the motion carries unanimously.** All right. Where did Dennis go? His motion got approved. He wasn't even here. All right.

The next item I'd like to take up is Issue No. 2, the fishery reduction schedule, the goal timeline to reduce F to the target. Again, that is Issue 2, and that's the three-, five-, and ten-year issue, or no time frame specified. So I would accept discussion from the Board on that issue at this time. Pete Himchak.

PETER HIMCHAK: I would support the Technical Committee's position that it's premature to set a rebuilding time line to the rebuilt F when we don't know what the current levels of fishing mortality.

And so I would offer a motion to maintain the status quo until the Technical Committee provides us guidance following the benchmark stock assessment on current fishing mortality levels.

CHAIRMAN LOUIS DANIEL: Is there a second to that motion? Second by Mr. Travelstead. Is there any discussion on that motion? Dave Simpson.

DAVID SIMPSON: Yes. Thanks. I heard the motion, but the description of it sounded more like Issue 2E, and I just want to make sure that the proper option was selected or offered up.

PETER HIMCHAK: Yes, it is Option 2E, Mr. Chairman.

CHAIRMAN LOUIS DANIEL: Yeah. If that's okay, I'll accept that clarification, that the actual decision is 2E. Does anybody have any questions about that change?

CHAIRMAN LOUIS DANIEL: Any concerns?

CHAIRMAN LOUIS DANIEL: Any further discussion on that motion?

CHAIRMAN LOUIS DANIEL: Is there any objection to that motion?

CHAIRMAN LOUIS DANIEL: **Seeing none, that motion carries.** The next item I'd like to take up is Issue 5B. Hold on. Sorry. Issue 5b is the actual TAC setting method. So what we're looking for here is a determination or decision by the Board on how we want to set the TAC.

And that could be done based on it's the three-year and the five-year, whether we use the three- or five-year average landings. I'll accept discussion from the Board on that topic. It is my understanding -- and correct me if I'm wrong; and I'm not looking at the numbers, so I can't remember off the top of my head which ones are higher or lower -- but it is my understanding from discussions with the Technical Committee and with staff is that the most recent years seem to be the best years in terms of reliability of the data.

And so the further we go back the more we have some under reporting issues, and so probably the most correct time frame at this particular point in time based on the discussions that we've had in the past would be the three year, from my understanding.

I'm not trying to drive the discussion, just letting you know what I believe the facts are in terms of the two options that we have. I believe the decision we need to make is whether to go with a three- or five-year time frame. Dr. Pierce.

DAVID PIERCE: Yeah. **I would move that we use a three-year average of the catch to set an ad hoc TAC.**

CHAIRMAN LOUIS DANIEL: Is there a second to that motion? Second from Mr. Himchak. Move to use a three-year average landings. And that would be the '09 to '011 time period. Is there any discussion on that motion?

CHAIRMAN LOUIS DANIEL: Is there any objection to that motion?

CHAIRMAN LOUIS DANIEL: Bill Goldsborough. Sorry. Not objection, discussion.

WILLIAM GOLDSBOROUGH: Potential objection. No. Discussion. Really just a comment. It may be I realize that the most recent years are more accurate.

I would imagine that difference between three and five is that great with respect to accuracy, but I hope we realize as we do this and if we adopt this motion and go forward with the other steps of setting a TAC, that the catch has gone up substantially in recent years. It's the last couple years are 20 percent higher than they were in '08, the terminal year of the last benchmark. And so I would hope if we choose a three-year average because of the accuracy factor that we keep that in mind when we then go to our TAC setting step. That's all. Thank you, Mr. Chairman.

CHAIRMAN LOUIS DANIEL: Thank you. Any further discussion on that? David Pierce.

DAVID PIERCE: Yeah. Just to make sure it's clear that in referencing the years that we have referenced throughout the document and we brought to public hearing, and that is, we're looking at 2011 being the most recent year not 2012.

CHAIRMAN LOUIS DANIEL: Yes, sir. Mr. Himchak, did you have your hand up? Pete Himchak.

PETER HIMCHAK: Yes. As far as the most recent three-year period, I think it is definitely reflective of the bait demands that have been driven high because of the low tax on Atlantic herring. So it represents more of a current fishery demand situation.

CHAIRMAN LOUIS DANIEL: Good point. Any further discussion? Doug Grout.

DOUGLAS GROUT: Yes. Thank you, Mr. Chairman. I certainly believe at this point in time we need to be using the ad hoc method, but I think our better approach is to take Option B, which is to use either projections or ad hoc approach and that we would set this year's specification, the upcoming year specifications based on the ad hoc approach. So I would like to move to amend, that we use Option B under this section.

CHAIRMAN LOUIS DANIEL: I think both methods are using the ad hoc approach.

MICHAEL WAINE: Yeah. Thank you, Mr. Chairman. Yeah, Doug, eventually because we don't have usable projections, we're stuck with ad hoc. So I think what you're saying is just clarifying that if they do become usable, the Board wants the flexibility to use them. As of right now, we're going to use the ad hoc approach, which is a three- or five-year discussion that we've had up to this point.

DOUGLAS GROUT: That is exactly what I was addressing. I did not get out of that first motion that we were going to have the option of projections in the future.

MICHAEL WAINE: Projections would come with the new stock assessment, and then we could use them.

CHAIRMAN LOUIS DANIEL: So do you want to continue with your amendment or withdraw?

DOUGLAS GROUT: As long as it's clear that we're using Option B and that kind of method in the original motion, I'm fine with that, the original motion.

CHAIRMAN LOUIS DANIEL: Okay. Everybody clear where we are? The question was: it wasn't clear in the original motion that we would use this ad hoc approach in the projection settings when we get the benchmark stock assessment, and we will.

So Mr. Grout is comfortable with the original motion now with the understanding that it will be used for setting projections in the benchmark stock assessment. Now is everybody clear? Okay.

So I've got a motion on the floor. The amendment's been withdrawn. To use a three-year average '09 to

'11 with the ad hoc method to set the TAC, Issue 5B. Motion by Dr. Pierce. Second by Mr. Himchak. Any further discussion on the motion?

CHAIRMAN LOUIS DANIEL: Any objection to that motion?

CHAIRMAN LOUIS DANIEL: **Seeing none, that motion carries.** So the next -- I have had a change of heart in what is the most logical. In my mind the most logical is to go ahead and set the TAC.

So we've determined how we're going to set it. Now let's set it, and then we'll allocate it. So this discussion will be on using sub Option A, which is the methodology that we have selected.

I would entertain a motion on what the actual TAC should be. And so that's where we're going to talk about is it from status quo up to 50 percent reduction in the TAC. And then we'll talk about the allocation. So this is the big one. So, Dr. Pierce.

DAVID PIERCE: All right. Just to make sure I didn't miss something here. Sub Option A my motion that I made, that was adopted without objection?

CHAIRMAN LOUIS DANIEL: Without objection.

DAVID PIERCE: **Then I would move that we adopt A4, multiplier is equal to .75, meaning 25 percent reduction from recent three-year average resulting in TAC of 160,200 metric tons.**

CHAIRMAN LOUIS DANIEL: There's a second from Mr. Abbott, Dennis Abbott. So there's a motion on the floor from Dr. Pierce to adopt A4, which would result in a 25 percent reduction in coastwide harvest, and that also corresponds to a TAC, total allowable catch, of 160,200 metric tons, with a second by Mr. Abbott.

So discussion on that motion. Let me get my pad out. Lynn. Lynn Fegley. Sorry. I have to say your last name, too. I forgot.

LYNN FEGLEY: That's fine. Lynn Fegley. Thank you, Mr. Chairman. I wanted to just add a little context in support of this motion and just remind everybody that because we are trying to work off of the best science that we have, before November 2011 when the Board implemented the new more conservative reference points, we had a management framework that indicated that we should be fishing to a target of about 1.02.

When we went and implemented the new more conservative reference points based on the recommendation of the peer review, we wound up with a threshold at about 1.32. So essentially, without getting too technical, our new threshold is just slightly higher than what that old target used to be. And so the question we're asking ourselves now is: How far do we need to go to get below that threshold?

The benchmark assessment that was completed in 2009, which was deemed robust from management and past peer review, if you go back to that time and you take the years between 2000 and 2008, the amount that you had to reduce to get to the target of 1.02 was on average 28 percent, and now a threshold is very close to what that target was.

Since that assessment, harvest has been increasing; recruitment has remained flat or is even decreasing, and even our uncertain recent assessment shows fairly certain increasing trends in fishing mortality; so, therefore, I think when we step back in time and follow through what we know, this is very clearly a reasonable step to getting below that threshold level. Thank you, Mr. Chairman.

CHAIRMAN LOUIS DANIEL: Thank you, Lynn. Jack Travelstead.

JACK TRAVELSTEAD: Thank you, Mr. Chairman. This is truly where the rubber meets the road today. And when we started this amendment a year ago, I think we were all sitting around the table believing that the stock assessment that was updated last summer would provide us with a very clear way forward for this fishery; it would take a lot of the debate away from the issue and allow us to manage this fishery based on science not on opinion or referendum.

And unfortunately, we know that that's not the case now. The stock assessment update failed, and we're having to make use of an ad hoc approach, which is nothing more than sort of an educated guess as to where we need to be.

Clearly, Virginia is the main player in this fishery. That's obvious. We take well more than 85 percent of the harvest, and that means we're going to take a big hit when it comes to the impacts.

If we were talking about lobster or red drum or striped bass, I don't think any of us around the table would support a major reduction in harvest knowing

that we don't have a good stock assessment, but that we will in a couple of years. In fact, I'll remind the Board just last year there was an addendum looking at striped bass that proposed a 40 percent reduction as an option in the striped bass management plan, and we chose to put that off because we knew another update of the assessment was just around the corner, and so we chose not to take that action.

And so I'm asking the Board here today to at least in part use that logic, that philosophy here on menhaden today. Now, Virginia is not asking at all that you do nothing here today.

The Technical Committee has made it clear they believe that overfishing is occurring, and that's a problem that should be addressed, but given the fact that we will know a lot more about how far we may be going in just two years, I think we have an opportunity to balance the risk to the resource against the impacts that this type of reduction will bring to the fishery.

You have received a large number of letters from folks in Virginia that speak to the impacts of a severe harvest reduction like 25 percent. And I'm not going to repeat all of that, but as you know, the menhaden fishery in Virginia is centered in the northern neck. It's an area that is characterized by high unemployment, poor economy. In fact, the menhaden fishery is the largest employer in that area. That fishery contributes over 80 million dollars to the economy there. The reduction fishery is down to eight boats.

And I can tell you a 25 percent reduction at this point would mean the loss of two of those vessels, and there would be a significant trickle down of the impacts associated to all of the vendors that are associated with this fishery.

I won't go into all of those, but you've seen it in the letters. The other thing that concerns me about going this far at this point is we don't know how this is going to affect the bait fishery.

We have literally no analyses on our bait needs along the Atlantic Coast. We don't know where our current bait harvest goes. Is it all used domestically? Does any of it go to foreign markets? What's the current use? Is there an over supply of bait? Is there an under supply?

We don't know. What will be the effects of a 25 percent reduction in bait supply on the price of bait, and how will that effect our blue crab fisheries,

which are growing in Chesapeake Bay, the lobster fishery, and all those other fisheries that depend on bait up and down the coast? We've also heard a lot about the effects on spawning potential from the Technical Committee. I won't go into all those.

But clearly there are impacts that are going to result in the loss of a large number of jobs at a time when we don't have good information.

So I guess I'm asking for patience from the Board to wait until we have that updated benchmark stock assessment where we can finally manage this fishery based on science.

It will give us a clear way forward. And if it says we need a 25 percent reduction, then we'll take a 25 percent reduction.

What I would like to do at this time Mr. Chairman is offer a substitute motion for a multiplier of .9, which would result in a 10 percent reduction in the harvest.

This is something that Virginia can live with. It will minimize the risk to the industry at this point in time, and it certainly gets us started toward ending overfishing. You know, the fact that we just agreed to manage this fishery by a TAC is monumental. That is a major decision that this Board has made in all of the years, Mr. Abbott mentioned, that we've been trying to manage menhaden.

And I think 10 percent is a good start toward beginning to address the overfishing issue, and I would hope it would be your pleasure to support the substitute motion. Thank you.

CHAIRMAN LOUIS DANIEL: I've got a substitute motion from Mr. Travelstead to substitute for a multiplier of .9, which would result in a 10 percent of the harvest reduction and a TAC of 192,200 metric tons. Seconded by Mr. McElroy.

Is there discussion on this motion? All right. Let me go to the folks that I had prior to the second and see if they want to say. I don't want to mess it up. We'll start with A.C. and then Jimmy Kellum, and then I'll look at all the hands up. Then I'll ask for a show of hands again.

A.C. CARPENTER: Thank you, Mr. Chairman. A. C. Carpenter. I wanted to note that the Technical Committee in its deliberations noted that there was a disparaging difference between PRFC adult index and the model, and I just wanted to report that we

have preliminarily calculated a 2012 index number, which will be the highest index in the past 32 years. Our index has been steadily increasing since the late '80s, and has been on a trajectory of increasing harvest.

So I just want to put that on the record, that this 2012 index is going to be among the highest that we've had -- will be the highest we've had in at least the last 32 years.

So I think that speaks something to the availability of this species at least within the Potomac, and I think that it needs to be considered by the Board. Thank you.

CHAIRMAN LOUIS DANIEL: Thank you, A.C. Jimmy Kellum.

JAMES KELLUM: Mr. Chairman, I appreciate the opportunity to speak. On the motion of 25 percent, that's 15 percent higher than the TC recommended.

The Technical Committee offered advice. I think we should heed the advice of the Technical Committee. If we listen to the Technical Committee and the Advisory Panel, the majority of the members really recommended a zero percent on the three-year average, which is a 6 percent reduction. This 10 percent reduction that Mr. Travelstead has come up with is really a 16 percent reduction on the three-year average. I think the group needs to keep in mind that we have a three-fold quota going on here. We have a motion; we have a substitute; and then we going to go to where do we close the fishery.

If we agree to a 25 percent reduction now and then it passes to a 15 percent buffer and then a 37 to reallocation, we've put Virginia out of business.

Omega Protein is the largest employer of minorities in the Northern Neck. Is this a concerted effort of an attack of the Northern Neck? We need to protect our fishermen, our families.

We can live with 10 percent, and I don't know how we will survive the will we've always had for 25 percent as a starter, and then we rotate into the other two aspects of this cutback are non starters for Virginia. Thank you.

CHAIRMAN LOUIS DANIEL: Thank you, A.C. I mean Jimmy.

(Applause.)

CHAIRMAN LOUIS DANIEL: Thank you. Clarifying comment from the Technical Committee, and then I'll take a show of hands.

JEFFREY BRUST: Thank you, Mr. Chairman. Mr. Kellum just said that the TC recommended a multiplier of .9 or a 10 percent harvest reduction. I believe that refers to the examples I provided on the impact to spawning potential.

Is that correct, Mr. Kellum? I just wanted to clarify that that was not a recommendation from the Technical Committee. I used the multiplier of .9 just as an example. That is not a recommendation from the Technical Committee. Thank you very much.

CHAIRMAN LOUIS DANIEL: Thank you for that clarification. All right. Now, discussion on the motion? There were several -- there were a lot of hands up it seems like on one side of the table.

All right. Just keep them up. Mr. Adler. Keep your hands up if you want to speak other than Mr. Adler. You go ahead, Bill Adler.

WILLIAM ADLER: Thank you, Mr. Chairman. I'm concerned about how much of a drop this would be if for instance the bait fishery if we go through this and we start to split it up further and further and further in the reduction of the allowable TAC could hurt Massachusetts, for one thing, but could also hurt the bait industry, lobster bait industry in the case that I'm thinking of because there is going to be a need for more because of restrictions on the other state fisheries.

And so I favor this one. I know my colleagues in Massachusetts probably won't. But I favor this motion over the original one simply because I think the numbers are too small in this one, and I think that we'll be pushing the pencil here and the limits, and somebody's going to get hurt bad. Thank you.

CHAIRMAN LOUIS DANIEL: David Pierce.

DAVID PIERCE: Thank you, Mr. Chairman. I'd like to make it clear that I am very sympathetic to Virginia's situation, the position of the state of Virginia, the Commonwealth of Virginia.

I'm also very sensitive to the concerns that have been expressed by those individuals who represent all those employed in the reduction fishery such as those who live in the Northern Neck area.

I've read all the correspondence; I've heard what they have to say, and clearly this is not a very easy decision to make. I think I've got a history certainly in New England of making many motions and supporting many positions that are very much sensitive to the social and economic impacts of decisions that we've made on all the individual fishing communities, and I'm also of the same mind in regard to menhaden.

The motion that I have made so far and I may make later on and certainly this motion, not the substitute, but the main motion, I did not make that with the intent to bend for the Commonwealth of Massachusetts in any way.

I'm looking to do what I said I wanted to do at the beginning, that is to be sensitive to the objectives that we have in this particular addendum with those ecological objectives being front and center.

So I am very sympathetic to the position of Virginia. I also know that in recent years, in 2010 and 2011, maybe even 2012 -- I don't know what the landings are yet -- there was a jump up, a significant jump up in the level of landings beyond what occurred in 2004, '5, '6, '7 thereabout where it was about 180,000/185,000. That's total landings, not just reduction. So, looking at a 25 percent reduction in total harvest, when we compare it to what it was before the spike up, it actually is a drop of about 12 percent. So I'm not minimizing the effect; I'm not minimizing concern. But indeed it is a very notable and significant drop from recent years levels, but I believe it is a necessary drop that would enable us to be sensitive to our decisions -- to our knowing that we are overfishing.

And that has been said in the stock assessment: The reference point we've adopted, we're overfished. And if overfishing is occurring, we can't adopt a 10 percent that would drop us down to around 220,000/215,000 metric tons.

I don't believe that gets us anywhere near the level of landings. That would give us a high degree of confidence or even some degree of confidence that we are beginning to reduce overfishing and to deal with the overfished condition of the resource. So for those reasons I oppose the motion to substitute, and of course, I'll support my main motion.

CHAIRMAN LOUIS DANIEL: Pete Himchak.

PETER HIMCHAK: Thank you, Mr. Chairman. New Jersey the resource agency supports the

substitute motion. And following up on Jack's comments regarding the bait fishery, I can assure you that it has increased substantially in 2012. So, when you talk about a reduction, a multiplier of .9, you're reducing 16 percent from 2012 landings – 2011 landings --- I'm sorry -- in this handout you gave to the board members, and with the need for bait increasing in 2012, a reduction in the neighborhood of 25 or 35 percent would be very crippling.

CHAIRMAN LOUIS DANIEL: Bill Goldsborough.

WILLIAM GOLDSBOROUGH: Thank you, Mr. Chairman. I want to echo some of the remarks of Dr. Pierce and add some others. The proposal in a substitute for a 10 percent reduction and/or TAC of 192,000 tons would leave us above the catch level in 2008 of 188.5 thousand metric tons, and that was the terminal year of the last benchmark when we found that overfishing was occurring.

And since then, we have adopted more conservative reference points, so the degree of overfishing is that much greater, and yet this substitute would allow for a TAC that's higher than we were taking that year. Just on that math alone, I don't think we can go here. With respect to the striped bass comparison, I think that's a good comparison really. Just a year ago we were considering the possibility of a 40 percent cutback. Actually, I think the motion said up to 50 percent in producer areas, and that was because there was concern about declining spawning stock biomass for the previous five years.

So I think the Gulf of Maine in particular was sensitive to that. But even after that five-year decline, striped bass biomass was still above our target level, and yet we were still considering up to a 50 percent cutback.

Now, we didn't go there, and I think we found the wisdom of that. But with respect to menhaden, we're in a position where the stock is at an all time low, and we have a peer review report from our last benchmark that expressed great concern about that and urged us to take steps to increase that level.

So I sympathize with the state of Virginia as well. I think we're in a circumstance where it's a matter of the evolution of this fishery where 80 percent of the catch is taken by one jurisdiction, one very local jurisdiction; and therefore, when we have to adopt a quota system on what had been an unlimited fishery, 80 percent of the effect is going to occur there. It's a high-reward, high-risk circumstance. There has been a high reward for decades, and yet we've gotten

ourselves in a hole because we refused to do anything about it until now.

But we do have a strong benchmark assessment which represents our best available science that suggests strongly that we've got to do something about it.

So I'd like to reserve further comment on the main motion when we get to it, assuming we get to it but urge strongly against the substitute.

CHAIRMAN LOUIS DANIEL: Dennis Abbott.

DENNIS ABBOTT: Thank you, Mr. Chairman. I am very sympathetic to Mr. Travelstead's situation in Virginia, and I am also sympathetic to the effects this could have on Reedville, Virginia.

As a quick background, I spent seven years and then entire seven years of my life in a small community in the state of New Hampshire, a community that in the 1930's saw the textile industry abruptly leave and take a thousand jobs away and leave our town half the size it was to be followed later, 40 years later with the shoe industry going away and having great adverse effects upon my community and also a lot of communities in New England dependent on the shoe industry.

I think that it's the desire of the management board and the Atlantic States Marine Fisheries Commission that though we are proposing cuts here, whatever they may be, that we want to see this fishery rebuilt, we want more fish in the water so that Reedville can catch more fish.

I don't believe that the ultimate outcome of what we're trying to do is to destroy Reedville. I think that it's our job to have healthy fisheries, and we'd have that as our desire by the year 2015.

It is my hope that what action we take today will be a good move in the long term for that. As an example, two weeks ago the northern states of Maine, New Hampshire, and Massachusetts made decisions on the northern shrimp fishery this year.

Two years ago that fishery caught close to 7,000 tons. Last year we tried to limit it to 2,000, but we exceeded that harvest cap that we imposed; and this year we're at a point where we're allowing the fishermen primarily from the state of Maine to harvest 600 tons. Is that a result of us not taking enough action? Partially it is.

There are weather conditions and a lot of issues that go along with that. But not doing anything now we're only taking a minor decrease just keeps us on -- our favorite old slippery slope comment when I was in the legislature -- that we are going down the slippery slope, and we would continue to do that.

And I think we're trying to get off that slippery slope, and hopefully in the long run bring some stability to the fishery and eventually help the people from Reedville.

And I've read the brochure from Reedville, from Omega Protein. I read it on line before I came because I had been looking at newspapers up and down the coast for whatever information I can get.

And the final remark I'll say this: Mr. Philip Haney is in the audience; I'd like to shake his hand for sending his five children through college. Thank you, Mr. Chairman.

CHAIRMAN LOUIS DANIEL: Yes, sir. Jimmy Kellum.

JAMES KELLUM: Mr. Chairman, I appreciate this opportunity again. In respect to Mr. Goldsborough's comments, he says menhaden are at an all time low. He just stated that a second ago.

And right before that he said menhaden landings have increased steadily since 2008. And if Joe Smith of the Beaufort Lab were here, he would confirm that we've caught more fish with less effort with eight boats instead of 10 boats.

I'm not a scientist. I'm a fisherman and a realist. There's no way you can land more, catch more with less boats and less sets if there's less fish.

(Applause.)

JAMES KELLUM: The other gentleman talks about stability of the fishery, that he wants a 25 percent cut for stability of the fishery.

The menhaden industry, the center of Reedville, has existed for over 125 years. We're stable. We're stable. We don't need any government intervention. We're stable. A 16 percent reduction is what -- the 10 percent that my colleague Jack has introduced is truly 16 percent off the three-year average. They say that's a small number. That's 31 million fish the way we count fish. That's around 310,000 bushels.

Now, he may not think that's a big impact, but that's a huge impact. One other thing I'd like for the commissioners to keep in mind, that over the years, over the past 20 years, the fish factory at Beaufort Fisheries, Incorporated, the fish factory at Ampro Fisheries, Incorporated, and the fish factory at Omega Protein, Incorporated, have all interceded into the bait business when there was a shortage of bait.

Bait has been packed at all three of those facilities before two of them closed. And if we reallocate, which we're not on allocation, but it's all the same here.

And if we make a motion to reallocate, we're just allocating Omega into the bait business, and the small bait packing houses in the northern states they won't be able to compete.

So we need to be very careful. We're on a slippery slope here. 25 percent is a non starter. I said it a minute ago. I stick to it. Thank you.

CHAIRMAN LOUIS DANIEL: Thank you, Jimmy. Terry Stockwell.

TERRY STOCKWELL: Yeah. Thank you, Mr. Chairman. Given the status of the stock assessment update, it seems to me that any decision we make today is going to be somewhat arbitrary.

With that being said, 10 percent is perhaps not enough, and 25 percent is perhaps too much. I'm not going to tangle this motion up anymore. I'll wait until I see which way it goes.

But there are other options. There's step wise approaches. There's something different. I mean the document to me and I'm sure the public is entirely confusing. What percent really means what? So I'm going to be listening some more and be prepared to make another motion.

CHAIRMAN LOUIS DANIEL: Adam Nowalsky.

ADAM NOWALSKY: Thank you, Mr. Chairman. I certainly don't take any conservation measure lightly and what it means to the resources and the fishermen in every state up and down the coast. I do have to ask myself though: What are our reasons for cutting any fishery; is it to cut the fishery just for the sake of cutting it, or is there a true conservation measure? And when I look at what we're doing and the motion that we're currently debating here right now is that even with the cut, again, it's been referenced multiple times it is not 10 percent; it's 16 percent from 2011,

and is an even greater cut from what 2012 landings are. It's unfortunate we don't have that number here before us.

We're basically already locking this fishery into historically low levels of landings. I think with just about any other species that we manage to make that commitment to say we're locking this fishery into the lowest level of landings we've ever seen, that in and of itself would be a significant statement and something we'd all take home to our stakeholders and say this is something that we did that has a positive conservation benefit in and of itself.

Somehow this resource has managed to sustain itself for landings levels at almost twice what we're considering here today for over 50 years. The resource supported that level of landings. So I find myself questioning what are we really doing? Are we really cutting landings levels for the sake of cutting landings levels, or can we really tangibly go home and say this is the conservation benefit that we're getting by doing so? Thank you.

CHAIRMAN LOUIS DANIEL: Thank you, Adam. Bill McElroy.

WILLIAM MCELROY: Yes. Thank you, Mr. Chairman. I'll keep my comments very brief. I can't speak any better than Jimmy Kellum and Jack and Adam just did, but I do think that a 10 percent, which is 16 percent reduction is pretty significant, and I have to agree with Jack that this board just recently went through an ordeal with Southern New England lobster, and we started off with the idea of the five year closure, and we ended up coming down with a 10 percent mortality reduction.

I know not everybody on the board was real thrilled with that and thought it might have been a little less than what it should have been, but I think it was a good step forward.

And I think that there's a lot of parallels here with the menhaden, and I can't possibly think that these people all with these fancy signs up can try to say that a 16 percent reduction is insignificant. I think that any one of us if we looked at our wallet and saw a 16 percent reduction we would think it was significant. And I have to support this substitute motion because I think it is meaningful. It's not a joke. It isn't punting and not doing anything. Thank you.

CHAIRMAN LOUIS DANIEL: Thank you, Bill. Anything further on the motion? I think we've had a very even discussion. We had four speak in

opposition to the motion. We had four speak in favor of the motion.

So what I'm going to do is I'm going to give us two minutes to caucus, and while we caucus, I would like for the audience to take their seats, please.

(Whereupon, a caucus was held.)

CHAIRMAN LOUIS DANIEL: -- or accepts my interpretation of what any motion to reduce the current levels of harvest means to me, and that is whatever quota we settle on would go in place for the 2013 fishing year, and it would be held constant until we get a new stock assessment.

I just want to make sure everybody agrees with that before they vote. And if that results in a need for more caucus, that's fine, but I just feel like I want to make sure everybody's clear and that I'm clear on your desires on what this actually means and how it will be implemented. So does everybody understand that and clear on that? All right. We have a motion to substitute for a multiplier of .9, which will result in a 10 percent reduction of the harvest of menhaden and a TAC of 192,200 metric tons. That was a motion by Mr. Travelstead. Seconded by Mr. McElroy. And this will be a roll call vote.

(Motion as voted.)

MICHAEL WAINE: Maine.

MAINE: Yes.

MICHAEL WAINE: New Hampshire.

NEW HAMPSHIRE: No.

MICHAEL WAINE: Commonwealth of Massachusetts.

COMMONWEALTH OF MASSACHUSETTS: No.

MICHAEL WAINE: Rhode Island.

RHODE ISLAND: No.

MICHAEL WAINE: Connecticut.

CONNECTICUT: No.

MICHAEL WAINE: New York.

NEW YORK: No.

MICHAEL WAINE: New Jersey.

NEW JERSEY: Yes.

MICHAEL WAINE: Delaware.

DELAWARE: No.

MICHAEL WAINE: Maryland.

MARYLAND: No.

MICHAEL WAINE: Potomac River Fisheries Commission.

POTOMAC RIVER FISHERIES COMMISSION: Abstain.

MICHAEL WAINE: Commonwealth of Virginia.

COMMONWEALTH OF VIRGINIA: Yes.

MICHAEL WAINE: North Carolina.

NORTH CAROLINA: No.

MICHAEL WAINE: South Carolina.

SOUTH CAROLINA: No.

MICHAEL WAINE: Georgia.

GEORGIA: No.

MICHAEL WAINE: Florida.

FLORIDA: Yes.

MICHAEL WAINE: National Marine Fishery Service.

NATIONAL MARINE FISHERY SERVICE: No.

MICHAEL WAINE: U. S. Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: No.

CHAIRMAN LOUIS DANIEL: The motion fails 12 to 4 to one abstention. So the main motion is back on the floor for discussion and deliberation. Mr. Stockwell.

TERRY STOCKWELL: Thank you, Mr. Chairman. As I indicated in our previous discussion, I was uncomfortable with both the 10 percent and the 25 percent. **I have a motion to substitute a multiplier**

of 0.8 which would result in a 20 percent reduction of harvest and a TAC of 170,800 metric tons. If I get a second, I will provide a brief rationale.

CHAIRMAN LOUIS DANIEL: You have a second from Mr. Bellavance.

TERRY STOCKWELL: My brief rationale, Mr. Chairman, is that this is a credible reduction in F, and it goes some way towards mitigating the economic impact that these decisions are going to make on the industry.

CHAIRMAN LOUIS DANIEL: Is it up there? So that would result in a 170,800 metric ton TAC. Is there any discussion on this motion? Mr. McElroy.

WILLIAM MCELROY: Yes. Thank you, Mr. Chairman. I'd like to speak in favor of this motion. As you well know, I supported the 10 percent reduction, but I think that this a fair and effective compromise. Thank you.

CHAIRMAN LOUIS DANIEL: Thank you, Mr. McElroy. Mr. Travelstead.

JACK TRAVELSTEAD: I move to amend the substitute motion by changing 0.8 to 0.85 and the harvest reduction to 15 percent.

CHAIRMAN LOUIS DANIEL: Point of order.

DENNIS ABBOTT: Thank you. I think that we have a main motion and we have another motion to amend it. I think that we can't have more than two motions in play at the same time. I think that we have to deal with this motion first.

CHAIRMAN LOUIS DANIEL: The rule from the chair is going to be that there will not be an amendment to the substitute, but the substitute if this passes will become the main motion at which time I would accept that amendment to do how ever you would like to do.

So that said, we have a substitute motion that will have to be voted on as the main motion for the .8 multiplier, 20 percent; 170,800 metric tons. Is there further discussion on the motion? Doug, didn't you have your hand up?

DOUGLAS GROUT: Yes. Thank you, Mr. Chairman. I would like to express support for this motion. One of the things that I had concern about with the 25 percent reduction something that came to my mind is up in New England right now we're

facing 70-plus reductions in some fisheries, and that kind of wild swings in a business's income is not something that is sustainable.

And I know some of the things that we've been discussing up at the New England Council is potentially in the future looking at some kind of constraint on the amount of reductions that could occur in a single year, and the figure that's been thrown around is 20 percent.

So that is why I'm more comfortable with this reduction, because I think it is a compromise between where we need to go which the most important thing is we need to end overfishing.

And we don't have a precise measure from our stock assessment or Technical Committee as to where the exact amount we need to go, but given what the previous assessment had said in 2008, we know we need to be below that level, and this gets us down to 171,000 metric tons compared to 188,000 that occurred at the previous peer-reviewed, approved stock assessment. So I'm going to support this motion, and I hope my fellow commissioners from New Hampshire will also support it.

CHAIRMAN LOUIS DANIEL: Mr. Adler. Bill Adler and then Bob Ballou.

WILLIAM ADLER: Thank you, Mr. Chairman. Since we conveniently moved the goal post and the stock assessment hasn't been done and the Technical Committee says we got to go back out and figure this out and see where we go; meanwhile, in the motion that cuts the take and then of course splits it up or may split up into bait -- and I know the bait problem we're going to have -- and I sympathize with the reduction fishery and the problems I see they could have with lower, I would have preferred the lower cut, the 10 percent; but this particular cut perhaps might be able to at least move us along and at the same time 'til we can see where we are once the Technical Committee does their thing, that this would be a better choice than the higher reduction. Thank you.

CHAIRMAN LOUIS DANIEL: Bob.

ROBERT BALLOU: Thank you, Mr. Chairman.

CHAIRMAN LOUIS DANIEL: Bob Ballou. Sorry.

ROBERT BALLOU: Thank you, Mr. Chairman. I too am comfortable with this substitute motion. I note that it would lead to a reduction in landings

relative to 2011 of 25 percent, and I find that number to be about right. This is obviously a difficult decision, relatively speaking and arbitrary one, but one that at the end or as a bottom line really involves attempting to manage a public resource in the best interest of the public. And trying to ascertain what that public interest is is a very difficult exercise, but it's exactly what we're trying to undertake today.

I'm looking at the public comment record and recognizing that the vast majority of members of the public who commented on this issue favored a reduction of at least 25 percent, and I think it's my interpretation of the substitute motion that would be achieved and as such I'm comfortable supporting it. Thank you.

CHAIRMAN LOUIS DANIEL: Okay, Dennis.

DENNIS ABBOT: Thank you Mr. Chairman. The delegation from New Hampshire arrived here in Baltimore feeling that 25 percent was the line in the sand that we wanted, but decision making is like making sausage, you put it in the grinder, and what comes out the other end is what it is and sometimes not what we entirely want.

And I think that part of our process is compromise. So I am willing to change my position somewhat and place 20 percent as my line in the sand at the present time.

CHAIRMAN LOUIS DANIEL: Thank you, Dennis. Jimmy Kellum.

JIMMY KELLUM: I listened to my colleagues up here prided themselves on compromise. Compromise between 10 and 25 is 17.5, 2 1/2 percent.

You all can nay and snicker all you want, but 2 1/2 percent of 170,800 metric tons is a lot of fish to us. It may be the difference between a man staying and feeding his family and not feeding his family.

And to keep coming to the fact that the letters were so much in favor of a 25 percent cutback, that's not a referendum. This is fisheries management. We're supposed to manage a fishery that is really healthy. We can sugar coat it all we want. We have a healthy fishery. It's not a referendum. A hundred thousand letters means nothing because it's just emotion. It's just emotion. Thank you.

(Outbursts from audience.)

CHAIRMAN LOUIS DANIEL: No. No. No. Please. Please. I will clear this room. I will clear this room. So please no outbursts, please.

We have extraordinarily dedicated and informed commissioners around this table, and they are entitled to their opinion, and they will be allowed to give their opinion without the crowd involvement. Thank you. Follow up?

DENNIS ABBOTT: I'd like to respond to Mr. Kellum's remarks. I share his feelings about when it comes to numbers of comments.

I think as commissioners we look at everything as best we can, and I don't think that we're overwhelmed by large numbers. And I'll give an example of that also.

A few years ago we dealt with horseshoe crabs, and I think at that time we had something like 25,000 public comments, and the vast majority of those comments would have led us in a direction that we did not go. We did consider those comments. But as Pat Augustine earlier spoke, we look at things individually. We look at things in our own way as individuals in many ways. And though I appreciate a hundred thousand comments, I don't find that overwhelming.

And I think this board is capable and smart enough and has everything about it that's good and looks at things as objectively as they can and they have in the 16 years that I've participated in this process.

CHAIRMAN LOUIS DANIEL: I feel like as having been through this and dealing with this for the last year pretty intensively, my big concern is we have now made a decision that we are overfished.

I personally don't believe we've moved the goal posts. I think we've changed our strategy for managing menhaden, and that necessitated a change in the biological reference points. So I think we made a very conscious decision there.

I know from the state of North Carolina often times we take less action to avoid the short-term economic consequences, that's gotten us in trouble. The circumstance that I'm forecasting right now with menhaden is: we are overfished; we are overfishing; we have a stock assessment coming; and if we don't do something, then it's likely that the long-term viability of that fishery is going to go away. And that's the biggest concern that I have.

And then we're talking about devastating impacts not only to rebuild Virginia, but to the entire fishing community along the east coast of the United States that depends on menhaden for bait.

And I hope Mr. Kellum and Mr. Dudley are right and that the stock is in far better shape than the stock assessment indicates, but if it's not, we're going to be in a big scrape in two years.

So I think it's very important as we deliberate and as we caucus here in just a minute on our decision on this motion that we recognize that these reductions that we achieve beginning next year will likely not be factored into the updated stock assessment.

We will have reduced the harvest. We're not going to have the '014 landings in the stock assessment. We may not even have '013 landings complete in the stock assessment.

So I would just remind us all of that, and that when we do come back, we need to make it at least be very clear in our minds that we have taken action, and it's hopeful that the stock assessment that we do receive is going to be pessimistic and that we may be able to relax a little more than we may have had we done less of a reduction this time.

So, I'm not trying to pontificate from the chair, Mr. Augustine, but just trying to lay out the way I see it and not try to influence but just try to summarize where we are.

So we're going to caucus for two minutes. We're going to vote on this motion, and then we'll vote on it as the main motion, and then we'll move on. So two minutes.

(Whereupon, a caucus was held.)

CHAIRMAN LOUIS DANIEL: We will do another roll call vote. So we're going to be breaking records here this day. So, Mike, if you will begin our roll call vote on the substitute motion to a multiplier of .8 which would result in a 20 percent reduction of harvest and a TAC of 170,800 metric tons. Motion by Mr. Stockwell. Second by Mr. Bellavance.

MICHAEL WAINE: Thank you, Mr. Chairman. Maine.

MAINE: Yes.

MICHAEL WAINE: New Hampshire.

NEW HAMPSHIRE: Yes.

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MICHAEL WAINE: Commonwealth of Massachusetts.

COMMONWEALTH OF MASSACHUSETTS: No.

MICHAEL WAINE: Rhode Island.

RHODE ISLAND: Yes.

MICHAEL WAINE: Connecticut.

CONNECTICUT: Yes.

MICHAEL WAINE: New York.

NEW YORK: Yes.

MICHAEL WAINE: New Jersey.

NEW JERSEY: Yes.

MICHAEL WAINE: Delaware.

DELAWARE: Yes.

MICHAEL WAINE: Maryland.

MARYLAND: Yes.

MICHAEL WAINE: Potomac River Fisheries Commission.

POTOMAC RIVER FISHERIES COMMISSION: Yes.

MICHAEL WAINE: Commonwealth of Virginia.

COMMONWEALTH OF VIRGINIA: Yes.

MICHAEL WAINE: North Carolina.

NORTH CAROLINA: Yes.

MICHAEL WAINE: South Carolina.

SOUTH CAROLINA: Yes.

MICHAEL WAINE: Georgia.

GEORGIA: Yes.

MICHAEL WAINE: Florida.

FLORIDA: Yes.

MICHAEL WAINE: National Marine Fishery Service.

NATIONAL MARINE FISHERY SERVICE: Yes.

MICHAEL WAINE: U.S. Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: No.

CHAIRMAN LOUIS DANIEL: **Motion carries with two in the opposition.** So the substitute motion becomes the main motion, and there is discussion on that motion. Mr. Travelstead.

JACK TRAVELSTEAD: Thank you, Mr. Chairman. You'll notice that Virginia voted in favor of this substitute, but that is only because we prefer 20 over 25. We do not support 20 percent. It goes too far in the absence of knowing exactly how much we're overfishing. I'm not going to repeat all of my arguments. **I'm simply going to move to amend the main motion now to a 15 percent reduction.**

CHAIRMAN LOUIS DANIEL: There's a motion by Mr. Travelstead, a second by Mr. McElroy to amend the main motion to a 15 percent reduction, which we'll have the numbers that that relates to up on the screen ASAP. Discussion on the motion. Mr. Abbott.

DENNIS ABBOTT: Yes, Mr. Chairman. I'd like to make a motion that debate be limited, as we've already had ample amount of time on debate. And I think if you take a vote on whether debate should be limited, then we can move to have a vote on this subject.

CHAIRMAN LOUIS DANIEL: I don't believe there's any objection to that. There's certainly not from me. I missed my 12 o'clock deadline, but that's okay. All right. Any discussion on the motion? And it better be new.

CHAIRMAN LOUIS DANIEL: All right. We will caucus, and we will roll call vote. All of these votes are going to be roll call vote until we get to the final vote. But it's only going to be a minute this time.

(Whereupon, a caucus was held.)

CHAIRMAN LOUIS DANIEL: No more discussion around the table. We have a motion to amend to a multiplier of .85, which would result in a 15 percent reduction in harvest and a TAC of 181,475 metric tons. Motion by Mr. Travelstead. Second by Mr. McElroy. Mr. Waine.

DRAFT

DRAFT

DRAFT

MICHAEL WAINE: Thank you. Maine.

MAINE: No.

MICHAEL WAINE: New Hampshire.

NEW HAMPSHIRE: No.

MICHAEL WAINE: Commonwealth of Massachusetts.

COMMONWEALTH OF MASSACHUSETTS: No.

MICHAEL WAINE: Rhode Island.

RHODE ISLAND: No.

MICHAEL WAINE: Connecticut.

CONNECTICUT: No.

MICHAEL WAINE: New York.

NEW YORK: Yes.

MICHAEL WAINE: New Jersey.

NEW JERSEY: Yes.

MICHAEL WAINE: Delaware.

DELAWARE: No.

MICHAEL WAINE: Maryland.

MARYLAND: No.

MICHAEL WAINE: Potomac River Fisheries Commission.

POTOMAC RIVER FISHERIES COMMISSION: Abstain.

MICHAEL WAINE: Commonwealth of Virginia.

COMMONWEALTH OF VIRGINIA: Yes.

MICHAEL WAINE: North Carolina.

NORTH CAROLINA: No.

MICHAEL WAINE: South Carolina.

SOUTH CAROLINA: No.

MICHAEL WAINE: Georgia.

GEORGIA: No.

MICHAEL WAINE: Florida.

FLORIDA: Yes.

MICHAEL WAINE: National Marine Fishery Service.

NATIONAL MARINE FISHERY SERVICE: No.

MICHAEL WAINE: U.S. Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: No.

CHAIRMAN LOUIS DANIEL: **Motion fails with four in favor and one abstention.** So the main motion becomes the motion on the floor for a 20 percent reduction. I will read that motion. If we scroll back to the main motion. Main motion is a multiplier of .8, which would result in a 20 percent reduction of harvest and a TAC of 170,800 metric tons. Motion by Mr. Stockwell. Second by Mr. Bellavance. We will vote. Discussion. Mary Beth Tooley.

MARY BETH TOOLEY: **Yes, Mr. Chairman. I would make a motion to amend. I'll make the motion and then offer my comments that we implement in 2013 a multiplier of .85 and in 2014 a multiplier of .8 until a new stock assessment. And I'll provide some rationale if I get a second on that.**

CHAIRMAN LOUIS DANIEL: Couldn't get a second. Second by Jack Travelstead for an amendment to the motion to do a step wise reduction of 15 percent in year one, 2013, and a 20 percent reduction in year two, 2014, and then that would remain in place until the new stock assessment is completed. Mr. Himchak. Pete Himchak.

PETER HIMCHAK: Yes. I like the motion presented by Mary Beth, and I'm just wondering, I mean you prefaced the meeting that we were setting a TAC for the subsequent years until the benchmark told us otherwise. I mean that was your guidelines I would interpret that. And if the motion passes, then it seems like a much better approach to me personally.

CHAIRMAN LOUIS DANIEL: It's the Board's decision. I mean the quotas whether it's a step wise approach or a single quota, however the Board elects to implement those reductions is fine with me.

I have no objection to whatever the Board decides is the best approach. So we can do it all at once beginning in 2013, or a 15 percent in 2013 and a 20 percent in 2014. Jack Travelstead.

JACK TRAVELSTEAD: Thank you. Just speaking in favor of the motion, Mr. Chairman. Businesses need the time to react, and I think this motion allows that to happen.

Folks can survive a 15 percent reduction and hopefully plan ahead for what would come in the following year. This wouldn't be my initial preference. That's clear. But I think it's a reasonable compromise that will allow us to move forward. Thank you.

CHAIRMAN LOUIS DANIEL: Thank you, Jack. Dennis Abbott.

DENNIS ABBOTT: Thank you, Mr. Chairman. I'll be quite brief. I'll just make one comment that I've heard around this table quite often on various subjects. This is just another example of kicking the can down the road.

CHAIRMAN LOUIS DANIEL: Bill Goldsborough.

(Applause.)

WILLIAM GOLDSBOROUGH: Thank you, Mr. Chairman. I'll first note that in caucus I voted against the substitute to 20 percent. I still believe that 25 is a bare minimum we can do responsibly.

(Applause.)

CHAIRMAN LOUIS DANIEL: All right, now.

WILLIAM GOLDSBOROUGH: But in effect itself it's quite a compromise. We haven't really looked at what the ad hoc approaches would tell us, and all you have to do is look at the first step of the Oricks methodology as outlined in the peer reviewed NOAA technical memorandum where you have to prescribe what the exploitation status is and you find that highly exploited is anything with a biomass of less than B20, and we're at B8 right now. So we're highly exploited.

That methodology calls for a .5 multiplier just at that level, and then it goes on to consider uncertainty and risk level and forage status. So we were at about as much of a compromise as we could get with respect to really trying to manage this resource and turn it around and put it on an upward trajectory that would

restore the economic base as well assume semblance of the ecological base.

We've found our way to 20 percent, which is below the bare minimum in my humble opinion, and now we're thinking we might even phase that in. I don't think that's responsible. Twenty percent may well be 25 percent off the 2011 catch, as was noted, but as earlier noted, that is 20 percent higher than the '08 catch, the terminal year of the last benchmark when we found overfishing. And since then, as noted, we've made the reference points that much more conservative. What 20 percent would do is just reduce the catch from that level, from the '08 level by 9 percent -- 9 percent. What's that going to do for ending overfishing? I think we can be quite sure it's not going to end overfishing. So going even further and just phasing that amount in is removing ourselves from our responsibility. Thank you, Mr. Chairman.

CHAIRMAN LOUIS DANIEL: Mr. Kellum.

JAMES KELLUM: Mr. Chairman, referencing back to 2008, 2008 was not a poor catch year; it was a poor processing year. It was a year that the EPA brought a lot of sanctions down on Omega Protein to do away with the stack, to upgrade the water treatment.

There was nothing the matter with the stock status in 2008. It was a matter of how many we could get through the processing plants. And the bait plants are always limited. When we can catch the most, we can freeze the least. I think this is a fair compromise to give us a two-step process to get to 20 percent. Thank you.

CHAIRMAN LOUIS DANIEL: Thank you. Anything further? I think that's enough. So we will roll call it again. And we will take one minute.

(Whereupon, a caucus was held.)

CHAIRMAN LOUIS DANIEL: We have an amendment to the motion to implement in 2013 a multiplier of .85, which is 181,475 metric ton TAC and in 2014 step it up to a .8, 20 percent reduction of 170,800 metric tons to remain in place until the results of the benchmark stock assessment. Motion by Ms. Tooley. Second by Mr. Travelstead. Mike Waine.

MICHAEL WAINE: Thank you. Maine.

MAINE: Yes.

DRAFT

DRAFT

DRAFT

MICHAEL WAINE: New Hampshire.

NEW HAMPSHIRE: No.

MICHAEL WAINE: Commonwealth of Massachusetts.

COMMONWEALTH OF MASSACHUSETTS: No.

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NEW YORK: Yes.

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MICHAEL WAINE: Delaware.

DELAWARE: No.

MICHAEL WAINE: Maryland.

MARYLAND: No.

MICHAEL WAINE: Potomac River Fisheries Commission.

POTOMAC RIVER FISHERIES COMMISSION: Yes.

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COMMONWEALTH OF VIRGINIA: Yes.

MICHAEL WAINE: North Carolina.

NORTH CAROLINA: No.

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MICHAEL WAINE: Georgia.

GEORGIA: No.

MICHAEL WAINE: Florida.

FLORIDA: Yes.

MICHAEL WAINE: National Marine Fishery Service.

NATIONAL MARINE FISHERY SERVICE: No.

MICHAEL WAINE: U.S. Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: No.

CHAIRMAN LOUIS DANIEL: **The motion to amend fails 11 in favor, six opposed -- I mean 11 opposed and six in favor.** Sorry. Sorry. Sorry. Sorry.

The main motion. The question has been called. Do we want to caucus? Do we need to caucus? All right. We're going to roll call the main motion. I'm going to read the motion, but Bob's going to make a comment and then Mike. Then we will vote. So the main motion is a multiplier of .8, which would result in a 20 percent reduction of harvest and a TAC of 170,800 pounds -- I mean metric tons. Motion by Mr. Stockwell. Second by Mr. Bellavance. Mr. Beal.

ROBERT BEAL: Thank you, Mr. Chairman. I just want to since the wording is not in this motion, I want to reiterate what you were saying earlier, that if this is approved, this TAC will remain in place until the next benchmark stock assessment is completed.

It's currently scheduled for 2014, but as we all know, sometimes assessments get delayed, but hopefully it will not. So I just want to make sure that everybody's comfortable with that and that is the position of the Board.

CHAIRMAN LOUIS DANIEL: Is that the position of the Board? Does everybody understand that? Jamie, did you have a comment on that? Jamie Geiger.

JAMIE GEIGER: Mr. Chairman, with that statement in mind, I would hope that all the commissioners and everybody else around this table would strongly support no slippage in a benchmark assessment, and let's make a commitment that we do it on time and get it done. Thank you, Mr. Chairman.

CHAIRMAN LOUIS DANIEL: Thank you. All right. We're ready to vote? I think we are. Right? Okay. Yes. Mike Waine.

MICHAEL WAINE: Thank you. Maine.

DRAFT

DRAFT

DRAFT

MAINE: Yes.

MICHAEL WAINE: New Hampshire.

NEW HAMPSHIRE: Yes.

MICHAEL WAINE: Commonwealth of Massachusetts.

COMMONWEALTH OF MASSACHUSETTS: Yes.

MICHAEL WAINE: Rhode Island.

RHODE ISLAND: Yes.

MICHAEL WAINE: Connecticut.

CONNECTICUT: Yes.

MICHAEL WAINE: New York.

NEW YORK: Yes.

MICHAEL WAINE: New Jersey.

NEW JERSEY: No.

MICHAEL WAINE: Delaware.

DELAWARE: Yes.

MICHAEL WAINE: Maryland.

MARYLAND: Yes.

MICHAEL WAINE: Potomac River Fisheries Commission.

POTOMAC RIVER FISHERIES COMMISSION: I abstain.

MICHAEL WAINE: Commonwealth of Virginia.

COMMONWEALTH OF VIRGINIA: No.

MICHAEL WAINE: North Carolina.

NORTH CAROLINA: Yes.

MICHAEL WAINE: South Carolina.

SOUTH CAROLINA: Yes.

MICHAEL WAINE: Georgia.

GEORGIA: Yes.

MICHAEL WAINE: Florida.

FLORIDA: No.

MICHAEL WAINE: National Marine Fishery Service.

NATIONAL MARINE FISHERY SERVICE: Yes.

MICHAEL WAINE: U.S. Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: Yes.

CHAIRMAN LOUIS DANIEL: **The motion carries with two opposed and one abstention.** Three opposed and one abstention.

(Applause.)

CHAIRMAN LOUIS DANIEL: All right. We're going to break for lunch at this point and come back to the allocation discussions and try to finish up our business at a reasonable time this afternoon.

ROBERT BEAL: Louis, they're going to try to do a buffet downstairs in the restaurant and hopefully get folks through pretty quickly.

(Lunch: 12:18 p.m to 1:30 p.m.)

CHAIRMAN LOUIS DANIEL: All right. Here we go. Home stretch. If everybody take their seats and stop their conversations, we will move along.

Just a couple of things. I've gotten a couple of texts from home that some folks are leaving their mics on, and they can hear the discussions that you're having in your caucuses.

So keep that in mind and make sure unless you want the world to hear. You might want to make sure you have your microphones off. I know our legislative folks can appreciate that very well.

So we broke for lunch after deciding on a 20 percent reduction in the TAC. Well, now we have to figure out how we want to allocate that quota. And if you will look on Issue 5C is the first part of our TAC allocation. And so what I would like to open the Board discussion on is discussing whether or not the menhaden commercial TAC should be managed on, (1) a coastwide basis, (2) a regional basis, or (3) on a

state-by-state basis. So I will open the floor to discussions on that topic. A.C.

A.C. Carpenter: Thank you, Mr. Chairman. **I'd like to make a motion that we choose Option C, to manage the TAC on a state-by-state basis.** And if I get a second, I'll expand on that.

CHAIRMAN LOUIS DANIEL: I believe Mr. Travelstead is seconding your motion.

A.C. CARPENTER: I think the basis of my motion is that we're going to have to be held accountable to a TAC, and only a state-by-state basis will allow the PRFC to know what its quota is and to know how to manage that and choose whether we open our season late or end our season early or we put landing limits or other mechanisms to be able to enforce this. So I think that this is the straightforward, easiest way to manage this fishery.

CHAIRMAN LOUIS DANIEL: Mary Beth Tooley.

MARY BETH TOOLEY: Thank you, Mr. Chairman. I had raised my hand also to make a motion, and it would not have been this motion. I have a lot of problems with allocating on a state-by-state basis at this point.

Certainly, as someone from the state of Maine, we've had a historic fishery that I participated in in the late '80s and early '90s that was very significant, and none of the options on a state-by-state basis would really allow for that fishery to occur again.

And, as many people in the state of Maine know, that when you have porgies hit the shore really hard, they have a tendency to die in those coves, and that can create significant problems. So having fish hit our shore without an allocation is extremely problematic.

In general, state-by-state allocations you certainly as a group have done it in the past, and it creates a very complicated management mechanism. Once you allocate a fishery in this way, it's almost impossible. And for those reasons I certainly do not support this motion.

CHAIRMAN LOUIS DANIEL: Jack Travelstead.

JACK TRAVELSTEAD: Thank you, Mr. Chairman. The Board has taken action to reduce harvest to a level that they think is appropriate, and I commend them for that. I think what Virginia is looking for now is flexibility in our ability to deal with that, and I think state by state gives that to us.

I'm sensitive to Maine's comments. And I've heard some hallway conversations that perhaps New England jurisdictions are more interested in a regional approach, and I think that's one way to accommodate Maine's and perhaps other's needs.

So I seconded the motion. I don't know how Mr. Carpenter feels, but I would not object to an amendment to this motion that would allow a regional approach in the Northeast.

Perhaps one other way for your consideration to address Maine's concerns might be through that which we're going to be looking at later, which is the episodic fishery allowance.

I think that's a little bit perhaps more difficult than a simple regional approach. But certainly a state-by-state approach for Virginia would allow us, I hope, if it leads to other motions, would allow us to make decisions about how and when those fish are taken and landed in Virginia. Appreciate it. Thank you.

CHAIRMAN LOUIS DANIEL: Thank you, Jack. Tom Fote.

THOMAS FOTE: I think I need to be clear on how the state by state would work in the process. Would it be state by state based on historical fisheries? Would it be state by state allowing for conservation equivalency?

I want to make sure it's clear in the motion because I remember getting burned on that a couple years ago. So I want to figure out how we're going forward with that.

So it's hard to vote on this as the next option before we haven't decided a lot of other options. It will make a difference in the way I vote on this, how it affects. I know Virginia's worried about how it affects the fishermen in their state.

I'm worried about how it will affect the fishermen in New Jersey. Are they going to take a hit? How is that allocation going to be done? And I understand this is problematic because a lot of the fishery -- the schools. I was up in Maine and used to fish when there was porgies all over the beach, and it hasn't been. We saw some peanuts years ago, but it didn't materialize into the schools like it used to be. The same thing with Massachusetts.

So I think I need a little more deliberation to how we're going to basically come up with that before I can vote on this comfortably. And figure out that.

Florida there's a lot of cast net fisheries down there that basically harvest. So I don't know how to subtract that. It's hard to sit here and vote on something I'm not sure what the consequences are.

CHAIRMAN LOUIS DANIEL: Pete Himchak.

PETER HIMCHAK: Yes. Again, it's a little confusing state by state. And then the state would essentially be responsible for allocation by fishery within its own state. I would speak against the motion because I think we need to determine the allocation by fishery on a coastwide basis first before we get into state-by-state allocations.

CHAIRMAN LOUIS DANIEL: For clarification, part of the state-by-state allocation would be the state would then be able to determine or decided exactly how they want to allocate the resource between the reduction fishery and the bait fishery. So there are multiple tables that indicate how that could be done.

It could be allocated by a percentage of simply the coastwide landings. It could also be parsed out to where you just pull out the bait and allocate the bait landings to the various states, and then obviously the reduction fish go to Virginia.

So, if you would like, we could go back, and if there's an interest from the Board, I mean the coastwide allocation is an option that could be considered in lieu of the state by state first and then talk about state by state later perhaps. So, to that point -- and then I'll get back to my list -- I'll ask A.C.

A.C. CARPENTER: Mr. Chairman, I've raised my hand to answer Tom Fote's question there, and I think Table C1 on page three of the sheet that has all of the options in it would be what would result from my motion.

And I would object to not having my motion considered before we go back to the other issue because this issue addresses the allocation through a state-by-state quota, and that was my intent, was to use this table with my motion.

CHAIRMAN LOUIS DANIEL: Thank you, A.C., for that clarification. I think that clarifies it. So I'll get back to my list and call on Terry Stockwell.

TERRY STOCKWELL: Thank you, Mr. Chairman. I appreciate Virginia's request and concern for flexibility, and I particularly appreciate their interest in accommodating Maine's long episodic history as a stakeholder in the fishery.

My concern for state by state and at this point support for a coastwide approach is that both the episodic and the regional approaches are not well defined or developed. I'm very concerned that we're going to launch an action out of this board that will take us a long time to undo if it's the incorrect action. I'm not sure how to balance out -- we'll probably never balance out today the needs of all the different folks around the table. But I'm probably going to oppose this motion, and if it does move forward, if I sense it's going to move forward, be making a motion to add two other sections to accommodate the traditional fishery and the episodic events.

CHAIRMAN LOUIS DANIEL: Okay. Pat Augustine.

PATRICK AUGUSTINE: Thank you, Mr. Chairman. I'm going to oppose the motion and actually call for a substitute motion. I like the idea of keeping coastwide at least for the short term with a fall-back, follow-up position of going to state by state.

If we use summer flounder as an example of what possibly could happen when you start out with state by state and you don't get adequate reporting from all of your people that are working in the fishery, you'll find out you'll end up with a very small quota.

We've been trying to set the record straight on that for an awful long time. Secondly, if the menhaden do come back in volume like they had been maybe 10 or 15 years ago in New York state waters, with a quota allocation that we would get out of this, we would find ourselves really hung out to dry.

The same token with the flexibility vessels from Virginia or wherever to move up into the northern states waters including Long Island; although we have some restrictions on what they have to do to get the fish in our waters, historically the first that have been taking I think upwards of 17 million pounds a year up until we put in some very restrictive measures back in the early 2001 or 2002. So it just seems to me to go down that road again, as Mr. Stockwell pointed out, it would take a very, very long process to undo anything we create by setting up state quotas at this point in time.

So I would like to move to substitute the motion, Mr. Chairman, that we change that to A, coastwide measures, if I get a second.

CHAIRMAN LOUIS DANIEL: Substitute motion to adopt the coastwide measures.

PATRICK AUGUSTINE: Yes, sir.

CHAIRMAN LOUIS DANIEL: My assumption is that if this is approved, then you will want to follow right into sub Option A, which is using the coastwide allocation to then derive some distributional split between the reduction fishery and the bait fishery.

PATRICK AUGUSTINE: Exactly.

CHAIRMAN LOUIS DANIEL: Okay. I just want to be sure everybody's clear on the direction that the substitute motion would take us. So I do have a second from Mary Beth Tooley for the substitute motion. This messes up my list when you all do this to me. Let me go to -- I think I got it okay then. Bob Ballou.

ROBERT BALLOU: Thank you, Mr. Chairman. And for purposes of clarification, as I understand Section 4.2.1.3, there are three options -- A, B, or C. A is the coastwide option, which I understand is now the substitute motion on the board.

C is the state approach, which I understand was the original motion. And then under each of those there are a series of sub options.

So I need clarification from the Chair if you could provide it on whether the first vote is on the board category and then subsequently the sub options, or whether the motion spoke to the sub option?

CHAIRMAN LOUIS DANIEL: Right. What I'd like to do is get a vote on one of those three overarching option, either coastwide, regional, or state by state.

And then once the coastwide, regional, or -- if coastwide is selected, then we'll go to sub option A, and those are the options that you will then need to select one of to implement to get us to it. So it's going to be two motions to get us to the end result of the allocation. Does that make it clear?

ROBERT BALLOU: If that helps. And I'll just note while I have the time -- thank you, Mr. Chairman -- that I would support the state -- Option C, the state approach. Thank you.

CHAIRMAN LOUIS DANIEL: David Pierce.

DAVID PIERCE: I can appreciate any hesitancy to go with the state-by-state approach because we know that there are -- we don't know -- we suspect there are substantial amounts of unreported landings for bait specifically.

And that of course makes it difficult for us to deal with other options that entail a split between reduction and bait. Sort of a crap shoot. But we just don't know.

And we will know down the road when we implement far better reporting systems to get a better handle on how much actually is being taken as bait.

That particular problem was made very clear to me at public hearings in Massachusetts, for example, where individuals came forward and expressed great reservations about the numbers being used for bait because they know and still know that despite the best efforts of different states there's a lot of bait unreported.

So I understand the concern about state-by-state shares because it's based on landings history that may not be correct, in light of all this unreported amount. I understand that.

However, I'm also very sympathetic to those states who are very responsible and have landed a great deal of the menhaden over the years, Virginia, for example, having a tremendous history and investment in the menhaden fishery of great importance to that particular state.

We know that from previous discussions this morning expressed by Jack and others from Virginia. So I lean towards the state-by-state allocation approach even though we have a great deal of uncertainty about the amount of landings for bait, being Massachusetts as well.

Because at least with the state-by-state approach, Virginia, for example, and other states would be in a far better position to manage their own future and to determine how they would want to allocate that fish within their state. It provides them with more control and less opportunity or less incentive for derby fisheries. We know the problems derby fisheries create.

So the coastwide approach could promote a derby fishery I suppose. A region wide approach, that could promote a derby fishery in some areas.

A lot of this is just so unknown. We don't know how this is going to unfold. So, as it stands now, I suspect that I'll be supporting the state-by-state approach even though I have some reservations about that approach.

But, in light of the fact that we have obligated the state of Virginia in particular to live with a substantial cut in landings that they've had in recent years, this would seem to be one way to make the lower quota of 170,000 metric tons or so more palatable to the state of Virginia.

As I said, I'm leaning towards the state-by-state approach. It's likely what I will support. If indeed we do get to that, if this motion passes, then of course we have to talk about the shares between the individual states, and the sub option relates to that. I'll wait to see how this motion is decided, and then after that I may make a motion if this passes for state by state. I may make a motion relative to the shares.

CHAIRMAN LOUIS DANIEL: Okay. A.C.

A.C. CARPENTER: I'm going to oppose this substitute motion on the grounds that a coastwide measure has no state-by-state responsibility.

The only way that this could possibly work that I can see is we're all going to be sending in the harvest data, and one day somebody somewhere is going to blow a whistle, and we all have to quit, and that's not the way to manage a fishery.

If we're going to manage it for biological resources and we're going to protect a certain percentage of these animals to be forage for other species, then it's incumbent upon us to use that little bit of quota that we have to the best advantage of the fishermen and produce the greatest economic effect.

While I have the mic, I would also like to address the idea of revisiting this thing. And I'm not opposed to revisiting this thing every three years as to what the quotas are adjusted for the real world after every three years. I'm not opposed to that idea. But I think that the state-by-state accountability is necessary to operate this fishery, if we're going to go down the road of a TAC, and we've already done that.

CHAIRMAN LOUIS DANIEL: All right. I probably should just start over here and go all the way around because I think I've got everybody's hand up. Jimmy Kellum.

JAMES KELLUM: I think Dr. Pierce was exactly right. If we go to a coastwide approach, we create a derby fishery. And representing the industry from Virginia, you may think that that would be in my best interest, but I fear that if we make this derby-style fishery, that will make our fishery very dangerous, and we will fish in conditions that are not fit to fish.

And we'll be in direct competition with the New Jersey fleet, and the New Jersey fleet will be forced to go fishing in the ocean when the conditions don't warrant it. We feel state by state is the way to go. We also feel that the historic split is the way to go. Reallocating anything has nothing to do with conservation. Until you sell them for bait or until you sell them for reduction, you're free to do anything you want with them. You can put them under an ear of corn -- I mean a kernel of corn if you want. So we have to be opposed to this coastwide.

CHAIRMAN LOUIS DANIEL: Dave Simpson.

DAVID SIMPSON: Yeah. Thanks, Mr. Chairman. I think we've got three big issues still ahead of us having decided the percent reduction. And I think one is the episodic events and how we deal with that.

The other is the unknown of these nondirected, non purse seine bait fisheries and what those are going to total to in the future as we get better accounting hopefully. And the third and to me the most important one is the equity in sharing in this 20 percent reduction that we very overwhelmingly supported. I think that's critical to the Commission that we use an approach that shares in the burden of conservation equitably. And I think that at this point that's the most important thing to address, and I think state by state allocation does that. It's been suggested already that very soon after we pass this Amendment I think we then to focus on some of the smaller issues which would be how do we deal with the episodic events, how do we accommodate that from purse seine fisheries because I think that's what it is.

It's really more purse seine and non purse seine fisheries in my mind. And then we start to get a handle on what these little gillnets and cast nets and small trap nets and so forth what they catch, and we figure out a way to deal with that. I think I used the term overwhelmingly in a different context before, but overwhelmingly our issue right now is to be fair to everybody on the Atlantic coast, and I think state by state does that.

CHAIRMAN LOUIS DANIEL: Thank you, David. Dennis Abbott. Pass. Lynn Fegley.

LYNN FEGLEY: Thank you, Mr. Chair. I don't have a lot new to add. In fact, I have nothing to add except that I think that state by state is important at this juncture because of this derby fishery issue.

I don't how we reconcile that without state by state. I totally agree with Dave Simpson that we have these

three issues outstanding, and because these states with episodic events should be de minimis states, I would think that there would be a way that we could try to work through that issue, de minimis.

CHAIRMAN LOUIS DANIEL: All right. Jeff Tinsman.

JEFFREY TINSMAN: Thank you, Mr. Chairman. I got to make a few comments against the state-by-state approach as reflected in Table C1 here on page three. This would allocate the fishery by state only, not by fishery and would remove certain options from the Board's considerations. In other words, allocation by fishery would be locked into some historic reference period.

As Dr. Pierce very accurately pointed out, the bait fishery is increasing tremendously very rapidly, has in the past few years, and reporting may or may not be accurate.

It doesn't seem prudent to me to put the bait segment in that box based on some historic reference period without being able to consider other splits like 30/70, which may actually be closer to what's going on right now in the fishery.

Certainly, the coastwide approach, as the Technical Committee pointed out, has its own set of problems that becomes a race to catch the fish, which encourages people to be doing things in bad weather possibly and trying to get their part of the quota before fish may be available in other areas.

Certainly, you would think New England would be disadvantaged by that type of approach. Haven't heard much discussion of a regional approach, but I don't see any downside to that that I see with the other ones, and it does allow the Board to consider other splits between the fisheries. Thank you.

CHAIRMAN LOUIS DANIEL: Thank you. Pete Himchak.

PETER HIMCHAK: I'll pass.

CHAIRMAN LOUIS DANIEL: Pat Augustine.

PATRICK AUGUSTINE: Thank you, Mr. Chairman. Having heard the comments around the table, in particular Jeff Tinsman comments, it does seem more appropriate as opposed to state by state or coastwide to consider the regional approach.

And I have it on the screen here that gives the splits as New England region, Maine to Connecticut; Mid-Atlantic region, New York to Maryland; Chesapeake Bay region, which includes Virginia, PRFC, Maryland Bay; the South Atlantic region, North Carolina to Florida.

So I don't know how you want to do this, Mr. Chairman. With that information having gone back to the charts and the comment that the TC made about how difficult it would be to manage the commercial on a coastwide basis, I'd almost amend my own motion without going through a whole bunch of problems and switch from -- you can do it -- without going from a coastwide to a regional to see if that would rise up to any other folks around the table's interest. It just seems to me that once we go in this state-by-state, we're basically locked in forever, and I don't see any fishery in the 20-odd that we manage that we've ever changed state allocation. What you get is what you got, and that's the end of the story.

So this is another very important fishery. No question that Virginia had the bulk of the catch. But the bottom line is, as Jeff pointed out, other states are coming on very strong on the bait side.

With the attack that we have -- I shouldn't call it an attack -- but what's going on with Atlantic herring, what's going on in the New England Fishery Management Council, with restrictions and harvests aren't there, another bait fish, there's going to be more pressure on menhaden.

And if it turns out to be the bait folks that need it, lobstermen in particular, then we have party/charter boat and the rest. It just seems that we have to be more aware of the fact that state by state is very, very limited, and being flexible, there's zero flexibility. So, Mr. Chairman, how would you suggest we go about changing that motion? Do we need to defeat it and go through the whole process? Can I amend my motion to change it from commercial to -- I'm sorry -- from coastal to region? What would be the quickest way to do this in your interest, Mr. Chairman?

CHAIRMAN LOUIS DANIEL: **If your seconder is all right with it, you can just simply friendly amendment.**

PATRICK AUGUSTINE: Would you?

MARY BETH TOOLEY: Yes, Mr. Chairman. That would be fine with me.

CHAIRMAN LOUIS DANIEL: Okay. Let's just do it that way. Is that not all right?

PATRICK AUGUSTINE: So, if we do that, Mr. Chairman --

CHAIRMAN LOUIS DANIEL: I don't know if I can or not. I got somebody grimacing.

DOUGLAS GROUT: I think based on the training we had a while ago, that once motions are made and seconded and discussion has been made, it can only be withdrawn by a vote of the entire Board. It's now part of a body politic.

CHAIRMAN LOUIS DANIEL: All right. So we will vote on this motion.

PATRICK AUGUSTINE: Mr. Chairman, I would support voting this motion down, so I can put another motion --

CHAIRMAN LOUIS DANIEL: I didn't call on you.

PATRICK AUGUSTINE: Well, that's okay. I'm telling you for point of information.

ROBERT MILLER: Mr. Chairman.

CHAIRMAN LOUIS DANIEL: Yes, Mr. Miller.

ROBERT MILLER: Mr. Chairman, from the *Roberts Rules of Order* standpoint, why can't you make a friendly amendment to a substitute motion?

CHAIRMAN LOUIS DANIEL: Well, that's what I suggested and was told that that was not appropriate because we have discussed it, and it's gone on the record, and we need to go ahead and vote it up or down. That's what I got from my politarian corner over here. Bob's going to help me more.

ROBERT BEAL: Thank you for your time, Mr. Chairman. There really is no such thing as a friendly amendment. That's just something we use that speeds up the meeting. I don't think we're speeding up anything here by debating this. But you can't find rules and guidance on friendly amendments. It's just sort of a made-up process that we use.

CHAIRMAN LOUIS DANIEL: It's always you, Pat, always you. All right. Call the question. We can either vote on it, or the Board can say to withdraw it.

PATRICK AUGUSTINE: Call the question, Mr. Chairman.

CHAIRMAN LOUIS DANIEL: Let's vote on it then. Is that all right with everybody? Lord have mercy. All right. Do you need to caucus? We're voting on the substitute motion to approve Option A, which is the coastwide measures for allocation. All those in favor -- is there any -- well, no, never mind. All those in favor raise your right hand.

CHAIRMAN LOUIS DANIEL: One. All those opposed same sign.

CHAIRMAN LOUIS DANIEL: Null votes.

CHAIRMAN LOUIS DANIEL: Abstentions.

CHAIRMAN LOUIS DANIEL: **Two abstentions. It carries by a lot. Failed by a lot. All right.**

So now we go to the main motion. The main motion is back to Mr. Carpenter's state by state option. Correct? All right. I have nobody on the list to speak. So, A.C., to your motion.

A.C. CARPENTER: Call the question.

PATRICK AUGUSTINE: Mr. Chairman, point of order. In my comments I suggested that the Board vote that motion down and that I the maker of that motion had every intention of making another motion to support that.

Now I'm not going to be made that opportunity by virtue of the motion being called. And if that's the case, I want to table this motion.

So our choice, Mr. Chairman, is to allow me to make another motion to suggest regional, or I move that we table this motion. So, your choice, Mr. Chairman.

CHAIRMAN LOUIS DANIEL: You're supposed to just second motions, Pat. I do feel the action we just did was contingent on you indicating that you wanted to substitute out the regional approach, and so I'll allow that.

PATRICK AUGUSTINE: I thank you for that, Mr. Chairman. **So I move that we adopt a regional management approach for 2013 or '14, as the case may be.**

CHAIRMAN LOUIS DANIEL: All right. So now we're going regional. We've gotten past coastwide. We're substituting the state by state for a regional discussion. So is there a second to Mr. Augustine's motion? Second by Mary Beth Tooley. Is there discussion on the motion? Dr. Pierce.

DAVID PIERCE: Just so we all stay on the same page and follow the step-by-step process that has been created by this amendment with all of these different options -- Mike's done a good job highlighting if you pick this, then you've got to go to that and follow your pathway through the maize.

Just so we know the implications of this and what the next decision would have to be. If this motion to substitute is approved, that means we take Option B, which is to allocate on a regional basis.

Then the next step for us to take that follows naturally would be on page 55 of the amendment, a decision between B1 and B2, which would be in B1 one of the options under regional we would then either not allocate it by fishery only by region, or if we do that, then we jump to the table on page 55. If we decided not to go with sub Option B1, we'd go with B2 sub option, which means we allocate it by fishery bait versus reduction.

In other words, I'm just trying to point out that every decision we make has a consequence that leads us to another sub option, so we shouldn't think it's just region and then that's it. There's a next step to take.

So we need to leap-frog ahead to the consequences of adopting this one, if indeed that's what the Board wants to do because there'll be another very important set of choices to make as we flow through the amendment.

CHAIRMAN LOUIS DANIEL: Yeah. We're making the macro scale decision at this point, and then we're going to make micro scale decisions after that. Tom Fote.

THOMAS FOTE: Yeah. We also got to vote on what regions we want and then whether mandatory or not mandatory. I mean I've been dealing with summer flounder regions for years, and we can't seem to get that agreed upon and whether it's going to be voluntary or not. I think it's a step in the wrong direction. I can live with the coastwide, or I could live with the state by state, but going to regional that opens another can of worms which I can't support because I've seen what we've been trying to do with regions.

Unless it's with voluntary regions where an extra plan is in effect, a couple of states want to get together and decide that on the allocation they have between those states, that would make sense to me.

But do it this way -- I didn't have the public hearing because of the storm, and I have no idea how my state or how my fishermen feel about regions and what region we should belong to, and I'm not about to sit here and vote on that.

CHAIRMAN LOUIS DANIEL: I will say we're getting wrapped around the axle here. So there's a bunch of folks that want to speak. I would say speak quickly. I got Jack.

JACK TRAVELSTEAD: Let the record show I support Tom Fote's position on this.

CHAIRMAN LOUIS DANIEL: May we have a moment of silence. (Laughter) A.C.

A.C. CARPENTER: I'm going to oppose this regional. And there is an option that we haven't really talked about, and I think that after we dispose this motion we may be able to get back to another one, and that is that we can have a state by state, and as Tom said, if a group of states, three or four states, want to get together and consider themselves a region, they can abide by the regional basis on that, a voluntary regional basis that's formed and be held accountable, I don't have any problem with that either. But I'm going to oppose this substitute motion.

CHAIRMAN LOUIS DANIEL: Jeff.

JEFFREY TINSMAN: Thank you, Mr. Chairman. As I understand it based on the last vote we made, the coastwide approach is now forever off the table. Is that correct?

CHAIRMAN LOUIS DANIEL: I don't think that's correct.

JEFFREY TINSMAN: Okay.

CHAIRMAN LOUIS DANIEL: It could come back. Everything else has.

JEFFREY TINSMAN: Well, the reason I'm saying that is that if this does come down to a choice between this motion and the regional approach or state-by-state approach, anybody at the table who wants to consider any allocation split between bait and reduction fisheries other than based on some historical period in the past probably under reflecting the true current value magnitude of the bait landings, that is all you're going to get with a state-by-state approach. Just pointing that out to folks.

CHAIRMAN LOUIS DANIEL: Dennis Abbott.

DENNIS ABBOTT: Thank you, Mr. Chairman. The issue I want to raise right at the moment is more the parliamentary nature of things. I think that we should have just called this an amendment to the main amendment, not a substitute.

But I want to just remind the Board that calling the question is not proper. Would you not agree with that? We can make a motion to limit debate, but we can't call the question because that denies those of us sitting around the table who may have a relevant comment to make the opportunity to do that.

So the only way if you feel it necessary to get to a vote is ask the Board if they are willing to limit debate. So, in the future, I would just remind the members that that's how it is. Because whether you're on one side of the issue or the other side of the issue, I think that we all deserve the opportunity to be heard. Thank you, Mr. Chairman.

CHAIRMAN LOUIS DANIEL: Thank you. Pete.

PETER HIMCHAK: Yeah. The sequence of the motions it's a little confusing. But at least under the fact that we did away with the coastwide approach to setting the TAC, we took away any discussion of allocation by fishery. And I'm getting to what Jeff's saying. So we've lost the opportunity to make any comment or decision on that particular part of allocating the TAC, reduction versus bait. But the regional approach has such options in it. A. C.'s disagreeing with me.

CHAIRMAN LOUIS DANIEL: Go ahead, clear him up, A.C.

A.C. CARPENTER: Option C has two sub options. One is a straight state by state. Option 2 is a allocation after a split by fishery.

CHAIRMAN LOUIS DANIEL: That's correct.

PETER HIMCHAK: Doesn't the fishery options on Part 1, doesn't that just apply within that one state if you're going with a state-by-state allocation?

A.C. CARPENTER: Mr. Chairman, if you select Option C, you have two sub options to then consider. The first one is C1 on page three, which is not allocated by fishery. And C2 is allocated by fishery and then by state, so.

CHAIRMAN LOUIS DANIEL: I say we have both options. I mean you can break it down by fishery. You can let the states decide, or you can let the regions decide, or just allocate a certain amount to a region and be done with it.

You could also just say there is no allocation and just say a hundred percent of the quota is -- it's 180,000 whatever metric tons, and the season opens on a certain day and what is caught is caught.

So I think the problem we have is we've got so many options out here that it's very difficult to decide. I mean I don't think there's going to be a consensus on any one option.

So, I mean, really the question boils down to how do you want to manage it. I mean the logical thing to me is you've got a reduction fishery, and that quota goes to the reduction fishery. That's Virginia. And then you take the bait fishery which is the remainder, and you divvy it up based on historical participation.

I mean, I'm listening to all the debate, but that's the only thing that makes logical sense to me. So however we do it, whether it be by coastwide -- I agree, I don't like the regions either -- but by coastwide or state by state, that's the way it's going to need to be handled.

And then we can get into the discussions on -- none of North Carolina's fish are landed with a purse seine; it's all with trawls and poundnets and gillnets. So if there's issues and interest in discussing the various gear types and the like, we can do that down the road.

But I'm afraid we're going to lose all the time we gained this morning here over the next couple of hours because this is not going anywhere fast.

So we can keep going around the table talking about it, but I'm having a hard time here trying to (inaudible) this cat because it's getting very complicated and confusing. I think my personal opinion is it's a choice between the coastwide and the state by state. Does that seem to be the general sense of the Board? No. So we'll just start over. So go to Jim Estes.

JAMES ESTES: I'll pass.

CHAIRMAN LOUIS DANIEL: Lynn.

LYNN FEGLEY: Thank you, Mr. Chairman. So it seems that some of this could be resolved if maybe we -- I don't know what this does to our

parliamentary procedure, but I think some of the issues that we have here are the fact that we've got a bait fishery that is in very distinct sectors.

We've got the big seine snapper rigs, trawlers, and then we've got the stationary gear. So, from a regional perspective, if you put Potomac River and Maryland poundneters in a derby with Virginia snapper rigs, you're not going to stand a chance.

And the derby fisheries are our concern. And the northern states here are concerned about the set-aside. So maybe if we understood first how we were going to handle bycatch allowances and set-asides and how these smaller stationary gears are going to be impacted, maybe it would be easier to make this decision on allocation. Does that make any sense?

CHAIRMAN LOUIS DANIEL: I understand what you're saying, and I agree with what you're saying, but this was not anything that I recall was discussed in Amendment 2.

None of the public comment -- we didn't ask for any of this type of situation. We asked for a distribution between reduction and bait, and we haven't distinguished or asked for information distinguishing between stationary gears and non stationary gears and the like.

So I'm concerned that we're holding off on making one of these major decisions and going to get more into the weeds of how the various fisheries operate.

I mean, I'm concerned about the poundnet fisheries as well. And I mean, I'm not planning to close a fishery because the quotas on menhaden's been made.

I'm not going to close the southern flounder poundnet fishery because they might catch a menhaden. I mean they'll just have to dump them if they're dead. So I don't know exactly how -- but we've voted down coastwide. I'm sounding like we're going to vote down regional. So that leaves us with state by state, which a lot of folks have various concerns about. So it just seems like to me we need to go ahead and vote this one up or down and figure out where we are because otherwise we're -- so is there any objection to voting on the regional allocation right now?

Does hands up mean there's objection? It does. So there's objection from Jimmy, and there's objection from David. I'll hear from them, and then we'll vote.

DAVID PIERCE: Concern has been expressed about not having an opportunity to split the overall quota

between types -- bait type reduction. That's not the case because if you follow the document, if this is voted down and we go to state by state quotas.

If we can all go to page 56, we see that we now have a choice. Someone will have to make a motion sub Option 1, sub Option 2. Sub Option 2 says you're going to take the commercial TAC, allocate it by fishery and then do state by state and use the percentages in the table.

So there will be an opportunity to actually take the coastal quota and to make a decision about how it will be split between the bait and the reduction fisheries. We could go to traditional, historical amounts, or we could go to other amounts described in the table, such as 30-70. So that opportunity would still be there.

I don't want anyone to think that we have lost that opportunity to deal with the bait versus reduction allocation on coastwide quota. That's not the case. It's there for us to select under state shares sub Option C2.

CHAIRMAN LOUIS DANIEL: Correct. Jimmy Kellum.

JAMES KELLUM: Mr. Chairman, you stated from the chairship up there that you wouldn't close the flounder fishery because they caught menhaden; you'd have your fishermen dump the menhaden. You honestly stand by that position?

CHAIRMAN LOUIS DANIEL: They'd have to let them go. In a poundnet fishery, they've have to let them go.

JAMES KELLUM: They'd be dead.

CHAIRMAN LOUIS DANIEL: No, they wouldn't.

JAMES KELLUM: Always.

CHAIRMAN LOUIS DANIEL: No.

JAMES KELLUM: Ask a fisherman in the room. Ask a fisherman in the room.

CHAIRMAN LOUIS DANIEL: Do you want to get into a debate with me?

JAMES KELLUM: Yes, sir.

CHAIRMAN LOUIS DANIEL: I don't think it's going to get us very far, buddy.

JAMES KELLUM: I don't either. But we can't -- that's ecologically unsound. We're not certainly going to promote that we're going to roll out dead fish.

CHAIRMAN LOUIS DANIEL: You're point? Where are you headed with this on the motion, Jimmy?

JAMES KELLUM: Where am I headed? The regional approach is not the answer. State by state and then North Carolina won't have to roll them out, won't roll dead fish out on the beach.

CHAIRMAN LOUIS DANIEL: I'm just trying to run the meeting, Jimmy. Terry.

TERRY STOCKWELL: Thank you, Mr. Chairman. This discussion is exactly why I didn't support allocation when I walked into the meeting and why I still don't, at this time.

CHAIRMAN LOUIS DANIEL: All right. So we've had a coastwide allocation motion defeated. We have a regional allocation motion on the floor. I would like to vote on that. So, if we could. Do we need to caucus? We do. All right. A minute to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN LOUIS DANIEL: Anybody want to request a roll call vote?

CHAIRMAN LOUIS DANIEL: Seeing not. All those in favor of the substitute for regional measures in favor raise your right hand.

CHAIRMAN LOUIS DANIEL: Three. All those opposed, same sign.

CHAIRMAN LOUIS DANIEL: Null votes.

CHAIRMAN LOUIS DANIEL: Abstentions.

CHAIRMAN LOUIS DANIEL: Three. So the motion fails. What was the number --12-4-3. 3-11-3. All right. So now we're back to the main motion for state-by-state quotas. Back to A.C.'s motion. A.C.

A.C. CARPENTER: I'd like to move that we limit debate on this particular motion.

CHAIRMAN LOUIS DANIEL: Is that seconded by Mr. Nowalsky? Is there a second to limiting debate

by everybody? Mr. Abbott. All those in favor say aye.

BOARD: Aye.

CHAIRMAN LOUIS DANIEL: All those opposed?

CHAIRMAN LOUIS DANIEL: All right. We'll limit debate. Roy Miller.

ROY MILLER: Mr. Chairman, by voting on this particular motion, does it preclude us from examining Option C2 under the state-by-state allocation, as referenced by Dr. Pierce?

CHAIRMAN LOUIS DANIEL: It does not.

ROY MILLER: Okay.

CHAIRMAN LOUIS DANIEL: All we're doing now is deciding if we're going to do the distributions based on coastwide, regional, or state by state.

And now we have a motion with limited debate on state by state. So, if anybody's got something that's extraordinary to say. Terry has something extraordinary to say.

TERRY STOCKWELL: Absolutely do, Mr. Chairman. Before we move this ahead, I think in order to give at least the state of Maine any comfort, I don't know whether it would be the proper request to see if A.C. and Jack are feeling friendly or whether you'd like me to make a motion to amend to add that Sections 4.2.1.8 and 4.2.1.9, which are the specific percentage for small scale fisheries and episodic events were incorporated into this motion.

Because without this type of flexibility for the northern states and the outlying states, we'd be in a very tough position.

And my thought has been this is a two- or three-year measure right here, and we're going to screw it up so badly no matter what we do, that this is going to provide the flexibility for Virginia and Maryland to prosecute their fisheries as equal consideration should be given to the outlying states.

CHAIRMAN LOUIS DANIEL: A.C.

A.C. CARPENTER: Mr. Chairman, I would not accept that as a friendly amendment. I do realize exactly what Terry is saying, and I think that in due course we will certainly have to address those issue. But I think that the basic decision here is how we're

going to have the accountability for this fishery, and the original motion tells us it's going to be state by state. There are subsequent actions to be taken about when to revisit the allocations. There are subsequent actions to be taken about quota transfer. There are subsequent actions about the episodic events that I think that we can all treat very easily once we get past this hurdle. But that's where I feel we need to go.

CHAIRMAN LOUIS DANIEL: Pete.

PETER HIMCHAK: Yes. Thank you, Mr. Chairman. To Terry's point, I was hoping that the bait allocations would go state by state because then the state would be responsible for its small scale whatever considers small scale, and the state would be responsible for distributing its bait allocation seasonally and by gear type. And then of course if it exceeds it, it pays it back.

And as to the episodic event -- and I've been in correspondence with your staff in Maine -- I think that a portion of the coastwide bait TAC can be held in reserve in the event that there's an episodic event in the Gulf of Maine, and the set-aside would cover it.

And if the fish don't present themselves and you have no fishery by say September 1st, then that reserve can be reallocated to the states in the percentages of state-by-state bait harvests. So I think the best way to accommodate both issues is to put each state on notice that you better monitor your fisheries and submit a good plan to the ASMFC to monitor your bait fisheries and not exceed them, close them at maybe a lower percentage.

We didn't even get into closing at what point the TAC. But I don't see how else it's going to work. If we have a bait allocation by region, then who's monitoring it?

Everybody has got disparate bait fisheries. And who's going to monitor it, and who's going to pay it back? So I'd like to proceed with the motion on state by state and get through C1, C2, the next three sections of state by state.

CHAIRMAN LOUIS DANIEL: Terry. Last word.

TERRY STOCKWELL: The last word's going to be: motion to amend, and that's to add Sections 4.2.1.8 and 4.2.1.9. And marrying these issues to this state by state would give me the comfort to vote for it.

MICHAEL WAINE: Thank you, Mr. Chairman. I'm going to try to clarify here. I'll wait for --

CHAIRMAN LOUIS DANIEL: We've got a second by Dennis Abbott. Point of order from Robert Boyle.

ROBERT BOYLES: Thank you, Mr. Chairman. Just looking at the public information document, in italics: This option only applies if the Board selects a coastwide TAC allocation for Section 4.2.1.3. Have we not by prior actions just rejected that? So I would question whether the motion is in order.

CHAIRMAN LOUIS DANIEL: It is not. Thank you, Robert. And that is what Mike was going to point out to us as well. Those sub sections are only good if we go with the coastwide allocation. But you go ahead and clarify it more if you need to.

MICHAEL WAINE: Yes. Thank you, Mr. Chairman. Mr. Boyles, you're correct on that for the TAC set-aside for small scale fishery. The plan does allow for the TAC set-aside for episodic events if using state-by-state allocations. So that is still on the table if this motion passes.

TERRY STOCKWELL: So I'll withdraw.

CHAIRMAN LOUIS DANIEL: Do we need to caucus? Bob.

ROBERT BEAL: Just to clarify the motion: What does the maker of the motion mean by adding Section 4.2.1.9? There's two options under 4.2.1.9. One is no quota set-aside, and the other is one percent set-aside. So I assume it's Option B, which is the one percent set-aside of the overall TAC.

CHAIRMAN LOUIS DANIEL: I think he withdrew it.

ROBERT BEAL: He only withdrew half of it, the 4.2.1.8.

MICHAEL WAINE: Thank you, Bobby. Section B. Option B.

CHAIRMAN LOUIS DANIEL: Okay. Yeah, go head.

MICHAEL WAINE: I guess what you're saying -- I'm trying to understand here is if the Board chooses to go with state-by-state allocation, by default the TAC set-aside for episodic events goes along with that decision; it doesn't need to be added?

MICHAEL WAINE: That is correct.

A.C. CARPENTER: Mr. Chairman.

CHAIRMAN LOUIS DANIEL: Yes. A.C.

A.C. CARPENTER: Section 4.2.1.9 is also contingent on us selecting C2. We have not yet made that decision. So I don't know that you can add that at this point. I think that you have to take your original motion and vote it up or down and move on from there. I don't think that you can try to do all three things in this one motion.

CHAIRMAN LOUIS DANIEL: Okay. One more clarifying point, and then I'll make a rule from the chair.

MICHAEL WAINE: Okay. I'm going to have to apologize. C2 is a typo. It's Option C not specific to C2 if you check the plan. It should be draft amendment 2. It says state allocation. It doesn't specify C2. Sorry for that mistake.

A.C. CARPENTER: So, if we select C, if we select the state-by-state option, then we can have a motion to adopt the one percent of the overall TAC set-aside for episodic events. No?

DAVID PIERCE: No. Because the text goes on to say in that particular section under Option B. Option C, as clarified by Mike, yes, in deed it's under Option C, but not C1. But it does say: however, if the 30-70, the 40-60, or the 50-50 split are chosen as the appropriate split between bait and reduction, then the episodic event allocation, that option is off the table because that higher percentage, 30 percent, 70 percent, accounts for what could be an episodic event. So that's a condition that's written into the document that it's a complicating factor, to say the least.

So I suggested this motion is out of order because the choice that we will have to make depending upon whether -- if we go to the state-by-state quota then C1 and C2 come into play.

CHAIRMAN LOUIS DANIEL: Yeah. I agree. **The amendment's out of order. So I'm not going to accept the amendment. We're going to vote on the motion to adopt Option C, to manage the TAC on a state-by-state basis. Motion by Mr. Carpenter. Second by Mr. Travelstead. Do you need time to caucus?**

CHAIRMAN LOUIS DANIEL: I don't see anybody nodding in the affirmative, so all those in favor of the motion to manage by state by state raise your right hand.

CHAIRMAN LOUIS DANIEL: Opposed, same sign.

CHAIRMAN LOUIS DANIEL: Two opposed. Any null votes?

CHAIRMAN LOUIS DANIEL: Abstentions?

CHAIRMAN LOUIS DANIEL: **Two abstentions. The motion carries. Okay. Now we move on to C1 and C2. Adam.**

ADAM NOWALSKY: Thank you, Mr. Chairman. **I'm prepared to make a motion that under C2 for a split of the TAC be allocated 30 percent bait and 70 percent reduction.**

CHAIRMAN LOUIS DANIEL: Second by Mr. Bellavance. I'm trying to find it. Sub Option C. Discussion on the motion. Dave Simpson.

DAVID SIMPSON: I would liken this to this entire group going out to happy hour filling up on beer and then asking one party to pay the bill.

I think that's exactly what we're doing here. It's a fish grab. This could actually result in one state paying the entire bill and everyone else walking out with an increase, an allowable increase in landings, no 20 percent cut that we voted for 13 to 3. But one party pays the entire bill; everyone else walks out with a belly full of beer.

Not only is it wrong to do, but I think it would be incredibly destructive to this commission if we venture at all from the recent historical average between these two fisheries that we've been looking at between 3, 5, 7 year, all of which talk about 78 to 80 percent reduction, 20 to 22 percent bait.

It's an unfortunate, inconvenient truth, as they say, but we will do ourselves a great disservice, do advocates for conservation a great disservice; we'll do the Commission a great disservice if we venture from that historical allocation.

CHAIRMAN LOUIS DANIEL: Jimmy Kellum.

JAMES KELLUM: Again, the Technical Committee said leave it to the historic level. Reallocation has nothing to do with conservation.

And if the Technical Committee report was right -- they said you'd be better off if you caught less bait and more reduction -- you'd have more fish to spawn because the bait catches bigger fish. So we can't support this. We are more in support of the historical average.

CHAIRMAN LOUIS DANIEL: Dave Pierce.

DAVID PIERCE: I'm not drunk on beer. I understand where David is coming from, however I'm quick to point out that if indeed we do select this particular option, 30 percent for bait and 70 percent for reduction. Then we have to get to Part 2 of this decision making process, which is the bait allocation sub options, and those sub options for Massachusetts depending upon which one is chosen could very well result in and likely would result in a rather dramatic cutback in bait landings in Massachusetts, reported bait landings in Massachusetts from let's say a high that we had in 2008 of 13 million pounds down to 6 million pounds.

So that's a 50 percent reduction in the bait allocation, the bait amount that can be landed in Massachusetts. So this would be a sacrifice involved by all parties here.

These are tough choices to be made, but be assured in my particular case, I'm not saying that Virginia has to swallow the whole pill. There would be swallowing by all the states in that particular case because the bait fishery is important to us.

There is a dramatic cutback from our recent high, which could be still around 13 million pounds if we were to uncover every stone and find every unreported bit of bait landings that we've had in recent years. So I'm very confident that this particular strategy would indeed result in a cutback in the amount of bait that can be landed in Massachusetts.

CHAIRMAN LOUIS DANIEL: Jack Travelstead.

JACK TRAVELSTEAD: This motion would be the nail in the coffin for Virginia. I appreciate your comments very much Dave. I think they are right on. I wish I had thought of that analogy.

This is purely an economic decision to relieve yourselves of the impacts and send them Virginia's way. This morning you were fairly united in your desire to protect the biological integrity of this resource, and you did what you thought was right, and now you're going to saddle Virginia with the

entire burden of what I thought we were all going to share in.

I know biological decisions are tough, but they work best when we all share in those burdens. I think this is nothing more than an arbitrary decision picking numbers out of the air to minimize impacts to most of the states.

It does absolutely nothing to address the overfishing situation and everything to improve your economic situation. And most importantly, it violates the Technical Committee's advice that by allowing more fish to be caught in the bait sector you're reducing reproductive potential. So it actually causes -- it may be small, but this motion actually causes more biological harm to the resource, something that I heard loud and clear this morning you didn't want to do.

But apparently -- you know, when it comes down to economic burden, you're willing to give that up. You wouldn't listen to Virginia when we wanted you to do that, but now if you vote in favor of this motion, that's exactly what you'd be doing for yourselves.

So I would offer a substitute motion to adopt Sub Option C1-1 which allocates the entire TAC on a state-by-state basis based on the most recent three years that we have available, 2009 to 2011.

We heard earlier that 2009 to '11 were the most accurate years, years that most accurately describe the bait landings. They're the best data that we have.

Every fishery we manage states come in and say, well -- you know, there are data we haven't collected. We think our landings are a little bit higher. But it never really gets very far. We've got to live with what we have and perhaps re-evaluate this down the road. I don't object to three, four, five years down the road re-evaluating this, but let's stick with the best years of data that we have and not jeopardize any further the reproductive potential of the stock. Thank you.

CHAIRMAN LOUIS DANIEL: Substitute motion by Mr. Travelstead. Is there a second? Second by A.C. Carpenter. Now, my understanding, Jack, is that that would then relegate the responsibility of the distribution to the states.

JACK TRAVELSTEAD: Well, that's part of the flexibility I spoke of earlier by giving -- you know, Virginia was at 85 percent, which is the three-year average, and then we make the decision within our

state to divide that up by bait and reduction and hopefully address some of the economic concerns that I expressed earlier in doing that.

CHAIRMAN LOUIS DANIEL: Okay. So everybody understands what the motion on the table is. It takes away the discussion on the distribution and allocation between the different fisheries. Is there any discussion on that motion? John Duren.

JOHN DUREN: Just a question. The title under Sub Option C1 said menhaden commercial TAC not allocated by fishery only by state. So if we voted for this, would we really say to the states you can allocate it by fishery, or would we say the market's going to allocate it the way it thinks is the best?

CHAIRMAN LOUIS DANIEL: No. The individual states will receive their percentage of the coastwide quota, and then those individual states will determine when to open their fishery, and they can decide on trip limits.

And the only state that's going to be dealing with an allocation between sectors is Virginia because nobody else has a reduction fleet. So Virginia will have to make the tough decision on how to allocate the fish between the bait and the reduction fishery.

The remaining states what little or much quota we get that will be our quota, and it will be up to us on how to manage that quota. And that could be based on gear limitations. It would be up to us. John.

JOHN DUREN: I just have to do a follow up to make sure we understand the range of possibilities. But if Virginia should decide to allocate 100 percent of its 85 percent of the total harvest for reduction does that mean that only 25,000 tons would be available for bait on the rest of the coast? So that's just one of the ramifications if we go this way.

CHAIRMAN LOUIS DANIEL: But I think economics would not allow that to happen because the bait is worth so much more than individual fish or so much more from the reduction fishery -- I mean the bait fishery.

I mean but also it will also be incumbent upon the Board to make a decision about when to revisit these things, and if we find Jack's gone crazy and done that, then we can address it then.

JOHN DUREN: Which is why I said why not let the market, do the allocation between fisheries.

CHAIRMAN LOUIS DANIEL: Any other comments on the motion? Tom.

THOMAS FOTE: I think New Jersey and Virginia have been pretty diligent about recording their bait landings. I think other states because of not availability of bait have not been -- have basically missed a lot of the opportunities to record this. So when Leo comes in and yells about summer flounder during that period of time had bad reporting so they've been penalized all these years by not having that amount of fishery. My concern here is and that's why I'm having a problem with this is that we are not taking into consideration that the bait landings might have been higher than they were and now we're locked into a percentage and we're giving mostly reduction.

And a lot of the fish that goes into the reduction boats even though states have decided to close reduction fishing in our state, so we basically did that, that means we didn't want to allocate it all to one sector. It's a concern here how do we deal with this problem.

And I understand. I'm not trying to hinder anybody else, but I have to look at how it affects the thousands of jobs in my state that depend on menhaden, whether it's the boats from the party boats or things like that. They depend on the bait.

And we start basically doing it, it's going to raise the price of bait and put them in an economic hardship. That they're in an economic hardship to begin with that New York and New Jersey with over Sandy. And I remember the last time there was some kind of mess around, the bait dealers all of a sudden raised the prices astronomically on the party and charter boats and the tackle stores and everything else. It has my serious concerns about doing it this way, and I guess for that reason I can't support the motion that was put up there.

I am concerned that we're locking in these figures for three years, and we're going to wind up finding other states have had more -- you're going to find out when you start doing this, as we've found out with every fishery, once we do an allocation state by state and once we divide it also we find these under reported landings, and people get penalized for being bad bookkeepers for over the years when there was really no economic incentive to do that. And that's really the problem here.

CHAIRMAN LOUIS DANIEL: Robert.

ROBERT BOYLES: Thank you, Mr. Chairman. Clearly, today we have dealt with extraordinarily difficult issues. Clearly, today by actions this morning have affirmed a commitment to manage menhaden differently.

These are watershed events for the Commission. These are watershed events for the fishery, certainly watershed events for the communities that depend on these fisheries. I have to think that Dave Simpson is absolutely right. These are difficult, complex issues that we deal with.

Allocation is a purely policy-driven decision. And I'm not quite sure that we're really ready to go down that road here.

We have bitten off a lot presuming that we get this thing through, and I think if we go anything beyond the historical landings, I think we're going to be looking at an extraordinarily nondurable outcome. And so I would support the substitute motion. Thank you.

CHAIRMAN LOUIS DANIEL: Adam Nowalsky.

ADAM NOWALSKY: I'm going to pass at this time, Mr. Chairman.

CHAIRMAN LOUIS DANIEL: Lynn.

LYNN FEGLEY: Thank you, Mr. Chairman. My first question is -- well, first a comment. I think that we would perhaps be better off going down the road of C2-1-1 which does use historical allocations to split between sectors and then state by state, and the reason I say that is if we go just to a straight state-by-state allocation -- and I don't know what the odds of this are, but what if some of the bigger rigs -- what if there is a reduction landings in another state suddenly? Can they do that? So, in other words -- I'm just curious about how that would work. I don't know what the odds of that happening are.

CHAIRMAN LOUIS DANIEL: Well, I think the odds are pretty slim because there's not the facilities. I mean they would have to develop the facilities. I mean North Carolina had I don't know how many we had, but we had a bunch of plants, and the one big one's a mariner now.

So, I mean, I'm not aware of any plants that could start back up and start reduction fishing within the next three years at least. But if we were to allow that, I mean that would seem to be patently unfair to the fleet that already exists because then they're going to

have to split it between another facility. That's going to be a mess if that happens. Jack, to that point.

JACK TRAVELSTEAD: Yeah. I think we're starting to speculate about things that are extremely remote. And I don't know if this is any relief to anyone, but if this substitute passes, I'm quite certain that Virginia would allocate its share between bait and reduction based on the same three-year average. Why monkey with a good thing. If it's not that number, it's going to be something extremely close to it. I'd be very surprised otherwise. Thank you.

CHAIRMAN LOUIS DANIEL: Last word, Dennis Abbott.

DENNIS ABBOTT: Thank you, Mr. Chairman. I'd like to support the comments made by Dave Simpson and Robert Boyles. I think that to -- I'm speaking more to the main motion in support of this motion that going to a 70-30 doesn't pass the smell test in my mind of what's been going on historically in the fishery, and we've beat Virginia over the head at least -- I won't say beat them over the head, but surely they feel harmed by what we did this morning, and I think that this would be a further hit on the head.

Not too humorously, but I can't see Jack Travelstead down at the other end of the room, but when he made his comments, I don't know if he had a handkerchief and was wiping away tears, but I'm sure it was a difficult situation. Thank you.

CHAIRMAN LOUIS DANIEL: All right. That's it. I'd like to go ahead and vote on this motion. I think this one needs to be a roll call vote. I got to keep my record up. Make sure nobody else can beat it. All right. You want to caucus? Anybody want to caucus one minute. All right. One minute caucus.

(Whereupon, a caucus was held.)

ROBERT BEAL: Real quick while everyone's caucusing, the hotel wants us to announce that a lot of people have not checked out yet, and you're about to get charged another day. I know this meeting's going long, but hopefully we're not spending the night here. So check out if you haven't done so yet.

CHAIRMAN LOUIS DANIEL: We are not spending the night here. All right. Where's Mr. Wayne? Here I'll do it. Are you ready? Maine.

MAINE: Yes.

CHAIRMAN LOUIS DANIEL: New Hampshire.

DRAFT

DRAFT

DRAFT

NEW HAMPSHIRE: Yes.

MICHAEL WAINE: Commonwealth of Massachusetts.

COMMONWEALTH OF MASSACHUSETTS: No.

MICHAEL WAINE: Rhode Island.

RHODE ISLAND: No.

MICHAEL WAINE: Connecticut.

CONNECTICUT: Yes.

MICHAEL WAINE: New York.

NEW YORK: Yes.

MICHAEL WAINE: New Jersey.

NEW JERSEY: No.

MICHAEL WAINE: Delaware.

DELAWARE: No.

MICHAEL WAINE: Maryland.

MARYLAND: Yes.

MICHAEL WAINE: Potomac River Fisheries Commission.

POTOMAC RIVER FISHERIES COMMISSION: Yes.

MICHAEL WAINE: Commonwealth of Virginia.

COMMONWEALTH OF VIRGINIA: Yes.

MICHAEL WAINE: North Carolina.

NORTH CAROLINA: Yes.

MICHAEL WAINE: South Carolina.

SOUTH CAROLINA: Yes.

MICHAEL WAINE: Georgia.

GEORGIA: Yes.

MICHAEL WAINE: Florida.

FLORIDA: Yes.

MICHAEL WAINE: National Marine Fishery Service.

NATIONAL MARINE FISHERY SERVICE: Abstain.

MICHAEL WAINE: U.S. Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: Abstain.

CHAIRMAN LOUIS DANIEL: The motion carries 11 in favor, 4 opposed with 2 abstentions. All right. **This is now the main motion on state-by-state allocations.** We'll take one minute to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN LOUIS DANIEL: All right. Are you ready? Mike.

MICHAEL WAINE: Maine.

MAINE: Yes.

MICHAEL WAINE: New Hampshire.

NEW HAMPSHIRE: Yes.

MICHAEL WAINE: Commonwealth of Massachusetts.

COMMONWEALTH OF MASSACHUSETTS: No.

MICHAEL WAINE: Rhode Island.

RHODE ISLAND: No.

MICHAEL WAINE: Connecticut.

CONNECTICUT: Yes.

MICHAEL WAINE: New York.

NEW YORK: Yes.

MICHAEL WAINE: New Jersey.

NEW JERSEY: No.

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POTOMAC RIVER FISHERIES COMMISSION: Yes.

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COMMONWEALTH OF VIRGINIA: Yes.

MICHAEL WAINE: North Carolina.

NORTH CAROLINA: No.

MICHAEL WAINE: South Carolina.

SOUTH CAROLINA: Yes.

MICHAEL WAINE: Georgia.

GEORGIA: Yes.

MICHAEL WAINE: Florida.

FLORIDA: Yes.

MICHAEL WAINE: National Marine Fishery Service.

NATIONAL MARINE FISHERY SERVICE: Abstain.

MICHAEL WAINE: U.S. Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: Abstain.

CHAIRMAN LOUIS DANIEL: **The same vote: 11 in favor, 4 opposed with 2 abstentions. All right. I think this moves us on to quota transfers.** No? Oh, yes. Sorry. Sorry. All right.

We need to make a decision if we're going to revisit these allocation provisions within the next three or five years from adoption of Amendment 2. Is there discussion on that? Terry.

TERRY STOCKWELL: Yeah. Thank you, Mr. Chairman. **I'll make the discussion short and make the motion that we revisit the allocations three years from Amendment 2 implementation.**

CHAIRMAN LOUIS DANIEL: With a second by Mr. Adler. Discussion on that motion?

CHAIRMAN LOUIS DANIEL: Is there any objection to that motion?

CHAIRMAN LOUIS DANIEL: **Seeing none, that motion carries.** Next is -- I got so confused now about where I am -- the quota transfers. (Pause.) All right. The 5A has the TAC specifications of when we close, and the options are to close at 85 percent of the TAC, close at 90 percent, close at 95 percent, or we could set it on a multiple-year or single basis.

To a large degree, that's really going to be up to the states and how they manage their TAC. I'm not so sure we need to be involved in that or at least not hold somebody to that if Virginia can manage its quota to 95 because of its reporting and other states got to use 85, there should be that flexibility for the individual states to do it the way they deem necessary since it's a state-by-state quota, has meaning at regional and coastwide levels, but perhaps not at state-by-state. But that's up to the Board to decide. A.C.

A.C. CARPENTER: **Toward that end, I'd say that we not adopt any particular issue here with the time to close. Since there is going to be state by state and there is going to be a penalty payment system, this is unnecessary.**

CHAIRMAN LOUIS DANIEL: And that's in the form of a motion not to adopt any percentages. And that's seconded by Mr. McElroy. Is there discussion on that motion? I'm going to let it get up on the screen before we vote on it.

UNIDENTIFIED: Mr. Chairman, that's Section 4.2.1.1 of the --

CHAIRMAN LOUIS DANIEL: Here we go. Everybody understand what we're voting on, whether we'll leave it up to the individual states as to when they close their fishery to ensure that they don't go over with the understanding that if they do go over, they will pay back. Bob Ballou.

ROBERT BALLOU: And with the understanding that we're likely to get to reporting requirements in a few minutes here, and that's going to be a key piece of the puzzle, if you will, because if there's not good reporting, there's not going to be a good sense as to where you are on your state allocation.

So I'm comfortable punting on this as long as we take up the issue of state reporting requirements, which I know we will. Thank you.

CHAIRMAN LOUIS DANIEL: Okay. Everybody understand what we're doing? Everybody seen the motion? **Move to not adopt any percent closure criteria Section 4.2.1.1. Motion by Mr. Carpenter. Second by Mr. McElroy. Is there any objection to the motion?**

CHAIRMAN LOUIS DANIEL: **Seeing none, that motion carries.** The next item is Issue 5D, quota transfers, and that was to be discussed only if we selected region or state-by-state allocations, which we did.

So the question is pertinent as to whether we do allow transfers of state quotas or if we do not allow transfer of state quotas. Robert.

ROBERT BOYLES: **Thank you, Mr. Chairman. I would make the motion that we do allow a transfer of quota between states.**

CHAIRMAN LOUIS DANIEL: Motion by Mr. Boyles. Second by Mr. Adler. To allow transfers amongst states through our normal process. Is there any discussion on that motion?

CHAIRMAN LOUIS DANIEL: Is there any objection to that motion?

CHAIRMAN LOUIS DANIEL: **Seeing none, that motion carries.** The next is quota rollover, the issue of quota rollover, Issue 5E. Quotas may not be rolled over. We have to make the decision as to whether we will not allow them to roll over, allow 100 percent rollover of any unused quota including transferred quota, or allow a maximum percent rollover of any unused quota as specified annually by the Board. So do we allow rollover, a percentage or all? Mr. Bellavance.

RICHARD BELLAVANCE: **I make a motion that we allow maximum percent rollover of unused quota as specified annually by the Board.**

CHAIRMAN LOUIS DANIEL: Is there a second to that motion? Second by Mr. Stockwell. Doug Grout.

DOUGLAS GROUT: Yeah. Mr. Chairman, one of the concerns that I've always had about rollovers was certainly when we have a fishery that's in good shape it's not overfished and we're not overfishing, I think it's something that I think we should have as an option.

I am very concerned about having rollovers take place during a time when we have a fishery that's overfished. I think we simply can't allow that.

And I'd like to ask the Technical Committee chair if he thinks to allow rollovers during a time when we're overfished and overfishing is occurring is more risk averse than if we allow rollovers when a time when we're not overfished and overfishing isn't occurring.

JEFFREY BRUST: Thank you, Mr. Chairman. So I don't speak out of turn, I'm going to pull up the TC's recommendation. The TC's official standpoint based on our conversation before is that quota rollovers are acceptable if they're not too large.

I guess we didn't get too deep into the discussions right now we are overfished; therefore, if we set the quota in an overfishing situation and then we allow rollover would that be more detrimental.

Obviously, it would be. You've taken a relatively substantial harvest reduction. Just off the top of my head, let's see, we took approximately -- used a multiplier of .8, which results in about a 25 percent reduction from 2011 harvest.

So you're fishing at 75 percent. If you allowed a 33 percent rollover, you'd be fishing at the same level as you did in 2011. Does that make sense?

DOUGLAS GROUT: So, Mr. Chairman, can I follow up?

CHAIRMAN LOUIS DANIEL: Yes, sir.

DOUGLAS GROUT: I'd like to amend this to have a provision that would state that we would not allow rollovers unless overfishing was -- let me put it in the positive. We would only allow rollovers if overfishing was not occurring and the stocks were not overfished according to the most recent assessment.

PATRICK AUGUSTINE: That 4.2.1.5, quota rollover. The quota rollover option, Mr. Chairman, only applies if the stock status is not overfished and overfishing is not occurring, period. That's your statement from the Technical Committee in the draft amendment.

DOUGLAS GROUT: I withdraw that. Thank you very much. I appreciate that, Pat. I really do.

CHAIRMAN LOUIS DANIEL: So any decision on the rollover would be contingent on the stock not

being overfished and with overfishing not occurring. So does everybody understand that?

So the motion could be consistent with that. But we would not make any decision on that percentage until we get a stock assessment saying we are no longer overfished and overfishing is not occurring. Does everybody understand? Tom.

THOMAS FOTE: There was no second on the motion. It just got posted up there, so that's what I was having a problem with. That's why I was trying to get your attention.

CHAIRMAN LOUIS DANIEL: All right. Yeah. We do have a second. The motion is: Move to allow maximum percent rollover of any unused quotas specified by the Board on an annual basis. And then parenthetically contingent on stock status. Motion by Mr. Bellavance. Second by Mr. Stockwell. Any further discussion on the motion? There is. Okay. Bob Ballou.

ROBERT BALLOU: Thank you, Mr. Chairman. Just so I'm clear: This pertains only to the coastwide quota, not the individual state allocations. Is that accurate?

CHAIRMAN LOUIS DANIEL: That's not clear to me.

ROBERT BALLOU: If I could follow up.

CHAIRMAN LOUIS DANIEL: Yeah.

ROBERT BALLOU: I would be concerned if it pertained to the individual state allocations, given the unlikelihood of transfers occurring with the rollover opportunity. I just don't -- to me it seems like we ought to be fishing the quota each year making sure that happens via transfers and to enable individual states to rollover their allocations. I'm not sure that gets us to where we want to be. So I think it's an important clarification. Thank you.

CHAIRMAN LOUIS DANIEL: I would agree. And it's up to the Board as to what they intend by this motion. Lynn.

LYNN FEGLEY: It does say right in the document for the maximum percent rollover it does say: This rollover would apply to all final allocations including transferred quota. That's what it says.

CHAIRMAN LOUIS DANIEL: Dave Simpson.

DAVID SIMPSON: Yeah. I think Bob brought up a great point, and I think we do feel that we're going to need flexibility here to make this quota work.

And while normally I would say a modest quota rollover is not a terrible thing, I think the greater flexibility is provided by voting this down and trying to encourage states to transfer quota if it's clear they're not going to be able to use it in a particular year.

CHAIRMAN LOUIS DANIEL: Tom.

THOMAS FOTE: I think of the Maine campaign and the hats and everything from Maine that no rollover and on a fishery on striped bass that was basically fully recovered.

And here we're supposed to be doing the same thing on a fishery that's being overfished or has been at the lowest level in 50 years. I can't support this motion. The transferability I think is the way to go.

CHAIRMAN LOUIS DANIEL: Anything else?

CHAIRMAN LOUIS DANIEL: All right. We've got a motion on the floor to allow maximum percent rollover on any unused quota specified by the Board on an annual basis. Motion by Mr. Bellavance. Second by Mr. Stockwell. Is there objection to the motion?

CHAIRMAN LOUIS DANIEL: I think there's a lot more that people aren't paying attention. All right. All those in favor of the motion -- caucus. Okay.

(Whereupon, a caucus was held.)

CHAIRMAN LOUIS DANIEL: All right. Are you ready? All those in favor of the motion raise your right hand.

CHAIRMAN LOUIS DANIEL: All those opposed same sign.

CHAIRMAN LOUIS DANIEL: **Fourteen opposed. The motion fails.** So what's your pleasure on this item? A.C.

A.C. CARPENTER: Mr. Chairman, I'd like to offer a motion that the issue of quota rollover shall not be considered by the Board until the stock is recovered and at that time can be considered on an annual basis.

CHAIRMAN LOUIS DANIEL: I'll accept that in the form of a motion. I need a second to that motion.

Ms. Fegley. Lynn Fegley. Is there any discussion on the motion? Tom Fote.

THOMAS FOTE: I really think this motion's out of order. We just voted down that you only could have rollovers when the fishery is not being overfished. The fishery isn't being overfished the fishery is not recovered? I'm missing something here.

CHAIRMAN LOUIS DANIEL: I just think it just clarifies the Board's intent to not consider rollovers until we get a stock assessment saying that the stock's not overfished and overfishing is not occurring.

THOMAS FOTE: At that time we can make a motion to do rollovers.

CHAIRMAN LOUIS DANIEL: That's what this motion says.

THOMAS FOTE: But that does not establish -- a point of order is the last motion that we voted on -- what I'm saying is whether I agree with the motion or not, I think the motion's out of order because the last motion we voted on would allow the rollover when the stock was not being overfished.

Isn't that when stock is not being overfished it's recovered? We just voted that motion down, didn't we? How can we basically do the same motion? That's what I'm saying.

I'm not saying whether I agree with it or not, but I think we just voted down that motion, unless I'm reading something wrong into this. I'd like a little clarification from Bob or somebody.

CHAIRMAN LOUIS DANIEL: David.

DAVID PIERCE: Yeah. I think the confusion lies in the definition of recovered. To me recovered doesn't mean we're no longer overfished. It means we've hit our target biomass, which is a lot higher than the biomass that would determine whether we're overfished or not. So I think it's a different way of approaching things.

So it is different from the previous motion that was defeated. At least that's my understanding of it because we're talking about -- unless the maker of the motion has a different definition of recovered.

It's the target. Correct? Yeah. So it's the target biomass. So overfished doesn't come into play. You've hit the target and exceeded it.

CHAIRMAN LOUIS DANIEL: Robert Boyles.

ROBERT BOYLES: Just a question, parliamentary inquiry, please. I believe what we're doing is this is in essence selecting Option A for this action.

CHAIRMAN LOUIS DANIEL: Correct.

ROBERT BOYLES: And to Tom's point, we rejected Option C with the previous action. Thank you.

CHAIRMAN LOUIS DANIEL: Yes. That's the easy way to explain it. Is everybody comfortable with where we are? I mean we're not going to discuss this again until we're recovered. Yes. Bob.

ROBERT BEAL: Part of that discussion is sort of defining how rollovers will work once the stock's recovered. Is that the intent?

CHAIRMAN LOUIS DANIEL: Yes.

ROBERT BEAL: And to what degree will allow rollover? Is it a hundred percent plus transfers, or is it just a percentage like 20 percent, like we discussed with striped bass that I don't think we did?

CHAIRMAN LOUIS DANIEL: All right. Any further discussion on this motion?

CHAIRMAN LOUIS DANIEL: Is there any objection to this motion?

CHAIRMAN LOUIS DANIEL: **Seeing none, that motion carries.** The next is quota paybacks. We have to make a decision as to whether or not if we do go over the quota will we have to pay it back.

And in most circumstances when you go over a quota on a fish that's overfished and overfishing is occurring, you do pay back overages. So discussion for the Board. Robert.

ROBERT BOYLES: **Mr. Chairman, I'd like to move that we select Option B, 100 percent payback of quota overages.**

CHAIRMAN LOUIS DANIEL: Got a motion from Robert Boyles. A second from Bill McElroy. Discussion from Pete Himchak.

PETER HIMCHAK: Yes. I support the motion. And throughout the last year we have been positioning ourselves to monitor a bait TAC year by year by season, and you will be surprised just put

states on high alert to start looking for under reporting.

You know, you'd be surprised of how much current bait landings are that aren't being captured and reported. So just be on notice.

CHAIRMAN LOUIS DANIEL: All right. Any other discussion on the motion?

CHAIRMAN LOUIS DANIEL: Seeing none, is there any objection to the motion?

CHAIRMAN LOUIS DANIEL: **Seeing none, that motion carries.** The next item is Issue 5G, bycatch allowance. It says the Board may select a single option or Option B and C in combination, for example, pound and percent bycatch allocations.

I will remind you what the Law Enforcement Committee recommended, not going with a percentage. And after having done some of these things, I would recommend it as well. So it's up for the Board discussion as to how you want to handle a bycatch allowance. Terry.

TERRY STOCKWELL: Yeah. Thank you, Mr. Chairman. **I make a motion to approve Option B2, a 2,000 pound bycatch amount for nondirected fisheries.**

CHAIRMAN LOUIS DANIEL: Is that for any time of the year?

TERRY STOCKWELL: Yes.

CHAIRMAN LOUIS DANIEL: Whether it's closed or not?

TERRY STOCKWELL: Yes.

CHAIRMAN LOUIS DANIEL: Okay. So I got a motion on the floor for Option B2, which is a 2,000 pound bycatch allowance for nondirected fisheries, a motion by Mr. Stockwell. Second by Mr. Travelstead.

JACK TRAVELSTEAD: No.

CHAIRMAN LOUIS DANIEL: Sorry. Well, you had your hand up. Do I have a second? Right here. Doug Grout. Thank you. That was panic. All right. Discussion. Dave Simpson.

DAVID SIMPSON: Just to be clear: In that we've got state-by-state allocations; we have a TAC we're

supposed to close when we hit a hundred percent; is this saying that despite that we can continue to land as long as it's not more than 2,000 pounds and that will not count against our TAC essentially?

CHAIRMAN LOUIS DANIEL: That's the understanding of the maker of the motion. Jimmy. Jimmy Kellum.

JAMES KELLUM: We talked about is thing a lot in the Advisory Panel. I wouldn't be opposed to the 2,000 pounds, but 2,000 pounds is not very many menhaden.

If after the quota closes a poundnetter or somebody with fixed gear declares that they're fishing to fill their rockfish takes, I feel like maybe we should make that number 10,000 'cause that's 166 bushels.

I know in Maryland and Virginia the poundnetters are really close to shore. If we only have a 2,000 pound bycatch, we're going to influence these guys to have to roll these dead fish out.

We don't want to see that. We don't want to see them making trip after trip after trip either, but I don't think 2,000 pounds is enough.

CHAIRMAN LOUIS DANIEL: Jack.

JACK TRAVELSTEAD: Yeah. I think Jimmy makes a good point. We have a pretty extensive poundnet fishery in the bay, and I know Maryland does as well, and that fishery goes right through the fall at a point in time when you'd be bumping up against the quotas.

Some of these individuals own two, three, four, five nets. They're fishing them all every day at one time. It's not an everyday occurrence, but there are times when they'll bring back 10,000 pounds of menhaden.

And you said it earlier, Mr. Chairman: Does it make sense to just throw those fish back? Most of them are going to be floating. They're going to end up on somebody's beach somewhere. That's not good.

I'd like to see a higher number there in the motion, somewhere around 10,000 pounds. But I recognize that's a high number, too, and you're not going to have that count against the quota.

But quite frankly I think it's going to be such a small part -- even when you add it all up, it's such a small part compared to the total TAC. It's not going to

amount to much. So I think we could still meet and could live with a higher number.

CHAIRMAN LOUIS DANIEL: Terry. Terry Stockwell.

TERRY STOCKWELL: Yeah. Thank you, Mr. Chairman. I was just going to provide a little rationale for the 2,000 pound number. And bearing in mind I know nothing about the Mid-Atlantic poundnet fisheries.

But 2,000 pounds in the Atlantic herring fishery and actually the bycatch from river herring in the Atlantic herring fishery is a very workable number. It's a nondirected amount.

It's something that the Maine marine patrol and the other northeast enforcement officers -- a number that they can all work with, and I thought it's a reasonable number to work with. If the Mid-Atlantic states need more than 2,000 pounds, then I hope they will make a motion to amend.

CHAIRMAN LOUIS DANIEL: Lynn. Lynn Fegley.

LYNN FEGLEY: **Thank you, Mr. Chairman. I'd like to make a motion to amend that to change 2,000 to 6,000.**

CHAIRMAN LOUIS DANIEL: Motion to amend from 2,000 pound bycatch allowance to 6,000 pounds. Is there a second to the motion? Second from A.C. Okay. Is that it, Lynn? Okay. John Duren.

JOHN DUREN: It may have been covered, but I think that fishermen ought to be able to pursue their trade in a way that makes sense for them, but I was going to recommend that we count this in the TAC. Maybe that's wiser. Maybe it's not. I'll leave it to other heads who know better about it.

CHAIRMAN LOUIS DANIEL: I think my understanding of bycatch allowance at this level, while it doesn't sound -- may sound excessive to some folks, particularly the lay people, it's really not when it comes to menhaden, and I don't think the total amount is going to either make a blip on the radar screen of the total allowable landings.

If all of this bycatch constitutes greater than one percent of the total quota, I would be surprised. And I think that's a small price to pay to avoid having these discards and these problems.

So that's just my understanding. Many of the states are not going to have a trip limit until the season closes and then have the bycatch allowance kick in in order to try to avoid that waste. Ritchie White.

RICHARD WHITE: Thank you, Mr. Chairman. I thought that the state-by-state quotas would take care of something like this. In other words, that we're giving state flexibility and if this isn't a large amount, why can't a state put aside that amount of poundage within the quota to cover this towards the end of the year.

So I guess I don't support having a large volume. I'd stick with the 2,000. I'd really like to see that accounted for in the quota and have the state figure out a process by which they save enough for these fisheries.

CHAIRMAN LOUIS DANIEL: A.C.

A.C. CARPENTER: I just want to speak in favor of the motion and also remind everybody that 6,000 pounds would be the maximum allowable, but each state can tailor it to something less than that for their particular fisheries under our rules of operation by the ASMFC.

CHAIRMAN LOUIS DANIEL: Pete Himchak.

PETER HIMCHAK: Yes. We discussed this at home, and we see a problem with not having a percentage to identify it as bycatch because if you close the season when your TAC is reached, what's to prevent a whole fleet of gillnetting activity claiming to be targeting something or landing two or 6,000 pounds now. There might be a loophole there for directed fisheries. That's a pretty attractive sum, 6,000 pounds to go out and direct on menhaden. And without our defining what a bycatch is by a percentage basis, you should count it against your TAC.

CHAIRMAN LOUIS DANIEL: Doug Grout.

DOUGLAS GROUT: Thank you, Mr. Chairman. It was my understanding that these options still the poundage would count against your TAC. It is now the responsibility of the state to make sure that they stay underneath the TAC.

Now, 2,000/6,000 pounds is a better bycatch tack on. What this says is a directed fishery -- it says: No directed fishery for Atlantic menhaden shall be allowed when the fishing season is closed.

Which I took so you would have to somehow account for some kind of buffer, like closing at 90 percent or 95 or 80 percent if you have a nondirected, bycatch fishery; but if that bycatch fishery took you over your quota, you'd still have to pay it back. I defer again to the Mid-Atlantic states as to what the proper poundage would be. I agree with Terry. Two thousand pounds is good for sea herring, and that has a lower biomass than menhaden, so maybe 6,000 pounds is better.

CHAIRMAN LOUIS DANIEL: Jimmy Kellum. Lynn Fegley.

LYNN FEGLEY: Right. This is a situation where to address several concerns -- you know, in the Chesapeake Bay where we have striped bass poundnets. These are poundnets where they're fishing primarily for striped bass in November.

They may get a slug of menhaden through just by nature of the beast, that percentage is going to be high because there's going to be a lot of them relative to the striped bass and other things that are in that net.

And so the issue becomes when you have these sort of nondirected stationary gears, we could count it against the TAC and pay it back, but we run the risk of whittling down our TAC to the point where the poundnet fishery is going to have to go away or be rolling out dead menhaden a couple of years down the road, or they're going to have to roll them out right away. So I'm just trying to see a way through here. Hopefully, somebody has some ideas. Thank you, Mr. Chairman.

CHAIRMAN LOUIS DANIEL: Jack.

JACK TRAVELSTEAD: Bycatch allowance by definition is that which we allow in nondirected gears after the TAC is caught, but that doesn't mean we ignore what's caught.

It's still going to be recorded; it's still going to end up in the stock assessment, so it's still going to be looked at as how we manage the stock. It's just at what level can we live with to the point where it's not wasted.

I don't know of anybody -- and obviously, a purse seine is a directed gear. Nobody's going to -- after that's caught, that's done. I think we're primarily talking about poundnets and gillnets and maybe a haul seine or some kind of trap nets that are set throughout the Mid-Atlantic for a lot of other species,

and oh, by the way, they happened to catch menhaden from time to time.

And I don't see any harm to anything here, quite frankly. I don't see people taking advantage of this. I really don't.

CHAIRMAN LOUIS DANIEL: It's 10 cents a pound. Or that's what our replacement costs are for menhaden. I don't know what they're bringing right now, but I mean it is a very low -- that's a lot of work for 10 cents a pound. Dave Simpson.

DAVID SIMPSON: Yeah. I'd support the motion. I don't know what the right number is, and I think it depends on where you are and the gear.

But I think I'd also say we've bitten off a lot today already, and this is into those fine details that I think we benefit from a year of experience, and then we may be able to fine tune whether it's fixed gears are treated one way and gillnets are treated another.

But we're down to those fine little details now that I think my view would be pass this, and we'll watch, gain a little experience, and then we'll address this last little bit.

CHAIRMAN LOUIS DANIEL: Yeah. I think one of the points I was going to make early on in the meeting and didn't, but that was trying to eat the elephant in one bite here today. I mean we have made some extraordinary strides in the management of menhaden today, and by the end of this day, we will really have made some horrendous strides, and there's going to be some adjustments. They're going to have to take place over time. And some of the things we've selected today may not work, or we may determine didn't work two or three years from now and that we can be able to adjust.

And I think the record from this meeting is fairly clear that there's concern about locking in specific set-asides, specific allocations, and those types of things.

So hopefully, they'll move along. Folks will be willing or at least understand why these allocations may change and why some of these distributions may change as we move forward. I've got Bill McElroy.

WILLIAM MCELROY: Thank you, Mr. Chairman. Dave Simpson said most of what I was going to say. The only thing I would add to that is from first-hand experience up in the northern regions at least, with the fish traps which are pretty much the same thing as

a poundnet, we can release those fish alive without much difficulty at all.

I did that for quite a number of years, and I would have to say in the northern waters at least we can get a 90 percent survival rate on the discards. Thank you.

CHAIRMAN LOUIS DANIEL: All right. We have a motion to amend to change the bycatch allowance from two to 6,000 pounds. We need to dispense with that motion to amend first. Is there any further discussion on that motion?

CHAIRMAN LOUIS DANIEL: Is there any objection to upping that limit from 2,000 to 6,000 pounds?

CHAIRMAN LOUIS DANIEL: Seeing none, that motion carries. So the main motion becomes the 6,000 pounds. Any further discussion on that motion? Sorry, dude. I hate when I do that.

DOUGLAS GROUT: Look right. I just want to make clear to everybody that this bycatch poundage - - and I turn to our staff that under this option, this bycatch allowance will count against the quota. If it doesn't, then I'd like to offer an amendment.

CHAIRMAN LOUIS DANIEL: My understanding from the discussion around the table is it would not count against the quota, that it is a bycatch allowance that the states would implement once their quotas have been caught.

DOUGLAS GROUT: And so I would move to amend allow the bycatch allowance. I would like to amend that the bycatch would count against the quota.

CHAIRMAN LOUIS DANIEL: We have a motion to amend that the bycatch would count against each state's individual allocation. Okay. Point of order. (Inaudible.)

CHAIRMAN LOUIS DANIEL: No. We passed the amendment to go from 2,000 to 6,000. The original motion was 2,000. It was amended to 6,000. We've approved the amendment to 6,000.

Now we have to approve the final motion with 6,000. So I think he is within his parliamentary right to offer a motion to amend to require that the bycatch allowance does count as part of your state-by-state allocation. So I need a second to that motion. I have

one from Pete Himchak. I have hands up. Dave Simpson.

DAVID SIMPSON: Yeah. At the risk of repeating what I just said, I think this is the small details -- ultimately, my goal would be the same as yours, that we count any catch against the TAC. But I think we've accomplished an awful lot here today, and we need to learn a little bit about what the right number might be. Certainly, for Connecticut it's way too big. But let's have some time to work those details out.

And I look, and I see Virginia supporting it, and I would think under the circumstances they might be the state that would be most objectionable to that.

So I think if they're willing to let us learn a little bit and figure this out, that that's what we need to do. And all of those earlier discussions and difficulty we had about how we're going to allocate and what the proportions are going to be was all about this issue right here, and I think this is a pretty nice way of addressing it.

CHAIRMAN LOUIS DANIEL: Jack Travelstead.

JACK TRAVELSTEAD: I can see a scenario where it's a problem. Suppose a state said we're not going to do very much to manage our quota; we're going to go out and catch it all up in the first month, and then the rest of the 11 months we get this 6,000 pound bycatch quota. I could see that being a problem. But state have a responsibility to manage their quotas, and I would assume they're going to try to do that to accommodate their fisheries throughout the year so that once the quota's caught, you're pretty much near the end of the fishing season and you don't have a lot of fish being discarded thrown back dead.

So the original motion on bycatch allowance was to address that situation. You're near the end of the year. You've caught your quota. You've got nondirected fisheries going on that entangled menhaden, and you don't want to see them wasted, discarded, floating, landing on somebody's property, things like that.

So I think let's go with what we have, and as Dave said, let's learn from our experience, and if it ends up being a problem, we can fix it next year.

CHAIRMAN LOUIS DANIEL: Pete. Pete Himchak.

PETER HIMCHAK: Yeah. Just had a question for Lynn when you brought up the example of the

poundnets and the menhaden bycatch. I mean would not that bycatch have already been reported as menhaden bait and be underneath your existing percentage of coastwide landings and be part of the TAC?

LYNN FEGLEY: Right. Sure, it's been reported, but we're all going to have to reduce. And where it is our intent to go do what we need to do to reduce our landings to the TAC that we've selected, so we will take a reduction, which is good; that's what we should do.

But what the risk is is that we -- and because we have these nets in the water all year it's hard to apportion out when the catch is. So if we fulfill our TAC and then we have a striped bass poundnet fishery that's functioning still rolling after the menhaden TAC is achieved, we would have to either discard a lot of dead menhaden or essentially close all the poundnet fisheries because it's going to be pretty hard to release.

I agree with Doug and Dave that the intent here is not to take advantage of this; the intent is to prevent a lot of floating dead menhaden which would seem contrary to conservation as well.

And maybe we can clarify this. Maybe bycatch could certainly be reported. Maybe we can clarify this so that we're revisiting this within a year so that if we're way exceeding our TAC with our bycatch, then we need to figure something else out. If our bycatch reported catch is a certain percentage over our TAC, maybe we need to pay that back. I mean I think there are other options here besides black or white.

CHAIRMAN LOUIS DANIEL: Doug Grout.

DOUGLAS GROUT: Thank you, Mr. Chairman. I think Jack said it correctly. The states need to be able to manage their quota. You have been given a TAC, and if you have a potential for a bycatch fishery within your state after it, then what you do is you shut down the TAC at 95 or 98 or 99 percent, whatever you're comfortable with; and if for some reason you misjudge, then the state has the responsibility as a part of managing their TAC to pay back, and it includes this bycatch.

You need to take responsibility. The states wanted to have state-by-state allocation. You need to take responsibility, and this is part of it. You can't just say, oh well, we let it go over a little bit, and that

won't count. It does count. It counts towards the fishing mortality rate.

CHAIRMAN LOUIS DANIEL: I got Steve Train.

STEPHEN TRAIN: Thank you, Mr. Chairman. I like the motion. I don't like the amendment. And I like the motion because it's going to prevent dead fish from floating around. We're going to use them. I don't like the amendment because the states that may have a fishery occurring that would have a bycatch don't like the amendment.

And what I see is if it's an issue, we're going to be here again in three years, and we can look at the states that said they didn't need this to count and we're using it as a directed fishery if that happens, and we can get payback then.

We can reset the allotment. We can reset the quotas. I don't think it's necessary at this time. I think the motion as it was does the job.

CHAIRMAN LOUIS DANIEL: Any further word on this? Pete.

PETER HIMCHAK: Yeah. I just had one final comment, and it relates to Doug's point. And I mean doesn't each state have to present a plan to the ASMFC for Amendment 2 on how it's going to monitor its bait fisheries, it's TAC and address all these issues within it. And then the ASMFC will -- if you have a major problem late in the year, then you would have to build in a buffer so that you don't have an extraordinary amount of landings after your TAC is taken. So the state has to have a responsible fishery monitoring plan for next year. Correct?

CHAIRMAN LOUIS DANIEL: Well, as much as I hate to say it, one possible and maybe a little easier than say the 5/10 percent, I mean if you're really trying to account for menhaden in a bycatch fishery, one way to resolve a lot of the concerns that are going around the table is to put in a 50 percent requirement.

And I reminded the Board that that's not what the LEC thought was a good thing to do, but it certainly would lose that option or that probability of somebody going out and directing on 6,000 pounds of menhaden. I mean whether that's \$600. Is that right?

So I mean we have what is it a 4,000 pound trip limit on dogfish at a similar value. So, I mean, if there is

concern, we do have the option in here to not allow menhaden to not make up more than say 50 percent.

It's less restrictive than the motions that went out to public meeting, but it would probably result in any directed trips on menhaden because they've had to have other species. So I just bring that up for your consideration because I'm hearing a lot of angst around the table about it not counting and that folks could take advantage of it. And perhaps they could. Bob Ballou.

ROBERT BALLOU: Yes. Thank you, Mr. Chairman. I really am struggling with this. And here's the Rhode Island example. Our primary menhaden fishery is a fish trap fishery, and under the -- based on the decisions made today, I think we're going to be looking at about 75,000 pounds a year.

So what do we say to the fish traps after they've landed their 75,000 pounds? Are they allowed to continue fishing at a 6,000 pounds per day rate calling it bycatch and not having it count, or not?

And that's the issue that I'm struggling with. On the one hand, I like the idea of allowing them to continue to fish in the way just noted, but on the other hand, it seems disingenuous to what we're looking to try to build here, which is some real integrity.

So I'm really struggling. And that's the Rhode Island example. So if anyone on the Board can help me through this, I'd appreciate it. Thank you.

CHAIRMAN LOUIS DANIEL: Lynn.

LYNN FEGLEY: I mean is this something that we need to clarify? And, again, it doesn't solve all the concerns. It doesn't do it. But do we help by clarifying that this only applies to gears that are stationary, so people aren't taking gillnets out and looking for where menhaden are and directing so that a stationary fishery that's actually a guy's really set to encounter striped bass who happens to get a school of menhaden.

He can't just move a poundnet around all over the place. They can't move a fish trap around all over the place. I don't know. Does a stationary component -- I do agree we have to all be accountable for what we do, but we also don't want a lot of dead fish. I don't think we want to close our lucrative striped bass fishery to prevent menhaden, so.

CHAIRMAN LOUIS DANIEL: Well, and I think that's the problem that I brought up earlier, whether

or not you can release menhaden from a pound net or not.

I mean there are different types of poundnets, the deep water to shallow water. The shallow water doesn't tend to have the current, so you are able to release some fish from that. I don't know the percentage. But the primary problem that I think we will run into at least for example in North Carolina, we will catch large quantities of menhaden on occasion in a flynet fishery off of Hatteras, and that's what's going to probably take up the majority of our TAC, which I'm thinking is going to be somewhere in the 1 1/2, to 2 million pound range.

But at the same time, we have some very lucrative fisheries that are the heart of our fishing season where menhaden are taken as bycatch, and it's very probable that we will have caught our quota by that fall fishery, and then we will continue to land the menhaden so that we don't discard them dead, but then we're going to end up in a situation where we're significantly over the quota I'm afraid.

And then we'll have to start taking that off the subsequent year, which is going to arrive at even less menhaden, which could result in even more discards.

So that's the difficult situation we're in when we're dealing with something that's as fragile as menhaden but that's as ubiquitous in common in a lot of our fisheries, and so the only option that I can think of is that you would have to basically eliminate directed fishery in a lot of these fisheries where we have such small quotas, which are the majority of the states and just no longer allow a directed fishery for menhaden and just go with the 6,000 pounds year round.

And that's going to be difficult for some folks to swallow because the menhaden have been an important component of at least one of our fisheries in North Carolina in the wintertime when there's not a whole lot else going on after striped bass closes.

So by counting it against the quota, it's going to have significant ramifications for how we manage our fishery. So it's up to the Board on whether we do that or not.

And it could be that in a year from now, if we're back in this seat, we're back here a year from February and we see what happened in 2013, I don't know if we'll be much over the quota or not, but we are dealing with a coastwide quota and a likelihood of us hitting the nail right on the head.

And the reduction fishery wouldn't have to catch but a few less fish to make up for a lot of bycatch in a lot of these otherwise nondirected fisheries. So I'm kind of torn between the two. A.C.

A.C. CARPENTER: I've had a thought that maybe what we need to do on this particular issue is to establish the 6,000 pound or whatever the number is that we've got, and that this bycatch would have to be reported on your annual report as bycatch.

And if each year when we review those reports, if we see a state whose bycatch is causing the problem, then we can address it by the Board and say: All right, Pete, what's your solution for next year to prevent this from happening? And I think that's where the accountability comes in here.

But we still need the flexibility. As Dave said, we've got to learn as we go here, and I think handling it through the annual report and the monitoring requirements as a way to be held accountable each year for what your bycatch is and deal with it at the Board level each year.

CHAIRMAN LOUIS DANIEL: Dennis.

DENNIS ABBOTT: Thank you. This would be a lot easier decision for us to make if we had some idea of how many people are involved in this fishery. If the Commonwealth of Virginia said that they have five fishermen and they probably catch X amount of fish, that would be one thing. But if the figure turns out to be that there's 100 or 200 or 500 people prosecuting this fishery in like manner, it becomes a different situation.

So I think that we really need to count this and then we will decide at a later time whether it's necessary to count it against the quota.

But we did set a hard quota this morning, and I think now to make exceptions that allow us to go over the quota is not the correct thing to do.

But I also agree -- I'm not concerned about the bycatch number because we don't want to waste fish, but it's most important to count the fish. Count the fish.

PETER HIMCHAK: Mr. Chairman, I'd like to withdraw my second to the motion.

CHAIRMAN LOUIS DANIEL: All right. The second has been withdrawn from the motion to count

it against the quota. Sorry, Pete. Can't withdraw your motion. You're stuck.

I guess one point that may be pertinent here, and that is we're assuming that the fishery is going to change from the way it's currently operating. Right? Because if the fishery continues to operate the way that it's operating now, which includes all these small catches in these nondirected gears, that's reflected in our allocations.

So we're making an assumption right now that I don't know that we can make, that for some reason the fishery is going to change once we put in a hard TAC. And I don't know we know that at this particular point in time.

Yeah, if everybody goes out and rushes out to catch the quota, and they're going to be small in most of these states, so I don't really see that happening; otherwise, the fishery should just continue operating on like it has been, and the states will stay within their traditional allocation unless there is some change in how the fishery operates. Dave Pierce.

DAVID PIERCE: I do not support the motion to amend. I do agree with A.C.'s suggestion as to how we should move forward. I'm concerned that if we do adopt this motion to have every fish count, have the bycatch count against the overall quota -- and some states will be very low quota, Massachusetts, for example, being one example -- we will find ourselves in the position where we are going to have to absolutely consider in our state a bycatch cap for menhaden and sea herring fishery, a federally managed fishery in cooperation with ASMFC.

It gets really complicated, and it puts a real burden on the states especially with low quotas to deal with what will be low amounts of menhaden bycatch in that particular fishery; nevertheless, it will require some more monitoring than we would otherwise want to have, and as I said, actually moving forward and considering some bycatch cap for menhaden imposed by the state in that federally managed fishery. I think that's too complex. You're making more out of it than we should. So I oppose the motion to amend.

CHAIRMAN LOUIS DANIEL: Anything else on the motion to amend?

CHAIRMAN LOUIS DANIEL: All right. We've got a motion to amend to allow that the bycatch would count against the quota. Motion by Mr. Grout. Second by Mr. Himchak. Do you need to caucus? If not I don't believe this needs a roll call vote, but if

you would like one, I will accept that. All right. All those in favor signify by raising your right hand. In favor of the motion to amend.

CHAIRMAN LOUIS DANIEL: Four in favor. Opposed same sign.

CHAIRMAN LOUIS DANIEL: Eight opposed. Abstentions.

CHAIRMAN LOUIS DANIEL: Null votes.

CHAIRMAN LOUIS DANIEL: **Got one null vote. The motion fails. And two abstentions. The motion fails to amend.**

CHAIRMAN LOUIS DANIEL: *Now we go back to the main motion. I believe that was Ms. Fegley's motion. Main motion is a 6,000 pound bycatch allowance.* Is there any further discussion on that motion?

CHAIRMAN LOUIS DANIEL: All right. All those in favor of the 6,000 pound motion that does not count against the total allowable catch raise your right hand in favor.

CHAIRMAN LOUIS DANIEL: Opposed same sign.

CHAIRMAN LOUIS DANIEL: Abstentions.

CHAIRMAN LOUIS DANIEL: Null votes.

CHAIRMAN LOUIS DANIEL: **The motion carries.** Moving along. That was the longest list of speakers I had on anything yet. All right. The next item is Issue 5H, but that does not pertain to the situation that we find ourselves in because we went with the state-by-state quota.

So the next item is Issue 5I, Section 4.2.1.9, a TAC set-aside for episodic events. And this is allowed under the state-by-state quota allocation, so we can make a decision here.

I will accept Board comment on either having no TAC set-aside for episodic events or one percent of the overall TAC may be set aside for episodic events. So discussion from the Board. Terry Stockwell.

TERRY STOCKWELL: Thank you, Mr. Chairman. I move Option B of Section 4.2.1.9, a TAC set-aside for episodic events.

CHAIRMAN LOUIS DANIEL: At what level?

TERRY STOCKWELL: It's on the overall TAC.

CHAIRMAN LOUIS DANIEL: All right. So one percent. So Option B, one percent of the overall TAC. Is there a second to that motion? Second by Mr. Ballou. Discussion on the motion? Jack.

JACK TRAVELSTEAD: Just a question. If the episode doesn't occur, what happens to the one percent? Do these episodes occur in the summer and by the fall we know they haven't occurred, and therefore, the one percent goes back into the quota?

CHAIRMAN LOUIS DANIEL: That's my understanding.

JACK TRAVELSTEAD: Can you clarify that, please.

TERRY STOCKWELL: Jack, you beat me to it, and you're correct. We're looking at September.

JACK TRAVELSTEAD: I will support the motion. Thank you.

CHAIRMAN LOUIS STOCKWELL: Should we have that caveat in the motion, that up until September 1st of each year and then after September 1st, if an event has not occurred, then the one percent will go back into the pot?

JACK TRAVELSTEAD: As long as it's understood, I'm happy.

CHAIRMAN LOUIS DANIEL: Okay. So it's clear on that provision, whether it's stated in the motion or not. Nobody objects to that? Okay. We got it in there. All right. I got A.C.

A.C. CARPENTER: Just a question then. The one percent is one percent of the 170,800 metric tons. Is that correct?

CHAIRMAN LOUIS DANIEL: That's my understanding, yes. And the motion maker is nodding in agreement.

A.C. CARPENTER: Thank you.

CHAIRMAN LOUIS DANIEL: Dave Simpson. You're good? Everybody else good? Anybody else have a burning desire to say something about this? Bob.

ROBERT BALLOU: I'm sorry. I'm on the fly here because I'm reading the amendment, and I know the

amendment referenced July 1, which we have now changed to September 1, and I just want to make sure that there are other provisions in here all which would go along with this motion as I understand it. So we're adopting all the provisions in the draft amendment, and I'm looking specifically under an underlying sentence that says: Additionally, the set-aside has the following provisions for states that opt in. All of this would carry with the proposed amendment. Is that accurate?

TERRY STOCKWELL: That's correct.

CHAIRMAN LOUIS DANIEL: Good clarification. All right. Anything else on this? Dave Pierce. And then Adam.

DAVID PIERCE: Once again, just a clarification of the language. It says: To qualify for the episodic event set-aside, the state's allocation must be less than 2 percent for the state-by-state bait allocation scenario.

Now, we did not pick that. The state-by-state quotas but we did not allocate by bait. So does it still apply? Does the language have to be changed?

Because I know that as it stands right now with the allocations that Maine has, actually all the New England states, the allocations are all less than one percent, so we don't qualify for the episodic event however that may be defined because it's still not clear in the document, of course, what defines an unusual circumstance or an episodic event. I suspect that will play out, and the state will have to make an argument for it actually being an episodic event.

But, anyways, so is there a complication with the current language that we have in the amendment right now that will prevent us from doing?

MICHAEL WAINE: Yeah. That's the mistake that I talked about earlier. So the eligibility would be from C1 table, so as opposed to C2; and therefore, if you meet the eligibility requirement in the C1 table, then you could opt in.

Now, I think it's an important point that you bring up and the point that Mr. Ballou made that there are some other specifications in the section the state has to abide by if it opts in to this set-aside.

DAVID PIERCE: Right. A set-aside of one percent listed as a sudden unexpected episode of menhaden, huge abundance in Massachusetts Bay going all the way up to the state of Maine, and vessels in those

three states, New Hampshire, Massachusetts, and the state of Maine want to take advantage of that abundance. All right. So, if there's one percent available set-aside, so the three states would compete for the one percent? I'm not sure how that works in terms of the states that want to be taking advantage of that pool. How would we do that? Is it described well enough in the document?

MICHAEL WAINE: Yeah. Good question. I'm going to try to clarify. So if your allocation was more than one percent, more or less than one percent, then I guess it would be essentially the state would have to decided whether it was in their best interest to opt into this set-aside knowing that there are other states that may be opting into it as well.

That would come through with compliance and the state submitting their plans for implementation. So I think it would rely on you communicating with the other states and deciding when you make a decision on whether to opt into the set-aside or not. Does that clarify at all?

DAVID PIERCE: Well, it means if indeed this happens, if we're so fortunate as to have an unexpected high abundance of menhaden, then Terry and (inaudible) and I and all of us from the three states will have to have a meeting to determine how we would address this I guess. It will be up to us to move it forward and suggest our own strategy how we will share the one percent, one-third a piece.

But then again, that's less than -- okay. I'm not going to oppose this. I'm just saying that it's still sort of messy. The concept is nice, but it's still messy.

CHAIRMAN LOUIS DANIEL: Well, I mean I hate to -- I feel like I at least need to bring up a point. And that is, I think that this could be extremely messy because I don't know how to define this episodic event.

And who makes the decision that it's an episodic event that you can take advantage of, or if it's just a school of fish move through?

And the example, a good example I think, is in the state of North Carolina. I could claim an episodic event every year in April when I've got millions of huge schools of menhaden off North Carolina's coast.

Now, I bet I got more menhaden off North Carolina than you've got off of Maine, but I haven't been catching them. So that's an episodic event that I'm going to apply for and allow my guys to go out and

catch that one percent. And then the episodic event occurs in Massachusetts, and I've already taken the one percent. So I think a lot of us outside of New Jersey and Virginia are going to be looking at that episodic event and trying to find it and then trying to quantify it and take advantage of it.

And I think it's going to be a mess. I think it's going to be a big mess, so. Because we'll certainly be looking -- and I mean I guess I mean can I as the state director declare I have an episodic event and we'll take one percent, or would it have to go through the Board, at which time the fish are going to be gone? Maybe they won't even be there anymore once you get approval to have the fishery. So that generates a lot of interest. Robert.

ROBERT BOYLES: Thank you, Mr. Chairman. You make some very, very compelling comments, as you always do. And as a state that has zero documented landings, this was something that I was inclined initially to support.

By policy the state of South Carolina hasn't landed menhaden in any number of years by legislation I should say. And I think this is something that's going to be extraordinarily difficult. I'd note for the Board that we do have the provision for quota transfers between states, and I'm wondering based on the difficulty that you I think accurately predict, if it might satisfy some of the states that are concerned about these episodic events that we don't find a different way to skin a cat. Thanks.

CHAIRMAN LOUIS DANIEL: Jimmy Kellum.

JAMES KELLUM: How do you define an episodic event if the northern states don't have a three mile line and North Carolina does have a three mile line? Is it still an episodic event outside of three miles?

CHAIRMAN LOUIS DANIEL: Everybody has a three mile line, at least in --

JAMES KELLUM: Not everybody because you can fish in Princess Bay. So everybody doesn't have a three mile line.

CHAIRMAN LOUIS DANIEL: I guess I don't understand the question. I mean if all of a sudden a state has a five mile school show up in its state waters, is that an episodic event, and how do we know that that doesn't happen on a regular occurrence and just hasn't been fished on by that state? I don't know how you would determine that. And you may

be right, Jimmy. I just don't know. But I don't know how you would declare it. Jack.

JACK TRAVELSTEAD: I'm very sympathetic to Maine's situation. I'd love to be able to accommodate them, but given all of your concerns and I think they're good ones, Mr. Chairman, maybe at the 11th hour I don't think we're going to be able to solve this.

And I'm wondering if this isn't something we take up between now and the summer, and if we can figure it out, we come back with a quick addendum to fix this thing. Just an idea.

CHAIRMAN LOUIS DANIEL: Terry Stockwell.

TERRY STOCKWELL: Thank you Mr. Chairman. I don't perceive a great amount of difficulty a the numbers the board members have just raised, particularly the measure that will provide some flexibility to the northern region or the southern region, should an aggregation of fish show up. To me an episodic event will be if an when a school of fish show up in the Gulf of Maine again.

We're only talking about a two- or three-years time period between the vote we take later this afternoon and when we have the benchmark and revisit the measures all together.

I think the states or jurisdictions and which state they're into this program would have ample time to get together and put together some measures that make sense to them and come back to the Board with a proposal. I don't think it has to be that complicated.

CHAIRMAN LOUIS DANIEL: A.C.

A.C. CARPENTER: I just wanted to make a point that the one million seven hundred thousand metric ton -- I mean the 1,700 metric ton, this one percent number would exceed the Potomac River catch seven of the last ten years. And we're under a quota system here, so maybe the one percent number is just too high.

CHAIRMAN LOUIS DANIEL: Doug Grout.

DOUGLAS GROUT: Thank you, Mr. Chairman. Possibly one way to address some of the concerns you had is to set the threshold that we have here for a state that would qualify at a lower level.

We clearly have the allocation system we've set. We have those who are above one percent; we have those

that are between one-tenth and one percent, and then we have 1, 2, 3, 4, 5, 6, 7, 8, 9 states that are below one-tenth of a percent.

And I think Maine and New Hampshire and Rhode Island and New York and Connecticut, those are the states we're concerned about needing to have some provision that if we get a pulse of fishery up there, we're not going to blow through that legal quota.

I mean I have an average of 400 pounds. That ain't going to go very far. But if we had the option to participate in this, that way you wouldn't have a directed fishery.

So we could either address that right now, or if you want us to come back. I just would hate to have it happen next year; we'll have an episodic event happen next year and not have this in place. I could make an amendment and try an amendment right now to deal with it, the TAC set-aside episodic events at -- let's see, where do I put it. To qualify for an episodic event, you'd have to have the percentage of landings in Table C1.1 be less than one-tenth of a percent.

CHAIRMAN LOUIS DANIEL: I can't. I don't think I can allow that because that's more restrictive than what we went out to public comment with. The option that was out to public comment was a one percent episodic event set-aside, but it wasn't restricted to those states.

I think the public would have expected that would have been available to all the states and not one-tenth of a percent. But I do think that that's an option that we could consider for, as Jack suggested, an addendum to try to address this and try to pare down and define an episodic event.

Again, I mean, I feel like I could define one probably on an annual basis off of North Carolina. It's probably not the intent of what -- it's probably inconsistent with the way you all are viewing the episodic event because we have just had the fish there all along; we just haven't harvested them. But you all just don't have them there but on a rare occasion, so there's a big different between an episodic event in North Carolina, South Carolina, and Georgia and an episodic event in New England.

So we have to somehow address that and deal with it because; otherwise, I mean, basically the reduction and bait fisheries just lost one percent. They're now at a 21 percent reduction instead of a 20 percent reduction. Because we'll be able to find an episodic

event every year on the coast if we don't fix it. I got Roy Miller.

ROY MILLER: Mr. Chairman, my perception is we're bogging down on this issue. I'm wondering if we could defer this issue to February, since it's been to public hearing. We could take it up again at a later time. Thank you.

CHAIRMAN LOUIS DANIEL: Dave Simpson.

DAVID SIMPSON: I was going to say I think the public records -- first of all, I think we are within the range because it's either no set-aside or up to one percent. We're within that range. And I think to my memory every time this issue has come up it's been about fish showing up in the Gulf of Maine, and it's a Maine issue because they have purse seiners that have that capability.

Connecticut doesn't. We do occasionally have purse seiners land in Connecticut. They're not our boats. They choose to land in Connecticut for whatever economic reason.

For that situation, I would envision requesting that vessel's state of origin transfer fish similar to what North Carolina does to Virginia.

They just decide they didn't want to steam back to New Jersey and want to land in Connecticut. I think we'd handle it that way. But I think this has consistently from the beginning been a discussion about a situation developing in the Gulf of Maine, not normally where they occur, but where exceptionally or episodically they occur.

So I think we're in bounds, and I think we should try to address this. And I like the idea of releasing the fish September 1 for the rest of the normal users. If the fish don't show up, they don't lose the opportunity.

CHAIRMAN LOUIS DANIEL: Adam.

ADAM NOWALSKY: Thank you, Mr. Chairman. If I may follow up on Mr. Grout's comments. I don't believe he was referring to the one percent in the motion. I believe what you were referring to were the 2 percent criteria of the allocation that was currently in the amendment.

And what you were suggesting, if I was counting along with you, you counted nine states, and you were saying a-tenth of a percent would be below that.

So, if I'm correct, what you were doing is you were looking at C1 and Column C.1.1, and you counted out the nine states whose allocation was a-tenth of one percent there.

So you weren't actually proposing changing the one percent here to a-tenth of one percent; what you were doing is you were proposing changing the criteria from 2 percent of the state-by-state allocation scenarios which had been in C2 to a-tenth of a percent which is in C1.1.

Which actually what that basically does would make the same states have that option, basically less than 2 percent from Table C2, while it would make Maine, New Hampshire, Rhode Island, Connecticut, New York, the nine states you referenced, eligible; and your tenth of one percent basically makes the same nine states eligible. And that was something I was giving consideration to 'cause the first thing I saw that this was referencing, that other table, and that would exclude some of the states that have potentially higher landings.

And I thought that was a reasonable strategy, that because it did basically reference the same states, would be within the realm of what went out to public comment and would be a possible something we could consider.

CHAIRMAN LOUIS DANIEL: Any further comment on the motion?

CHAIRMAN LOUIS DANIEL: *Seeing none, we are looking at Option B, Section 4.2.1.9, the TAC set-aside for episodic events at one percent of the overall TAC until September 1 of each year, and after which the one percent returns to the TAC that has not been used.* Motion by Mr. Stockwell. Second by Mr. Ballou. Do you need to caucus before roll call?

CHAIRMAN LOUIS DANIEL: Seeing none, all right, all those in favor of the motion raise your right hand.

CHAIRMAN LOUIS DANIEL: All those opposed same sign.

CHAIRMAN LOUIS DANIEL: Abstentions.

CHAIRMAN LOUIS DANIEL: Null votes.

CHAIRMAN LOUIS DANIEL: **The motion passes.** All right. I got to find my place now. All right. The

next issue is the Chesapeake Bay reduction fishery harvest cap, Issue 6.

The discussion needs to center around either having status quo, which means 2013 is the final year for the cap, and after this year, it will go away. There will be no cap in the Chesapeake Bay.

We could extend the cap to any specified time frame, or we could adjust the Chesapeake Bay cap as it relates to the quota management approach that we selected. So that would mean that if we wanted to continue the bait cap, then we would continue it reduced by 20 percent is the way I interpret the option. So discussion on the Chesapeake Bay cap. Dr. Pierce.

DAVID PIERCE: Yes. **I would move the option to adjust the Chesapeake Bay cap as it relates to any quota management approach selected consistent with your interpretation, Mr. Chairman.**

CHAIRMAN LOUIS DANIEL: Lynn. Lynn Fegley.

LYNN FEGLEY: (Inaudible.)

CHAIRMAN LOUIS DANIEL: Yeah. I think it needs to clearly express reduce by 20 percent consistent with the reduction in the coastwide TAC, which I believe is the maker of the motion's intent. I need a second to that motion. Lynn Fegley. Everybody clear on what we're doing? Adam.

ADAM NOWALSKY: Thank you, Mr. Chairman. Are we reducing from 20 percent of some average years, like we reduced from 20 percent over a three year average, or are we reducing by 20 percent from the current year? What are we actually reducing here?

CHAIRMAN LOUIS DANIEL: We have a specific cap for the Chesapeake Bay, and that specific cap would be reduced by 20 percent, my understanding. Now that may not be the Board's understanding, but that's my understanding.

ADAM NOWALSKY: No. That's fair. But, again, we have this very helpful memorandum document that highlighted that even though we reduced by 20 percent using the .8 multiplier, that was actually a 25 percent reduction.

So the question I'd have is: Are we reducing by 20 percent because that's what we're saying we're

doing because that was the multiplier, or should we be reducing by 25 percent because that's really what we did this morning?

CHAIRMAN LOUIS DANIEL: Bob.

ROBERT BEAL: My interpretation is the 109,020 metric ton cap that's currently in place would be reduced by 20 percent, and the associated rollover provisions and under provisions would be carried forward as well.

CHAIRMAN LOUIS DANIEL: That's my understanding as well. Is everybody comfortable with that? The maker and the seconder is comfortable with that? All right. Discussion on the motion. Bill Goldsborough.

WILLIAM GOLDSBOROUGH: Well, I think this is progress because we referenced this this morning, the issue of the pattern of the fishery is such that we do have concerns still about the possibility of localized depletion in the Chesapeake Bay. However, I will tell you that all along I did view this differently, this option.

I thought that what it meant was we were going to reconfigure the Chesapeake Bay cap just like we were going to design the coastal quota, however that came out, which would mean in this case that we would set the Chesapeake Bay reduction cap at the average of the most recent three years, '09 through '11, and then reduce that by 20 percent. That was my understanding. And I thought we discussed this, clarified this at an earlier meeting, but I can't quite put my finger on it.

CHAIRMAN LOUIS DANIEL: Bill Cole.

WILLIAM COLE: This applies to the year 2013. What's the relationship between this measure and the Chesapeake Bay states having their individual state quotas and implementing it? It still deals with the percent reduction, but they are dealing with it; we're not setting it.

CHAIRMAN LOUIS DANIEL: Jack.

JACK TRAVELSTEAD: I don't recall the harvest numbers for the last three years, but I think it's on average pretty close to what this 20 percent reduction would result in. So I think it's essentially a change what Bill was after. I can live with this, I suppose, as long as you don't change anything else about it. I think we're all right.

CHAIRMAN LOUIS DANIEL: You just opened up for an amendment right there. Any further discussion? Adam.

ADAM NOWALSKY: What would be the duration for the cap at this point? Would we have an expiration date for it, or would this now be in place until we changed it?

CHAIRMAN LOUIS DANIEL: Until we changed it. And I would expect that it would probably be readdressed once the new assessment information comes back if it needs to be reduced further, just like the coastwide TAC if it needs to be reduced further, and then this would be reduced further as well. That's my understanding.

All right. Anything else? Anybody else? Need to caucus? Doesn't look like it. Everybody's getting tired. All right. All those in favor, approve Option C to reduce the Chesapeake Bay cap by 20 percent. Motion by Dr. Pierce. Second by Ms. Fegley. All those in favor raise your right hand.

CHAIRMAN LOUIS DANIEL: Opposed same sign.

CHAIRMAN LOUIS DANIEL: Abstentions.

CHAIRMAN LOUIS DANIEL: Null votes.

CHAIRMAN LOUIS DANIEL: **The motion carries unanimously.** All right. De minimis. We have several decisions to make on de minimis status. Okay. Quota monitoring. Sorry.

All right. We're back to the first page, Issue 3, Section 3.6.1.2, quota monitoring. We will have board discussion on the five various options that were taken out to public comment.

One is to remain status quo, retain the current monitoring system. Another option is weekly reporting. State submits plan to Board for approval. Require SAFIS dealer weekly reporting. Require SAFIS E trips harvester daily reporting. And SAFIS weekly will trigger the SAFIS E trips when approaching 85 percent of the quota. So with that I will open it up for board discussion on quota monitoring. Robert Boyles.

ROBERT BOYLES: Thank you, Mr. Chairman. **I move we approve Option B, the approved state methodology for monitoring.**

CHAIRMAN LOUIS DANIEL: Motion by Mr. Boyles. Second by Mr. Carpenter. Any discussion on that motion? Dave Simpson.

DAVID SIMPSON: Does this necessitate weekly reporting for all fisheries, or would it be directed fisheries? I kind of envision this would be -- you know, purse seine vessels.

I'm not going to have to get a weekly report from my castnetter am I?

CHAIRMAN LOUIS DANIEL: I hope not.

DAVID SIMPSON: So more specifically, I mean, I'm assuming this is about directed fisheries, and that the little gillnets we have and the couple of castnetters, that if they continue to fill out their monthly logbooks and we monitor that way, we still need to stay within our quota, that it would be understood that that would be okay under this option.

MICHAEL WAINE: Thank you, Mr. Chairman. Yeah. I think you bring up a good point, Mr. Simpson. Your quota is the responsibility of your state, and so what the option that he selected specifies is that we're recommending weekly reporting to achieve the level of monitoring needed to monitor your quota so that you do not -- so that we don't have overages, and you're able to fish within your quota.

So, when we decide when the states are going to submit their plans for how you're going to achieve all of this, and you say we believe that we can stay within our quota given this monitoring structure, you are obviously responsible for any missteps in that. Thank you.

CHAIRMAN LOUIS DANIEL: Pete Himchak.

PETER HIMCHAK: Yes. I think the state is going to look at the specific gears and seasons and develop or apportion its TAC among the gear types and the level of reporting, say in our state, on purse seining would be a lot more intense than the one pound operation that we have. So I thought in keeping with Issue 5a where we close the fishery at 85, 90, or 95 percent, I thought we decided that we would leave that to the discretion of the state that knows its bait fisheries the best and may elect to have different reporting requirements by gear and different frequency of reporting. So I don't know which option to pick other than the state would have the responsibility for timely reporting to ensure it didn't exceed its TAC, whatever method it chose.

CHAIRMAN LOUIS DANIEL: The various options that we've discussed, coastwide, regional, and state by state does definitely change a little bit about this.

I certainly agree with Robert's motion for the large fisheries that we know are reporting on a regular basis. And, for example, in North Carolina we have a trip ticket program where we get the data the 10th of the month.

So, I mean, to try to get everybody that's landing menhaden to report on a weekly basis would be a huge imposition on North Carolina's program.

But we do have programs for our larger vessels that do report on a daily or weekly basis, and we can require fax reporting on a daily basis for vessels that are directing on menhaden, and that would primarily be our trawl fishery off North Carolina. But I think the point's being made that we're going to be responsible for our quota; we're going to be responsible for paying back overages to our quota. So I don't know how to move forward on this either. Dave.

DAVID SIMPSON: I think what Mike explained satisfied my concerns. And ultimately it's the state's responsibility and needs to pass muster with the Technical Committee and ultimately with the Board approving the procedure, and that will be based on each state's -- you know, circumstances. So I think this is good.

CHAIRMAN LOUIS DANIEL: The motion requires weekly reporting.

DAVID SIMPSON: What I heard was but ultimately you're responsible. I mean, I think at this point we need to say, look, each state's got it.

We would probably do something like if you're going to land more than 500 or a thousand pounds of menhaden, you need to tell us -- you know, within the end of that trip; otherwise, just put it in your logbook. Mike, maybe you can help.

MICHAEL WAINE: Yeah. Thanks. I think it just comes down to where do you want the compliance to come in. And I think the way we're describing this is it's really a quota.

If you go over your quota, that's where sort of the compliance measures kick in, your having -- you know, to pay back or accountability, I guess I'll put it. So, if you're comfortable with the level of reporting to ensure you stay within your quota, then I'm not

sure the utility of requiring a weekly reporting system in every single state for every single year for all these fisheries.

CHAIRMAN LOUIS DANIEL: I just want to make sure the maker of the motion and the seconder of the motion are comfortable with that interpretation of where we're headed and that we'll require a plan that the Board will have to approve. David Pierce.

DAVID PIERCE: Still looking to see -- I don't completely appreciate what you just -- I didn't understand what you said, Mr. Chairman, regarding with the maker and the seconder of the motion would find comfortable or not.

From my perspective in my state, again, relatively low amount of menhaden, relatively low; although, it could be a lot higher once we determine what the actual bait landings have been and are going to be, our preference is to have the SAFIS dealer reporting, frequent reporting. We have that now in our state, and it's a really good way to obtain accurate records of what actually is being landed. So that's my preference, SAFIS dealer reporting. If this motion passes, I assume it means we're going to have to do more than the dealer weekly reporting, meaning what?

CHAIRMAN LOUIS DANIEL: No. My sense from the discussion around the table was that we want to have a certain timeframe. It may not be two weeks for every single fishery that lands menhaden but that the main part of the motion is the caveat in the option that says that each state will submit a plan for approval by the Board on how they're going to monitor the fishery.

And that way it may be weekly under SAFIS for certain fisheries, high-volume fisheries; whereas, some of the other smaller dealers it may be inconsistent with our approach to do it on a weekly basis.

And I just wanted to make sure that the maker and the seconder of the motion were comfortable that there may not be strict weekly reporting for every single fishery and that the Board will have to ultimately approve how we do monitor those quotas. Doug Grout.

DOUGLAS GROUT: I wanted to make sure was it could be on a state-by-state basis. Clearly, for 400 pounds weekly reporting isn't going to be cost effective here. And I know we have a de minimis exception and hopefully the rest of the Board will consider the de minimis exception that might relieve

us from weekly or monthly reporting. We will report it.

CHAIRMAN LOUIS DANIEL: Yes. Any further discussion on the motion? Lynn.

LYNN FEGLEY: I'm sorry. I just want to clarify, just so I'm real clear before we vote on this.

So the compliance kicks in with the state's compliance to the TAC, not the compliance to the seven days reporting?

So, in other words, if we were to submit a plan saying our reporting will be every eight weeks, that's fine as long as we're within our quota. Is that right? Is that how I'm interpreting that?

CHAIRMAN LOUIS DANIEL: I think so. Robert.

ROBERT BOYLES: And the TC and the Board has signed off that is sufficient detail.

CHAIRMAN LOUIS DANIEL: Correct.

LYNN FEGLEY: Great. Thank you.

CHAIRMAN LOUIS DANIEL: Is everybody clear? All right. Is there any opposition to this motion?

CHAIRMAN LOUIS DANIEL: **Seeing none, the motion carries.** The next issue is the fishery dependant data collection. No. That's not. That's after de minimis.

So we got to do de minimis first. That is Issue No. 7. And we have a couple of different options that we have to discuss for de minimis, and the first that I will accept comment on is do we define de minimis or not. Doug Grout.

DOUGLAS GROUT: I move Option B under Section 4.5.3, define de minimis.

CHAIRMAN LOUIS DANIEL: Motion by Mr. Grout to define de minimis for this fishery. Is there a second? Second by Bob Ballou. Any discussion on this motion?

CHAIRMAN LOUIS DANIEL: Any objection to the motion?

CHAIRMAN LOUIS DANIEL: **Seeing none, the motion carries.** The next item is 7a, criteria for de minimis, and the two options that we have listed are commercial bait landings over the last two years not

greater than one percent or not greater than two percent of the total coastwide bait landings. And there is a table somewhere if I can find it that indicates the bait distributions, and it doesn't include reduction.

So Virginia would be unqualified to consider de minimis, but all the other states that were less than one or two percent would be allowed to declare de minimis. Doug Grout.

DOUGLAS GROUT: I move Option 1 under Section 4.5.3.1, criteria for de minimis will be not exceeding one percent of the coastwide landings of bait.

CHAIRMAN LOUIS DANIEL: Is there a second to that motion? I see a second from Robert Boyles.

ROBERT BOYLES: One. Option 1.

CHAIRMAN LOUIS DANIEL: One percent. Option 1, one percent. Can't be greater than one percent of the bait landings to apply for de minimis. Is there discussion on this motion?

CHAIRMAN LOUIS DANIEL: Is there any objection to this motion?

CHAIRMAN LOUIS DANIEL: **Seeing none, that motion carries.** So then the final action on de minimis is 7b, plan requirements if de minimis is granted. We have two options there.

It would mean that if you were declared de minimis, you would be exempted from biological sampling, but you would have to adhere to timely quota monitoring.

And the second option would be you would be exempted from biological sampling and timely quota monitoring but still submit annual landings. Doug.

DOUGLAS GROUT: Thank you, Mr. Chairman. I appreciate you giving me the floor for this. **I would move Option 4 under de minimis criteria, that would exempt states from both biological sampling and timely quota monitoring, but we still would submit annual landings.**

CHAIRMAN LOUIS DANIEL: Is there a second to that? Robert Boyles. Is there discussion on that motion? Bob Ballou.

ROBERT BALLOU: Just so I'm clear: This would pertain to most states, wouldn't it? I mean, if I had to

go back to my chart, but there's a lot of states under one percent. So I'm wondering out loud if this is going farther than we'd want to go and whether we might want to look to Option 3, particularly with regard to timely quota monitoring. I think there are perhaps some small states like New Hampshire that are very small, but I think there's a lot of states that fall between zero and one percent, and so I'm wondering if we want to extend this provision so broadly.

CHAIRMAN LOUIS DANIEL: I think the states that would qualify their combined landings hardly make one percent.

ROBERT BALLOU: I'm sorry, Mr. Chairman. I'm actually thinking of the wrong chart I think. I'm thinking of the full allocations coastwide, but this is just bait, isn't it?

CHAIRMAN LOUIS DANIEL: This is just bait.

ROBERT BALLOU: Thank you. I'm sorry.

CHAIRMAN LOUIS DANIEL: Any further discussion on the motion?

CHAIRMAN LOUIS DANIEL: Is there any objection to the motion? Jack Travelstead.

JACK TRAVELSTEAD: I'm just trying to figure out who this applies to before I decide if I have any comments. That's the C2 table. Right? So less than one percent would be: New Hampshire, Rhode Island, Connecticut, New York, Delaware, South Carolina, Georgia, and Florida.

CHAIRMAN LOUIS DANIEL: Yes.

JACK TRAVELSTEAD: Would all be exempt from --

CHAIRMAN LOUIS DANIEL: And Maine. Sorry.

JACK TRAVELSTEAD: And Maine. It seems like we're trying to sneak something by at the 11th hour on timely reporting. We've been talking all afternoon about how responsible we're going to be in monitoring our quotas, and we had all that discussion about a bycatch allowance, and now we're going to say, well, let's not even worry about any of them; we're not going to monitor our quotas, but we'll submit a report at the end of the year.

Doesn't that encourage everybody just overshoot their quotas? We were worried about it when we were talking bycatch allowance. Am I missing something?

CHAIRMAN LOUIS DANIEL: I think the only -- I mean, I don't disagree with you. I just think that the cumulative landings of all those states is such a small amount, but at the same point, the point you make is a valid point.

JACK TRAVELSTEAD: A few minutes ago we were just concerned about a 6,000 pound bycatch allowance being this monstrous amount, and now we're saying eight states can -- yeah, I'm worried about that.

CHAIRMAN LOUIS DANIEL: Discussion? Terry.

TERRY STOCKWELL: Yeah. Thank you, Mr. Chair. To Jack's point, coming from a state that is hoping at some point to be able to take advantage of an episodic event, the state of Maine does have a pelagic license which will require weekly monitoring both dealer and harvester.

CHAIRMAN LOUIS DANIEL: Dave Simpson.

DAVID SIMPSON: Yeah. I think we spent several minutes on my little concern do we have to do this every single week, and I got assurance it won't be every single week; but there certainly was a suggestion at the end of the year we'll just submit one number, and you can believe us.

You do need to have some kind of regular monitoring to hold this thing together; otherwise, a .05 state becomes a 2 percent state before you know it. We are trying to exercise a 20 percent reduction on harvest here. There's going to be a lot of pressure to do things differently come next year.

CHAIRMAN LOUIS DANIEL: Bob Beal.

ROBERT BEAL: Thank you, Mr. Chairman. I'm not speaking in favor or against the motion, but the incentive for the state to monitor their quota is if they go over their quota, they have to pay it back the next year. The Board's made that decision.

So the bycatch numbers we were talking about only apply after a state's closed its fishery. So I think there's still plenty of incentive in the plan for states to close.

If you go over by 150/200 percent, you close for the next two years, whatever it is. So there is incentive for the states to keep an eye on the landings.

CHAIRMAN LOUIS DANIEL: A.C.

A.C. CARPENTER: I would like to make a motion to amend to Option 3, exempted states they would be exempted from the biological sampling but still have to timely monitor their catch.

CHAIRMAN LOUIS DANIEL: Got a motion to amend from A.C. Carpenter with a second from Bill Cole. And I think that there could be some latitude by the Board when people apply for de minimis to modify that weekly schedule, to modify some of that as opposed to be very strictly adhering.

And I'm certainly sympathetic to 400 pounds, maybe not so much to a million pounds, so. So I got an amended motion to go with Option 3, as opposed to Option 4. I got Doug Grout.

DOUGLAS GROUT: Thank you, Mr. Chairman. Clearly, I'm opposed to this, the kind of burden that you'd be required to monitor 400 pounds of menhaden rarely occur, and that's sort of the peak is the classic purpose of this having a de minimis status.

That's the reason this commission put de minimis status in, and to hear that this Board has already proved that you can close your quota-- you can hit your TAC and allow a bycatch fishery of 6,000 pounds per day is clearly going to provide for fisheries that will go well over 400 pounds in a year.

We've already said, well, bycatch we're not really going to count that against the quota; it's not that important because it's probably not going to be significant, yet you're saying that a state like New Hampshire is going to have to implement a timely reporting system for a fishery in which we at a maximum landed 480 pounds.

I mean this is an undo burden, and I will totally oppose this. It is against the philosophy that this board has already approved, and that's allowing a bycatch that's going to far exceed any landings that we'll have.

CHAIRMAN LOUIS DANIEL: A.C.

A.C. CARPENTER: I think that the key to this one is in how you submit your reporting requirement plan to timely, and it's a definition of timely.

You know, if you think you can do it once a month, then you put that in your plan, and how long is it going to take you to write a zero in that column and keep moving on. And when you do get to 400 pounds, you'll know that you're there.

CHAIRMAN LOUIS DANIEL: Further discussion. David Pierce.

DAVID PIERCE: Yeah. **Would the maker of the motion accept a friendly that just says, except for New Hampshire? (Laughter.) Because New Hampshire has a zero allocation. Right? So I mean why not exempt them? They have nothing.**

CHAIRMAN LOUIS DANIEL: There are three states that have zero. There are three states that have zero. And as long as it maintains zero. I got A.C.

A.C. CARPENTER: I consider that a friendly amendment for the three states with zero.

CHAIRMAN LOUIS DANIEL: All right. You don't feel left out, do you, John? Okay. Robert will be happy when he gets back. Be like a little gift. All right. I'm going to read this motion and then -- I'm questioning whether -- go ahead, Dave. Maybe you can kill some time for me.

DAVID SIMPSON: Sure. Do the *Pledge of Allegiance* or the Boy Scout oath. I guess I'm wondering what -- you know, if New Hampshire isn't keeping track of landings and doesn't have to pay it back, I mean what's the penalty?

If you have no allocation, not getting an allocation next year is no penalty. So I'm wondering -- we're going to be serious and cover the coast for eventuality, why not land in Portsmouth in February? Nobody's watching. Nobody's keeping track. There's no accountability and no payback. I would envision some kind of threshold.

And I'm asking more seriously now what the burden to the state and to the fishermen would be to require if you landed at above some amount of menhaden you would need to report it so that New Hampshire could be aware of a significant landings. We don't care about a gillnet that caught two bunker, but what's to prevent a purse seiner from landing there?

CHAIRMAN LOUIS DANIEL: Ritchie. Rich White. Sorry.

RICHARD WHITE: Another option can be that New Hampshire or any of these three states could open

their fishery for one day and then close the fishery and then it can continue on with 6,000 pounds per harvester per day. I mean that's bycatch, and that would solve it.

CHAIRMAN LOUIS DANIEL: You have to account for your landings. The number 6,000 bycatch limit is the number that came to my mind.

I mean that's probably more than Georgia, South Carolina, and New Hampshire have landed combined. But I mean if we see that New Hampshire starts taking advantage of the 6,000 pound bycatch allowance and they start landing a bunch of fish, then obviously they no longer meet the criteria that we exempted them for.

DAVID SIMPSON: If I could.

CHAIRMAN LOUIS DANIEL: Dave Simpson.

DAVID SIMPSON: Seriously, I'm just asking, I don't know, does New Hampshire have no accounting system whatsoever for those landings; and how would you know about your 6,000 pounds or 2,000 pounds; how will you know?

CHAIRMAN LOUIS DANIEL: Doug Grout.

DOUGLAS GROUT: We have -- first of all, if there's a major fishery that develops, they're all federal dealers, and they're already required to report annually -- I mean weekly.

Now, just listen to me, Dave. If these people are not selling to dealers, we have a coastal harvest permit that they're required to have. That's where all those landings come from.

And they're required to monitor on a monthly basis. I'm going to provide the landings. The point is we're micro managing over minuscule amounts of 170,000 metric ton quota. To put this de minimis is to relieve a state from a regulatory burden. And it's at a percentage that's low enough that it's not going to effect the health and viability of the resource.

By requiring us to have -- by requiring us to monitor as a quota managed fishery, that is not going to -- whether we go over or not is not going to amount to a hill of beans in this quota monitoring, especially since we're allowing bycatches of 6,000 pounds per trip in other states.

If we go over a certain percentage, a state then no longer become eligible for de minimis, and then so they have to start implementing the various

requirements of the plan. But that's the point in all our plans behind de minimis.

CHAIRMAN LOUIS DANIEL: Dave.

DAVID SIMPSON: Okay. Thanks. That's the information I needed. I was not aware that New Hampshire had a monthly reporting system from fishermen, and I was not seeing how we would be aware of anything that happened in New Hampshire and for repeatedly interest in Maine in landing fish, and New Hampshire's next door to Maine. So, I mean, menhaden could show up. So now I understand you have a way of keeping track of it, and your concern is summing up those data on a monthly basis and being able to report them. So I'm fine. They're keeping track of their landings. That's what I was concerned about, that a state may not have an accounting system.

CHAIRMAN LOUIS DANIEL: Jeff.

JEFFREY TINSMAN: Thank you Mr. Chairman, I couldn't agree with Doug more than what he said about de minimis, it's to relieve states with a vanishingly small set of landings from the requirements to report and collect biological data, and that's true of all de minimis states, not just New Hampshire, South Carolina, and Georgia. Thank you.

CHAIRMAN LOUIS DANIEL: All right. Anything further on the motion? I was trying to wait for Robert to get back because he is listed on the motion, but I think he'll be okay.

CHAIRMAN LOUIS DANIEL: Oh, he has left? I thought I'd be done by five. I've got four minutes. Hush, and I will. All right. All those in favor of the motion signify by raising your right hand.

CHAIRMAN LOUIS DANIEL: I got 14. Those opposed same sign.

CHAIRMAN LOUIS DANIEL: Abstentions.

CHAIRMAN LOUIS DANIEL: Null votes.

CHAIRMAN LOUIS DANIEL: **The motion carries.** Fishery dependent data, Item No. 4.

(Inaudible.)

CHAIRMAN LOUIS DANIEL: It sure was. So that becomes the main motion, what we just approved. Is there any objection to that motion?

CHAIRMAN LOUIS DANIEL: Seeing none, the motion carries. Thank you, Bob. All right. The next item is Issue 4a and 4b, biological data. The first discussion we need to have is do we want to have biological sampling mandatory or not.

The TC will review and recommend the target of number of ten fish samples was the recommendation from all of our public. So I would accept a motion that's your pleasure. A.C.

A.C. CARPENTER: Move to accept Option B of Issue -- what is it -- 4a that they use the TC's recommendation for the biological sampling.

CHAIRMAN LOUIS DANIEL: Second by Bill Cole.

A.C. CARPENTER: No. 4b. It's 4a.

CHAIRMAN LOUIS DANIEL: Any discussion on this motion? Pete.

PETER HIMCHAK: I think states that have significant bait fisheries, I mean we fully intend -- keep supplying samples at the current level that we're sampling pending the Technical Committee's recommendation for maybe a higher level therefore more sampling by certain areas, but we will continue to send bait samples to Beaufort for aging.

CHAIRMAN LOUIS DANIEL: Go ahead.

JEFFREY BRUST: Just a reminder that the Technical Committee did make recommendations for the sampling levels. One, 10-fish sample per 300 metric tons landed for New England and Mid-Atlantic and one 10-fish sample per 200 metric tons landed for the Chesapeake Bay region for all gears, all states, just a little bit higher than what we're collecting right now.

CHAIRMAN LOUIS DANIEL: All right. Everybody good? Okay. Dave Simpson.

DAVID SIMPSON: Yeah. I mean, they can revisit that, but I think the great weakness in the assessment is wholly inadequate biological sampling. So I would hope the Technical Committee would take a second look at that. But we don't need to decide that now.

CHAIRMAN LOUIS DANIEL: All right. Any further discussion on the motion?

CHAIRMAN LOUIS DANIEL: Any objection to the motion?

CHAIRMAN LOUIS DANIEL: **Seeing none, that motion carries.** The next item is the adult survey index. You have, again, two choices: status quo, fishery dependent sample requirements for adult survey is not mandatory; and then the second option is that all states with stationary gears, for example poundnets, and I assume traps, would have to collect catch and effort data. A.C.

A.C. CARPENTER: **Move Option B for Issue 4b.**

CHAIRMAN LOUIS DANIEL: Got a motion for Option B. Second by Mr. Himchak. I have a question, and this may go more toward Technical Committee than the Board. But one of my concerns, and I don't have a problem collecting the data; I'm just wondering how to collect the data, because our poundnet fishermen at least they fish multiple pounds on a single trip and consolidate the catches.

And so it's going to be very difficult to quantify the CPUE's from those poundnets unless we're out there with them watching them, and we just don't have the people to do that. So I'm curious as to how we will accomplish this. A.C.

A.C. CARPENTER: The way that we do it is we report to CPUE in poundnet fish days. So, if we have a fishermen who fishes three nets in one day, it's counted as three fishing days, three net days.

So we don't try to count each individual net to get a CPUE on each individual net. We consolidate the days. And on our reporting form, it says how many pounds did you catch and how many nets did you fish today, and that's how we do it. And that's what I would expect, since the TC's been using our poundnet index since the beginning here pretty much that if we all collected it using that same technique, it would be comparable data up and down the coast.

CHAIRMAN LOUIS DANIEL: Pete.

PETER HIMCHAK: As my point -- and maybe Jeff can explain this better -- but we asked him the same question. Yeah, we're reporting 10 to monitor our two poundnet operations, but how do you want the data reported. And we would look for the Technical Committee to provide us the appropriate guidance so that we're all using standardized CPUE.

CHAIRMAN LOUIS DANIEL: Jeff. Jeff Brust.

JEFFREY BRUST: Yeah. I guess right now we don't know what the states are going to implement. I

think Mr. Carpenter's right. We have been using net days fished. If you can provide that, that's fine.

If you can't, provide us what you have. We'll try and come up with an appropriate standardization, and if we can't, we will let you know, and hopefully, we can work with you to get something that we can use. But I think that the important point right now is that we need to start looking at this data, so submit what you can, and we'll do our best, and hopefully, we can come up with something, and if not, we'll let you know.

CHAIRMAN LOUIS DANIEL: Steve Heins.

STEVEN HEINS: I just on this issue, we do have poundnets, but we do not produce appreciable landings from those poundnets such that you get any meaningful data of trying to develop an index. You could not do an index from the landings from our poundnets.

So I'm a little concerned about having to monitor this to no end. And so I'm wondering if this could be included in the de minimis, one of the things that we could exempt states that are de minimis status from, or we'd still be required to do this. You're not going to get anything out of monitoring New York landings from poundnets.

MICHAEL WAINE: If you're eligible for de minimis, you apply and are approved for de minimis status. You are exempt from biological monitoring. Thank you.

CHAIRMAN LOUIS DANIEL: Anything further? All right. The motion's on the table to move Option B from Issue 4b. Motion by Mr. Carpenter. Second by Mr. Himchak. Is there any objection to the motion?

CHAIRMAN LOUIS DANIEL: **Seeing none, that motion carries.** All right. Our final issue is complimentary action in federal waters, always the scary one. The Board should consider recommending any adopted measures to NMFS for implementation. A.C.

A.C. CARPENTER: I'm practicing to be Pat Augustine with all these motions. But in this case, given that we have gone with the state-by-state, quota-based system that's based on landings, is there any action for NMFS to even take in this regard?

And until and unless there's an offshore processing ship out there, I really don't see any need to -- I don't

know what they would complementary -- how would they contribute to this? It's a question.

CHAIRMAN LOUIS DANIEL: Does the Service have any -- do you all have any thoughts that it's something that you're wanting to be involved in on this?

KELLY DENIT: Well, that's a loaded question. No. I mean, based on the decisions that the Board has made here, I would have the same question as A.C. I don't see anything that brings to mind that would immediately trigger in my mind that there would need to be complimentary measures in federal waters.

CHAIRMAN LOUIS DANIEL: Okay. Thank you. So is there any interest in making those recommendations? Pete.

PETER HIMCHAK: I think what we're doing in New Jersey is we have a loophole that we need to close where non state permitted vessels can fish in federal waters and just come in and land, but we have a limited entry system, and we would come up with a landing requirement to prevent anybody going out there and start purse seining and then landing in New Jersey because that would eat up our entire TAC. So it's a problem we have to address.

CHAIRMAN LOUIS DANIEL: There's nothing that NMFS can do about that. All right. That takes us to the end of our options. The final action that we have to take is to take final action on Amendment 2, approve Amendment for final action, but also before that establish implementation dates at least for the reductions in harvest. Mr. Augustine.

PATRICK AUGUSTINE: Thank you, Mr. Chairman. I move that we approve the action taken and decisions made, corrections to the document, and approve Amendment 2 to the FMP Board for final approval.

CHAIRMAN LOUIS DANIEL: Second from Mr. McElroy. Bob.

JACK TRAVELSTEAD: **Actually, recommendation to the full Commission to approve Amendment 2.**

PATRICK AUGUSTINE: **Can we add that, please.**

CHAIRMAN LOUIS DANIEL: Yes, we will make that clarification. So are the implementation dates needed for this motion, or can we do that in a separate motion?

I would like to have the implementation dates within the motion to approve the amendment. So what we need to decide is -- what?

PATRICK AUGUSTINE: Can we do that in the February meeting, or when do you want to do it for -- today's date?

CHAIRMAN LOUIS DANIEL: No. What date do the regulations go into place.

PATRICK AUGUSTINE: I thought we agreed January 1, 2014. Is it?

CHAIRMAN LOUIS DANIEL: No. I think we're here today because we wanted to get it done before this upcoming season.

PATRICK AUGUSTINE: January 1, 2013.

CHAIRMAN LOUIS DANIEL: I don't know that we can do that. Jack, give me a number.

JACK TRAVELSTEAD: I like Pat's number, January 2014. I love that one. No. We talked about this before. The Virginia legislature when bills are adopted there, and they're the ones that have to do this in Virginia are effective on July 1 in that year. So I think we're looking at July 1, 2013.

CHAIRMAN LOUIS DANIEL: Bob. Bob Beal.

ROBERT BEAL: Would that be with the understanding that all the quotas established in Amendment 2 would apply to the landings for 2013?

CHAIRMAN LOUIS DANIEL: That's the way I see it. That's the way I see it. I'm seeing nods in the affirmative around the table. The technical date is July 1st, but the quotas will be retroactive for 2013. Bob.

ROBERT BEAL: Maybe I'd suggest that implementation plans are due March 31st to give the states a chunk of time, and then give the plan review team about a month or so to review those before the May meeting, and the Commission can review compliance at the May meeting before --

PATRICK AUGUSTINE: Can we clarify that in the motion, Mr. Chairman, please.

CHAIRMAN LOUIS DANIEL: Yes, we will.

PATRICK AUGUSTINE: Thank you.

CHAIRMAN LOUIS DANIEL: Toni's working feverishly to do that. Pete.

PETER HIMCHAK: Quick question for Bob. The implementation plans are essentially the state fishery plans for menhaden on how you plan to monitor your quotas?

ROBERT BEAL: Yeah. And if there's any additional trip limits the state intends to implement. And the states also need to verify their ability to close their fishery once the quota has been landed.

CHAIRMAN LOUIS DANIEL: Jack.

JACK TRAVELSTEAD: I wonder if you'd be willing to change that implementation plans due date to April 15. The reason I ask is our general assembly session lasts 46 days, so it's over with by the end of February, but then there's a veto session I think in the first week of April, and sometimes they take action on other items by that. And I'm afraid if you set it up March 31 and that happens, I won't know what they've decided to do.

CHAIRMAN LOUIS DANIEL: Without objection move that date to April 15th. All right. Well, if folks can get them in earlier than that that don't have the constraints that Virginia does, it would help get them reviewed.

So I think if everybody else can go with the earlier date -- and even earlier is better -- to give the Technical Committee or the Plan Team or whatever it is time to review them, that would be good. Okay. Bob Ballou.

ROBERT BALLOU: Thank you, Mr. Chairman. It may be that my brain is fried, but did I hear that the effective date of Amendment 2 would be January 1, 2013? No.

CHAIRMAN LOUIS DANIEL: July 1 --

ROBERT BALLOU: My brain is fried. Thank you.

CHAIRMAN LOUIS DANIEL: -- 2013. But the quotas are retroactive for January 1, 2013. Any further clarifications on implementation dates and schedules?

CHAIRMAN LOUIS DANIEL: I will read the final motion: **Move to approve Amendment 2 as modified today and recommend approval by the full Commission; implementation plans will be due April 15th, 2013, and final implementation**

will be on July 1, 2013. Motion by Mr. Augustine. Second by Mr. McElroy. Any further discussion on that motion?

CHAIRMAN LOUIS DANIEL: We will have a roll call vote.

MICHAEL WAINE: Thank you. Maine.

MAINE: Yes.

MICHAEL WAINE: New Hampshire.

NEW HAMPSHIRE: (No response.)

MICHAEL WAINE: Gone. Commonwealth of Massachusetts.

COMMONWEALTH OF MASSACHUSETTS: Yes.

MICHAEL WAINE: Rhode Island.

RHODE ISLAND: Yes.

MICHAEL WAINE: Connecticut.

CONNECTICUT: Yes.

MICHAEL WAINE: New York.

NEW YORK: Yes.

MICHAEL WAINE: New Jersey.

NEW JERSEY: Yes.

MICHAEL WAINE: Delaware.

DELAWARE: Yes.

MICHAEL WAINE: Maryland.

MARYLAND: Yes.

MICHAEL WAINE: Potomac River Fisheries Commission.

POTOMAC RIVER FISHERIES COMMISSION: Yes.

MICHAEL WAINE: Commonwealth of Virginia.

COMMONWEALTH OF VIRGINIA: Mr. Chairman, in light of the fact that my agency has no authority to implement this and it's entirely up to the

general assembly in Virginia, I'm going to reserve their right to make their own decision, and vote no on the motion. Thank you.

MICHAEL WAINE: North Carolina.

NORTH CAROLINA: Yes.

MICHAEL WAINE: South Carolina.

SOUTH CAROLINA: (No response.)

MICHAEL WAINE: Georgia.

GEORGIA: Yes.

MICHAEL WAINE: Florida.

FLORIDA: No response.

MICHAEL WAINE: Not here. National Marine Fishery Service.

NATIONAL MARINE FISHERY SERVICE: Yes.

MICHAEL WAINE: And U.S. Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: (No response.)

CHAIRMAN LOUIS DANIEL: The motion carries with one in opposition. Bill Miller.

WILLIAM MILLER: Mr. Chairman, I was wondering instead of if Mr. Travelstead would reconsider his vote to consider an extension rather than vote against the amendment.

I think it sends a more effective and powerful message to the public if when this reaches the press if you say that this was approved unanimously. Thank you.

CHAIRMAN LOUIS DANIEL: Yeah, that's Mr. Travelstead's call. I wouldn't want to second guess him on that. All right. That concludes the business of the Menhaden Board. We will convene the full Commission in 30 seconds. A.C.

A.C. CARPENTER: Mr. Chairman, I want to congratulate you on the chairmanship of this board today. You handled the public very well; you handled the Board very well, and you kept us pretty close to schedule. So, congratulations, and we'll vote for you again next time.

(Applause.)

CHAIRMAN LOUIS DANIEL: Thank you, A.C. I appreciate it. It was a tough meeting, but you all did a good job, too. I have to give credit where credit's due. Mr. Chairman.

BUSINESS SESSION

CALL TO ORDER

CHAIRMAN PAUL DIODATI: Well, welcome. You are now at the full meeting of the Commission, business meeting, and we have one item of business on the agenda, and that's to accept a motion from the chairman of the Menhaden Management Board. So, Mr. Chairman.

LOUIS DANIEL: Mr. Chairman, on behalf of the Menhaden Management Board, I would like to pass on the motion to the full Commission to approve Amendment 2 to the Menhaden Fishery Management Plan.

CHAIRMAN PAUL DIODATI: Thank you. We don't need a second to that, given that this is coming from the Board. I don't think we need any more discussion on this motion. I appreciate all the work that you've done here today, especially under your leadership, Louis, great job. I also want to thank those remaining of the public in the audience for your patience and coming here today. Do we need a roll call vote? Okay. Why don't we begin with that immediately. Go ahead, Mike.

MICHAEL WAINE: Thank you. Maine.

MAINE: Yes.

MICHAEL WAINE: New Hampshire's gone. Commonwealth of Massachusetts.

COMMONWEALTH OF MASSACHUSETTS: Yes.

MICHAEL WAINE: Rhode Island.

RHODE ISLAND: Yes.

MICHAEL WAINE: Connecticut.

CONNECTICUT: Yes.

MICHAEL WAINE: New York.

NEW YORK: Yes.

MICHAEL WAINE: New Jersey.

NEW JERSEY: Yes.

MICHAEL WAINE: Delaware.

DELAWARE: Yes.

MICHAEL WAINE: Maryland.

MARYLAND: Yes.

MICHAEL WAINE: Potomac River Fisheries Commission.

POTOMAC RIVER FISHERIES COMMISSION:
(No response.)

MICHAEL WAINE: Commonwealth of Virginia.

COMMONWEALTH OF VIRGINIA: No.

MICHAEL WAINE: North Carolina.

NORTH CAROLINA: Yes.

MICHAEL WAINE: South Carolina's gone.
Georgia.

GEORGIA: Yes.

MICHAEL WAINE: Florida's gone. Thank you.

CHAIRMAN PAUL DIODATI: **I lost track of the count, but the motion carries. Ten to one.** Thank you.

OTHER BUSINESS

CHAIRMAN PAUL DIODATI: Any other business to come before the Commission?

ADJOURNMENT

CHAIRMAN PAUL DIODATI: Motion to adjourn. We are hereby adjourned. Thank you.

(Whereupon, the meeting was adjourned at 5:20 o'clock p.m., December 14, 2012.)