

PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
TAUTOG MANAGEMENT BOARD

Beaufort Hotel
Beaufort, North Carolina
Hybrid Meeting

October 16, 2023

Approved May 7, 2025

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1. **Approval of agenda** by consent (Page 1).
2. **Approval of Proceedings of August 2, 2023** by consent (Page 1).
3. **Main Motion**
Move that the Tautog Management Board, by emergency action, as defined in the ISFMP Charter, suspend the Coastwide Commercial Tautog Tagging Program for 180 days to prevent additional negative impacts to the live market fishery and initiate an Addendum that will implement the suspension for the remainder of the 2024 fishing year and consider a longer term suspension if a suitable tag, satisfying Objective 4 in section 4.4.1 of Amendment 1, cannot be identified in time for implementation for 2025 (Page 5). Motion by John Maniscalco; second by Justin Davis. Motion substituted.

Motion to Substitute

Motion to substitute to initiate a fast-track addendum that will address negative impacts to the live market fishery, satisfying Objective 4 in section 4.4.1 of Amendment 1 (Page 14). Motion by Emerson Hasbrouck; second by Justin Davis. Motion fails (Roll Call: In Favor – NY; Opposed – RI, MA, CT, NJ, VA, MD, DE, NOAA; Abstentions – None; Null – None) (Page 18).

Main Motion

Move that the Tautog Management Board, by emergency action, as defined in the ISFMP Charter, suspend the Coastwide Commercial Tautog Tagging Program for 180 days to prevent additional negative impacts to the live market fishery and initiate an Addendum that will implement the suspension for the remainder of the 2024 fishing year and consider a longer term suspension if a suitable tag, satisfying Objective 4 in section 4.4.1 of Amendment 1, cannot be identified in time for implementation for 2025. Motion fails (Roll Call: In Favor – NY; Opposed – RI, MA, CT, NJ, VA, MD, DE, NOAA; Abstentions – None; Null – None) (Page 19).

4. **Move to adjourn** by consent (Page 20).

ATTENDANCE

Board Members

Dan McKiernan, MA (AA)	Joe Cimino, NJ (AA)
Raymond Kane, MA (GA)	Jeff Kaelin, NJ (GA)
Sarah Ferrara, MA, proxy for Rep. Peake, MA (LA)	Adam Nowalsky, NJ proxy for Sen. Gopal (LA)
Jason McNamee, RI (AA)	John Clark, DE (AA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Roy Miller, DE (GA)
Justin Davis, CT (AA)	Michael Luisi, MD, proxy for L. Fegley (AA)
Bill Hyatt, CT (GA)	Russell Dize, MD (GA)
John Maniscalco, NY, proxy for M. Gary (AA)	Shanna Madsen, VA, proxy for J. Green (AA)
Emerson Hasbrouck, NY (GA)	Chris Wright, NOAA

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

Ex-Officio Members

Craig Weedon, Technical Committee Chair

Jason Snellbaker, Law Enforcement Representative

Staff

Bob Beal	Tracy Bauer	Katie Drew
Toni Kerns	Chelsea Tuohy	Emilie Franke
Tina Berger	James Boyle	Kristen Anstead
Madeline Musante	Caitlin Stark	Jeff Kipp

Guests

Max Appleman, NOAA	Julie Evans, Evans	Nicole Lengyel Costa, RI DEM
Pat Augustine	Communications	Chip Lynch, NOAA
Jason Avila	Paula Farnell, NC DMF	Nicholas Marchetti
Richard Balouskus, RE DEM	F Joel Fodrie, Institute of Marine	Tobias Mattes, Associates of
Linda Barry, NJ DEP	Sciences (UNC-CH)	Cape Cod
Alan Bianchi, NC DMF	Christine Ford, NOAA	Joshua McGilly, VMRC
Jason Boucher, NOAA	Marty Gary, NY (AA)	Nichola Meserve, MA DMF
Colleen Bouffard, CT DEEP	Joseph Grist, VMRC	Steve Meyers
Michael Brown, ME DMR	Allie Hayser, GA Bight Shorebird	Patrick Moran, MA
Jeffrey Brust, NJ DEP	Conservation Initiative &	Environmental Police
Margaret Conroy, DE DNREC	Manomet	Brandon Muffley, MAFMC
Daniel Costa, RI DEM	Karen Hedstrom	Allison Murphy, NOAA
Caitlin Craig, NYSDEC	Jon Hurdle, NJ Spotlight	Jean Nelson
Scott Curatolo-Wagemann,	Denise Kaminski, NYS DEC	Thomas Newman
Cornell Cooperative Extension of	Blaik Keppler, SC DNR	Jenna O'del, DI DEM
Suffolk County	Joseph Knauer	Conor O'Donnell, NH FGD
Bill DeSteph, Senate of VA	Jennifer Lander, NYS DEC	Marina Owens, FL FWC
Wes Eakin, NYS DEC	Alyssa Lefebvre, NYS DEC	Derek Perry, MA DMF

Guests (continued)

Michael Pierdinock
Will Poston
Tracy Pugh, MA DMF
Paul Rago
Paul Risi
Christopher Scott, NYS DEC
Alexei Sharov, MD DNR
Jared Silva, MA DMF

Ethan Simpson VMRC
Renee St. Amand, CT DEEP
Abby Sterling, Manomet
Rachel Sysak, NYS DEC
Laura Tomlinson, MA DMF
Sam Truesdell, MA DMF
Troy Tuckey, VIMS
Andrew Valmassoi, NC DMF

Beth Versak, MD DNR
Mike Waine, American
Sportfishing Assn.
Craig Weedon, MD DNR
Jordan Zimmerman, DE DFW
Erik Zlokovitz, MD DNR

The Tautog Management Board of the Atlantic States Marine Fisheries Commission convened in the Rachel Carson Ballroom via hybrid meeting, in-person and webinar; Monday, October 16, 2023, and was called to order at 1:25 p.m. by Chair Michael Luisi.

CALL TO ORDER

CHAIR MICHAEL LUISI: Welcome back from lunch, everyone. If everyone can please have their seats, we're going to go ahead. I would like to, as Chair, kick off and call to order the meeting of the Tautog Management Board. My name is Mike Luisi, I am the Administrative Proxy with the state of Maryland, and will be chairing this meeting today.

Up here at the table with me I have James Boyle, our FMP Coordinator, Jason Snellbaker, representing the Law Enforcement Committee, and Dr. Katie Drew, with ASMFC's Science Group, I guess you can call it, in case there are questions related to that. Jumping right in to the first item on today's agenda.

APPROVAL OF AGENDA

CHAIR LUISI: The first item is to approve the agenda. Are there any modifications for the agenda as it stands? Seeing none; I'll assume that is a consent to approve the agenda, so consider the agenda approved.

APPROVAL OF PROCEEDINGS

CHAIR LUISI: The next item on the agenda is approval of the proceedings from the August 2, 2023 meeting. Are there any modifications to the proceedings to suggest? Seeing none; consider the proceedings approved by consent.

PUBLIC COMMENT

CHAIR LUISI: That gets us to Public Comment. Is there anyone from the public that would like to provide public comment on something that is not on the agenda? If it's related to agenda items, there will be an opportunity to provide

your comment during that time, if the Board is considering taking action.

Seeing none; I can't see online. Is there anyone online? Okay, so seeing no hands from the public on items that are not on the agenda, let's go ahead and move into Item 4 on the agenda. There was a hand, I'm being told, Nicholas Marchetti. Did you want to make public comment on something that is not on the agenda today?

MR. NICHOLAS MARCHETTI: I didn't see what was on the agenda to begin with.

CHAIR LUISI: Okay, well the agenda is posted online. The main item on today's agenda, which you can find if you go to the Atlantic States Marine Fisheries Commission's website at ASMFC.org, and go to the Annual Meeting. There is a posted version of the agenda with all of the necessary information for you to follow along. The main item for consideration, we're going to receive a Technical Committee report on the tagging program, and so there is likely going to be discussion around that program. If you have any comments that aren't related to the commercial tagging program, now is the time. But if not, if you want to hold your comment to the tagging program, I can call on you then. It's up to you.

MR. MARCHETTI: I do have comment on the tagging program, so would you like me to wait?

CHAIR LUISI: Okay, so I'll put you down. I'll make note here and give you an opportunity, Nicholas, when we have that discussion about the tagging program.

CONSIDER TECHNICAL COMMITTEE REPORT ON COMMERCIAL TAGGING PROGRAM

CHAIR LUISI: Moving on to our really only action item here today, or possible action is just that. It's Consider the Technical Committee Report on the Commercial Tagging Program. We're going to get a presentation from James, and so James, whenever you're ready we can go ahead and kick that off.

MR. JAMES BOYLE IV: We can just jump right into it. I'm going to be presenting a pretty quick update on the progress the TC has made since the last meeting in August. The TC met shortly after the August Board meeting to respond to the Board motion taken in that meeting, which tasked them with evaluating the smaller version of the current tag or NBT tag, as I'll refer to it later, and determine any other tags that may be feasible for the commercial tagging program.

At the meeting the TC identified the T-bar and Petersen disc tags as potential alternatives to be tested, and the dark tag was added later from discussions after the meeting. New York is planning to conduct the study by issuing 50 tags each to a number of dealers and harvesters that have volunteered to do live market testing, therefore, the fish will be held in actual market conditions. The participants will have a daily survey and send photos twice per week to monitor the health of the fish over time.

However, in the discussion it was noted that given the short turnaround to the annual meeting from the August meeting, the only feasible study could only include the smaller NBT tag and be conducted over just two weeks. In order to make the study more robust, it was decided to expand it to 30 days to evaluate all potential tag types. But consequently, there are no results available as of yet. Now with that, I'm happy to take any questions.

CHAIR LUISI: That is how quick reports can be when it wasn't actually carried out the way that it was expected to. Any questions for James on the tagging report? John Clark.

MR. JOHN CLARK: My memory was refreshed that the reason why T-bar tags weren't considered initially, was because it was thought they could be reusable. Is the Committee thinking of any ways that if a tag like that, that probably is superior, in terms of not damaging the fish is chosen, that they could be accounted for, so that the tags couldn't be reused, or just

looking right now at tag retention, and whether it damages the fish?

CHAIR LUISI: James.

MR. BOYLE: Yes, so the Committee right now is just looking at whether the tag is feasible to work, in terms of the health of the fish. But the plan is to have law enforcement involvement during that study, especially in New York, to evaluate the feasibility of the tag from that other perspective as well.

CHAIR LUISI: Yes, John, there have been issues that have been raised over the past few years regarding the tags, where the tag is placed on the fish, and some of the consequences, I guess, to the fish that are ultimately going to be part of the commercial sale. We're not protecting them, but I guess the consequences would be to the health of the fish, as it's held with a tag prior to sale. John.

MR. CLARK: If I could just follow it up, Mike. Exactly, I mean I know that was the concern, and that's why we went with that tag that really could not be reused, but obviously it's causing damage to the fish. I'm just thinking, if we were to use something like a T-bar tag, it would seem like we would need a way to account for the tags at both ends, both with the fishermen and at the dealer end, to make sure they are not reused.

CHAIR LUISI: Others may have a different opinion on this, but I know that the tag we currently use is designed not to be reused. But in discussions I've had with my staff, and I've seen some examples of those tags being able to bend a number of times prior to having them snap or break. Maybe that's something down the road that we could also work on as well. Are there any other questions for James? Yes, Roy Miller.

MR. ROY W. WILLER: Wouldn't the T-bar tag be subject to the fish, other fish in the tank removing them, considering tautog is harassed in their feeding strategy, wouldn't they be inclined to pluck off a T-bar tag?

CHAIR LUISI: My aquarium at home doesn't have a tagged tautog in it, so Roy, I don't know what to tell you on that one. Yes, others may have an observation, I don't know. It could be, and I also am not aware of the containers for which these fish are being kept either, whether it's all one species or a number of different species, or how they would interact.

It's beyond my knowledge of the issue, sorry. James, did you have anything? Are there any other questions? John, I'll come to you in just a second, I'm going to go to Dan McKiernan and then John Maniscalco, I'll come back to you. Go ahead, Dan.

MR. DANIEL MCKIERNAN: Was the TC going to endeavor to shed light on like holding conditions, like density of the fish and length of fish, and trying to understand the real need for this. I do recall that when the first tag was tested, even though it was smaller, same design and principal, it probably wasn't held for very long or in high density, and maybe degraded water quality, and so everything looked fine. I'm wondering, if as part of this investigation, the TC could look into the actual holding conditions that the dealers are subjecting the fish to.

CHAIR LUISI: James.

MR. BOYLE: The point of having the study design the way it is through New York is because as I said it will be in actual market conditions, is definitely something we can make note of in this survey, to have a note of what each individual dealer officer is doing and that might shed some light on that.

MR. MCKIERNAN: I would request it not just be a written survey, but maybe folks go into those facilities and take a first-hand look at it. I think that would be really valuable.

CHAIR LUISI: I'm going to go online, I have John Maniscalco. John.

MR. JOHN MANISCALCO: I was just going to touch on a couple of points. The tamper ability of that current tag that we are using was demonstrated to me they can be repeatedly use, and I understand there is a small market in those tags alone. It is not a perfect solution, and then just regarding, you know holding conditions.

Fishermen and dealers have held tautog for many years prior to the tagging program, and it didn't result in the infection and the mortality that we're seeing. I think it's more upon the program has to adapt to their practices, not their practices have to completely change in order to accommodate our tag.

CHAIR LUISI: Are there any other questions? Seeing none; anything else online? Yes, Nicholas, I'll come back to you. I have you marked down as a note to provide public comment. There is nothing to discuss at this point. If there are no questions, I'll turn to the Board, seeing that there are no questions.

I'll ask if anyone has any possible action or potential action they would like to take, in the case of the tagging report and the questions and answers that were given. What are the next steps, where do we go from here? Okay, we're anxiously waiting for a hand to raise. John Maniscalco.

MR. MANISCALCO: I have a short presentation prepared, if you'll give me a few minutes of the Board's time.

CHAIR LUISI: Yes, we can do that. We're going to get it teed up for you, hold on one second. Okay, it's all you.

MR. MANISCALCO: Thank you all today for allotting me some time to discuss the tagging program issues and since time is short, I'm just going to get right to it. The commercial tautog tagging program was established by Amendment 1 back in 2017, to address poor coastwide stock status and the black market for live fish.

After delays the program was implemented by many states in 2020, although some, New York included, implemented in 2021 due to COVID. Section 4.4.1 of Amendment 1 includes four tagging program objectives, that included as an aid to enforcement through easy identification of a legal fish in market, that tags must be consistent across states.

That tags should be single use, difficult to fake and fully accounted for at seasons end, and finally that tags must be compatible with a live market (more on that later). A quick review of the 2022 commercial fishery and tag use. There are just over 1,000 participants coastwide, most of which are in the northern part of the fishery, and almost half of which operate in New York state. Over 250,000 tags were issued in 2022, and 160,000 were reported used over three-quarters of them by New York state fishermen. So, 2023 marks the third and fourth year of programs implementation by participating states. The Law Enforcement Committee feels that the tagging program has successfully reduced illegal harvest and sales, pushing it further underground. This change cannot be quantified, as most states lack this path due to track citations and violations issued by species over time.

Regardless, tagged fish are easy to see any can be traced to the original harvester in some cases. There is also support for the program, if not the current tags, by participating fishermen if the tagged fish inhibits markets from being flooded by illegal fish maintaining demand and price. While many states that share complaints about the tagging program upon implementation, New York heard many regarding mortality, damage and infections at the sight of tagging, and impacts the fish value.

New York initiated a survey of its industry in 2022, which confirmed that these issues were widespread throughout New York. ASMFC followed suit, and the Technical Committee developed and distributed the survey early in the spring of 2023. The survey was summarized

in a TC memo late May, and provided to the Board during the summer meeting.

In brief, live market participants from Massachusetts, Rhode Island, Connecticut, New York, New Jersey and Virginia, all reported excessive mortality, damage and lesions. Ten to 25 percent of their product was the most common saved portion of their harvest affected, but some responses went as high as 75 to 100 percent.

Since the live market wants pristine fish, these fish fetch a much-reduced price or are rejected outright. In summary, there is support for tagging by both law enforcement and some fishermen. However, the current tag results in additional mortality and damage to live-market fish. This represents a serious negative economic impact to participating fishermen, many of which are from New York state.

Tagging impacts are contrary to Objective 4, which specifically states that the program must have minimal to no impact on the appearance or condition of live fish to the amount of time that live, tagged fish are maintained until consumption. I'll remind the Board again that this market and the practice of holding fish existed prior to the tagging program.

We are beyond growing pains that the program has been implemented for three to four years now in participating jurisdictions. Regional stocks have improved since Amendment 1 was passed. As of the last assessment, overfishing was not occurring, and the New York-New Jersey Bight regional spawning stock biomass was just under the threshold. What is currently being done? New York has been cooperating with the Technical Committee and ASMFC leadership to continue to test alternative tags and tagging locations.

Last test run late spring, early summer, did not have positive results. Tags among fin rays did not last and fell out, tags in the caudal peduncle caused moderate damage, even after a short holding time, and the cinch or zip type style tag resulted in significant abrasion after a short holding period. After Technical Committee feedback in mid-August,

New York state hopes to continue with looking at the Floy T-bar style tags and the original small strap tag New York initially tested in 2016. An alpha numeric solution has been found for the numbering issues that originally caused ASMFC to switch to the current larger untested tag. No tagging alternatives will be ready to implement for the 2024 fishing year. New York feels that the impact to live-market participants are not acceptable, and contrary to the tagging program objective stated in Amendment 1.

Due to the lack of an acceptable alternative, New York proposes that the tagging program be suspended for 2024, while viable tag alternatives are identified and tested, with industry cooperators. The ASMFC would have to revisit the tagging program and the suspension, once an alternative has been chosen, or if no tag proves suitable.

There is no question that this will be disruptive. New York state administered over 180,000 tags to over 450 fishermen in 2022 and this effort dwarfs the rest of the coast. My hat is off to all the staff here that made this program happen in New York and elsewhere. Resuming the program will be a bumpy process, but it is New York states intention to find an alternative and to resume the tagging program.

The current tag and its impact on the live-market fishery is not acceptable. It is contrary to the program objective, and has economic consequences for fish, in an effort to stay in the live market. That includes fishermen, as shown by a 2023 TC survey from nearly every state in the fishery. Massachusetts, Rhode Island, Connecticut, New York, New Jersey and Virginia. Thank you for the time today. I expect there will be some discussion, but I am prepared to make a motion whenever it pleases the Board.

CHAIR LUISI: Okay, thanks, John. I think in order to keep things on track, and there will be an opportunity for discussion and perhaps

questions regarding what you're proposing, and any other parts of the presentation that you gave. Let's go ahead and see if we can get your motion up on the board, and I'll look to have you read that into the record, and I'll look for a second.

MR. MANISCALCO: **I move that the Tautog Management Board, by emergency action, as defined in the ISFMP Charter, suspend the Coastwide Commercial Tautog Tagging Program for 180 days to prevent additional negative impacts to the live market fishery and initiate an Addendum that will implement the suspension for the remainder of the 2024 fishing year and consider a longer term suspension if a suitable tag, satisfying Objective 4 in Section 4.4.1 of Amendment 1 cannot be identified in time for implementation for 2025.** If I have a second, I can speak to the motion.

CHAIR LUISI: Yes, I'll come back to you, John, hang tight for a second. We have a motion made by John Maniscalco. I'll look to the Board to see if there is anyone that will second that motion. Justin Davis is seconding the motion. John, do you want to speak to your motion?

MR. MANISCALCO: Sure, thank you. I hope that my presentation provided the Board with the information they need to see a tagging program suspension for 2024 is necessary. Wide spread issues with tags damaging live-market fishery wherever it occurred, not just in New York, which is contrary to the program objective stated in Amendment 1, and meet with stock hurting law abiding fishermen while a suitable alternative is found. I know that use of another emergency action is not popular at the moment. The definition of emergency shall apply, and I'm going to paraphrase, when the attainment of fishery management objectives has been placed substantially at risk by unanticipated changes in the fishery. Now New York raised the issue of industry difficulties with the current tag a number of times in the state wide implementation in 2021.

I have heard a number of times that we aren't seeing this in my state, that this is growing pains, or

that it's a New York problem. The 2023 survey summary from the TC, shared with the Board during the summer meeting, shows that the live-market fishery participants in almost every state in the fishery are seeing difficulties with this tag.

It damages their product, and as you can read in supplementary materials, or hear from public participants today, hurts their market. That revelation of coastwide live-market impacts was quickly followed by a mid-August Technical Committee memo that notes that no tagging trial of sufficient duration can be conducted in time for the annual meeting.

This is the first time that the Board can react to the news that the tag is the problem, counter to program objectives, and that no solution is available. Our choice is to subject fishermen to a tagging known out not suitable, or suspend the program today, while we continue to identify something better. Alternative processes like a fast-track addendum will not provide fishermen or states the certainty they need to have for 2024, as no decision will be made until much later in the year, if not January.

CHAIR LUISI: I'll next go to our seconder. Dr. Davis, do you have anything you want to add?

DR. JUSTIN DAVIS: I think John did a great job of laying out the rationale for this motion, so I won't belabor it. From my standpoint, I think this is a reasonable ask. It's a valuable program. It's clear that it is having an impact on illegal live trade. I think it's also clear that it's having a negative economic impact on fishermen who are participating in the fishery. I sort of feel like the long-term success of this program is going to be most assured, if we're doing it in a collaborative, cooperative manner with the commercial fishermen.

I think this is just a reasonable step back to say we know that these tags are having a negative economic impact. We're going to go back and

reassess how to avoid that in collaboration with the commercial industry. You know, could this lead to an uptick in illegal live trade during the year that the program is suspended? It could. I think ultimately that's a worthwhile tradeoff, if this ensures the long-term success of the program, and they can operate in a way and not have a negative impact on the fishery.

I think this is a reasonable ask. I will admit, I have some qualms about using emergency action to implement this. I'm not going to at this time sort of contemplate an amendment or a change to this motion, to do it a different way. I'm interested to hear the conversation around the table, and whether there is support. But I will note for the record that I'm not sure this is appropriate for emergency action.

CHAIR LUISI: I think before we take the vote, I want to make sure that all the Board members are clear as to process, because the 180 days that is part of the emergency process, doesn't get us through the entire year, which means another document, an amendment to the document or an addendum. I guess an addendum wouldn't need to be started. I think we can have that discussion if there is any disconnect between this motion and kind of what the foreseeable future looks like, as far as Board actions. Shanna, I'm going to come back to you. I had Bill Hyatt, and then I thought I saw another hand, Jason and then Shanna. Then we'll just bounce back and forth. Go ahead, Bill.

MR. WILLIAM HYATT: I support continuing to look at alternatives within the tagging program, but I'm against taking a pause in the program. Outline a little bit my thoughts. The 2021 stock assessment update showed improvement across all regions regarding tautog, but the success wasn't universal.

I think as you saw from John's presentation that the population in the New York Bight was still remaining to be overfished. Plus, the recovery in the two northern regions, Long Island Sound and Mass and Rhode Island was not something I would say is a dramatic recovery. The biomass levels that resulted were nowhere near historic levels for tog.

In fact, I would say that the recovery in those regions, both Long Island Sound and Mass/Rhode Island was wafer thin. I wish that at some point if somebody was able to pull up some of those graphs on the biomass from the 2021 stock assessment update, I think it would be useful for folks to look at.

The tagging program was implemented to address a well-documented problem of illegal harvest, and our best information is that it has been successful at addressing that problem. I think that was reflected, not only in the presentation we just saw, but also very clearly in Kurt Blanchard's comments in the proceedings from our last meeting.

Lastly, I'll point out, that this fishery is worthwhile to protect the interest of the commercial fishery, but this fishery is over 90 percent recreational, and that is where the vast, vast majority of the benefit lies. That benefit depends upon having robust and recovered tautog stocks. This is a long-lived species, a species that I think it is very reasonable to say is vulnerable to local overexploitation problems.

For all those reasons, the fact that there has been a wafer-thin recovery in this stock as reflected in the 2021 update. The fact that the tagging program has been successful, and the very high value of this fishery to the recreational sector. I would argue that while it absolutely makes sense to continue looking at alternatives, it absolutely doesn't make sense to pause the program.

CHAIR LUISI: Jason, I'm going to go to you and then Shanna, you will be next. Go ahead, Jason.

DR. JASON McNAMEE: I'll just note before, when you were talking about the emergency rule, I saw Bob Beal raise his hand. I don't know if you want to go to him and come back to me. Sticking with me. Okay. I'm not going to restate everything that Bill Hyatt just said. I agree with everything he said. Just like Bill said, fine with new alternatives being tested, but I

think pausing the program for any amount of time is extremely problematic for the states that have successfully implemented the program. To stop it and restart it again is not something I think would work really well in Rhode Island. Just another couple of notes to show that I think the program is working well. I mean we've seen landings increase, I think across the board, which means people are doing a better job reporting their catch. In the data in Rhode Island, I kind of wondered about, the comments about the economic impact.

We took a look at the average price per pound in Rhode Island, and it's gone up during the time period. We're not seeing the economic issue, at least it's not making it into the data. I can think of a couple of ways that might be occurring. But looking at the numbers, the price per pound in a couple of different versions has gone up in Rhode Island.

Again, I'm opposed to pausing the program, totally fine with even, I don't dispute any of those, pictures were ghastly, and I'm glad I ate lunch before I saw them. You know I don't want to see something like that happen to any fish, in particular Tautog. I would even be fine with allowing New York to kind of test some other tag, if they found something that they think is going to be successful.

But that's the other problem here is there is no alternative. You know I think John was very clear in his presentation, the way that I interpreted his presentation is, we're not sure if we're going to be able to find a tag that can sort of meet all of those parameters. Again, opposed to the pause, not opposed to looking for a better. There has got to be a solution out there, so I'm fine to continue to pursue that.

CHAIR LUISI: Shanna Madsen.

MS. SHANNA MADSEN: I actually have two questions before I get to my comment. It was in regards to, first question is in regards to your discussion of the emergency action being 180 days, and then after that point we would have to implement an addendum. Does the Board not have

discretion to extend the emergency action like we did for striped bass?

CHAIR LUISI: The Board can extend the emergency action only if an addendum has been initiated and there is work being done on an addendum, is my understanding. You can't go another year from the 180 days, without having started something new. That is essentially going to take the place of the emergency, or in some way either let the emergency expire, or have an addendum in place to set the direction for management moving forward. Hope that's clear.

MS. MADSEN: Yes, that actually helped a lot, Mike, I appreciate that, because that kind of gives me a lot of pause then to also have to think about bringing in an addendum to the table. My other question is actually for the Law Enforcement Committee. Has the Committee, I know the Committee meets, I think tomorrow. Has the Committee been given a chance to discuss the implications of pausing a program and then having to bring it back and reimplement it coastwide?

CHAIR LUISI: Okay, I don't know the answer to that one, so I'm going to turn to Jason.

MR. JASON SNELLBAKER: We have not had the opportunity to discuss that.

MS. MADSEN: Okay, so I guess that kind of leads into my comment. I won't repeat what Bill Hyatt and Jason McNamee said. I am in complete agreement with what those two gentlemen brought up. I also agree with the end of Justin's statement, and the sentiment that I don't feel comfortable moving this forward as an emergency action.

I also don't feel comfortable with pausing this program, in order to well, essentially go in and put an addendum in place. It looks like we would have to pause the program for 180 days, start working on an addendum, and then potentially continue with the emergency action

through 2024. I think that is a lot of lift for staff. I think it would be incredibly problematic for the whole coast to have to pull that section out of regulation, put it back in, and then try to make sure that that is reimplemented.

I don't think that that is really appropriate or helpful to our Law Enforcement, and frankly again, I agree with Jason and Bill. I can't see putting this pause in at this time. But I am in full support again of trying to determine another way forward. There has got to be something else out there that is going to work for this live market.

CHAIR LUISI: I have a couple more hands. What I've heard so far is that the Board members who have spoken, other than the maker and the seconder of the motion, have been supportive of the concept of finding a replacement tag, but not so much in favor of either the emergency style for which this action would need to happen, or suspending the tagging program with a follow up addendum that would have to be initiated sometime between now and next summer. That is kind of the summary of what I've heard. Is there any other new information? I'm going to stay here just for a second, John, and then I'll come back to you. Okay, Emerson Hasbrouck.

MR. EMERSON HASBROUCK: I fully support this motion. We know the tags are having a negative impact on the fish and on the fishing industry. We're not meeting the objectives of the tagging program. You know, as John mentioned, one of the objectives was to implement a tagging program to accommodate the commercial fishing industry.

We're not accommodating them. We're having a negative impact on the industry. Another objective was to have minimal to no impact on the appearance or condition of live fish. But we're certainly having a significant impact on the appearance and condition of live fish. We're violating both of those objectives. This is not just a New York problem.

As John outlined, the survey respondents from all states report serious problems with fish condition

from these tags, and also, I've heard around the table here this afternoon, that this tagging program has been successful for enforcement. I'm wondering how that is defined. You know, what are the parameters here that are defining success for enforcement?

CHAIR LUISI: I don't know, I don't want to put you on the spot, Jason, but I might, regarding what are the parameters for success in the enforcement of the tagging program?

MR. SNELLBAKER: That is one of the things that we've discussed at the Law Enforcement Committee in great length. You know we're seeing success in the program; you know based on the lack of enforcement issues that have occurred. But at the same time, it's kind of hard to qualify, because did the illegal sale and take of these fish, is it more underground? Did we push it underground or is the tag having a direct impact? It's hard to quantify that. We've had those discussions, but we feel that the program is effective, it is working. But again, is it working because, is it going underground and we're not seeing it, or is it legitimately 100 percent keeping black market fish from getting into the market and being sold?

We've also had instances where, like I'll speak on New Jersey, since that is where I'm from. You know we've increased the penalty to \$100.00 a fish versus \$30.00 a fish, and that could be an indirect result as well. That could kind of convolute what we're actually seeing and why we're seeing it. Is it the penalty or is it the tagging program?

You know the Law Enforcement Committee is where some ongoing coaching issues that the tagging program will be assisting us in prosecution down the road. It is not available for discussion at this time, but there is a few pending cases that are out there that the tagging program is going to help us with prosecution matters. That's all I have at this time.

CHAIR LUISI: Was there anyone else that wanted to speak? I saw Dan's hand. Let's do this. I'm going to go to Dan, then we're going to take some public comment on the motion, and then we'll take a break for a quick caucus, and we'll call the question and see where we end up. Go ahead, Dan.

MR. DANIEL MCKIERNAN: Yes, I have three points to make. First, over the lifetime of the program in Massachusetts, the ex-vessel price of tautog, prices paid to fishermen by dealers has gone up 11 percent, so we don't see the negative trends in the value of the fish. I'm not minimizing that some dealers might be caught holding fish they can't sell, but to my earlier point, I think that it would be really useful to get a more complete description of the holding conditions, and what the expectations of dealers are.

That's the first thing I want to say. The question about, how can you measure the effectiveness of the enforcement. There was an individual in Massachusetts who was not only a fisherman, but he was a dealer himself. He had a fish returned to him, because the New York environmental police went into the market, saw the fish, pointed it out to the New York dealer, and the New York dealer shipped it back to him. This fish was caught by that dealer, because he also had a rod and reel permit, so he was out of his mind.

But sure enough, it was a 15-inch fish, it was an inch too short. That's the kind of enforcement accountability that we've got with this tagging program. Then the last thing I'll say is, while it's not measurable, I did speak to a prominent New York dealer a year after Massachusetts enacted the tagging program, who said that when Massachusetts enacted the program, his fish were worth more, because the illegal fish from New Bedford were no longer on the New York market.

That is a real win for us, because as Bill Hyatt said, it's predominantly a recreational fishery, and to us the poaching that was occurring was not only rampant, but spectacular. I mean we had busts of like thousands of pounds of fish, completely off of the reporting system in the past. I am opposed to

the motion, but I am in favor of maybe a white paper of some kind that better describes the challenges that the dealers have, and also looking at the overall economic considerations, because we don't see the negative economic consequences in Massachusetts.

CHAIR LUISI: John, staff told me your hand was up, I'll give you the last word, and then I'm going to go to the public. Go ahead.

MS. KERNS: Mike, I just want to let you know, Chris Wright has had his hand up, he is your NOAA Rep, for a little bit online, just as a heads up.

CHAIR LUISI: Okay, thank you. Chris, why don't we go to you, since you've had your hand up for a while. John, hold off for a second then we'll come back, and you can have the last word before we go to the public. Chris.

MR. CHRIS WRIGHT: Yes, sorry I'm not there in person and I got stuck online. But I'm a little bit leery about suspending the program. My original question was, I believe for Dan, in regards to the study. Are they going to have a control where they're going to have untagged fish in this study, you know in the same tank, so that you can get a comparison?

Just a follow up to that is that, before we have the tagging program, did we have condition issues with those live-fish market type fish of sores and stuff, just from folks' memory, because I wasn't on the Board for tautog before that, and I'm just trying to get a gauge of what the past conditions were.

CHAIR LUISI: I'm sorry, Chris, I was talking in a sidebar. Was there a question that needed an answer? I'm sorry, I missed the last about 30 seconds of what you said.

MR. WRIGHT: Yes, I wanted to see if there was a control with the study that Dan was proposing, and then a follow up question, in regards to the condition of the fish prior to the

tagging program, if folks have a recollection with their, I guess fish-type issues, in regards to their condition, you know being held in those live tanks. I'm not sure if you heard my original thing. I thought I was getting through, I'm not sure. Can you hear me still?

CHAIR LUISI: Yes, we can hear you. We heard everything you said, I just leaned over to talk to James quickly, and then you stopped talking and I didn't know how you ended your statement. Let's go to James and see if he has any thoughts on the study design, and then we can take your follow up from that.

MR. BOYLE: I'll defer to New York if there is a correction here, but to my knowledge there was not a discussion of having an untagged control group. But it is something that can be considered. There was some discussion about whether the fish can be purchased, to better control the length of time that each individual fish remains in the tank. If that were the case, then it can be something that can be considered, but it has not been implemented in the study as of yet.

MR. WRIGHT: I would think that that control would bolster the results, in regards to if there is a holding tank and it is putrid. I've done fish work and tagged fish and did controls. I did these kinds of studies before in my past, and we always had a control. I would suggest that we would do a control for this too, it wouldn't be that hard to do it, especially if it's a small amount of fish. Then my one more question prior to that was that prior to this tagging program did we have fish condition issues?

CHAIR LUISI: Can you say that again? You cut off there for just a second.

MR. WRIGHT: I said prior to the tagging program, did we have fish condition issues in the live market? Did that come through?

CHAIR LUISI: Yes, thanks, we were just trying to figure out who the best person to answer that. James and I, neither of us have experience or have

seen any of the fish part of the tagging program, but Jason Snellbaker has something he wants to offer.

MR. SNELLBAKER: It's been my experience it runs the gamut. You have some dealers that keep their tanks really clean, and you have some dealers that there are green algae growing in the tanks, and who knows what else. I'm not an expert, but personally I have been in some of these markets, and I would not want to consume some of those fish. Other markets are definitely taking more time and keep their tanks cleaner and par for human consumption.

CHAIR LUISI: John, did you want to take a moment for last words, and then I'm going to go to the public.

MR. MANISCALCO: I definitely encourage you and everyone who is listening to what members of the public have to say about this. But I did want to cover a couple of issues. I mean anytime you're holding fish, some proportions of those fish do die. But live market and fish holding has been happening for a long time prior to the tag, and we never had reports about these large, unsightly lesions.

Certainly, my e-mail box was never filled with pictures with ghastly lesions on their cheeks, but it is now. In terms of impact of this program on stock conditions. I just want to remind everyone, it was already covered, but if 80 to 90 percent of the fishery is recreational, you can't expect that tagging program alone is going to be responsible for any kind of downturn or upturn in the population. I'll just go back to the fact that the New York-New Jersey Bight stock status is an improvement.

It has been steadily recovering from being overfished, and like I said, it's just below the threshold now. I find it interesting that people claim this program is successful. It's successful in meeting some of the objectives, and many of those have been covered well by others. It's not successful in meeting Objectives 3 and 4. It

is a tamperable tag. It can be and is being reviewed, and this tag is certainly not suitable for live-market fish. We're seeing lesions, we're seeing damage.

We're seeing mortality that is all contrary to Objective Number 4 of the tagging program. To leave it in place, when we know it's not doing what it was intended to do, is wrong. I am completely behind the program resuming, once we have a tag that doesn't result in this kind of impact to the live-market fish, and the fishermen who take them.

CHAIR LUISI: Okay, next I'm going to go to the public. I apologize. I could only see kind of silhouettes, because of the sun behind you. Can I just see a show of hands? Mr. Vincent, I see you. Does anyone else from the public that is here want to provide comment? We just have the one here, and then I assume Nicholas will want to. If anyone online can also raise their hand if they want to provide comment?

I just want to get a sense as to how many people we're talking about. It looks like we just have the two public comments, so we're going to go ahead and give you guys three minutes to provide that comment, if you can get the stopwatch out. Mr. Vincent, if you could take a seat, there is a public microphone. If you would also, please, just recognize yourself, maybe if you're speaking for a group, and if you could direct your comments to me that would be fantastic.

MR. TOR VINCENT: Tor Vincent, New York commercial fisherman. I would like to address the price up first. Rhode Island and Massachusetts implemented their tags during the COVID restaurant collapse. The market was collapsed, we couldn't sell our fish. The price was depressed completely, and that was an extended duration until those restaurants got up to selling the product again like they used to.

The market rebound of price they are describing was from a collapse during COVID normalized. We still have a price below what we should have had, even considering in place and everything, we should

be way higher, because of the damage to the fish. I used to be as much as 5 percent of the New York harvest in some of the old records.

I sell all my fish myself into the city market. I have extensive knowledge of this, I've been around holding systems for 40 years. I understand what happened. When you guys talk about control, flip the fish over to the side that doesn't have the tag. The fish is perfect. Okay, when I deliver any fish that has a scar on it, it is handed back to me, it is worthless, the same as a dead fish.

When I deliver, I am also given pictures of the fish they had to remove from the tank because they were scarred and unsaleable, and I have to foot credit for those. I have to give them replacement fish. That all is adding up, and anything I store in my tank to lose track of and come back to, has a massive scar, and I can't sell it.

When you did your tank testing, you ignored the known science of closed system facility. The flora of the fish that are in there give off all sorts of bacteria, among them the gram negative spackles of *Aeromonas* bacteria, which are known to cause infection. We learned all this through the lobster tags, through the lobster shell disease problems. This is all known science. That was ignored in your testing. That is your responsibility to have used the known science in the testing, and you ignored it.

We are here, because no proper testing was done. This would have been avoided had a proper test done. Now you are playing this game where we made a mess. We're going to try to push it down the road. You never tested properly, if you had you never would have approved those tags, period, no way. The damage is extensive all the time, and you can see it happening. We've shown you pictures. In your records I showed you a picture, one side infected and the other side perfect. You have that in your own document. We can see that any time. What happened here is a complete

collapse of the decency of you to do proper science.

You failed at that, and now you're trying to cover this up with all these sidebars. Do the proper science. Accept the fact that you did extensive harm, and find a way to begin apologizing, and find a way to figure out what you are going to do about that. We have all sorts of market analysis from the lobster shell disease value difference.

These are not marketable, these had to be discarded, these had to be sold dead, and it is an exclusive perfect fish market without a doubt. What you've done is extreme damage. I would like to see you in your tank testing, test the damage from the original tag, so you can qualify the harm that's been done, and do it in a closed system facility. Do pathogen testing. Do all of that in the systems you're working on. That is all a hundred-dollar test, easy to do. That gives you a comparison to a normal fish tank. All that is available. I'll leave it at that, thank you.

CHAIR LUISI: Yes, thank you very much for not only being here, but providing your thoughts and for that testimony. We have one last person who would like to speak that is online. Nicholas Marchetti.

MR. MARCHETTI: How are you doing? My name is Nick Marchetti. I'm a commercial fisherman in New York. I've been fishing this fishery since 2010, from when it opened to when it closes, trap and rod and reel. These tags in the last two years have killed so many of my fish, because we have to handle these fish in hundred-degree weather days.

It takes time to put this tag in, and as soon as the fish jump, it hits the gills and the fish die by the time you get back to the dock. It's not working at all. Not only does New York have to pay, we have to pay out of our pocket for the tags, now we're losing fish on top of that. Now, we're double dipping into our pockets.

I said this a long time ago at this meeting. If you do not hold a commercial fishing license for blackfish, you should not be in possession of live fish. There is no reason why states can't implement this. You

implemented a circle hook for striped bass fishing. There is no reason why we can't implement this.

This would drop this off and make the fine so steep that people are not going to want to keep them alive. There is no reason for a recreational fisherman to hold a live fish back at the dock. There is absolutely no reason. This would stop the black market; it would fix the fishermen that are doing this for a living. It would help them.

We would stop buying the tag and killing our fish. These are not lesions, these are not sores on the fish. This is a disease, a flesh-eating disease. The fish's face is melting off of it. Then feeding this to humans, eventually somebody is going to get sick and possibly die from this, because this is a disease inside the fish. The guys that are buying the fish from us don't want to lose money, and they are selling the fish. Now the restaurant is taking the fish. They do not want to lose money; they are going to sell this fish to a paying customer, and they are going to eat it, and the person is going to get sick. This tag is not working, it hasn't worked from the beginning. Yes, it's helping stop the black market, but it's coming out of our pockets in the end. We're losing a lot of money here. We're not saving anything. You guys are going off our trip reports saying oh, these guys are catching a lot more fish, the stock is up.

It's not, because you want to know why? Because now you have people that just hold a food fish license, and they're scared that they are not going to get tags so now they are filling out trip reports. They're not even fishing, they are filling out trip reports and just putting this in so they get their tags. They are scared that is going to turn into the bath tag situation, where the last person standing with all the tags wins.

That is the problem. That is all I have to say. But I've been doing this for a very long time. I've never seen so much death in the last two years of this tagging program. I've never had a

problem selling live fish. I've never had a problem keeping live fish. There is not enough science here, it should be taken away, until we can figure out a better solution for this. That's all I have to say, thank you.

CHAIR LUISI: Thank you very much for your public comment. I assume there is going to be a need for a caucus. Before we take a caucus, Emerson, do you have something new to provide to the discussion? Go ahead.

MR. HASBROUCK: Yes, I have something new. I would like to offer a motion to amend, and I'm going to do this kind of the fly here. If we could on the existing motion eliminate, starting with by emergency action, eliminate by emergency action as defined in the ISFMP Charter, suspend the coastwide commercial tautog tagging program for 180 days, strike that, and then continue.

To prevent additional negative impacts on the live-market fishery, delete and. Live market fishery, initiate, I'm going to say, a fast-track addendum. I'm not even sure what that means, I guess as fast as we can make it happen. Fast track addendum that will implement the suspension for the remaining of the 2024 fishing year. The addendum will satisfy Objective 4 and Section 4.4.1, and you can take out, cannot be identified in time for implementation for 2025. I hope that makes sense. I hope staff was following that.

MR. LUISI: We were trying. Bob.

EXECUTIVE DIRECTOR ROBERT E. BEAL: Yes, they're wordsmithing us a little bit, but I really think it's a motion to substitute. I think what you're substituting is fast track addendum for emergency action, is that generally what you're trying to do? That fast-track addendum will address the negative impact to the live market of the current tagging program. Is that where you're trying to go? I'm just trying to keep it simple.

MR. HASBROUCK: Yes, in fact I was debating whether or not I should offer a motion to substitute or a motion to amend. I just decided to amend.

EXECUTIVE DIRECTOR BEAL: Fair enough, I think substitute might be cleaner though. But it gets you to the same point.

MS. HASBROUCK: Motion or substitute?

CHAIR LUISI: Yes, I would agree. I was going to recommend the same thing. I think there is enough of a difference here that a new motion with the exclusion of the emergency action. Let's wait until everybody gets it all right up on the screen. We'll take our time; we'll make sure it's understood before I call for a second. How does that read for you, Emerson?

MR. HASBROUCK: Yes, I think that is fine, thank you.

CHAIR LUISI: Under this, I want to make sure it's clear and understandable how we would carry out the remainder of this year into 2024. A fast-track addendum, if it were initiated, would be final action in January, possibly? Bob or James.

EXECUTIVE DIRECTOR BEAL: Well, I think the idea would be, what alternatives do you want to include in this fast-track document? Those aren't really spelled out here. Suspension of the tagging program is one of them, I suppose, but are there other things to include? I'm not sure about that. While I'm talking.

You know, if this does get a second, emergency actions take two-thirds vote. But if this motion gets a second, so the motion to substitute will only take a simple majority to become the main motion. Then, if it becomes a main motion, then it only takes a simple majority as well, because it is no longer considering an emergency. I hope that is helpful. Back to your timing question.

I think it's going to be pretty hard to draft document, and then have the Board approve that document, have a public comment period with the holidays and everything else that happens between now and the January

meeting, and have final decision in January. I think it's probably, the fastest probably is draft a document between now and January.

Then have a quick public comment period for 30 days after the January meeting, and then have a special meeting of the Tautog Board prior to the spring meeting in May. Just a standalone virtual meeting of the Tog Board sometime, probably in March, to consider final approval of the document.

CHAIR LUISI: Okay, and that would all hinge on information generated by whatever experiment or tag type analysis is being considered by the Technical Committee?

EXECUTIVE DIRECTOR BEAL: That would be the best-case scenario, yes. The study is conducted between now and the January meeting, as well as drafting the document between now and the January meeting, so with an informed document on alternatives and different strategies for tagging these live fish.

CHAIR LUISI: If this motion were to pass, we would be moving in the process as Bob just mentioned, with the understanding that beginning on January 1, 2024, the tagging program will still be affective and in place. Tags will need to be ordered, and distributed to fishermen throughout the coast, and the idea would be that that would be a continuation of the program for the remainder of 2024. However, depending on the development of the addendum, it could be adjusted at final action of the addendum, which is likely some time in the spring, let's just call it that. I have clarity on process. Emerson, can I ask that you read that motion into the record, since we moved it around a bunch? Then I'm going to call for a second.

MR. HASBROUCK: **Move to substitute to initiate a fast-track addendum that will address negative impacts to the live market fishery, satisfying Objective 4 in Section 4.4.1 of Amendment 1.**

CHAIR LUISI: Okay, we have a motion made by Emerson Hasbrouck. I would look around the table for anyone that would like to second that motion.

Justin Davis is going to second the motion. We've heard some rationale, Emerson, regarding this. Did you want to add anything to your rationale behind the motion?

MR. HASBROUCK: I think we've outlined pretty well the issues around the tags, and the tags are having a negative impact on the fish and the fishing industry. Discussed how the tagging program doesn't meet its objectives, and I think some of the angst around the room might have been an emergency action to suspend the tagging program.

But I also heard that we need to continue to investigate alternative tags. We also need to provide the promise of some relief to the fishing industry, as we move this forward. I hope this helps to satisfy some of the concerns that were voiced around the original motion.

CHAIR LUISI: Is there anyone else around the Board? Any thoughts on this one? John Clark and then John Maniscalco, I'll come back to you. Go ahead, John.

MR. CLARK: Just curious about the process. If New York buys the tags that are causing all the problems right now to be in compliance for 2024, then once this is passed, they can switch to a different tag for the remainder of 2024. Am I understanding correctly there?

CHAIR LUISI: Well, if a different tag is identified in the study that would, let's say, be more successful in its use. The Board would decide on an implementation date for that tag, and when that tag would need to start to be used. However, the way I see it, and as somebody who oversees this work in our state, not that we have a lot of tags that we distribute.

But I think if the tags were to change in mid-season, you would have to order a whole new set of tags with the dates that would correspond with this year, with 2024. You would have two sets of tags out there. This is going to be Justin Davis will be the one

answering these decisions down the road. But I think 2024, the way I envision it, whatever is decided here at the addendum process, the implementation would likely be that 2025 season.

MR. CLARK: Right, so this doesn't get to New York's immediate problem, it wouldn't be until 2025 really, if they get the relief that they are seeking now. Just want to be clear on that.

CHAIR LUISI: Yes, this does not suspend anything. It could potentially suspend the whole program, but it wouldn't be until later this year. We would be working under the assumption that we would be operating as standard with our tagging programs. I'm going to go to John, clear the deck online, and then we're going to come back.

I want to be mindful of time. We are a bit over our time period allotted. I'm going to go to a couple more comments, we'll caucus, and then we're going to vote these motions up or down. John Maniscalco, you're next, and then Shanna and then I had somebody. We'll go to Shanna and then I'll take one more. Go ahead, John.

MR. MANISCALCO: I appreciate that the emergency action wasn't preferred. But this certainly calls into question the whole timing of everything. I just want to make it very clear that as much as we would like, New York state does not have the capacity to catch these tags and provide ASMFC with any kind of certain viable alternative by the January meeting. I mean, if we did have that then maybe my initial motion would have read quite differently.

But a suspension of the tagging program is really the only way that we're not going to force our fishermen to destroy some of their live product in 2024. I'm not sure how, as much as I would like to be able to support the substitute, how that is going to accomplish that, given the timing that Bob Beal laid out. That we wouldn't even be at the decision-making point until May. I was under the assumption that at the very least, a fast-track addendum could move more quickly than that.

CHAIR LUISI: Shanna Madsen.

MS. MADSEN: I think this is a question for James. If we switch tag types, does that require an addendum?

CHAIR LUISI: James.

MR. BOYLE: No, I believe the FMP only requires that every state use the same tag, but does not specify the type of tag. That would not require an addendum.

MS. KERNS: Mike, if I can interject. The tag type was a part of the implementation plan. That is where we would do that, and the Board can approve implementation plans through Board action. But everybody has to have the same tag as identified in the FMP.

CHAIR LUISI: All right, thanks, Toni, you're like my kids. They ask a question then they do it anyway, before I give them the thumbs up on it, but it's all good. Sorry you couldn't be here with us today. Is there anyone else around the table that would like to provide any comment? We are going to take a quick break to caucus. Go ahead, David, really quick.

MR. DAVID V. BORDEN: It's good for people to ponder during a break. Could we eliminate the need for an addendum if the states that are eager to get on with looking into this, develop an alternative tag and then bring results back to us, because the Board approved that alternative. We would just say that that is another way we would certify that as an acceptable way of tagging the animal, and eliminate the need to do an addendum at all. Would that accomplish the same thing without all the work?

MR. LUISI: Yes, I mean that is a reasonable expectation, David. I think had the work been done to provide us that information today, we would be on a totally different footing, as to what the next steps are. We don't meet again until next year. The study has yet to be finalized, as to when and how, and we had

some ideas today about other additional elements for the study design.

That is not tightened up enough for me to guarantee in any way that there be information to support a decision that would change the tag type prior to early December, I'm sure, when states need to start their ordering process, and figuring out what it is they have to purchase for 2024, starting, you know the first of the year. It's a timing issue more than anything right now.

I'm envisioning that we, depending on what path is here, we would get to our January meeting with more information about what the next steps might be on a tagging program. If we want to continue it, maybe we would make a change to the tag type, and then based on the study, we need something to inform us, is the way I see it. We don't have that yet.

That's just my personal understanding of the situation, and it's tough to make that call when you don't have the information to make that decision. I think we would wait on all that information, make a decision, and then move forward, 2024, it just gets mixed up in the crosshairs. John, James told me you had your hand up. Go ahead, John.

MR. MANISCALCO: I was muted and talking to myself. I was hoping that I could ask Bob one more time to go over the fastest possible timeline for implementation for a fast-track addendum. I was under the opinion; my understanding was that it could happen much quicker than May. It doesn't matter what trials we have a chance to run, it doesn't matter whether we do this by changing the implementation plan.

If we are still in a place where we are forcing a tag upon fishermen in 2024, then we are continuing to impose this economic impact on fishermen, forcing them to use a tag that we know destroys their live product, that is contrary to the objectives in the amendment. I need to change that, so whatever we do here today, we should be taking steps towards providing them relief. That takes off some of this

pressure to somehow have a solution that hasn't presented itself yet.

CHAIR LUISI: Let's go ahead and take a three-minute caucus, give everybody a chance to discuss. Please discuss both options, depending on which one either fails or is supported, and we'll go for it. We're not going to take another caucus after this, so come back in three minutes. Okay, if you can all take your seats. I haven't had enough sweet tea to say, y'all sit down please. John, while people are taking their seats, James told me your hand is still up. Do you have something you wanted us to follow up with before we call the question?

MR. MANISCALCO: Yes, Mr. Chair, thank you. I was just still looking for a little bit clarification on that fast-track addendum timeline from Bob Beal, please, thank you.

CHAIR LUISI: Fast track, Bob, what does it mean?

EXECUTIVE DIRECTOR BEAL: A little bit tricky, because there is some conversation around the table that just want to implement a suspension through a fast-track addendum, and then there are others that want to have this fast-track addendum a bit more informed by the study that is going to be conducted on alternate tag types.

There are kind of two different answers. If all you want to do is bring forward a document that contemplates a suspension of the tagging program in 2024, we can do that really quickly, it's a very simple document, status quo or a suspension with probably some time certain. We could probably do that with Board meetings outside of our regular Board meetings. We need a 30-day public comment period in there somewhere.

We could get that done, probably even within this calendar year. If it's really just that one simple issue, you know status quo or suspension of tagging. If that is all the

addendum is, the Board could do that very quickly, and have a 30-day public comment period. But if the Board wants to see more information about the tagging study, and have that presented to them.

Obviously if the tagging study is going to retain animals for 30 days, and see the impacts of tags. You know I think if it's that more informed or more expensive fast-track addendum, that likely can't be, the study can't be done, the document drafted before our January meeting. If we do that longer fast-track addendum for the January meeting, public comment after that, and then we could probably get the Board back together in March to make a decision.

CHAIR LUISI: Okay, does that help, John?

MR. MANISCALCO: It helps very much, I'm just wondering if the maker of the motion, if that was his intention or if he meant the more involved addendum.

CHAIR LUISI: Yes, I was just going to ask him. I wanted to make sure you were clear first. Emerson and Justin, I guess I'll go to Emerson first. Was your intent to create a fast-track addendum that only considers a suspension, with no consideration for the use of any other additional tag. Is it just a suspension of the program.

Bob stated that an addendum to suspend the program could happen, potentially within the time period. It would be really tight, I think still, for states that have to order and plan for 2024, but it is possible that it could happen before 2024, or did your intent, Emerson, was it more long term in thought.

That the Board would be informed by the tag study, and there would be an option in the addendum, not only to suspend the tagging program, but there would be other alternatives that would be for implementation of other types of tags or just looking for your intent. We'll make sure it's clear before we call the question.

MR. HASBROUCK: Well, I would like to see the consideration, or the amendment consider suspending the program. But I think we also need to investigate alternative tags. In terms of timing and in terms of what the Board is going to want to do, I don't have a crystal ball on that in terms of where this Board is going to want to go. I don't know if the Board is going to be more favorable to suspending the program if we go to a quick addendum process, or if we just do it by emergency action today. I don't know that. I think we need to provide relief to the fishing industry, and take a look at alternative tags. Maybe the addendum, and I'll look to staff to help answer this.

The addendum, I guess, could initially consider a suspension of the program while we're developing alternative tags. That is possibly the way to go, because I don't know that we're going to have an answer for alternative tags, between now and a year from now. Who is going to be doing all these studies?

I mean, New York is going to be doing some, but for a variety of different tags. Okay, excuse me, I'm on a sidebar here. That is going to occur in the first half of 2024. We're not going to have any kind of tagging results in a fast manner, but I wanted to start moving that along, and I think we need to consider some relief to the fishing industry.

CHAIR LUISI: All right, so the only way to know what the Board's intent is, is to vote. We have, my screen went blank. I'll read the motion over my shoulder, sorry to turn my back to you guys. We're going to go ahead and move forward with calling the question on the vote. I want to remind the Board that the motion, the substitute motion, is a majority rules motion.

It does not require two-thirds, so we'll see what the Board wants to do with that. There is a lot of chat, is everyone okay with taking a vote here? We've had plenty of time to caucus and discuss. The motion is, move to substitute to initiate a fast-track addendum that will address

negative impacts to the live market fishery, satisfying Objective 4 in Section 4.4.1 of Amendment 1. Motion by Mr. Hasbrouck, seconded by Mr. Davis. **All those members of the Board in favor of the motion, please raise your hand.**

MR. BOYLE: New York.

CHAIR LUISI: Okay, I see one, is there anyone online that raised their hand? All those opposed, same sign.

MR. BOYLE: Rhode Island, Massachusetts, Connecticut, New Jersey, Virginia, Maryland, and Delaware.

MS. KERNS: NOAA Fisheries, while I don't see Chris's hand up, he did send a comment in saying they were saying no to the amendment. There, Chris has his hand up now.

MR. BOYLE: And NOAA Fisheries, thank you.

CHAIR LUISI: Any abstentions, any nulls? Seeing none; the motion fails for lack of a majority, which leads us to now the main motion. I will remind the Board that this motion will require a two-thirds vote in support in order to pass.

CHAIR LUISI: I'm going to go ahead and read the motion into the record and then call the question. **Move that the Tautog Management Board, by emergency action, as defined in the ISFMP Charter, suspend the Coastwide Commercial Tautog Tagging Program for 180 days to prevent additional negative impacts to the live market fishery and initiate an Addendum that will implement the suspension for the remainder of the 2024 fishing year and consider a longer term suspension if a suitable tag, satisfying Objective 4 in Section 4.4.1 of Amendment 1 cannot be identified in time for implementation for 2025.** That motion is property of the Board at this time, and I'll ask for **all those members of the Board in favor of the motion, please raise your hand.**

MR. BOYLE: New York.

CHAIR LUISI: Anyone online? I think we have everyone here except for Chris. All those opposed, same sign.

MR. BOYLE: Rhode Island, Massachusetts, Connecticut, New Jersey, Virginia, Maryland, Delaware, and NOAA Fisheries.

CHAIR LUISI: Okay, any abstentions? Any null votes? Okay, seeing none, the motion fails for lack of a two-thirds majority. Do you want me to call the numbers out? Okay, the motion was 1 in favor, 7 in opposition, 0 abstentions and 0 nulls. There was 8 against, we're making that correction for the record. Motion fails for lack of a two-thirds majority. Is there anything else to come before this Board at this time? John.

MR. MANISCALCO: Is this issue still open? I would like to make a motion to initiate a fast-track addendum to suspend the commercial tautog tagging program for the 2024 fishing season, simple. But I'm not sure what the process would be at this point.

MR. LUISI: Okay, so that is different from the intent that Emerson Hasbrouck had, so this would be a simple motion to initiate a fast-track addendum to suspend, and there would be no other details within that motion, or in that addendum. Bob, you spoke to this already, but while we get it on the board, just remind us kind of what the timing would look like and when we could possibly take final action on that addendum.

EXECUTIVE DIRECTOR BEAL: Yes, if it is, as John is requesting, a very simple document or status quo, and there is suspension, and those are the options. We can draft that in a matter of, probably by the end of the week or next week or middle of next week, and get the Board together pretty quickly.

I think the hardest part of this, will be scheduling Board meetings when the states are available to get together and talk about it. But we can do that probably in the next two weeks

or so, I guess, if folks are available. Then we need a 30-day public comment period, and then we can get the Board back together after that 30-day public comment period to make a decision about this document.

You know one of the things that is out there is when do the states need their tags? I think the orders actually have to happen really soon, regardless of what happens with this document. Some states may have to order tags, maybe even all states have to order tags, before they know the resolution of what is going to happen with this addendum. I think those orders need to continue, just in case the tagging program is not suspended.

CHAIR LUISI: The tagging program would only be suspended if the final result of the addendum would be a vote in favor of suspending. That would eliminate the program altogether for whatever time period that was in the addendum, possibly a year or two or indefinitely, until something else were to follow.

EXECUTIVE DIRECTOR BEAL: Yes, that's correct.

CHAIR LUISI: John, I'll go ahead and read it for you. I don't know if you can see the screen. There is a motion, move to initiate a fast-track addendum to suspend the tautog tagging program for the 2024 fishing season, as a motion by Mr. Maniscalco. Let me look around the table. Is there any second to the motion?

Would anyone like to second the motion? Seeing no second; that motion fails for the lack of a second. Is there anything else to come before the Board at this time? Seeing none; the Tautog Management Board is now adjourned. I'll be turning the reins of Chair over to Justin Davis, after today's meeting, so Justin, good luck.

I think Toni has got me keyed up for another Board chair somewhere along the way this week, but thanks for your time today, sorry we went a little bit overtime, but I thought it was an important discussion to have. It does not mean the actions

today, just for the members of the public who are watching, or listening or here.

The actions today do not prevent the Board from continued efforts to try to better the tagging program that we currently have. They do not stop the program from being suspended indefinitely at some point. I think the gist that I got around the table was that some additional information about tags, and other alternate tags was an important element in moving forward.

ADJOURNMENT

CHAIR LUISI: Thank you again, this meeting is adjourned, and I'll turn to Bob to see when we start the next Board meeting.

(Whereupon the meeting adjourned at 2:55 p.m. on October 16, 2023)