

Atlantic States Marine Fisheries Commission

ISFMP Policy Board

May 6, 2025, 9:00 - 10:00 a.m.

May 8, 2025, 10:30 - 11:45 a.m.

Draft Agenda

The times listed are approximate; the order in which these items will be taken is subject to change; other items may be added as necessary.

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| 1. Welcome/Call to Order (<i>J. Cimino</i>) | 9:00 a.m. |
| 2. Board Consent (<i>J. Cimino</i>) | 9:00 a.m. |
| • Approval of Agenda | |
| • Approval of Proceedings from February 2025 | |
| 3. Public Comment | 9:05 a.m. |
| 4. Review and Consider Conservation Equivalency: Policy and Technical Guidance Document (<i>T. Kerns</i>) Final Action | 9:15 a.m. |
| 5. Progress Update on On-Going Stock Assessments (<i>K. Drew</i>) | 9:55 a.m. |
| 6. Recess | 10:00 a.m. |
| 7. Reconvene May 8, 2025 | 10:30 a.m. |
| 8. Executive Committee Report (<i>J. Cimino</i>) | 10:30 a.m. |
| 9. Review Discussion Paper on Declared Interests and Voting Privileges – Issues 1 & 2 (<i>R. Beal</i>) Possible Action | 10:40 a.m. |
| 10. Law Enforcement Committee Report (<i>K. Blanchard</i>) | 11:10 a.m. |
| 11. Review Noncompliance Findings (If Necessary) Action | 11:20 a.m. |
| 12. Other Business | 11:25 a.m. |
| 13. Adjourn | 11:45 a.m. |

The meeting will be held at The Westin Crystal City (1800 Richmond Highway, Arlington, VA; 703.486.1111) and via webinar; click [here](#) for details

Sustainable and Cooperative Management of Atlantic Coastal Fisheries

MEETING OVERVIEW

ISFMP Policy Board
Tuesday May 6 and Thursday May 8, 2025
9:00-10:00 a.m. and 10:30-11:45 a.m.

Chair: Joe Cimino (NJ) Assumed Chairmanship: 10/23	Vice Chair: Dan McKiernan (MA)	Previous Board Meetings: February 5, 2025
Voting Members: ME, NH, MA, RI, CT, NY, NJ, PA, DE, MD, DC, PRFC, VA, NC, SC, GA, FL, NMFS, USFWS (19 votes)		

2. Board Consent

- Approval of Agenda
- Approval of Proceedings from February 2025

3. Public Comment – At the beginning of the meeting public comment will be taken on items not on the agenda. Individuals that wish to speak at this time must sign-in at the beginning of the meeting. For agenda items that have already gone out for public hearing and/or have had a public comment period that has closed, the Board Chair may determine that additional public comment will not provide additional information. In this circumstance the Chair will not allow additional public comment on an issue. For agenda items that the public has not had a chance to provide input, the Board Chair may allow limited opportunity for comment. The Board Chair has the discretion to limit the number of speakers and/or the length of each comment.

4. Review and Consider Conservation Equivalency: Policy and Technical Guidance Document (9:15-9:55 a.m.) Final Action

Background

- The Policy Board approved revisions to the Conservation Equivalency: Policy and Technical Guidance Document to reflect current application of conservation equivalency (CE) in Commission fishery management plans and provide new guidance on the use of CE, including stock status in October 2023. Clarification and guidance are needed on some of the new directives in the Policy and Technical Guidance Document (**Meeting Materials**).

Presentations

- T. Kerns will review questions regarding the CE Guidance Document and present draft revisions.

Board discussion for consideration at this meeting

- Consider approval of the revised Conservation Equivalency: Policy and Technical Guidance Document

5. Update on Ongoing Stock Assessments Action

6. Recess

7. Reconvene May 8, 2025

8. Executive Committee Report (10:30-10:40 a.m.)
Background <ul style="list-style-type: none">• The Executive Committee will meet on May 7, 2025
Presentations <ul style="list-style-type: none">• J. Cimino will provide an update of the Executive Committee’s work
Board action for consideration at this meeting <ul style="list-style-type: none">• None

9. Discuss White Paper on Declared Interest and Voting Privileges –Issues 1 & 2 (10:40-11:10 a.m.) Possible Action
Background <ul style="list-style-type: none">• The Executive Committee will discuss a policy paper on declared interest and voting privileges (Supplemental Materials).
Presentations <ul style="list-style-type: none">• R. Beal will present the white paper and guidance from the Executive Committee (if any)
Board action for consideration at this meeting <ul style="list-style-type: none">• Provide possible guidance on declared interest and voting privileges if needed

10. Law Enforcement Committee Report (11:10-11:20 a.m.)
Background <ul style="list-style-type: none">• The Law Enforcement Committee will meet on May 6 and 7, 2025
Presentations <ul style="list-style-type: none">• K. Blanchard will provide an update of the Executive Committee’s work
Board action for consideration at this meeting <ul style="list-style-type: none">• None

11. Review Non-Compliance Findings, if Necessary Action

12. Other Business

13. Adjourn

**DRAFT PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
ISFMP POLICY BOARD**

**The Westin Crystal City
Arlington, Virginia
Hybrid Meeting**

February 5, 2025

These minutes are draft and subject to approval by the ISFMP Policy Board.
The Board will review the minutes during its next meeting.

TABLE OF CONTENTS

Call to Order, Chair Joe Cimino1

Approval of Agenda.....1

Approval of Proceedings from October 24, 20241

Public Comment1

Executive Committee Report1

Review and Discuss 2024 Commissioner Survey Results3

Discuss White Paper on Board Voting and Virtual Meeting Standard Operating Practices and Procedures4

Update on Ongoing Stock Assessments5

Adjournment 13

These minutes are draft and subject to approval by the ISFMP Policy 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 from October 24, 2024** by Consent (Page 1).
3. **On behalf of the Executive Committee, move for meetings where the whole of a state delegation cannot attend in person a meeting for reasons beyond their control, the delegation may request to the Executive Director, Commission Chair, and Board Chair, for a postponement of a particular action for consideration at the next scheduled regular meeting or out of cycle meeting** (Page 2). Motion by Joe Cimino. Motion passes by unanimous consent (Page 3).
4. **On behalf of the American Lobster Management Board move the Commission task the staff to prepare and send a letter to Commissioners from ME and NH with cc to both state governors, expressing extreme disappointment with the decisions to renege on the adoption of Addendum XXVII's minimum size increase, as originally proposed by the ME delegation and supported by the NH delegation** (Page 8). Motion by Dan McKiernan. Motion passes by unanimous consent (Page 12).
5. **Move to adjourn** by Consent (Page 13).

ATTENDANCE

Board Members

Megan Ware, ME, proxy for P. Keliher (AA)	John Clark, DE (AA)
Rep. Allison Hepler, ME (LA)	Roy Miller, DE (GA)
Cheri Patterson, NH (AA)	Craig Pugh, DE, proxy for Rep. Carson (DE)
Doug Grout, NH (GA)	Mike Luisi, MD, proxy for L. Fegley (AA)
Dennis Abbott, NH proxy for Sen. Watters (LA)	Russel Dize, MD (GA)
Dan McKiernan, MA (AA)	James Minor, VA (GA)
Raymond Kane, MA (GA)	Joe Grist, VA, proxy for Sen. Diggs (LA)
Sarah Ferrara, MA, proxy for Rep. Sosnowski (LA)	Chris Batsavage, NC, proxy for K. Rawls (AA)
Jason McNamee, RI (AA)	Ben Dyar, SC, proxy for B. Keppler (AA)
David Borden, RI (GA)	Malcolm Rhodes, SC (GA)
Matt Gates, CT, proxy for J. Davis (AA)	Mel Bell, SC, proxy for Sen. Cromer (LA)
William Hyatt, CT (GA)	Doug Haymans, GA (AA)
Marty Gary, NY (AA)	Spud Woodward, GA (GA)
Joe Cimino, NJ (AA)	Marina Owens, FL, proxy for J. McCawley (AA)
Jeff Kaelin, NJ (GA)	Gary Jennings, FL (GA)
Adam Nowalsky, NJ, proxy for Sen. Gopal (LA)	Ron Owens, PRFC
Kris Kuhn, PA, proxy for T. Schaeffer (AA)	Lowell Whitney, NOAA
Loren Lustig, PA (GA)	

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

Staff

Bob Beal	Madeline Musante	James Boyle
Toni Kerns	Chelsea Tuohy	Tracey Bauer
Tina Berger	Caitlin Starks	Katie Drew
Alexander Law	Emily Franke	

The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened in the Jefferson Ballroom of the Westin Crystal City Hotel, Arlington, Virginia, via hybrid meeting, in-person and webinar; Wednesday, February 5, 2025, and was called to order at 10:15 a.m. by Chair Joe Cimino.

CALL TO ORDER

CHAIR JOE CIMINO: Good morning, everyone, I'm going to call the Policy Board to order here. My name is Joe Cimino; I am the Administrative Commissioner for New Jersey. I'll be chairing the meeting today, so let's get started.

APPROVAL OF AGENDA

CHAIR CIMINO: Go through the approval of the agenda. Are there any items that folks want to add to the agenda today? Not seeing any; I'll consider the agenda approved.

APPROVAL OF PROCEEDINGS

CHAIR CIMINO: Approval of the proceedings from the October '24 meeting, any concerns with what was put forward for the proceedings for the October meeting? Not seeing any, okay great.

PUBLIC COMMENT

CHAIR CIMINO: We'll go to public comment. Is there any public comment to come before the Policy Board? Not seeing any on public comment.

EXECUTIVE COMMITTEE REPORT

CHAIR CIMINO: We do have one item that we would like to add to the agenda, so I'm going to go to Dan for a second.

MR. DANIEL McKIERNAN: There is a letter that we intend to ask, the Lobster Board has created a motion to ask this Policy Board to draft a letter to the states of Maine and New Hampshire, concerning the reneuing on Addendum XXVII, which is the minimum size increase es predominantly, among some other measures, and so that should be added to this agenda this morning.

CHAIR CIMINO: It's not uncommon for letters to come before the Policy Board, we typically take that up towards the end of the agenda. I think we could give a little bit of background, since obviously not all of our Policy Board members are on Lobster Board, and there is a lot going on there. We'll give a little bit of a background before we vote on that letter. We'll move into the Executive Committee Report. I'm so mad at Dan for making me eat something, because I have a mouthful. I don't know why I did that. We can go to Bob for a second.

EXECUTIVE DIRECTOR ROBERT E. BEAL: I'm just making stuff up so you can finish chewing. No, there is one Other Business item with the Mid-Atlantic Council and their consideration for a potential Control Rule that we wanted to talk about. Chelsea and Tracey will give a quick background on that under Other Business as well.

CHAIR CIMINO: We had some very good discussions at Executive Committee, and actually I am going to start by turning it back over to Bob for an update on particularly the CARES update and NOAA Grants management.

EXECUTIVE DIRECTOR BEAL: I think looking around the table, a lot of folks were in here during the Executive Committee when I gave this update. The Commission staff, Laura and I in particular, continue to wrestle with this grants management issue within NOAA. I think everyone has heard the background on it.

We distributed money through working with the states under the CARES Act, and some of those distributions were declared to be unallowable, to a total of about 7.3 million. We're working with NOAA Grants Management to resolve that issue. We've got the total down to about 5.8, 5.9 million now.

We've got a lot of other paperwork that is being transmitted to NOAA, and we're hopeful that that will get us down to about 3 million, if all those different documentations and different analyses are in auditing, and everything else is accepted by Grants Management, we'll get down to that lower number.

But as I talked about earlier, 3 million-ish is still a very big number for the Commission, we don't have that kind of money available. We're going to keep working with the individuals that were determined to be unallowable, but at the end of this process, we are not going to be able to recoup all the funds that NOAA Grants Management indicates ASMFMC owes back to the Federal Government.

As I mentioned earlier, unfortunately two of the individuals have passed away that are from New Jersey, and how do we go out to those funds, and those are big checks, you know hundreds of thousands of dollars each, actually. We're going to continue to work on this, it does take a lot of time. We were granted a one-year extension, so we have until December 4th of this year to work through this, before we have to start any repayment in the eyes of the Federal Government.

We are not accruing interest right now, which is a good thing. But, somewhere at the end of this, no matter how hard we try, we're not going to get all that money back. How do we seek forgiveness or a legislative fix is something we're actively talking about. Alexander and I have a couple meetings on the Hill on Friday to have some initial conversations with a few New Jersey Offices to figure out a potential legislative fix.

You know there are other forgiveness options, but they are pretty lengthy, and maybe this is very self-serving, but if we could not have this hanging over us for multiple years, I think that would be a good thing. We're going to keep working on it. Happy to answer any questions. It's a big issue that we need to sort out, and we're working pretty hard on it. Happy to answer any questions if you have any.

CHAIR CIMINO: Thanks, Bob, any questions for Bob? Not seeing any. We'll move on to the next update from ExCom, and I'll go through the Executive Committee reviewed a white paper provided by staff that looked at declared interest and voting procedures, in particular the difference between virtual meetings, in person only or hybrid meetings. You know there was actually a fairly lengthy discussion by ExCom members confirming how

valuable the ability to have hybrid meetings has been, including public participation. But there was some discussion about guardrails on voting for certain items, if an entire state delegation is not able to make it to a particular meeting.

A motion came out of the Executive Committee. Perhaps if we can get that motion up to put before Policy Board. I don't know that we necessarily need a motion to approve that. But I would like all the Commissioners to see that if some of the folks around the table were not at ExCom. I would like just any hands if there is discussion that needs to be had, or concerns with this idea that ExCom would like to move forward with.

Let me just read that out. **On behalf of the Executive Committee, move for meetings where the whole of a state delegation cannot attend in person a meeting for reasons beyond their control, the delegation may request to the Executive Director, the Commission Chair, and Board Chair, for a postponement of a particular action for consideration at the next scheduled regular meeting or out of cycle meeting.**

I can get into that a little bit, but that could be a lot to unpack if you have not been following this discussion. You know the idea behind this is, it is always more beneficial to be here in person to have discussions. I personally know that after well over a decade on the Board, trying to describe to the higher ups what may happen at a Board meeting is a complete challenge.

Because we all have material that is prepped, but we don't know where a discussion may go. We don't know, without the sideboards that we have on discussions for motions, and so the idea behind this is there may be a need to delay, if a delegation is not able to be there in person. However, there is some odd potential that without any accusations that a delegation may purposely not show up, if there was a very tough decision to make.

That gets to the, if an item is out of their control, they may request this. Then I think the idea that there are going to be times where an item is so time sensitive,

that it is going to be very tough to say, we'll just delay this until another meeting. Part of this motion is that we would be able to delay, but create a special meeting for this or simply deny the request.

I hope that is enough background on this. Is there any discussion on this motion coming through from the Executive Committee? **Is there any objection to this? Not seeing any, okay, I appreciate that.** The Executive Committee is going to continue to discuss the declared interest element of this.

I don't think that has been revisited in quite some time. That is in the Commission's Rules and Regulations on how a state can declare interest, so we do have the ability to revisit that. It is not part of the Atlantic Coastal Act. We'll continue to have discussions on that, and also on the state management units and de minimis.

As those discussions move forward, we will continue to bring those to Policy Board. We had a legislative update from Alexander. You know he went through a summary of what happened in the last Congress, and then talked to us about the turnover that's happened. As always, the Commissioners offered states the ability to meet their new legislators, and I will just say, well I'll just open it up if there are any questions for Alexander on that. Great, not seeing any. We also talked about future meetings. I'll just go to the two most recent.

We'll be in Dewey Beach, Delaware in October this year, and then we'll be somewhere in Rhode Island next year. That covers the ExCom Summary. Any questions on what happened in ExCom? Great, not seeing any. I'm going to turn it over to Alexander for the Review of the 2024 Commissioner Survey.

REVIEW AND DISCUSS 2024 COMMISSIONER SURVEY RESULTS

MR. ALEXANDER LAW: I have a brief presentation on the 2024 Commissioner Survey Results. In 2024, 28 Commissioners completed this year's survey, this was a decrease by 5 from 2023 Survey. The average score of all the questions has hovered around 8.0 for

the last three years. Highlights from the Ten Point Scale questions.

Question 4, cooperation with our Federal Partners is consistently, year after year, scored as our lowest question, with an average of 6.87 over 16 years. Sentiment has declined dramatically since a high of 7.97 in 2018. Some of the discussion around this question points to NOAAs handling of the New Jersey CARES Act issue, as damaging our relationships with our Federal Partners.

Question 3, satisfaction with cooperation between Commissioners to achieve Commission's vision, saw the largest drop off this year by 0.65 points. In some of the longer open-ended questions, people pointed to political issues, and putting politics over the needs of the biology of the resource as a large reason for decline in cooperation between Commissioners.

Utilization and availability of Commission resources consistently scores at the top of our survey. Efficient and effective utilization of fiscal and human resources is a particular highlight, with a 15-year average of 8.94. Question 10, engagement with state legislators and members of Congress saw the largest score increase in the survey by 0.72 points.

This may be a potential source of bias is the fact that I send out the survey each year. Those who are likely to engage and read my e-mails, may be more likely to view my activities favorably. The Discussion Question Summaries, it was difficult to summarize many of these questions, because they address such wide-ranging issues.

I really encourage each of you to go back and look at some of the unabridged answers that are included in the memo. They tackle lots of different issues. As I mentioned before, Question 17, Obstacles to the Commission's Success in Rebuilding Stocks. One of the comments I read this year that was new, was politics being and stakeholder impacts/economic impacts being prioritized over the resource management. That was a new one this year.

Question 18, useful product produced by Commission was easy to summarize, because nearly

every product was mentioned. Additional products the Commission could provide, many of these questions pointed at the need to communicate more concisely, communicate in a way that was targeted at folks who are not necessarily well versed in fisheries management. You know we use a lot of acronyms, reduce our amount of acronyms that we use would be good, and really just produce more products written with the layman in mind. Issues of the Commission should focus more on, a lot of these mentioned the kind of obstacles to Commission's success, and a lot of existential issues that the Commission faces.

This includes addressing climate change impacts, incorporation of socioeconomics was mentioned multiple times. Innovating our communication strategies, like in Question 19. Those are the main highlights. Additional comments, Question 21. Many Commissioners defined the answer to the question, but many of those who did, commented on how thankful they are for the staff, which was appreciated.

One comment showed concern about political influence of the management of Horseshoe crab and menhaden, another mentioned concerns about keeping up with the demands for non-administrative Commissioners. Those are the main highlights of the 2024 Commissioner Survey Results, thank you.

CHAIR CIMINO: I'll look for any questions, but also just any general comments that Commissioners may want to make on the survey, or questions for Alexander. All right, not seeing, oh, there we go. John.

MR. JOHN CLARK: Yes, I just had a question on, and I may have asked this before. Is there any way that when we do the survey, we can get a copy of our answers? Because every year it's pretty much the same survey, and I keep wondering, what did I do last year on this one?

MR. LAW: Yes, I can certainly look into that, thank you.

CHAIR CIMINO: Any other questions or comments on the survey? Not seeing any, okay.

DISCUSS WHITE PAPER ON BOARD VOTING AND VIRTUAL MEETING STANDARD OPERATING PRACTICES AND PROCEDURES

CHAIR CIMINO: Our next agenda item is actually, we thought we might need to spend more time on the white paper on voting procedures that went through ExCom. Very briefly, I'll look to see if there are any comments on that. I am not going to go back through it, I think I covered it, you know as best I could in the Executive Committee Summary. Not seeing anything, that's good, we can move on. Oh, go ahead, Dan.

MR. McKIERNAN: Just a minor issue, and this kind of got bypassed, because we had more substantive conversations about remote meetings. I'm wondering if it would be appropriate for staff to announce at the beginning of a meeting, which of the Board members are remote, and are acting as voting members, because I mean just that would be helpful.

Then alternatively, sometimes there could be a Board member like myself, who sat at the Striped Bass meeting, but I had no placard. I just wanted the front row seat, but I wasn't a voting member of the Board. If the Board Chair could also explain that, just so other Board members are clear about who is present and accounted for.

CHAIR CIMINO: Thanks, Dan, Dennis.

MR. DENNIS ABBOTT: You know to that, Dan, at the Striped Bass meeting, you were sitting there and I think there was another Commissioner, but you appropriately didn't participate, and that has always been a clear way of how we operate that normally you might sit at the back of the table, but in instances, I think, where you announce that you're not a participating member, that is fine.

MR. McKIERNAN: I guess I'm requesting, maybe as a protocol, the Board Chair could work with staff and identify, A, who is online as an active Board member, and who is here and is not. That would be great, yes.

CHAIR CIMINO: I think that is a very reasonable request. I know as a Mid-Atlantic Council Rep, some of our most important species are actually jointly managed, and it is very important to know what Board members are actually represented, and need to have a different priority level of recognition during discussions. That is a good recommendation important practice.

As far as Board members that may sit at the table that aren't on a particular board. I think that would be kind of, I would say, up to that Board member to point it out first to staff, why they are there at the table and that they have no intent to participate. Then yes, we could go that step further of bringing that to the Board chair for discussion, so I appreciate that. Any other comments on that? Not seeing any, then I will turn it over to Katie for an update on the ongoing stock assessments.

UPDATE ON ONGOING STOCK ASSESSMENTS

DR. KATIE DREW: The first issue is an issue that has been referred to the Policy Board by the Striped Bass Board. If you recall yesterday, we talked about the fact that we have begun the 2027 Benchmark Assessment for striped bass, and because of the workload of that assessment, the TC recommended that the tentatively scheduled 2026 update for striped bass not be conducted.

The Board agreed with the TC on that recommendation, and so is recommending that the Policy Board remove that tentatively scheduled assessment update for striped bass in 2026 from the assessment schedule. I don't believe the Policy Board needs to make a formal motion, but I think the Policy Board does need to provide consensus on that recommendation. I'll pause here and see if there are any questions or discussion on that.

MR. CIMINO: Question, if I may, as a Board member. I will just reiterate, since not everyone is on that Board, my support for that. Part of the reasoning is, you know benchmarks are so important to revisit all the elements, and hopefully move forward, you know our understanding of the science. My particular concern with striped bass is if, if we got an

update on what we are currently doing that talks about, you know the projections for the stock, and then just a few months later we had a different assessment.

I think there could be a great deal of confusion for Board members or the public on what that means for our understanding of the stock. I fully support this notion of, you know peer review is in the spring of March of 2027, that is really not that far away. A lot of preparatory work is going to go into this. There is a continuity run, so we still will have that understanding of looking back at what the old assessment would have told us. I just wanted to add that. Yes, I don't see any objections or hands, so I will assume that there is consensus then that we can move forward. Skipping the 2026 update and moving on with the benchmark in 2027. I'm seeing heads nod, thank you.

DR. DREW: The only other issues we wanted to bring before the Board were just some updates on species that have current assessments ongoing, but did not have a Board meeting this cycle. First, probably most important would be, weakfish, which was scheduled to have the assessment update presented at this winter meeting.

However, we are behind schedule on some of the data preparation and model runs, and we're not able to present at this meeting. But we plan to present at the May meeting, and we plan to still have those runs completed in time to support the ongoing ERP Assessment. The ERP Assessment will have an assessment workshop the first week of March, that is the last in-person workshop for this group, as we proceed to peer review in mid-August of this year.

The M Workgroup, the Natural Mortality Workgroup, is still working to finalize their decision and recommendation on their potential change to the M estimate for the base run of the single-species menhaden model. That will be, again, also completed in time to support the ERP Assessment, so that decision and that change can be peer reviewed as well.

Finally, the Tautaug Assessment Update is scheduled for completion at the end of this year, and we would be done that data process. The tautaug SAS has been quite depleted by some departures and retirement, so we will be reaching out to the Tautaug Board to approve sort of a refreshed SAS.

We will not be doing a full nomination process to completely revise the SAS, but we will be replacing some members and getting Board approval on that front. But we've already put out the call for data, so that we can get this assessment going, and completed at the end of this year to be presented at annual meeting for 2025. That is all the updates that I have, I'm happy to take questions.

CHAIR CIMINO: Questions for Katie on any of those updates? Jay.

DR. JASON McNAMEE: Yes, thanks, Katie. Sorry, tautaug is an update or a benchmark?

DR. DREW: It is an update at this point. We don't have it on the schedule for a benchmark, but I think that is something that the Assessment Science Committee and the Board could discuss going forward, but for this one it's purely an update.

DR. McNAMEE: I don't think maybe right now is the time to talk about, but I think getting a benchmark on. A lot has changed with the tools for assessing stocks, in particular the way tautaug is done now, it's just kind of like a bunch of standalone statistical catch at age models, and now a lot of models are moving away from that particular software, and the spatial aspect of it is something else that can be accommodated now in a benchmark process. I think it would be a big step forward for tautaug, and would be good to get that on the schedule at some point.

CHAIR CIMINO: I'll look to either Bob or Katie, because I apologize for my ignorance, but the process to make that decision on, are we ready, and does that come back to us to make that decision?

DR. DREW: Yes, so I think the process would be, as we go through the assessment update this year we'll consult with the TC and the SAS and talk about, like

what progress have we made in terms of, are there any new data sources, are there new modeling approaches that we could use, et cetera. Is a benchmark warranted, and what kind of a timeline are we doing? I'm assuming we cannot just turn around and do it next year, but are we talking like two years, three years, and what else is on the schedule.

The TC can make a recommendation to the Assessment Science Committee, the Assessment Science Committee can then consider that recommendation, along with the other assessments on the schedule over the next couple of years, and recommend a time to add tautaug as a benchmark assessment, which would then come back to the Policy Board for the final approval on that front.

CHAIR CIMINO: Perfect, thank you, I appreciate that. Any other questions or comments on that update?

EXECUTIVE DIRECTOR BEAL: Just not anything to do with what Katie updated, but the SEDAR Steering Committee is meeting right now down in Charleston, maybe, I don't know, down south somewhere, and one of the species they are talking about is cobia. I talked with a couple of you offline about this.

The lead analyst that was going to do the cobia work left NOAA Fisheries, and now they are in a hiring freeze, so there is a hiccup in the cobia assessment again. It appears there are two options that are available. One is a 2026 update to the BAM Model, which would be essentially a turn of the crank, but it wouldn't allow for consideration of some of the new tagging information, and some of the new data streams that are available potentially for cobia.

The other option would be a full benchmark assessment, but that would not be done until 2028. You know the Cobia Board right now, the projections that are used to manage cobia are based on assessments from, five years ago maybe Katie, "ish", so they are pretty old. It appears we're not going to have great scientific advice for short term cobia management decisions.

But what I've asked Pat Campfield, who is down at the SEDAR Steering Committee to ask for, is can we get both rather than either/or? Can we have both 2026 BAM update and a benchmark in 2028? I don't know if there is capacity to do that through the SEDAR process, but we'll see. No decisions today, or no final news for the Board today.

We'll monitor that, see where the SEDAR Steering Committee ends up. The South Atlantic Council will have a SEDAR meeting at their meeting that first week of March, and they'll review what comes out of this Steering Committee meeting. More to follow, I just want to let folks know that cobia assessment work is still in limbo at best, so we'll see.

CHAIR CIMINO: Well, I have a comment on that, I don't know if any others do. We've been in some tough spots before, but for those of us that are involved in cobia management, what we're looking at is kind of petrifying. We're looking at maybe a decade out. I think maybe that update, the last assessment might have had a terminal year like 2018.

We might not get a new assessment until after 2028. I think there is potential for that, especially if this is a completely recreational driven species, and we know that we're going to be seeing another MRIP recalibration. I personally don't know what value there would be to update it before that. It's going to be very challenging, and we're going to have to get creative and possibly pretty conservative on how we handle that species for the next couple years. Any other comments on cobia? Jay.

DR. McNAMEE: Yes, I share your concern, and it is a pretty high-profile species on top of it. Just two things. I think the reliance on a turn of the crank of BAM. If my memory serves me, we shouldn't be like super optimistic about that. I think there were troubling signals, in the last time, and that sort of propagates into, and then we're relying on projections from the model.

I like the idea even like coupling it directly, in the benchmark and update, if they can get somebody onboard. I support that. Then I think we maybe

talked about this before, but we may want to think about a contingency, and have some like data limited approaches run to patch us through as well.

You know it's a lot to think about there, but if those tend to be not as, you know they can be difficult to run, but the idea is its data limited. There are simpler approaches. It might be valuable to have that in our back pocket, depending on what plays out here.

CHAIR CIMINO: I appreciate that. You know we have had a chance to at least have some of these discussions. Although, as Bob pointed out, we may get an update soon on what the potential is. Going past that, I think, yes. I think there may be a standing order as a task to see what can be done to provide, you know information and guidance on management. I think once we get past what information Pat could give us, then I think that would be kind of a standing order for that group on what management advice could be provided.

I think we've had that discussion at the Pelagics Board before. Not seeing any other hands, then thank you, Katie. I think you're good. The next item up is Review of Noncompliance Findings. Fortunately, there aren't any, which also means no need for a Business Session following up after this. I will ask this Board, is there any other business to come before the Board? Oh right, right, sorry. I guess we're going to go to Dan for his action.

MR. McKIERNAN: Cheri mentioned earlier at our Executive Committee meeting how a bunch of the states in the New England Area, Rhode Island to Maine, got together Monday night to talk about the challenges that came about over the last month, when the infamous Addendum XXVII of the American Lobster Plan, which was passed in May of 2023 and then delayed twice, to accommodate the challenges that the industry had.

At the eleventh hour it got basically scuttled, because Maine announced, well, actually Commissioner Keliher announced at a public hearing that he was going to withdraw the most significant rule, which was the minimum size increase. Then New Hampshire governor jumped onboard and said

that her state wouldn't follow it, and that kind of left the third state in Area 1, mine, that already had regulations that were fully enacted.

We're going to have to go in and repeal those regulations. Going forward, based on the proceedings of what occurred yesterday, which was the Board voting to initiate a new Addendum to replace certain aspects, essentially, withdrawing that which Maine and New Hampshire decided together that they wanted to pull back on.

I have a motion that I would like this Policy Board to approve, to request staff to write a letter to those two states, and cc the respective governors. It would be a combination of sort of an information, criticism and pleasures of support to proceed with some form of lobster management going forward.

But kind of put the onus on those two states, to lead the way on developing those proposals, because I'm fearful and others are fearful, that if we go through this kind of a process again and it becomes so political, even after states have enacted the regulations. It's really an unacceptable process.

It was impressive to see the level of energy, I'm being euphemistic, the level of energy displayed at some of the Maine public hearings, and the unfortunate disrespect toward Commissioner Keliher. But I really think the onus is on those industry groups that have kind of risen up and demanded that they face no regulations, or at least not this particular regulation, to replace that with something different.

Many of you remember David Pierce, and I know he used to have really long motions. I didn't mean to make it so long, but the motion essentially is the top paragraph, and then the five bullets are just some details that I would ask as part of this motion, to have the staff incorporate into the letter. I know there has been some initial conversations among the folks who are on the Lobster Board about some minor changes. Shall I read the motion?

MS. CAITLIN STARKS: Before you read the motion, Dan, I think this doesn't reflect the final motion you

wanted to make, so I can change the text before you read it, if you would like, to what you sent me.

MR. MCKIERNAN: Please, do. Joe, do you want to take any questions from the larger group, while she's working on that?

CHAIR CIMINO: Yes, or comments or discussions from those that were on the Lobster Board, because the impacts and ramifications of this go well beyond lobster. This is a very difficult decision. You know we were moving forward with, I think, not just proactive management, but I think doing so in a way that really may need to be part of our future management, and that is, vetting these issues through a public comment process, through our process, and then saying, we're doing this through a set of triggers, and you all know what will happen if those triggers are hit. It's an ability to act more quickly, which is something that we've all discussed that was part of our Climate Scenario Planning, and how do we handle issues? Here we are, backing away from something. I'm not going to just open questions up and say, for Dan. I would open the discussion up to the floor.

It wouldn't be fair to just say that Dan will have to answer questions, but if there are questions, you know we'll all do our best to answer them. Comments or questions on this motion? I had a feeling. I'll start with David and then Doug, then there was another hand. We'll go with David and Doug first.

DAVID V. BORDEN: Really brief comment. The comment and concern that I heard from a lot of Commissioners after that discussion, was the need for us to set a deadline, include a deadline. My suggestion is, I don't think it needs to be folded into the motion, but I think an appropriate deadline is by the annual meeting that these reports and actions would take place.

It sets some bounds on how long the discussions can go in these other jurisdictions. There are other ways we can address this, and if we're going to utilize some of those other methodologies, I think we need to know sooner rather than later.

EXECUTIVE DIRECTOR BEAL: Yes, David, you know it is up to the Policy Board regarding timelines. I think one of the difficulties for Maine might be that the benchmark assessment is not coming out until the annual meeting. They may get some new information at that meeting that their industry may want to consider, as they're coming up with options to move forward.

I think Mr. Keliher indicated he would give an update at each quarterly meeting moving forward, and we get a check in, in May, and see where things are. If the Lobster Board feels things aren't moving fast enough, maybe that is a good time to chime in with something to move it along.

CHAIR CIMINO: Follow up, Dave?

MR. BORDEN: It would be perfectly acceptable to me to make that deadline in the winter meeting, but we need a deadline in this. We need to set some bounds on this, so that we get some action. We've given the industry the opportunity to put together the alternative and bring back alternatives that allay some of their concerns. If they haven't done it, then we have to figure out how to handle this and do what is correct for the resource.

CHAIR CIMINO: I had a few hands up and I'm going to go to them before I look for a possible motion. My intent was that I felt we could, as we have many times, have the Policy Board move a letter forward through consent. But if there is an intent to change this motion, then we'll need a motion here. But before I look for that, I have several hands that I saw. I'm going to go to Doug, and then Matt, and then Jeff Kaelin.

MR. DOUGLAS E. GROUT: I just wanted to make the Policy Board, and those that weren't involved with this aware that we in New Hampshire are fully supportive of this motion, and want to go back to the industry, since we were put in the position where we had already implemented the rules, and now are going to have to remove them. We recognize there is an issue. We tried to be proactive with this type of management. But now we're going to go back and have a discussion with the industry, as is Maine,

which is really the elephant in this room, to see if there are other ways that we can accomplish the same goals. I just want you all to know that we're fully supportive, and we will move as fast as possible with this, because we recognize that we do have a declining stock right now. We want to put something in place so that there will be a soft landing.

CHAIR CIMINO: Matt.

MR. MATTHEW GATES: I have a question for Dan, actually. I understand putting the onus on Maine and New Hampshire Industry to come up with a solution. But I just wanted to ensure that the industry in Massachusetts, that something doesn't come up out of that discussion that is not acceptable in Massachusetts, and then we have another situation to deal with down the road. Obviously, it ought to be Industry from all three states to work together on this.

MR. MCKIERNAN: Fair point, but we've had so many experiences where negotiations are happening at a table, like this Board, for the Large Whale Take Reduction Team, and people go home and get ready to enact rules or enact rules, and one state just simply deviates from that. I guess out of my frustration, I kind of wanted to put some of the industry groups and even the folks at highest levels of state government in those states.

Please, if you're going to have opposition tell us before a process like this gets dragged out so far. I mean it's ridiculous. My theme, and I said it yesterday is, you broke it you own it. I do want to make sure my industry is involved in those conversations, but I don't want anybody to even perceive that, well especially in Maine, that well the Massachusetts fishermen wanted this, so we don't want it. I want them to originate that and then bring it forward.

CHAIR CIMINO: Matt, I appreciate that. I looked at this as the idea behind this letter is just, it's the starting point before we go through a whole new process of, what is the baseline that we can work with for a stock that needs a new direction. There are

quite a few hands still, so I'm going to go to Jeff Kaelin and then Megan Ware online.

MR. JEFF KAELIN: I didn't have my hand up, but I did have a question yesterday about Bullet 3, and I had a chance to talk to Dan a little bit about it. The thing that makes me uncomfortable about this language that says that Maine, I guess all those bullet points with New Hampshire would be added, of course.

You know that Maine would sit down, New Hampshire would sit down with their industry and come up with a solution to become compliant with this Addendum. That to me is the priority. It muddies the water, I think, to basically say that Maine and New Hampshire also need to start talking to the Canadian Government about mutually agreeable conservation strategies.

I said yesterday, I dealt with the Canadians for decades in my past life in the sardine business and salmon farming business. They are good people, but it's all about Canada up there, and I don't like the language in Bullet 3 that seems to indicate we would wait around for Canada to come up with a mutually agreeable solution to our states being compliant with the Addendum. I don't know how to fix that, but that was my concern yesterday.

MR. McKIERNAN: Jeff, great point, and let me just say that what I was hoping to accomplish there is that the conversations would begin with Canada well in advance of us ever seeing a proposed Addendum. What we heard in Canada, I'm sorry, it's close to Canada, Bar Harbor, with a lot of Canadians.

Some of the Canadians kind of took offense to the fact that we kind of went up to Canada and asked them if they would consider gauge increases in the LFA, the fishing areas adjacent to Maine and the Gulf of Maine, that we went up there after we had done it. Do you know what I mean? I want to say it was a level of respect that they were looking for. I'm suggesting that, like for example, if we were to go to a 32nd inch increases instead of 1/16th.

If we talked to Canada in advance maybe they would embrace that. I don't mean all of Canada, but some

of these LFAs that are seeing the same declines as Maine, New Hampshire and Mass have seen over the last couple years. That is really the thought is to try to bring them in early, but not make it a situation where if they didn't agree then we wouldn't proceed.

MR. KAELIN: When we talked offline this morning you made that clear to me, but this is an American lobster fishery, we're an American Organization, and if they didn't realize that we were going down this road months ago, then somebody up there wasn't paying attention, likely. You can tell I'm not very sanguine with the Canadian attitude to American fishing. I'll let you artfully draft a letter. I've made my reservations clear.

MR. McKIERNAN: Jeff, if I could. I'm just reacting to these press accounts that I'm seeing coming out of the states of Maine and New Hampshire. They keep referencing different rules across the Border. I'm just trying to sort of pay respect to that by having those conversations started.

MR. KAELIN: Like I said yesterday, we were in the same situation 1982, and we went ahead and changed the damn gauge size, and they ended up buying our lobsters. That is where we are today, I think too, so anyway, thank you.

CHAIR CIMINO: Thanks, Jeff, I do appreciate that concern. You know I think part of this is that the idea behind this is just to start a discussion. Not that we will not take action until this is lockstep action. I hope that helps a little.

MR. KAELIN: I appreciate that, it does. Thank you very much for letting me vent a little bit again.

CHAIR CIMINO: We have a few more hands and then I will ask if we're looking for an amendment or substitution. I'm going to go to Megan Ware, and then Mike Luisi and then Cheri. Megan.

MS. MEGAN WARE: I just wanted to express Maine's full support for this motion, and agree with the comments that I think the two states are in support of receiving this letter. Understand the desire for

some clarity on the timeline. I think what I might propose or what I think would be helpful for Maine is, for us to be able to come to the May meeting with a bit of a strategy.

We haven't had a chance yet internally to talk about how we want to navigate with the zone councils, the Lobster Advisory Council, our DMR Advisory Council. There are a lot of different bodies at play here in Maine. I think I personally would find it helpful to have a moment to kind of effectively strategize how we want to engage those groups, when, and bring that to the Board in May.

If the Board is not satisfied with the timeline we've put forward, then we'll take that feedback and try and make the changes as necessary. But I do understand why folks don't want this dragging on forever. I certainly don't want this dragging on forever, but I think it's about trying to plan and be efficient as we can. That would be my suggestion.

CHAIR CIMINO: Thank you, Megan, I appreciate that. Yes, I think moving forward, as much input that can happen and get to the full Lobster Board and then eventually Policy Board is important. I don't think we need to take any action on that suggestion, but I think I'll look to see if there is any concern with that. If not, I think that is a great idea on how to move forward. Not seeing any, so again, I'm going to go to Mike Luisi and then Cheri.

MR. MICHAEL LUISI: I'll be quick and brief on this, I just wanted to put my thoughts out there on the record. I supported this moving forward yesterday. But I did want to express how concerned and how uncomfortable I was just making that decision. I feel like we are tiptoeing on a razor's edge when it comes to what compliance with ASMFC is, when we're dealing with this.

I realize there are extenuating circumstances here, we're dealing with another country. We have internal issues within the industry that need to be resolved. But if what transpired over the last few weeks with the letter writing from the governors of Maine and New Hampshire to the Commission. If that wasn't noncompliance, I don't know what is

noncompliance. My concern as a commissioner and as an Administrative Commissioner in taking the steps that we're taking now.

I feel like we'll be challenged even more by our stakeholders, in every decision that's made, as to whether or not we should have our governor write a letter to buy us time, or to extend the seven, I think it was seven or eight years this Addendum was being worked on. To get to the last second and just say no, it really bothers me.

I hope, and I think that with quick expedited handling of this situation, to the point where something occurs, there is an action taken soon, will be much better than if this drags on for another couple years. I come from a state that is politically charged. We have very passionate fishermen, and this, to me, kind of cracks-the-door open a little bit for those questions and concerns about why and when and how we follow this guidance of ASMFC in moving forward in the actions that we take. Just wanted to put that out there, Mr. Chairman, but I plan to support this moving forward.

CHAIR CIMINO: You spent a long time as Council Chair, so I think you understand my position here, which is it's an uncomfortable conversation, but what you said is, I think, 100 percent true, and very important for every member of this Board to understand that. If, again, because plenty of states aren't on the Lobster Board to understand what went into this decision.

But we have states that have gone so far as to enact these regulations, to protect the stock that we have concerns about, and then to be in this position. It is, I agree, a precarious place to be. I hope everyone appreciates that. I'll go to Cheri.

MS. CHERI PATTERSON: Mike, I agree completely with your thoughts. Right now, New Hampshire is in compliance. We won't be out of compliance until July 1st, as well as Maine, in regards to the gauge. We do have it on our books, we went through rulemaking processes that we always do, and then found out that that decision was reversed outside

our ability or outside of our knowledge, until a letter came out.

I am with Megan; I completely assure this body that I will be addressing this with our lobster industry as soon as possible. I didn't want to see this linger anymore than anybody else. Again, I think that this is a tenuous spot to put ASMFC in. I admire this group of people, and I admire how the Commission operates. I'm sorry that we're at this level, at this juncture, and that as the Administrative Commissioner for New Hampshire, I intend to move as quickly as possible to resolve this issue.

CHAIR CIMINO: Thank you very much for those comments, Cheri. I am going to ask, do we have a need to kind of I guess adjust what is in this motion, or are we at this point comfortable with this motion, and if so. I think if everyone is comfortable, then by consent. I'll look for a hand for any objections, if not then we'll move this letter forward.

There is a clock ticking, and our intent is to keep this at the forefront and moving forward. **I don't see any hands in objection, so in that case, by consent we'll move this letter forward to Maine and New Hampshire**, and I appreciate all that very much. We do have one other item of business, and I'm going to turn to Chelsea to discuss the Control Date for the upcoming Mid-Atlantic Fishery Management Council.

MS. CHELSEA TUOHY: I just have a quick update on some Mid-Atlantic Council happenings. Back in December, the Council and Policy Board approved the Draft Scoping Document for the Recreational Sector Separation and Data Collection Amendment for Summer Flounder, Scup, Black Sea Bass and Bluefish.

During that discussion some Council members questioned if the Council should ask the National Marine Fishery Service to publish control dates for the recreational for-hire fisheries covered by this Amendment. This is an optional step that the Council can take to limit speculative behavior in these fisheries, if they believe that for-hire limited access options may need to be explored through this

current Amendment, or through future action. At their upcoming meeting next week, the Council is going to consider requesting that the National Marine Fishery Service establish control dates for the recreational for-hire sectors. That meeting is on February 11 from 11:00 to 11:30 a.m. It is entirely virtual. If this motion goes forward at the Council, the control date does not commit the Council to development of a particular action to implement the control date.

There is a memo in the Council's meeting material that explains more for folks that are interested. This is not a joint meeting between the Policy Board and the Council, but we have been notified that Policy Board members will be given priority to ask questions during that meeting.

Then the last update from Tracey and I is that last week we sent around a survey to the Administrative Commissioners about the for-hire permits for these four species in your state, and just to help us get a better understanding about what the possible impacts of federal control dates could be on Commission states. If you haven't filled that out yet, please fill that out, you know within the next week or so, and we can move forward from there. Happy to take any questions if there are any.

CHAIR CIMINO: Yes, thank you, and thank you and Tracey for all the work you've done on this, and for putting out that survey. I think that is a great idea and very helpful. I fully admit, I didn't fill it out yet. Are there any questions for Chelsea, or any comments on this notion? Jeff.

MR. KAELIN: Chelsea, the actual control date doesn't end up being next week, it ends up being when the action is published in the Federal Register, which could be after the cows come home right now, given the state of politics in America right now. Is that right? Once it is published then that is the date, correct?

MS. TUOHY: Yes, correct, the control date is usually the date of the Federal Register notice and there will be, if it's published, a public comment period on that. But the Council doesn't have to, I guess, use that. If

they want to take action in the future they don't have to use that date of the Federal Register notice, they could use a different date.

MR. KAELIN: Okay, thank you for clarifying that.

CHAIR CIMINO: I think this is going to be a discussion on what may be an appropriate date, and I'm not going to try to put Mike Ruccio on the spot. I thought that it is even possible to set a control date that is in the past. But with the discussion and of course the validity of that control date happens when it goes through the Federal Register. Go ahead, Mike, thank you.

MR. MICHAEL RUCCIO: Testing my historic knowledge on control dates here. No, I think that is fair, both can be true. If the Council's will is to select a date from some time past the rationale will need to support that. If there isn't, then typically it is the date of publication, and then as has been discussed here.

As the process moves forward, if the Council in its deliberations decides that a different date is what they want to use. Again, their rationale will support it and they can either go through formal reaffirmation of another control date, establish a new control date or none of those options. It really kind of depends, but the control date function largely is a, you know lay down a marker, line in the sand, from this date we may treat history differently. That is really the extent of it. But we continue to be under a regulatory freeze.

We are seeing some movement. I think we can now publish meeting notices for Councils. We're hopeful that in-seasons will be something that we can publish soon. This usually kind of follows in a process as we gain more politicals. I saw earlier that it looks like Secretary Lutnick has been confirmed, so that is a good thing, and that might help even advance some of our rulemaking capabilities.

CHAIR CIMINO: Great, thank you very much, Mike, I appreciate that. Sorry to put you on the spot there, but I think that is helpful. I will say for the hundredth time, I think that what we have been trying to do

with flounder and sea bass is kind of on the forefront of fisheries management, and have been for years.

Going through this process is part of that, and so we have to have folks paying attention that because of sector separation, the idea that this control date could be important. I think at least a discussion on that, which is what is going to be happening, is a good thing. I don't believe we have any other items before us.

ADJOURNMENT

CHAIR CIMINO: But before I look for a motion to adjourn, I just want to thank staff, I don't think I do that enough. I certainly try to, but I want to thank staff for all the work that was done. I think this was a very positive meeting. I'm glad everyone that is here was able to make it, and I want to wish everyone safe travels home. With that I'll look for a motion to adjourn. I see Malcolm Rhodes, a second by Doug Grout. With that we are adjourned, thank you everyone, take care.

(Whereupon the meeting adjourned at 11:20 a.m. on Wednesday, February 5, 2025)



Atlantic States Marine Fisheries Commission

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MEMORANDUM

TO: ISFMP Policy Board
FROM: Toni Kerns, Fisheries Policy Director
DATE: April 7, 2025
SUBJECT: Direction on sections of the Conservation Equivalency: Policy and Technical Guidance Document

The ISFMP Policy Board approved revisions to the [Conservation Equivalency: Policy and Technical Guidance Document](#) to reflect current application of conservation equivalency (CE) in Commission fishery management plans (FMPs) and provide new guidance on the use of CE, including stock status in October 2023. Clarification and guidance are needed on some of the new directives in the Policy and Technical Guidance Document.

Stock Status Determination

One of the new directives is to not allow the use of Conservation Equivalency if a stock is overfished or depleted, unless allowed by a 2/3 majority vote of the species management board. Based on the discussions during the October 2023 Policy Board meeting¹, the intention is to have the species board review the use of conservation equivalency after each stock assessment. The language in the Policy and Technical Guidance Document is not consistently applied to each assessment. In the *general guidance section* it does not reference “each” assessment while in the *stock status section* it is specific to each assessment. **Staff is seeking confirmation it was the intention to review the use of conservation equivalency after each stock assessment (update or benchmark).**

In addition, the discussion was silent on, if after the stock assessment the stock status has not changed, should a review of conservation equivalency take place. The discussion focused on the review occurring after each assessment. Staff recommends a review occurs, regardless of status change since a Board has the ability to consider other factors besides stock status in allowing the use of conservation equivalency. The review will allow for those other factors be considered each time an assessment occurs instead locking in the ability to use or not use conservation equivalency until the stock status changes. **Staff is seeking clarification if conservation equivalency use should be considered regardless if stock status has changed or not in the most recent stock assessment.**

Fishery Management Plans with Conservation Equivalency Restrictions

An FMP could have conservation equivalency restrictions outside of or similar to those in the Policy and Technical Guidance Document. Staff is seeking clarity in how to apply the rules of the FMP and the Policy

¹ [October 2023 Policy Board Proceedings Pages 3-19](#)

and Technical Guidance Document together, particularly if the FMP has stock conditions which apply to conservation equivalency but may not include all the details of Policy and Technical Guidance Document. For example, the [Striped Bass FMP](#) does not allow the use of conservation equivalency in non-quota managed fisheries² if the stock is overfished. The FMP does allow the use of conservation equivalency for quota managed fisheries. It is not clear to staff if the use of conservation equivalency in the quota managed fisheries should be evaluated after each stock assessment per the Policy and Technical Guidance Document or do the measures of the FMP negate that specific directive. **Staff recommends if an FMP contains conservation equivalency measures, it would include direction on the specifics of the Policy and Technical Guidance Document.** For example, if it is the intention of the Board to not evaluate the use of conservation equivalency after each stock assessment because of the FMP's specific conservation equivalency requirements, then the FMP would clearly state what aspects of the Policy and Technical Guidance Document will not apply.

Process To Evaluate Conservation Equivalency

Staff recommends the Policy Board consider adding a new section to the Policy and Technical Guidance Document to clarify the process to evaluate the use of conservation equivalency after a stock assessment. With the addition of the stock status guidance in the Policy and Technical Guidance Document, the information, timing and steps a species board will need to determine if the use of conservation equivalency will be allowed is not clear. A process will ensure the reviews are done consistently and provide the species boards with the necessary information to make an informed decision. It will also set up the needed follow up steps if necessary. Draft text is suggested in the Draft Revisions to the Policy and Technical Guidance Document for Policy Board Review May 2025.

The Policy Board discussion indicated states would need to change existing conservation programs if conservation equivalency is no longer allowed. This would mean it would apply to future actions of the board and existing conservation equivalency programs. If this is the intention of the Policy Board, the proposed language in the *process to evaluate the use of conservation equivalency after a stock assessment* section should be considered, in addition to the revision on page 3 of the draft.

² With the exception of the Hudson River, Delaware River, and Delaware Bay recreational fisheries (page 57-59 of [Amendment 7](#))

Draft Revisions for Policy Board Review May 2025

Proposed Draft Revisions

Atlantic States Marine Fisheries Commission

**CONSERVATION EQUIVALENCY:
Policy and Technical Guidance Document**



Draft Revisions for Policy Board Review May 2025

First Edition Approved May 2004
Revised and Approved October 2016
Revised and Approved October 2023

Draft Revisions for Policy Board Review May 2025

Introduction

The purpose of this document is to provide policy and technical guidance on the application of conservation equivalency in interstate fisheries management programs developed by the Atlantic States Marine Fisheries Commission. The document provides specific guidance on development, submission, review and approval of conservation equivalency proposals.

Background

The Atlantic States Marine Fisheries Commission (Commission) employs the concept of conservation equivalency¹ in a number of interstate fishery management programs. Conservation equivalency allows states/jurisdictions (hereafter states) flexibility to develop alternative regulations that address specific state or regional differences while still achieving the goals and objectives of Interstate Fishery Management Plans (FMPs). Allowing states to tailor their management programs in this way avoids the difficult task of developing one-size-fits-all management measures while still achieving equivalent conservation benefits to the resource.

Conservation equivalency is defined in the Interstate Fisheries Management Program (ISFMP) Charter as:

“Actions taken by a state which differ from the specific requirements of the FMP, but which achieve the same quantified level of conservation for the resource under management. One example can be, various combinations of size limits, gear restrictions, and season length can be demonstrated to achieve the same targeted level of fishing mortality. The appropriate Management Board/Section will determine conservation equivalency.” The application of conservation equivalency is described in the document Conservation Equivalency Policy and Technical Guidance Document

In practice, the Commission frequently uses the term “conservation equivalency” in different ways depending on the language included in the FMP. Due to concerns over the lack of guidance on the use of conservation equivalency and the lack of consistency between fishery management programs, the ISFMP Policy Board (Policy Board) approved a policy guidance document on conservation equivalency in 2004. In 2016 and 2023, the Policy Board recognized some of the practices of the Commission

¹ At the time of approval of this policy, the Summer Flounder, Scup and Black Sea Bass FMP includes conservation equivalency provisions that allow the Board and MAFMC set state specific/regional recreational measures in lieu of a coastwide measure. This application of conservation equivalency is different than the conservation equivalency described in this document and the guidelines in this document do not apply to that specific application of conservation equivalency in the Summer Flounder, Scup and Black Sea Bass FMP.

Draft Revisions for Policy Board Review May 2025

regarding conservation equivalency had changed and revised the guidance. The Policy Board is considering revisions to the guidance to better clarify the revisions from 2023.

General Policy Guidance

The use of conservation equivalency is an integral part of the Commission management process that allows the use of alternative management programs from FMP standards.

During the development of a management document the Plan Development Team (PDT) should recommend if conservation equivalency should not be permitted for that species action. The default is that any management measure is subject to conservation equivalency unless otherwise specified in the FMP. The Management Board (board) will provide a specific determination if conservation equivalency is not allowed for the measure approved in the fishery management document, since conservation equivalency may not be appropriate or necessary for all management actions. During the approval of a management document the board will make the final decision on the exclusion of conservation equivalency.

States have the responsibility of developing conservation equivalency proposals for submission to the Board Chair (see standards detailed below) and the Plan Review Team (PRT) will serve as the “clearing house” for review of conservation equivalency proposals. Upon receiving a conservation equivalency proposal, the PRT will initiate a formal review process as detailed in this guidance document. The PRT will collect all necessary input from the appropriate committee (e.g., the technical committee, Law Enforcement Committee, Committee on Economics and Social Sciences and the Advisory Panel). The state submitting the proposal has the obligation to ensure proposed measures are enforceable. The PRT will compile input and forward a report to the Board, and the Board will make the final determination on approval of the proposed program.

Upon approval of a conservation equivalency proposal, the implementation of the program becomes a compliance requirement for the state. Each of the approved programs will be described and evaluated in the annual compliance review and included in annual FMP Reviews, unless different timing is approved by the board.

~~Management boards should place a limit on the length of time that a conservation equivalency program can remain in place without re-approval by the board.~~ The board will evaluate conservation equivalency programs after each stock assessment ~~if the stock status has changed~~. Some approved management programs may require additional data to evaluate effects of the management measures. The burden of collecting the data falls on the state that has implemented such a conservation equivalency program. Approval of a conservation equivalency program may be

Commented [TK1]: Based on the Board discussion in 2023 this should have been deleted.

Commented [TK2]: Based on the 2023 discussion after each assessment the Board should determine if the use of CE has changed regardless of stock status. The Board discussion focused on each assessment and did not discuss state changing.

Draft Revisions for Policy Board Review May 2025

terminated if the state is not completing the necessary monitoring to evaluate the effects of the program.

Conservation equivalency proposals and board approval are not required when states adopt a single more restrictive measure than those required in the FMP (e.g., higher minimum size, lower bag limit, lower quota, lower trip limit, closed or shorter seasons), as long as it does not have impacts to another measure (e.g., in striped bass changing the size limit in the commercial fishery can also trigger a quota adjustment). These changes to the management program will be included in a state's annual compliance report or state implementation plan. If states intend to change more than one regulation where one is more restrictive but the other is less restrictive, even if the combined impact is more restrictive, states must submit a conservation equivalency proposal for Board approval. due to unexpected consequences that may arise (e.g., a larger minimum size limit could increase discards).

When Conservation Equivalency will not be Permitted

Stock Status Conditions

The board will consider if a change in the use of conservation equivalency is necessary after each stock assessment. where, Conservation Equivalency is not permitted if the stock is overfished or depleted, unless allowed by a board via a 2/3 majority vote (the rules on voting in Article II, Section 1 of the Rules and Regulations apply). If the board determines conservation equivalency is not permitted, it will apply to future actions of the board and existing conservation equivalency programs. The board can determine if conservation equivalency is not permitted across the entire FMP or for a specific sector of the fishery within the FMP, (e.g., commercial measures or recreational measures).

Commented [TK3]: Confirming it was the Board's intention for this to be after each assessment, **regardless if stock status has changed or not**

Commented [TK4]: Should this be revised because the Board does need to evaluate the current CE programs if the ability to use CE changes. See new text at the end of the document

There were specific comments on the record that a decision to restrict **would** apply to currently existing CE programs

Measures that cannot be Quantified

Only measures that have a quantifiable impact on achieving the FMP standards will be considered when calculating and approving conservation equivalency proposals. Measures that can't be quantified can be implemented as a buffer but will not be considered in conservation equivalency calculation credit. The state submitting a proposed measure for credit must be able to demonstrate, to the satisfaction of the TC, the measure has a measurable impact on the removals or management target the action is intended to achieve. The TC will provide feedback to the board if a measure is quantifiable or non-quantifiable. Non-quantifiable measures could include² circle hooks, non-targeting zones/period, no gaffing, outreach promoting best practices for release, and other measures expected to reduce release mortality or overall discards.

Combining Coastwide and Conservation Equivalency

² These are a few examples of non-quantifiable measures at the time of approval of this document. Methods to demonstrate it is quantifiable may be developed in the future that would change the status of a tool.

Draft Revisions for Policy Board Review May 2025

Coastwide measures are intended to achieve a specific result when all states implement the measures. However, at the state level the impact on removals or other metric may be different, therefore, if a state proposes conservation equivalency, that conservation equivalency proposal must demonstrate equivalency with the state level impact of the coastwide measure, if the coastwide measure were implemented in that state. For example, a coastwide measure may be projected to achieve a 10% coastwide reduction. However, in a particular state, the coastwide measure may be projected to achieve a 15% reduction in that state alone. If that state wants to propose a conservation equivalency program, that conservation equivalency program must demonstrate a 15% reduction, not a 10% reduction.

Standards for state conservation equivalency proposals

The state seeking conservation equivalency has the burden of proving its proposed measure provides at least as much conservation as the FMP standard. Each state seeking to implement a conservation equivalency program must submit a proposal to the Board Chair for board review and approval. Proposals will keep the number of options to a reasonable limit; those proposals that include an excessive number of options may delay timely review by the PRT and other groups and may ultimately delay the report to the board. Boards may set a cap on the number of options submitted.

State conservation equivalency proposals will contain the following information:

1. Rationale: Why or how an alternate management program is needed in the state. Rationale may include, but are not limited to, socio-economic grounds, fish distribution considerations, size of fish in state waters, interactions with other fisheries, protected resource issues and enforcement efficiency.
2. Description of how the alternative management program meets all relevant FMP objectives and management measures (FMP standards, targets, and reference points). States are responsible for supplying adequate detail and analysis to confirm conservation equivalency based on the most recent stock assessment.
3. A description of:
 - Available datasets used in the analysis and data collection method, including sample size and coefficient of variation, explicitly state any assumptions used for each data set.
 - Limitations of data and any data aggregation or pooling.
 - If data allows, the TC should establish minimum standards for the types and quality of data that can be used in a proposal. Examples include, but should not be limited to: minimum sample size, amount of imputed/borrowed data points, limit on PSE, types of data allowed and minimum number of years, survey design, data caveats and analytical assumptions, and consider previous conservation

Draft Revisions for Policy Board Review May 2025

equivalency proposals and build on their strengths (e.g., length of closed season). Some states may not be able to participate in conservation equivalency because their data will not meet the standards established by the TC. The TC may suggest the state consider alternative criteria, or multi-state alternatives, such as submitting a joint proposal with neighboring states. It remains the states responsibility to draft the proposal it seeks to advance to the board.

- When evaluating closed periods, availability will be considered (even within a month, availability can be very different, particularly when comparing the beginning and end). Any closed period must include at least two consecutive weekend periods (Friday, Saturday and Sunday). Pooling of several years' worth of data should be encouraged for evaluation.
4. Each proposal must justify any deviations from the conservation equivalency procedures detailed in this document. The state should conduct analyses to compare new procedures to procedures included in the plan, as appropriate, including corroborative information where available.
 5. Include a plan describing the monitoring schedule, reporting requirements and documentation process of evaluating the impacts of the conservation equivalency measures.

Review Process

The following is a list of the steps and timelines for review and approval of conservation equivalency proposals.

1. Conservation equivalency will be approved by the board and where possible implemented at the beginning of the fishing year.
2. If a state is submitting a proposal outside of an implementation plan process, it will provide the proposal at least two months in advance of the next board meeting to allow committees sufficient time to review the proposal and to allow states to respond to any requests for additional data or analyses. States may submit conservation equivalency proposals less than two months in advance of the next board meeting, but the review and approval at the upcoming board meeting is at the discretion of the Board Chair (the Chair will consult with the appropriate committee if necessary). Proposals submitted less than two weeks before a meeting will not be considered for approval at that meeting.

Draft Revisions for Policy Board Review May 2025

3. The Board Chair will submit the proposal to the Plan Review Team (PRT) for review. The PRT will notify the state if the proposal is missing required components.
4. Upon receipt of the proposal, the PRT will determine what additional committee input will be needed: the Technical Committee (TC), Law Enforcement Committee (LEC), or Committee on Economic and Social Sciences (CESS). The PRT will distribute the proposal to all necessary committees for comment. The review should include a description of the impacts on or from adjoining jurisdictions or other management entities (Councils and/or NMFS). If possible, this description should include qualitative descriptions addressing enforcement, socio-economic issues and expectations from other states' perspective (e.g., shifts in effort). The review should highlight efforts to make regulations consistent across waterbodies.
5. The PRT will compile all of the input and forward the proposal and comments to the Advisory Panel (AP) when possible. However, when there are time limitations, the AP may be asked for comments on a proposal prior to completion of other committee reviews. The chair of the Advisory Panel (AP) will compile the AP comments and provide a report to the board.
6. The PRT will forward to the board the proposal and all committee reviews, including any minority reports. The PRT will provide comment on whether the proposal is or is not equivalent to the standards within the FMP. If possible, the PRT will identify potential cumulative effects of all conservation equivalency plans under individual FMPs (e.g., impacts on stock parameters).
7. The PRT reviews will address whether a state's proposal followed the conservation equivalency standards outlined in this policy, and any additional specifications included in the FMP.
8. The board will decide whether to approve the conservation equivalency proposal and will set an implementation date, taking into account the requested implementation date in the proposal. Board action should be based on the PRT report as well as other factors such as impacts to adjoining states and federal management programs. Ultimately, the board must determine whether the proposed action provides at least as much conservation as the measure the proposals intends to replace. When a board cannot meet in a timely manner and at the discretion of the board and Commission Chair, a board has the option to have the ISFMP Policy Board approve the conservation equivalency proposal.

Plan Review Following Approval and Implementation

Draft Revisions for Policy Board Review May 2025

1. Annually thereafter, states will evaluate the performance of the approved conservation equivalency programs in their compliance reports submitted for annual FMP Reviews, unless otherwise specified. The PRT will annually review the conservation equivalency program.
2. The PRT is responsible for evaluating all conservation equivalency programs during annual FMP reviews to determine if the conditions and goals of the FMP are maintained, unless a different timeline was established through board approval. If the state is not completing the necessary monitoring to evaluate their approved conservation equivalency program, this may be grounds for termination of the plan. The PRT will report to the board on the performance of the conservation equivalency program, and can make recommendations to the board if changes are deemed necessary.

Coordination Guidance

The Commission's interstate management program has a number of joint or complementary management programs with NOAA Fisheries and Regional Fishery Management Councils. Conservation equivalency creates additional burden on the Commission to coordinate with our federal fishery management partners. To facilitate cooperation among partners, the Commission should observe the following considerations.

- The Commission's FMPs may include recommendations to NOAA Fisheries for complementary EEZ regulations. Conservation equivalency measures may alter some of the recommendations contained in the FMPs, which would require the Commission notify NOAA Fisheries of any changes. The Commission should consider the length of time that it will take for regulations to be implemented in the EEZ, whether NOAA Fisheries considers federal regulation possible under the National Standards and try to minimize the frequency of requests to the federal government.
- The protocol for NOAA fisheries implementing changes varies for the different species managed by the Commission. The varying protocols need to be considered as conservation equivalency proposals are being developed and reviewed.
- When necessary for complementary management of the stock, the Commission Chair will request federal partners to consider changes to federal regulations.

Post Stock Assessment Evaluation Process

After the presentation of a new stock assessment, staff will remind the Board of the current conservation equivalency status for the FMP. This will include if conservation

Commented [TK5]: This section is to set up a framework of what to do after each assessment but still allow for board flexibility

Draft Revisions for Policy Board Review May 2025

equivalency is allowed under the FMP, including any sector specific limits/requirements and a list of active conservation equivalency programs. The Board will determine if a change to the conservation equivalency allowance is needed or if additional information is necessary to make a determination. If conservation equivalency is no longer allowed under the FMP, the Board will determine a timeframe for states with existing conservation equivalency programs to adjust regulations back to the standards of the FMP.