

ATLANTIC STATES MARINE FISHERIES COMMISSION

Proceedings Of The BLUEFISH MANAGEMENT BOARD

March 17, 1999

RAMADA PLAZA HOTEL, OLD TOWN
ALEXANDRIA, VIRGINIA

Approved October 18, 2000

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DRAFT

Bluefish Management Board

March 17, 1999

Move to require compliance by January 1, 2000, of commercial and charter/party vessels and dealers to meet the permitting requirements of the plan.

Motion by Mr. Augustine, seconded by Mr. Coates.

Motion approved 12-0, with three abstentions

Move to accept the compliance timetables in here as modified.

Motion by Mr. Augustine, seconded by Mr. Coates.

Motion approved by a vote of 14-1

The Meeting of the Bluefish Management Board of the Atlantic States Marine Fisheries Commission convened in the Washington-Lee Ballroom of the Ramada Plaza Hotel, Old-Town, Alexandria, Virginia, Wednesday morning, March 17, 1999, and was called to order at 10:35 o'clock a.m. by Chairman John I. Nelson.

Call to Order

CHAIRMAN JOHN I. NELSON:
I'd like to welcome everybody to the Bluefish Management Board Meeting. Today we are going to talk about compliance. We might get into horseshoe crabs, too, if we want to. We see that Maine is here, so we probably could talk in great depth about that.

Before we get into anything else, let me have the roll called.

(Whereupon, the roll call was taken by Mr. Robert E. Beal.)

MR. ROBERT E. BEAL: We do have a quorum.

CHAIRMAN NELSON: Thank you, Bob.

Approval of Agenda

Everyone should have received a packet that had a revised agenda in it. Everyone got that? If not, there's more copies on the table behind me. Are there any changes to the agenda? Gordon.

MR. GORDON C. COLVIN: It's not explicitly stated. I wonder if we could get a status report on the approval of the federal plan.

CHAIRMAN NELSON: Yes. I think Bob's going to go over that, at least ask the question, and then we have our representatives here that are going to do that. Thank you for the lead-in.

Any other comments on the agenda?

Public Comment

Okay. Any public comments on anything on bluefish in general? Also keeping in mind that we'll be taking public comment as we go through the various items on the agenda.

Review and Approve Compliance Criteria for Amendment 1

Okay. Seeing none, along the lines of what we just went through, why don't we get into Agenda Number 4, which is compliance. Bob.

MR. BEAL: Thanks, John. Back at the Annual Meeting in Jekyll Island, the Bluefish Management

Board approved Amendment 1 to the Bluefish Fishery Management Plan, and at that time they asked Commission staff to go through the compliance section and kind of clarify a few things, refer to the sections where the details of the specific management requirements and compliance requirements are detailed in the plan, as well as put some compliance dates in the compliance section.

So what I've done is -- there's, a four-page draft that was sent to the Board members last week that is just my attempt to meet the Board's request and clarify some of the compliance issues. This draft has been reviewed by the Plan Review Team, and they find it adequately does clarify some of the questions that are included.

I can refer to Gordon's question right now. The National Marine Fisheries Service, to my knowledge, has not published a notice of availability on Amendment 1 to the Bluefish Plan, so I'm not sure of the status on the Secretary of Commerce's approval of the amendment, so I'm not sure where that stands.

So I guess, going through some of these compliance dates, it gets a little bit more complicated in the fact that this is a jointly managed species, and the Mid-Atlantic Council really does not have a time frame to work with as of yet that I know of. So we're basing some of our discussion here today on a few assumptions of timing of the approval. I don't know.

CHAIRMAN NELSON: Harry.

MR. HARRY MEARS: I can give an update to the extent that I can. The original DEIS for Amendment 1 was submitted by the Council for NMFS review in September of 1998, and that review requested clarification of several management issues contained in the joint plan relating to stock rebuilding, quota implementation, framework measures, and de minimis specifications.

That response has been received. Amendment 1 at this time is in the processing procedure under review within the National Marine Fisheries Service, and it is anticipated that the notice for Amendment 1 will be filed in the Federal Register in the near future.

MR. BEAL: I guess the best way to handle this is just go down the compliance section that I have drafted. The ultimate goal here is, if the Board can come to some consensus on this, I will go ahead and insert this into the amendment, and then the Commission will publish the Bluefish Amendment under Commission cover, under the Commission format to make it simpler to use, maybe removing some of the federal language from the plan, kind of streamlining the amendment maybe.

Let me just run through here. Some of the sections here are just standard boiler-plate language from the Commission plans for compliance, determination of compliance as well as some of the other -- what happens if a state is found out of compliance and how a state is found out of compliance.

Section 10.1 includes all the mandatory compliance elements. Section 10.1.1 is very standard language. Section 10.1.1.1 includes the compliance criteria that all the states must comply to. For the commercial fishery, it will be minimum mesh size, minimum size restriction, reporting of landings from state waters, closure when quotas are reached, vessel permitting requirements and other management measures developed under framework provisions or adaptive management.

For the recreational fishery, states must comply with minimum size restrictions, possession limits, seasonal closures, recreational harvest limits and any other management measures developed under framework provisions or adaptive management. The states must also submit an annual compliance report as specified below in Section 10.1.3.

Section 10.1.1.2, details of monitoring requirements. In the Council's plan, Section 3.1.1.11.1 outlines the specific monitoring requirements of the National Marine Fisheries Service regarding bluefish, commercial fisheries and recreational fisheries.

I don't know if the Board wants me to refresh everyone's memory on those, or if they're straightforward. It's up to the Board.

CHAIRMAN NELSON: Anyone?

A.C.

MR. A.C. CARPENTER: I'd suggest that if you're going to prepare an ASMFC-type document, that rather than refer to the federal one, that you would include -- just copy the language from that section in here.

MR. BEAL: Okay.

CHAIRMAN NELSON: Everyone comfortable with that? Okay. Bill.

MR. BILL COLE: In Section 3.1.1.11.1 where we talk about recreational fisheries will be monitored through MRFSS, I think we could perhaps help ourselves here a little bit by saying "through ACCSP standards," because there are some other programs other than MRFSS that could be used to measure these.

CHAIRMAN NELSON: Everyone comfortable with that? Okay. Pete.

MR. W.P. JENSEN: Well, just one minimum point of clarification in the 3.1.1.11.1, it's all commercial landing, right? Can that word just be added? So that there's not the implication that states are going to be reporting recreational landings, right?

MR. BEAL: Right.

MR. JENSEN: Okay. One other question. The plan calls for -- has a provision that says minimum mesh restrictions for otter trawls and gill nets may be implemented according to the framework process. And then in the regulatory requirements, we have minimum mesh size as a compliance requirement. I guess -- is it as straightforward as it seems, that that will not be a requirement until such time as a framework action occurs?

MR. BEAL: Yes, that's correct.

The Council and the Board determined at this time that the commercial fishery does not need a minimum mesh size requirement to control the catch, you know, at this time. At some point in time, if the participation increases or the stock decreases, there may be a need for a minimum mesh size.

CHAIRMAN NELSON: Other comments or questions up through this point? Susan.

MS. SUSAN SHIPMAN: Again, Bob, I think on the commercial end of it, we also need to clarify the de minimis issue. That's something we had talked about on the phone. It's not mentioned in this document.

MR. BEAL: Okay. Yes. After Susan and I had a little conversation on the phone, what I've done is copied a couple of sections out of Amendment 1. They were handed out at the very beginning of this meeting. And Section 3.1.1.8.4 is the de minimis specifications that I will refer to in my updated draft of these compliance criteria, if that's okay with the Board, or do they want me to copy that entire chunk of language into this compliance section? It's the pleasure of the Board, obviously.

Susan, is it okay just to reference that section or whatever number it worked out to be?

MS. SHIPMAN: As long as it's clear that there are de minimis provisions for states that have less than whatever, one-tenth of a percent of the commercial landings.

MR. BEAL: Okay.

MS. SHIPMAN: A reference is just fine.

CHAIRMAN NELSON: All right. Bob, why don't you keep going.

MR. BEAL: Okay. I think we're up to Section 10.1.1.3, research requirements. This amendment does not require any mandatory research requirements, so that's pretty easy.

I guess the meat of our discussion today is Section 10.1.2, which is the compliance schedule. What I've done is kind of broken it down into two different compliance dates. The first is June 1st, 1999, and that's just, quite frankly, an arbitrary date that I picked that seemed reasonable, given the time frame that the National Marine Fisheries Service might be working under.

A couple of the Board members already have a couple of questions under the commercial fishery, but I'll get there in a minute. The recreational fishery's a ten-fish bag limit per person per day. What I've not included here is the fact that conservation equivalency still is included in this plan.

In the same packet that the de minimis language was handed out earlier, there's a reference to Section 5.1.4.1.3, which is alternatives to recreational limits, which details the procedures that are required for a state to implement alternative recreational management measures. And I will also reference that section similar to the

de minimis section.

CHAIRMAN NELSON: David.

MR. DAVID V.D. BORDEN:

Thank you, Mr. Chairman. Just a quick question. In the outline from the Mid-Atlantic Council plan, if you look under the recreational size limit, the language is actually different than the language here. In other words, the Mid-Atlantic Council plan requires ten-fish possession. This is ten-fish bag limit per person per day. And I think the language should be standardized.

MR. BEAL: Okay. So I'll go ahead and change this to a ten-fish possession.

CHAIRMAN NELSON: David.

MR. DAVID CUPKA: Thank you, Mr. Chairman. I know there's no way we're going to get this ten-fish bag limit in place by June 1 of this year, and I was curious if any of the other states are in a similar situation, or if most other states are going to be able to comply with that?

MR. BEAL: As far as I know, all the other states have a ten-fish bag limit already in place. Actually, I thought South Carolina did as well. Georgia has a 15-fish bag limit in place, but they were given conservation equivalency if they went up to -- was it 12-inch --

MS. SHIPMAN: We had 12-inch minimum size.

CHAIRMAN NELSON: Dave,

does that help you?
but it answers my question.

CHAIRMAN NELSON: I had

Bruce and then Phil.

MR. BRUCE L. FREEMAN:

Thank you, Mr. Chairman. Just a quick comment on the ten-fish bag limit per day as opposed to the ten-fish possession. We've gotten into the discussion of this internally, or at least within the state. There is a difference. Some vessels make two trips, twice a day. A person can go out on the first trip, take their ten fish, turn around, go out the second part of the day and take another ten fish.

They would, so far as their act of fishing, have a ten-fish possession limit, but that may be different than a ten-fish-per-day bag limit. I'm just curious -- Rob Winkel's here from the Enforcement Committee -- whether in fact that presents a problem or not. Would you care to comment? Which is more desirable?

MR. ROB WINKEL: It doesn't present a problem, because you have the ten fish. We have a two-fish striped bass possession limit. Technically, you can't catch two more fish even the next day. You may want to put in the complete wording and cover both aspects. It's a ten-fish daily bag limit and no one may possess more than ten fish.

So if you only have the ten-fish bag limit, you would have to observe them catch the fish. If you have the possession limit, most enforcement is done at the dock or after fishing has been completed, so the ten-fish possession

covers the person and how many fish they have. The daily bag limit covers the intent, which is to allow them to only take ten fish a day.

So you may want to use the complete language that no one may possess more than ten fish and no one may take more than ten fish in any particular day.

CHAIRMAN NELSON: To that point, Dave.

MR. BORDEN: The problem that I have with this is the issue of "per day". I would think from an enforcement perspective, what constitutes a day? I mean, that's not specified in the plan. Is it a calendar day, a 24-hour day? You can interpret that under a lot of different ways.

I would think that it would be very clear for the enforcement community if we simply say ten fish in possession, period. Can't do double trips. That was the intent, I thought, when we voted on it.

MR. WINKEL: A day is Monday, 12:01 a.m. to 12:00 p.m. That's the day. But if you only put possession, the guy can dispose of the ten fish. So our language is pretty clear. In our regulations, we say the complete state daily bag limit and no one shall possess more than the daily bag limit.

MR. FREEMAN: Mr. Chairman, my only point is I think there needs to be a clear and enforceable definition, and whether we need to modify ours or the Mid-Atlantic modify theirs, I just think there needs to be a commonality, and whatever that language is, I think both groups should have the same language.

CHAIRMAN NELSON: Phil,

was your comment on this particular issue?
MR. PHILIP G. COATES: Not on the bag limit, on the permitting part.

CHAIRMAN NELSON: Let's continue the discussion on this. And I think I had Pete, and then I'll go to Dave.

MR. JENSEN: My comment's on the bag limit.

CHAIRMAN NELSON: Yes.

MR. JENSEN: Let me anticipate a problem that our recreational fishermen are going to bring to us, because they have in the past. It's a rather common practice for people in Chesapeake Bay in Maryland to take weekend trips, and so they leave home, they go to a tournament for the weekend, or they go down the Bay and they stay overnight in another town, and they don't come back home sometimes for two nights.

And so their question is going to be, "You mean I can only have ten fish for a weekend as opposed to ten fish per day?" And we see no reason at this point why we shouldn't accommodate them. So we're going to have a little problem with a ten-fish possession for that component of our recreational fishery.

CHAIRMAN NELSON: David.

MR. BORDEN: A number of us have had this same conversation with different species. I would think that that would present insurmountable enforcement problems. How does an enforcement officer figure out how many days a boat has been out? The Council plan does not specify what constitutes a day, whether it's a calendar day or a running clock day.

Somehow we've got to make this so whatever our intent is it's absolutely enforceable.

MR. TOM FOTE: You know, you run into the same problem with striped bass when a guy pulls a beach buggy on the beach, he's there for three days, and all of a sudden he says, "Well, I can have six fish because" -- no, it's a two-fish possession limit. If you want to clarify it, explain it's a calendar day, and that makes it simple. It is two fish or a calendar day. That's all you're allowed to catch.

But you can't let those loopholes, because then it becomes totally unenforceable. If you go, you have two days' catch because you're out for two days; a three days' catch. I've been gone a week, so I can have 70 fish on the boat per person. I mean, it just becomes totally unenforceable. You've got a bag limit, it's got to be also possession limit, and you can't have over the possession for the person, otherwise you might as well forget about law enforcement, because it's a joke.

CHAIRMAN NELSON: Phil.

MR. COATES: Yes. I was going to raise the same point Tom just raised. I think our biggest multiple-day use off-road vehicle or beach buggy activity occurs down in the National Seashore, and I believe that the National Park Police and our environmental police and the beach buggy people that get permits to run their vehicles for multiple-day use have worked out some kind of an agreement which I really don't want to know about. But apparently it works and has been very -- there's been no complaints about people with multiple fish and things like that coming off the beach.

CHAIRMAN NELSON: Is it the sense, then, that we say the daily possession or possession on a daily basis which -- adding the verbiage, which means a calendar day? Does that address the concerns here? Rob, see if that addresses your concerns.

MR. WINKEL: No. What it should say is that the daily bag limit is ten fish, and that no person shall possess more than the daily bag limit. They get ten fish a day, and they can't have more than ten fish. They take them home, they put them in the freezer, that's a different issue. They come back the next day. But if they are out for two days, they're going to be subject to the ten fish.

Now, that's not to say that an officer who might have knowledge -- and this is going to be a unique situation. He knows the guy, he knows the guy was out there, and he saw him catch ten fish on Monday, and he's moored there, and he makes a field decision that he has firsthand knowledge that the man has been there for two days, and he

doesn't elect to prosecute him.

But you can't put that kind of knowledge in the rule. You have to write the rule for the case that is most routinely going to be encountered, and that is a guy has 15 fish and says, "I've been here for two days." That won't wash. You have to say you can't possess more than the daily bag limit at any one time.

CHAIRMAN NELSON: Susan.

MS. SHIPMAN: I don't think this would be a problem for us however, the language works out, but I am concerned if we are still looking at a June 1 compliance date on this. In our situation, were we not in conformance with this possession language that you all are talking about, we'd have to go back to our legislature to get that. And I don't know that some states are going to be able to conform to that. We may be unique in that.

But I've got some concerns about the time line as we're tweaking this language, talking about possession.

CHAIRMAN NELSON: Let me just make sure we're squared away on the language first. Maybe arrangements can be made. They can always call the law enforcement folks and say, "I'm going to be down fishing for two days," and maybe that'll help satisfy weekend trips, things like that.

MR. JENSEN: These issues are always intellectually stimulating because how far does possession go? Does it go on the water? Does it go -- people say, "Well, how about the fish I have in the freezer?" And so there's no end to this circle. You just have to do it in a reasonable way, and that's what we've done. We've put wording in some of our regulations on the water, while fishing, and you just have to do it in that kind of way. It can't say ten-fish possession and be done with it. It doesn't end there.

MR. FOTE: Through the Chair, Dave, I think we've had a ten-fish bag limit as a compliance issue for about four years, because New Jersey -- Dave, excuse me. Dave Cupka. I think we've had a ten-fish bag limit as a compliance issue for about four years now. I think you do have a ten-fish bag limit.

MR. CUPKA: I just told Susan I need to wake up or something. We have a federal consistency thing. Yes, we're in compliance with that.

MR. FOTE: Because I remember New Jersey being forced to put a ten-fish bag limit in, otherwise we'd be out of compliance. We were the last state to do it.

CHAIRMAN NELSON: You were the last state to do it? Okay. Thank you very much.

A.C.

MR. CARPENTER: Are we setting ourselves up for more work than it's worth to have different language in the ASMFC compliance part than what's

in the federal part, or are we going to adopt some kind of language here that's different for ASMFC and then go back to the Council and say, "Oh, by the way, you need to stick these three words in your plan"? And that, from what I've seen, will take them about two and a half years.

It's only a question. I don't have an answer to it.

CHAIRMAN NELSON: I think Gordon has an answer for that.

MR. COLVIN: There's one plan, as far as I understand. Let's make that clear. So that the text of the plan, not the Mid-Atlantic Council's plan, the plan, needs to be identical to the text in the compliance requirement. And if we want to change that, then we would need to propose to amend the plan. I would not support such an amendment.

CHAIRMAN NELSON: All right. Thank you.

So did everyone catch that? The plan says that the current ten-fish possession limit would remain in effect. Okay?

The next item would be Phil's.

MR. COATES: Permits.

CHAIRMAN NELSON: No, no, Phil. We're onto -- Susan. We haven't addressed Susan's June compliance issue, or did we address yours? You raised that.

MS. SHIPMAN: We don't have a problem with the wording. I'm just raising it for the other states.

CHAIRMAN NELSON: Oh, no.

The other states are --

MEMBER: All in compliance.

MS. SHIPMAN: Okay. I won't worry about my brothers and sisters.

CHAIRMAN NELSON: New Jersey has taken care of some of the other southern states.

MS. SHIPMAN: My question is the possession wording. If we are going to track the federal plan, as Gordon says, the plan, excuse me, the joint plan, it should say possession per person per day is what I'm hearing everybody saying. Can everybody -- is that what their regulations say right now?

CHAIRMAN NELSON: Well, according to the plan, it says the current ten-fish possession limit would remain in effect. So any particular time, that's all you can have in your creel.

Yes, Jack.

EXECUTIVE DIRECTOR JOHN H. DUNNIGAN: A lawyer looking at this would ask you what the word "current" means, which means you've got to go back and look at the original FMP, and whatever the original FMP said about the ten-fish limit is what still applies. If it was possession, if it was per day, if it was a green-tied individual, that's what applies.

CHAIRMAN NELSON: Okay. So is there agreement that we will mimic whatever is appropriate

based on what the plan calls for?

Let's run through the permit part first, and then we'll get into what Phil --

MR. BEAL: Okay. Under commercial fishery, also as part of this June 1st, 1999 compliance date, commercial and party/charter vessel permitting requirements as detailed in Section 3.1.1.3. Let me summarize Section 3.1.1.3 really quickly. It says that any owner of a vessel desiring to fish for bluefish within the EEZ for sale or transport or delivery for sale of any bluefish taken within the EEZ must obtain a commercial permit from National Marine Fisheries Service, and any owner of a party/charter vessel carrying recreational fishermen for hire within the EEZ must obtain a party/charter vessel permit from National Marine Fisheries Service for that purpose.

It also stipulates that any party and charter vessel may have both a party and charter vessel permit in a commercial -- I guess it's not a vessel permit. Wait. Any party and charter boat may have both a party and charter boat permit and a commercial permit to catch and sell bluefish.

The last paragraph of this section also says that the Commission has established compliance criteria as part of the Interstate Fishery Management Program process. The states would be required to implement a permit system for vessels catching bluefish exclusively in state waters.

In cases where states already have a permit system in place as called for in this amendment, then the amendment will allow for the implementation of a mechanism consistent with the Atlantic Coastal Cooperative Statistics Program to eliminate duplicate state and federal permits.

CHAIRMAN NELSON: Okay. We certainly had an interesting discussion at the combined meeting over that. Are we going to continue that one?

MR. COATES: Well, I wasn't at the combined meeting, but I am wondering how many of my brothers and sisters have implemented -- for those vessels that are fishing in no-sale party and charter boat operations within their waters exclusively -- how many states have implemented or will have implemented the permitting requirement by June 1st?

I believe I interpreted that correctly. If a boat fishes only -- if a party or charter boat fishes only within state waters, then they're required to have -- and they don't sell their fish, they're still required to have a permit. Am I not mistaken?

MR. BEAL: State permit.

MR. COATES: And how many states have implemented that permitting requirement?

CHAIRMAN NELSON: You didn't see me put my hand up, did you, Phil?

MR. COATES: No, I didn't.

CHAIRMAN NELSON: A.C.

MR. CARPENTER: We license the captain of the vessel. Does that count as the same as a vessel permit? Because we also license vessels for other things. But in that case, I'll hold my hand up and say that we have it in place.

CHAIRMAN NELSON: Ernie.

MR. ERNEST BECKWITH, JR.:

Yes. Just as a point of clarification, because this requirement is in some other plans also. This is just a general charter/party permit? It's not a charter/party bluefish permit or charter/party scup permit? It's just a general permit, is that correct? That satisfies requirements?

CHAIRMAN NELSON: Yes.

Phil.

MR. COATES: For purposes of this permitting requirement, would the Federal Coast Guard permit that requires all licensed party and charter operators taking passengers for hire suffice for the purposes of identifying these people?

MR. JOHN MASON: I think, Phil, that the Coast Guard licensing doesn't apply to all party/charter boats. There are some of the charter boats that don't necessarily have to have that license, which is one of the reasons why, in New York, when we put it in place, we used some different criteria to determine, you know, that a guy was a legit. party/charter person.

MR. COATES: I don't think you're -- you may be wrong in that, John. I believe anybody that takes anybody for hire is required to have a permit. And so my question stands. Would that suffice as sufficient permitting requirements under that provision of the last section of 3.1.1.3?

The reason I'm saying this is it's been raised to my attention that we have a statutory prohibition about licensing people that are engaged exclusively in recreational fishing activity, and that may have applicability to the operators of those vessels. But in either instance, we will not be in compliance with that last provision as of June 1st, 1999, unless we provide the certification to the Coast Guard license.

CHAIRMAN NELSON: Well, again, this is a date that is subject to a change. It was a date that was picked based on what seemed to be a reasonable one. If you want to have a different date for the commercial, January 1st of the year 2000, we can certainly have that. I don't think it creates any major problem for anybody.

Would you like to --

MR. COATES: Well, I'd prefer to move forward on the date, because I can just certify -- you know, we can do something if in fact the Board accepts our assertion that these folks basically constitute the rest of the population, some of them.

Now, the great majority, I'm sure, of our party/charter guys have availed themselves of the previously available federal permits. Those permits were issued prior to this amendment. I believe they were, weren't they? This has been a

long -- yes. So there's only a handful, but they still are required to have a Coast Guard license, so I think we could go through that sorting-out exercise and identify -- the purpose of this licensing is to gain what?

MR. MASON: It's part of the ACCSP requirement that we want to get a hundred percent reporting from party and charter vessels. And it's also in the Fluke Plan, I think, Phil. This isn't new.

CHAIRMAN NELSON: Go ahead.

MR. FOTE: We have a whole fleet, like in Fortescue, that never go into the ocean. I mean, they don't have federal fluke permits, they don't have federal bluefish permits, but they do have the same kinds of permits that Phil is talking about. I mean, they operate boats that don't leave Delaware Bay. So they're now going to be told that they have to get new state permits.

We've got put a whole operation in to basically issue permits, because we don't have that in operation right now. And it's going to take a lot further from June 1st, and I don't know whether that has to be done by legislation or not.

CHAIRMAN NELSON: And they don't have any other licenses that you know of?

MR. FOTE: No.

CHAIRMAN NELSON: They may not.

Gordon.

MR. COLVIN: The question is, why do we require a license of operators or party and charter boats or vessels that carry people for hire to bluefish? It's the same answer as why do we require licenses for commercial fishing boats. Partly it's to have a record of the details, to develop a record of the details of the catch and effort in that segment of the fishery.

It's also because there are and will continue to be specific regulatory requirements applicable to those segments of the fishery, and a permit or a license is an element of an overall regulatory and enforcement program. So it's no different, and it is a recognition that that element of the commercial fishery requires that kind of management. It isn't anything new. We debated this extensively when we debated the amendment.

For that reason, I'm not sure that simply knowing that the Coast Guard has issued licenses to these boats is sufficient. It would seem there would need to be a linkage to the state regulatory agency of that license record somehow in order to accomplish the purposes for licensing in the plan.

CHAIRMAN NELSON: If that's the case and some states have concerns that they can't meet that, would it be appropriate then to propose a different date for the commercial fishery on party/charter vessel permitting? And what would be the appropriate date? Would it be

January 1st of the year 2000, or --

MR. COATES: Sure.

CHAIRMAN NELSON: Okay.

MR. COATES: But another point,

John.

CHAIRMAN NELSON: Go ahead.

MR. COATES: I'm not sure that it's

appropriate to identify that latter category under the commercial fishery. You might have to have a special permit, because these people are not selling their fish. Therefore, I don't believe they're engaged in commercial fishing under the definition of the act, or either act.

CHAIRMAN NELSON: Well, I

think, Phil, they already are characterized that way in the plan. They are already characterized in there, Phil, that way in the plan.

MR. BEAL: Phil, they are separate permits within the plan. The commercial permit and the party and charter permit are not identical. And it does stipulate that vessels can obtain both of these permits to --

MR. COATES: That's the federal or ASMFC?

MR. BEAL: The plan.

MR. COATES: The plan.

MR. BEAL: Or the amendment.

CHAIRMAN NELSON: Pete.

MR. JENSEN: Well, I want a little clarification. Our situation in Chesapeake Bay is the same as Delaware Bay. We have a totally separate group of people that are licensed as state fishing party guides and recreational that fish only in Chesapeake Bay. If I understand the provision of the plan that you just read, Bob, it says that a federal permit would be required until some future arrangement is made to make sure we don't duplicate?

MR. BEAL: Well, I think it's actually the opposite. If there's a state permit in place, then that could serve in lieu of a federal -- well, actually, yes. All vessels fishing in the EEZ will need a federal permit, but then it says in cases where states already have a permit system in place as called for in this amendment, the amendment will allow implementation of a mechanism consistent with the Atlantic Coastal Cooperative Statistics Program to eliminate duplicate state and federal permits.

So I think --

MR. JENSEN: So that implies some future arrangement, so that in some interim period -- now, our fishermen in Chesapeake Bay are going to have to get a federal permit?

MR. BEAL: No. They're going to need -- the way I understand it is Maryland's going to need to set up some sort of system where they will implement state permits to those vessels.

MR. JENSEN: Which we already have.

MR. BEAL: Then they're fine.

MR. JENSEN: We have limited entry, charter boat licenses, the whole works.

MR. BEAL: Then they're fine.

Then my understanding of that is eventually under the ACCSP, there will only be one type of permit, which will be a charter permit for wherever you fish.

MR. JENSEN: Another clarification. Under the previous monitoring requirements, it says recreational fisheries are monitored through the MRFSS. Are not these charters considered recreational as opposed to commercial?

MR. BEAL: Under the ACCSP, I think they're being broken out into a separate group, and this plan is trying to include that differentiation.

CHAIRMAN NELSON: Do you want to add to that point, Bill?

MR. COLE: Yes. Pete, this discussion is beginning to get into the overall implementation of ACCSP in the northern states. But, in general, let me say right now that if a state already has a license or permitting framework, the idea behind ACCSP is to let that stand in lieu of creating another federal licensing or permitting framework. In other words, let that number transfer to the -- let that be the program number instead of it being the state or a federal number.

MR. JENSEN: Well, okay, on the issue of ACCSP, since we're on it, this is still a future idea. ACCSP has not been implemented, and probably many of these things we're talking about won't be implemented for some time until somebody throws a lot of money in the pot here. So let's not get too bound up in an ACCSP requirement. I believe I'm right on that.

CHAIRMAN NELSON: Tom.

MR. FOTE: If I could see there was some purpose for putting these permits in place to set up a whole new mechanism in New Jersey, because you were going to record the number of bluefish that were basically being caught on a particular party boat or charter boat, but what I see here is just saying, well, we have to implement a permit system now which in the future date, three or four years or five years from now in the ACCSP, that we have to be able to monitor what fish they're catching in what specific times.

Well, that means I've got to go back through this process again in two or three years. So what I'd sooner do is wait until you're ready, or wait, or give me a system where I'm going to go out, and then make everybody do the same thing, instead of saying well, because you have a permit that doesn't do anything about recording data, doesn't do about tracking what those people are catching fish -- and that's what's happening now -- you're going to make me, my state, go through the problems to implement that regulation, which now I'm going to have to change a year or two from now and go through the same process.

If you're going to do it with summer flounder, you're going to do it with weakfish, you're going to do it with bluefish, if that's the pattern that's going to be set up, let's get a committee together to find out how you want those state permits. Make it a compliance issue, put the state permits in place, and do it at one time, not do it by piece-mealing every plan and then force us to implement a permit that we don't have in state waters, and then say, well, you've got to modify it next year, you've got to do this two years from now.

The charter boat and party boat fleet have gone regulation crazy in the last ten years. They're paying for all kinds of permits. They're paying for radios they didn't pay for. They're paying for inspection they didn't pay for. They're hammering the hell out of lot of them. They're pushing them so some of them go out of business.

And so what I want to do -- if you're going to do this system, that's fine. Let's map the system out. Let's make it applicable to the fish we're trying to do, for the data we're trying to do. But don't just say, well, if you have a state permit that doesn't record any data, then you're in compliance; because we don't have one in our state that doesn't serve any purpose right now, you're going to be voted out of compliance. I've got a problem with that.

CHAIRMAN NELSON: I had A.C. and then Lew.

MR. CARPENTER: We have a licensing system for each captain, and part of that system requires weekly mandatory catch reporting or harvest reporting on his vessel. Tom, the world's coming to the point where charter boats are going to have to do it, and to save yourself going back a couple of years, go ahead and cover all species and cover mandatory reporting while you go to the legislature.

As far as whether they are commercial or not, I have made this argument before that no head boat or charter boat or party boat is going to stay in business if they're not making money. They are a commercial enterprise that is operating on a recreationally based fishery. They're in the entertainment business.

There's no difference between the number of fish or the way that we should treat the number of fish that they harvest. Whether it's taken on a hook and line at the end of a boat some place, or whether it's taken with a gill net or a pound net, it's one fish out of the system; it's one fish that we have to count.

And I think that this plan -- the other plans are getting in that direction -- and we need to move along in that direction.

MR. FOTE: Also, A.C. to your point, there is party and charter boats --

CHAIRMAN NELSON: Did I recognize you, though?

MR. FOTE: I'm sorry about that.

CHAIRMAN NELSON: Let me say it's in the plan. We're not going to debate here that it should be

in or should it not be in. It's already in the plan. The question is, shall we have a compliance date of June 1st, and some people have already said that that creates some problems for them. And so we proposed January 1st of the year 2000. And I think that's where we ought to be focusing our discussion. And I'm sure that's where Lew is going, to that particular point and not rehashing any of the others.

MR. LEWIS FLAGG: This is just a point of clarification on the permitting requirement, because I want to make sure I understand what we need to do. Is the intent of the permit requirement to identify commercial and party/charter vessels engaged in the bluefish fishery? Is this a species-specific permit? Is it the desire to have a species-specific permit?

Because otherwise, I'd sort of go back to what Phil has mentioned earlier, and that regards the vessels that are licensed by the Coast Guard. There is a list available. And does that list capture all of those vessels that need to be surveyed relative to data collection? And if that meets the needs, and there's not a need for a species-specific permit and that system would work for this plan, then I don't see a reason why we should piggy-back another system on top of the Coast Guard licensing system.

CHAIRMAN NELSON: Well, I think that -- debate raged over this, you know, obviously, at the Council meeting, and my sense was that those that were not licensed or permitted in some way needed to be. If the states had something in place, then that was, that language that Bob went over, allowing that to happen.

So the intent would be, I think, that if there's some mechanism in place that the party boats, charter boats are permitted or licensed, and you can get hold of that and you can get them to be able to report, etcetera, etcetera, then to me that fills what we're looking for here. And eventually we would be hoping that our program, the ACCSP program, would be just a uniform reporting for all parties, and there wouldn't be any duplication. That is what it's trying to avoid, to have duplication out there.

So I guess it's the intent -- is it the intent of the Board or the understanding of the Board that if the Coast Guard licensing captures these individuals, that that will suffice as far as we're concerned right now? Is that general consensus or not?

Let me run down the list. Let me go through Pat and then I had Pres.

MR. PAT AUGUSTINE: I'd like to move forward and make a motion. I make a motion to require permit compliance by January 1, the year 2000 for party/charter vessels. I'm sorry. Commercial vessels.

CHAIRMAN NELSON: Commercial and party/charter vessels.

MR. AUGUSTINE: To meet the requirement of the plan.

CHAIRMAN NELSON: Is there

a second to that?

MR. COATES: Can a seconder of a motion then make an amendment to the motion?

CHAIRMAN NELSON: Sure. That'd be probably a very friendly amendment.

MR. COATES: I understand -- I will second the motion. I understand the debate has raged over this issue, and I must -- unfortunately it didn't get transmitted to me. I was peripherally aware of the party/charter boat issue, but in looking at the details of it now, it's going to be extraordinarily problematic for us because of this aforementioned interpretation, one interpretation of the statutory prohibition on implementing noncommercial licenses as such. And that's our definition, not the plan's definition.

But I would urge the Board to look at the issue of whether or not the Coast Guard permitting requirements are all-encompassing to a degree of sufficiency so that there's no escapement by any state waters-only party/charter boat operators. And I'm inclined to make a motion that this be postponed until implementation of the ACCSP, but I won't.

I'll go with the January 1, 2000. We can probably deal with this, but I do think we are -- in response to both Tom's concern about this, you know, hitting them kind of broadly, and Pete's concern about duplicating licenses, I do think we are, and I realize that, basically jumping the gun on ACCSP.

I think that, you know, we can probably do something about this in one of the two alternatives I suggested, just go ahead and implement a permit or we utilize the existing permit base.

CHAIRMAN NELSON: Phil, so to capture what you said in as few words as possible, you'd like to make sure that the Coast Guard system does capture all that we need to, and if it doesn't, then the states do have to enact some type of permitting process. Is that a fair summarization?

MR. COATES: Yes.

CHAIRMAN NELSON: Okay.

Thank you.

I had Pres.

MR. PRESTON PATE, JR.: Are there reporting requirements part of this permit as compliance?

MR. BEAL: No, not at this time.

MR. PATE: So essentially all the states have to do is set up a permit requirement but not require any reporting under it. And if that's the case, I'd submit that this is a meaningless exercise.

MR. BEAL: John thinks there is some requirement. Let me check real quick.

MR. MASON: I'm going to have to look in the plan, but I guess sort of three things all at once. Number 1, let me remind all of you that ACCSP has been adopted. It hasn't been implemented, but it has been adopted with the understanding that implementation will be as soon as possible. So all the plans that were being developed as

amendments subsequent to the adoption of ACCSP were taking on the ACCSP format to try to get it implemented as soon as possible.

I'm going to look in here, but I believe that there's mandatory reporting for party and charter vessels in Amendment 1.

CHAIRMAN NELSON: Why don't you check on that while -- I had Ernie next.

MR. BECKWITH: I'm trying to remember. I had a few comments and questions, but I guess one of my questions was does a Coast Guard license carry any reporting requirements in terms of fish caught? And if it doesn't, then there is a need for a state license, because the purpose of this license or permit is to collect catch-and-harvest data, I believe.

Also, just to make a comment to one of the issues that Phil brought up in his particular situation about he's got a statute in his state where he can't pass any additional licenses for recreational fishery, Phil, in our state, our charter/party license allows the crew to sell their catch, so they are a quasi-commercial operation. Because in many, many cases, people will catch fish, and they don't want to take them home. They give them to the crew, and the crew, under our license, are able to sell them.

CHAIRMAN NELSON: Bill, did you want to clarify anything on these points?

MR. COLE: Yes. Let me ask everybody to step back for just a small minute and remember that as part of the SFA amendments that the Secretary of Commerce was required to submit a report to Congress on a vessel registration system and a fishery information management system. That report has gone forward, and recommendations are before Congress right now to utilize a Coast Guard licensing or permitting system as a uniform base for creating unique identifiers for all vessels.

Also remember that the key to ACCSP was to keep all this stuff simple so that you didn't have this framework of licenses over here, and another framework over there. We're trying to use the same number so that we can capture, if you will, who's catching what where, but use the same number.

The notion that Phil has, that he wants to use the Coast Guard number, is perfectly appropriate, I think, under ACCSP. All he has to do is to create a framework that says that these are the Coast Guard numbers that are fishing only in state waters and report them accordingly.

The hat trick here is this, that ACCSP has created a for-hire category, which includes all of these folks. It separates it from, if we can for a small moment, from those recreational people and from those commercial people. The idea here is to be able to collect a better, more consistent, more uniform database on catch effort out of that for-hire category. That is all these rules do.

To my knowledge – and I'll ask John to correct me – we've been very careful in reviewing this amendment with the staff of the Mid-Atlantic to make sure that these provisions as outlined here were consistent with the adopted program design for ACCSP. As the chairman clearly stated, the bottom-line question before us this morning is when do we put them in effect?

CHAIRMAN NELSON: And we do have a motion to that effect. All right. Comments on the motion. Go ahead.

MR. JOHN W. CONNELL: Just following up. Any vessel that carries passengers for hire must have a Coast Guard-licensed captain. So if Phil's idea is carried through in that regard, it would put all states in compliance. However, the reporting aspect of it, only those vessels that have federal permits must report, unless a specific state has its own reporting mechanism. And usually, when states have their own reporting mechanism, they accept the federal information from those vessels.

So it wouldn't necessarily cover the reporting aspect. It certainly would cover the permitting aspect. But if reporting is part of this compliance issue, that part wouldn't be covered.

CHAIRMAN NELSON: We can check on that.

Tom had something, then Pete.

MR. FOTE: I just have a question for maybe Maine or for New York. When you do the people that charter for fly fishing, when there's only two-person charters, and they aren't – I don't think they're licensed by the Coast Guard to carry passengers, because it's not a six-pack. These are not six-packs. I'm talking about the small boats that basically are launched off trailers and things like that that work in the rivers.

That's what I'm looking at. Do we have to record all those people? I mean, do you record all those people?

MR. COLVIN: Can I respond?

CHAIRMAN NELSON: Yes.

MR. COLVIN: I think that might have been what John was alluding to earlier when he said that there was some uncertainty as to whether each and every vessel that might under any circumstances carry a passenger for hire needed a Coast Guard license. Nonetheless, in New York, all those people, whether or not they need a Coast Guard license, do require our party/charter boat license.

CHAIRMAN NELSON: All right. John, did you find anything on the reporting?

MR. MASON: Yes. It's mandatory reporting for party/charters.

CHAIRMAN NELSON: Okay. Mandatory reporting for party and charter boats.

Pete.

MR. JENSEN: A process question. We have before us a draft compliance section. Pat's motion

proposes to adopt one portion of that.

CHAIRMAN NELSON: I think the motion that's up here, I would look at the motion as that it's putting in a date for the commercial and party/charter vessel permitting, and then we would have an overall motion to accept the June 1st also. Do you see where it says we've got measures requiring compliance by June 1st? That's for the recreational. We haven't had a motion to accept this yet. But I think the motion to put in the date of January 1st, 2000 is what all this motion is doing.

MR. JENSEN: I've got you now.

CHAIRMAN NELSON: To this motion, Bruce.

MR. FREEMAN: In the plan, when the Council first implemented the plan, the permitting and reporting was for a specific reason. Reports, vessel logs, were to be filled out and submitted to the Service for analysis, and that information was to be available.

I know for a long period of time, although the vessels were keeping the logs, nothing was happening to them. The Service didn't have time to collate the information or analyze the information. In fact, if I recall, the Mid-Atlantic Council just got information on party/charter boats for one year – I think it was '97 – and no information prior to that. Now, although it was the Council's intent to get this information, for various reasons we really haven't done the job, nor have we used that information.

This motion will require vessels that only fish state waters, be they commercial or recreation, provide that same information, and the question I have is to who, and then what is going to be done with it? Are we simply requiring reports to be made and nothing's going to happen to them?

One of the concerns that I personally had on the Council side is if we require records, then I feel the Council and the Agency's obligated to use those records, not just put them in a box in a storeroom somewhere. Because it's a major problem with the fishermen that they're being required to keep records and then no one's using them, and then we come back some years later and criticize the fishermen for not keeping accurate reports, because these people see nothing done with them.

And it seems we're perpetuating a system that's not working well now, but we're going to make it worse. The Cooperative Statistics Program, hopefully, will solve that problem, and we commend that program. But, in the meantime, now we're being driven by a system. I'm not certain what we're going to do with it.

If Phil is required now, although he indicates he can't, but to license those vessels, now require reports from them, my question would be: Does Massachusetts have staff to analyze those reports and what's he going to do with them?

CHAIRMAN NELSON: John,

why don't you address that?

MR. MASON: This was a lot of the discussion that went on when Amendment I came out between the Operations Committee of ACCSP and various entities. Charlie Anderson from the State of Massachusetts made a very clear case, Bruce, about what you're saying, that if the mandatory reporting is going to be implemented January 1st, 2000, are we all ready to implement that part of ACCSP which, from Massachusetts' perspective at that point -- Phil, correct me if I'm wrong -- was tantamount to the lobster reporting requirement that we're all looking at, not with eager anticipation? That it would be a massive amount of data, because the bluefish fishery is as big as it is, that would be coming in, and the question rightly that we all have to ask ourselves is: Are we ready?

So I think what the Board needs to address, from my perspective and I know from Charlie Anderson's perspective, is: Is it really January 1st, 2000 that we're going to be ready to accumulate this massive data of bluefish stuff, and if it isn't, then we ought to reflect that in what we decide to have be compliance criteria?

CHAIRMAN NELSON: All right.

On the motion to --

MR. MASON: You can have the permits without the reporting requirement being mandatory. I mean, that's an option.

CHAIRMAN NELSON: All right.

On the motion to have the January 1st, 2000 as the permit timetable, any other comments on it? Any public comments? Jack.

EXECUTIVE DIRECTOR

DUNNIGAN: The motion on the board wasn't clear as to exactly which requirements it was talking about. I just want to make sure that -- I think there's some perfection needed here.

CHAIRMAN NELSON: It's referring to the permitting requirements, so it should say "meet the permitting requirements."

EXECUTIVE DIRECTOR

DUNNIGAN: It should say "commercial and charter/party boat"?

CHAIRMAN NELSON:

"Commercial and party/charter vessels permitting requirements."

MR. CARPENTER: Could you simply have the motion to move that down under the mandatory date of January 1st, 2000 compliance. Wouldn't that be easier?

CHAIRMAN NELSON: It may be, A.C. Certainly that's what it's going to wind up doing. I don't think we need another motion, though.

Pres.

MR. PATE: The permit that we're talking about is for vessels that are harvesting bluefish exclusively in state waters under the party/charter boat arrangement. Why do we not have something similar to that for the commercial fisheries in harvesting exclusively in state waters?

CHAIRMAN NELSON: There is, isn't there? Most commercials probably have a license to sell their product, except in New Jersey. But everywhere else probably does.

MR. PATE: My point is getting that specified in the plan.

CHAIRMAN NELSON: I think it is. It says commercial and charter/party vessel permitting. Am I missing something?

MR. BEAL: And Pres, that last paragraph within that section about the ACCSP implementation, that includes -- it's kind of generically written where it includes commercial and party and charter vessels.

MR. PATE: I am looking at an older version of the plan, so I guess that's the problem. Thank you.

CHAIRMAN NELSON: Okay. All right. The intent of this motion, as A.C. had pointed out, it puts the permitting requirements under the next section, which is, "Measures Requiring Compliance by January 1st, 2000." Essentially, that's what it does.

So, Pete.

MR. JENSEN: Well, if we're going to do this, can I suggest that dealer permitting requirements be included in it, because it's all going to be part of the same regulatory reporting requirements. And so if we're going to move this category down, then can I suggest that it include dealers also, just for convenience?

CHAIRMAN NELSON: You agree to that perfection, is that what I heard? Including dealers. So that whole section under commercial fishery would move down under "Measures Requiring Compliance by January 1, 2000."

All right. Are we all clear? Does anyone want to caucus? All right. Seeing no need to caucus, all in favor, please raise your right hand; all opposed, same. Nulls? Abstentions? Three abstentions. All right. The motion passes, 12 in favor, no against, three abstentions, no nulls.

All right. We've got a couple more we've got to get through here, so let's keep moving on here. Bob, do you want to run through those?

MR. BEAL: Sure. Hopefully, we've gotten over the tricky part. Since we moved the dealer permitting down to January 1, 2000, that is simply that any dealer, including party and charter vessel operators who sell fish to the public must have a permit. That's simply how that's stated.

And at the end of that section, there's also a paragraph stating that any state that has a system in place right now, that could be used until such time that the ACCSP requires that that system be changed. So that's relatively straightforward, and I guess that's also been moved to January 1, 2000.

And that brings us to the commercial quota and quota management system that's detailed in Section 3.1.1.8.1. The commercial quota is basically a state-by-state quota management system. As you'll remember, that 17 percent of the total allowable landings for any given year is divided up on an historic basis. Each state gets a percentage, and once that state's percentage is landed, that state must close its fisheries, and the federally permitted vessels will be closed from landing bluefish in that state.

That's pretty straightforward. I don't know if there's any discussion on that, if that's okay.

CHAIRMAN NELSON: Any discussion on that? Okay, next.

MR. BEAL: The next is the fisherman and dealer reporting as detailed in Section 3.1.1.11, and basically that is -- that's part of the one that we were just talking about. On the commercial side, effort and ex-vessel value must be reported by the fishermen so that analysis can be performed at trip, water area, gear, month, year and principal landing port level of aggregation. For the dealer reporting, it's weekly dealer reporting in order to monitor the quota, the state-by-state quota system.

So that's the basics of the reporting requirements. I don't know if there's any discussion on that as well?

CHAIRMAN NELSON: Okay.

MR. BEAL: And this section also includes any changes that are made under the framework provision for year 2000 will also be required to be -- will become part of the compliance criteria for January 1st, 2000. That's pretty standard of how some of the requirements have been going.

CHAIRMAN NELSON: Pete.

MR. JENSEN: Maybe I missed this. What's the difference between the reporting requirements in 3.1.1.3 and 3.1.1.4 and 3.1.1.11?

MR. BEAL: What numbers are those now?

MR. JENSEN: Well, in the previous section, it refers to commercial, party/charter boat permitting requirements, and then --

MR. BEAL: The previous section is permitting, and this one is reporting.

MR. JENSEN: Okay. So there are no reporting requirements up in that section? Somehow I thought there were some reporting requirements. Okay. So all the reporting requirements are in 3.1.1.11, right?

MR. BEAL: Right.

CHAIRMAN NELSON: Gordon.

MR. COLVIN: Just an observation, and something to be aware of. Certainly this is the way the schedule needs to be on implementation of framework changes on January 1, but this isn't going to be like fluke. We're not going to be able to play around until April or May to implement

things.

So we're going to need to know what the framework changes are long before December 31st. We're going to have to do better than we've been doing with fluke. And that's my only point, because it's got to start right away.

CHAIRMAN NELSON: A.C.

MR. CARPENTER: To that point, would language that says that any change made under the framework provision for the year 2000 would have the same effective date as determined in that framework provision -- if you have a framework provision that says as of July 1st or May 1st, you have to go to some provision in the year 2000, that would be the effective date of the change, not January 1.

I think it's sort of tied to what Gordon is saying there, that that language may need to have the same effective date as the framework changes' effective date, not January 1st.

MR. BEAL: I'm sorry. I was looking at something else. So any dates that are included in any framework provisions will be the compliance date basically?

MR. CARPENTER: Yes.

MR. BEAL: And John has also pointed out the language that we've been kind of looking for here as far as party and charter vessel reporting. The language reads:

Operators of party and charter boats with federal permits issued pursuant to this FMP must submit logbooks monthly showing at least name and permit number of the vessel, total amount in pounds and numbers of each species taken, dates fished, number of trips, duration of trip, locality fished, crew size, landing port, number of anglers carried on each trip and discard rate.

So there's quite a bit of information that is intended to be included in these logbooks. I don't know if that opens up any other discussion or not.

CHAIRMAN NELSON: Let me just go back for a minute to what A.C. had said under the framework provision portion just to make sure we captured it, everyone understands it. Any changes made under the framework provision for the year 2000 would be effective for January 1st of the year 2000 or the date required in the framework. Right?

MR. BEAL: A.C., were you asking if that should be drafted to kind of a more generic thing, for any given year, any framework provisions would be implemented January 1st of that year, unless specified by the framework changes, something along those lines?

MR. CARPENTER: I think that way we won't have to keep coming back to that.

CHAIRMAN NELSON: Okay. That's good.

Anything else? Bruce.

MR. FREEMAN: Bob, what section were you reading from just then?

MR. BEAL: That is under Section 10.1.1.1.1. I guess it's the third paragraph.

MR. FREEMAN: All right. This gets back to the issue just raised. Now, these vessels that are now permitted are required to submit these reports. My question is to who? Under that, we submit them to the Feds, is that correct?

MR. BEAL: Yes. And then my interpretation would be that any vessels that are permitted just by the state would be required to report to the state.

MR. FREEMAN: Well, that creates a major problem for us, because we don't have authority to require that, and we don't have -- if they submit them to us, we're not going to do anything with them, because we don't have staff to do anything with. That gets us back to the problem we talked about of having these submitted originally to the Service, and they essentially sat there for at least three years. In fact, they're still sitting there.

And it seems to me, if we want to deep-six the Cooperative Statistics, this is the way we can do it, because we're going to require these reports which nothing will be done with, then we're going to turn around, hopefully in a very short period of time, and ask the fishermen to buy into this system where we're going to ask for these reports in a different manner, but we're going to do something with them.

It seems like this is not the way to operate.

CHAIRMAN NELSON: But it's already part of the plan, Bruce. It says they're going to report.

MR. FREEMAN: I understand.

CHAIRMAN NELSON: The states are required to report all landings, including those from state waters, and by state-permitted vessels or fishermen.

MR. FREEMAN: But the point was, they weren't -- in our instance, they're not state-permitted vessels. The great majority of vessels do have the federal permit. We have no idea of the numbers that don't. There probably are some.

But I would have to vote against this, because we're going to get into an impossible situation. You're now indicating that those reports -- those permitted vessels that may not be reporting are now going to be required to report to the state.

I can tell you in our instance, nothing's going to happen with them. They're going to report to us, and we're going to put them in a box, and if you have time, we'll send them to you. But chances are, we're going to put them in a box. We're not going to do anything with them. And I don't think that's the way to operate.

CHAIRMAN NELSON: What do you --

MR. FREEMAN: I mean, there

needs to be a -- the problem we've had continuously with record-keeping is because some states have seen the necessity of keeping accurate records; others either have not or have not been able to implement such a system. The value of the cooperative system is that we now can move forward in partnership with others to gather this information and to use it.

But until we have that system in place, there's some states that can't, because of budgetary constraints, do anything with the information. But we're going to compel people to deliver it to us, and they could lose their license if they don't comply. But I can tell you, we're not going to do anything with it. It just seems -- this is a circular -- this is kind of a no-nonsense situation. It doesn't make any sense.

CHAIRMAN NELSON: Well, we do have the plan passed. It does have that requirement in it. I think what your concern is, is what's the timetable associated with that being --

MR. FREEMAN: I mean, the implication's even more severe. In the event that we determine we can't do it or won't do it, we can be found out of compliance and shut our fishery down. I mean, that's the implication. We've gone in a huge circle, and the ramifications are very severe, not because we don't want to, but because we simply don't have people or money to do it. It's putting us in an impossible situation.

CHAIRMAN NELSON: In the crudest form here, if I could, it says states are required to report all landings. You can always send in the data.

MR. FREEMAN: All right. I'm just saying we may be the only state with this problem, but I can tell you it's a difficult issue to deal with, but again, the ramifications are extreme. And I'll vote -- well, there isn't any motion. I'm not sure how we're going to deal with this. Is there going to be a motion? Well, I would have to vote against the motion and take our chances.

CHAIRMAN NELSON: All right. Anything else, any other comments on this particular section?

All right. Let's finish up with the schedules then.

MR. BEAL: Okay. I guess that brings us to Section 10.1.3, which is "Compliance Reporting Contents and Schedules." The only thing here -- and this is actually the same as in the original plan -- is that June 1st is the annual compliance report due date for bluefish. The items that are to be included in that compliance report are listed here. It's pretty straightforward, basically last year's management activity and catch and effort and things like that, as well as the management program that is in place for the current year.

Section 10.2 are the "Procedures for Determining Compliance," which are basically boiler-plate information or language that's taken out of other plans and

included in all of the Commission plans, where the PRT sends a recommendation to the Management Board, sends a recommendation to the Policy Board, and the compliance finding goes forward from there.

Under the "Adaptive Management" section, there's the list of management measures that can change annually under the framework provisions or adaptive management measures. These are the same provisions that are included in the plan, so this is all just to keep it consistent and under our compliance criteria.

CHAIRMAN NELSON: Okay.

Any comments on those last couple of sections? A.C.

MR. CARPENTER: To Gordon's point a few minutes ago that we needed action by, I guess, both the Mid-Atlantic Council and this Board for these adaptive management measures to be effective more than December 31st so that we all have to comply with them the 1st, is there any possibility that we can put some kind of requirement on ourselves that these would have to be adopted at least 90 days before the calendar year that it's due to become effective kind of thing?

I guess what I'm saying is that failure for this Board to act at its Annual Meeting – if you want to specify a minimum size limit of 12 inches on bluefish, we'd have to give ourselves and the public that much lead-time to say that when we come out of our Annual Meeting we would know that effective January 1st, there's going to be a 12-inch size limit, as opposed to the way that some other plans work, where we wait until the 15th of January to decide what is going to be effective the 1st of January.

I'm asking this sort of philosophically: Can we impose that on ourselves, and would this be the place where it would be done?

MR. BEAL: In my opinion, I can kind of see bluefish falling into the same schedule as fluke, black sea bass and scup, where that – the way it's handled now is when the TAL is determined, at that same meeting they usually do the recreational management measures for bluefish, which is different from summer flounder, black sea bass and scup.

But under this amendment, since there is going to be a specific recreational harvest limit where they're probably going to need the previous year's recreational landings, or at least a pretty good, you know, pretty complete picture of what went on in the previous year before they can determine what needs to be done in the following year, which is where we've gotten ourselves into trouble, which is the early to mid-December meetings where they determine the recreational management measures -- so I don't know --

MR. CARPENTER: And I'm not just speaking recreational management measure. I mean, the same argument applies for the commercial measures that if people are going to have to alter their gear or alter their fishing patterns or whatever, I don't think it's unreasonable to give people 90 days' notice of these kinds of changes.

MR. BEAL: On the commercial side, they've usually been handled, at least in the case of the three other species that I mentioned, in the August or September meeting, which gives you pretty close to the 90 days. But the recreational may be the problem.

CHAIRMAN NELSON: Gordon.

MR. COLVIN: I sort of agree with where A.C.'s coming from on this, and it makes some sense to have the compliance date as specified, but add a provision that says, "provided, however, no state shall be determined out of compliance until at least 90 days have passed from the time of adoption by the Board of a framework measure."

MR. CARPENTER: That, I think, accomplishes it.

CHAIRMAN NELSON: Do you want to repeat that?

MR. COLVIN: Well, as I said, I think there was a perfection earlier on the compliance deadline issue, and what I was saying is that the compliance deadline is however it reads here, and then add the words, "provided, however, that no state shall be determined out of compliance until at least 90 days have passed from the date of adoption by the Board of an annual framework measure."

CHAIRMAN NELSON: Okay. Basic consensus on that? Okay. Thank you, Gordon.

I think we need a motion to accept the compliance timetables in here, as modified.

MR. AUGUSTINE: So move.

MR. COATES: Second.

CHAIRMAN NELSON: All right. Comments on the motion? Any public comments? Okay. Everyone can caucus for 30 seconds.

(Caucus)

CHAIRMAN NELSON: Okay. Thirty seconds passed. Time really marches on. All those in favor, please raise your right hand. Fourteen in favor. All opposed, same. Any null votes? Any abstentions? Motion passes 14-1, no abstentions, no nulls.

Yes, Bruce.

MR. FREEMAN: I just want to make it very clear on the record that we support the great majority of that motion. However, as we indicated earlier, we find it impossible to require the reporting by party/charter vessels fishing only in state waters, because we do not have the financial resources to compile and analyze such information.

We want to make that absolutely clear. We would have liked to have seen a unanimous vote on this, but this has created some very real problems, and on one small aspect of this we want to make it very clear that that was the reason for the No vote.

CHAIRMAN NELSON: Understand, and I think we all recognize the burden that the states are going to all have to shoulder with the increased

reporting.

Other Business/Adjourn

All right. I don't have any other business listed here. Is there anything else that anyone else wants to bring up under bluefish?

(Motion from the floor to adjourn.)

CHAIRMAN NELSON: Seeing none, motion to adjourn. Seconded. We are adjourned.

(Whereupon, the meeting adjourned at 12:10 o'clock p.m., March 17, 1999.)
