

**PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
INTERSTATE FISHERY MANAGEMENT POLICY BOARD**

**The Westin
Annapolis, Maryland
Hybrid Meeting**

October 24, 2024

Approved February 5, 2025

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1. **Approval of agenda** by consent (Page 1).
2. **Approval of Proceedings** of January 25, 2024 by consent (Page 1).
3. Board: **move to approve Draft Addendum XXXVI to the Summer Flounder, Scup, and Black Sea Bass FMP and Draft Addendum III to the Bluefish FMP for public comment as modified today** (Page 36). Motion made by Jim Gilmore; second by Joe Grist. Motions approved by unanimous consent. (Page 37).
4. Council: **Move to approve the range of options in the Recreational Measures Setting Process Framework/Addenda as modified today**. Motion made by Jim Gilmore; second by Joe Grist. Motions approved by unanimous consent. (Page 37).
5. **Move to adjourn** by consent (Page 37).

ATTENDANCE

Board Members

Pat Keliher, ME (AA)	Kris Kuhn, PA, proxy for T. Schaeffer (AA)
Megan Ware, ME, proxy for P. Keliher (AA)	Loren Lustig (GA)
Cheri Patterson, NH (AA)	John Clark, DE (AA)
Doug Grout, NH (GA)	Roy Miller, DE (GA)
Dan McKiernan, MA (AA)	Lynn Fegley, MD (AA)
Sarah Ferrara, MA, proxy for J. Armini (LA)	Jamie Green, VA (AA)
Ray Kane, MA (GA)	Joe Grist, MD, proxy for J. Green (AA)
Jason McNamee, RI (AA)	Chris Batsavage, NC, proxy for K. Rawls (AA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Ben Dyar, SC, proxy for B. Keppler (AA)
David Borden, RI (GA)	Mel Bell, SC, proxy for Sen. Cromer (LA)
Dr. Justin Davis, CT (AA)	Doug Haymans, GA (AA)
Bill Hyatt, CT (GA)	Spud Woodward, GA (GA)
Marty Gary, NY (AA)	Erika Burgess, FL, proxy for J. McCawley (AA)
Jim Gilmore, NY, proxy for M. Gary (AA)	Gary Jennings, FL (GA)
Joe Cimino, NJ (AA)	Ron Owens, PRFC
Adam Nowalsky, NJ, proxy for Sen. Gopal (LA)	Derek Orner, NOAA

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

Ex-Officio Members

Staff

Bob Beal	Caitlin Starks	Katie Drew
Toni Kerns	Jeff Kipp	Jainita Patel
Tina Berger	Tracy Bauer	Emilie Franke
Madeline Musante	James Boyle	Chelsea Tuohy

CALL TO ORDER

The Interstate Fisheries Management Board of the Atlantic States Marine Fisheries Commission convened in the Capitol Ballroom via hybrid meeting, in-person, and webinar; Thursday, October 24, 2024, and was called to order at 10:15 a.m. by Chair Joe Cimino.

APPROVAL OF AGENDA

CHAIR JOE CIMINO: Good morning, everybody. My name is Joe Cimino; I am the Administrative Commissioner from New Jersey, current Chair. I'm going to begin our Policy Board session this morning. I'm speaking slowly, because I'm trying to go off the agenda. I apologize, I should have waited a second. We've had a long week. We're going to do Board Consent, with Approval of the Agenda. I already know the answer to this, but we're looking for additions to the agenda. Mr. Keliher.

MR. PATRICK C. KELIHER: Mr. Chairman, thank you. I do have an addition to the agenda. I would like to bring up a letter around lobster and Canada, thank you.

CHAIR CIMINO: Very good, Toni.

MS. TONI KERNS: At the end of last week, I got some new questions about the Mid-Atlantic Council, a presentation that occurred at the Mid-Atlantic Council on croaker deaths around some of the wind energy areas, so I've asked Brian Hooker to come over and do an update on that.

CHAIR CIMINO: Thank you, and Eric Reid.

MR. ERIC REID: I just have a piece under Other Business. I can do it right now and be quick if you like.

CHAIR CIMINO: That's fine.

MR. REID: Well, I just want to make sure that we acknowledge as this group, Lisa Hartman, it's her last meeting. She's not here today. Dr. Anstead, it's her last meeting, she's here today,

and Dr. Davis for their performance and help along the way, including all the staff behind me, which we couldn't do our job without them. Thank you very much, I really appreciate it.

APPROVAL OF PROCEEDINGS

CHAIR CIMINO: Thank you, I appreciate that as well. We're going to have a couple other agenda items that we will tuck into the beginning. For Pat and Brian, we'll take up those under Other Business at the end. We still get to do Approval of the Proceedings of the August meeting. Does anyone see any needs for edits there? No hands; we'll consider that approved as presented. Bob, do you want to do this before Public Comment?

PUBLIC COMMENT

CHAIR CIMINO: Okay, actually we'll go to Public Comment. Is there public, actually? Any hands from the public or online? Okay, not seeing any hands. We do have a couple other items. I would like to go to Jamie Green for this year's resolution.

2024 RESOLUTION

MR. JAMIE GREEN: This is new to me. I don't know what I did to you, Joe, to wind up the Chair of the Resolutions Committee, and I found that out about 24 hours ago. I didn't know for sure what my duties were, until they said, well you're the one that has got to do the resolution. I said, you all realize I'm from Virginia, and we're in Maryland.

That is probably not a good thing, especially when I did a real professional one and it came back in an e-mail saying, boring, so I had to redo it. I'll keep that out there before I start. Anyways, let's move on with this. The resolution of the Atlantic States Marine Fisheries Commission, recognizing the 82nd Annual Meeting, and expressing appreciation to Maryland Commissioner staff and the city of Annapolis.

Whereas the 82nd Annual Meeting of the Atlantic States Marine Fisheries Commission was hosted by Maryland Commissioner's Delegate Dana Stein, Lynn Fegley, Russ Dize and David Sikorski, on

October 21 through the 24th, 2024 in Annapolis, a former Capitol of the United States, and one of America's oldest cities, only a few years older than Dennis Abbott.

Whereas Maryland, with its rich maritime history has long been a hub for commercial fishing, oystering, oyster harvesting, maritime trade, producer of the most blue-crabs in the United States, and the biggest user of Old Bay Seasoning. They put that shit on everything. Whereas Maryland is constantly amazed at the industrial appetite for menhaden, wondering if Virginia has discovered a secret recipe for these oily fish that involves cutting them into something tastier than fertilizer and fish oil supplements.

Whereas the mere mention of winter crab dredging in Virginia cause Marylanders to clutch their Old Bay cans a little tighter, ready to defend their beloved crabs from what they see as a high-seas raid, and whereas the city has been at the forefront of efforts to protect the Chesapeake Bay, offering collaboration between watermen, environmentalists and policy makers, to advance marine conservation and support the livelihoods of coastal fishing communities.

With all this success, you would think they would teach the Ravens and Orioles a thing or two on how to win. Whereas Maryland is the home of Elijah Wood (Bond), the creator of the Ouija Board in the early 1890s, has anyone considered using this contraption to find the solution for striped bass?

Speaking of striped bass, did anyone happen to catch the hash tag trend on social media last night? Hash tag, marked safe from the 2024 October Striped Bass Board. I don't know if all of us are actually safe, so anyways, and whereas Maryland is known for its thoroughbred horse race, with the Preakness Stakes held annually in Baltimore.

With all its delaying of addendums, the Lobster Board would never win a race, and whereas the Chesapeake Bay Foundation hosted the welcome reception, and treated us to an outstanding catered affair that rivals the best Vegas buffet in their Taj Mahal like offices, and whereas the Commission recognized Scott Cuppett of New York as the recipient of the Melissa Laser Habitat Award, for his extraordinary contributions to conserving, protecting and restoring habitats vital to the Atlantic coastal and estuarine fisheries.

In his acceptance speech he told stories of his childhood, dubbing him now as ASMFCs version of Maryland's own Francis Scott Key, and whereas the annual dinner was held at the prestigious United States Naval Academy, offering a stunning view of the Severn River, and celebrating the dedication and comradery of the Commission's members. Go Navy, beat Army.

Whereas Mike Armstrong of Massachusetts Division of Marine Fisheries was selected as the recipient of the 2024 Captain David H. Hart Award for his years of service, and dedication to research and preservation of fisheries on the Atlantic Coast. This was presented early at the spring meeting, apparently due to his pending retirement, but rumor has it he heard the bar at the Westin Annapolis was only open to 11:00 p.m. and that just wouldn't cut it for his very late-night antics.

Whereas the 31st Annual Laura Leach Fishing Tournament was held, with the proceeds going to Catch More Mentorship Academy, provide an opportunity for attendees to connect with the Marine Fisheries Resources they strive to protect, and have a little friendly competition, in which Doug Haymans and Malcolm Rhodes, who rumor has it chartered a boat for the event, and removed all the keys from all other available boats, emerged as the victor with one fish a piece.

To Spud, Doug compensated the Resolutions Committee last night with a can of J.O seasoning to remind you and everyone else in the room that the Bulldogs are superior. Go Dogs. Now, therefore be it resolved, that the Atlantic States Marine Fisheries

Commission expresses its deep appreciation to Maryland Department of Natural Resource Fisheries Service staff, for their exceptional efforts in hosting the meeting, and advancing the Commission's commission.

Their dedication to sustainable fisheries, habitat conservation and scientific excellence reflects their commitment to supporting marine ecosystems and the communities that depend on them. Be it further resolved that the Commission extends its gratitude to the City of Annapolis, for serving as a fitting venue for this year's meeting.

Annapolis legacy as a maritime hub, and its ongoing contributions to marine conservation and fisheries management, highlight its role as a leader in safeguarding the natural and economic resources of the Chesapeake Bay and the Atlantic Coast. Adopted this 24th day of October, 2024 by the Atlantic States Marine Fisheries Commission. Thank you. (Applause) Hope you all have a new Chair next year.

MR. DANIEL McKIERNAN: Amazing, Jamie, did you have help with that?

MS. KERNS: A lot.

MR. McKIERNAN: Did you want to mention your fellow authors on some of those great resolutions?

MR. GREEN: As everybody that knows me knows this. I will fall on the swords for anyone, so I will not divulge that information.

MR. McKIERNAN: Fair.

CHAIR CIMINO: Thank you, Mr. Green.

MR. McKIERNAN: Now for the record, that was Jeff Kaelin and Sarah Ferrara.

CHAIR CIMINO: I know Jamie well enough to know he had his escape route and escort planned well ahead of this. He should do just

fine. I'm going to turn it over to Bob Beal for a few more recognitions.

EXECUTIVE DIRECTOR ROBERT E. BEAL: Yes, thanks, Joe, and Jamie it's pretty hard to follow that. I've got to ramp up my one-liners here, but I'll see what I can do. We've been remiss in recognizing one Commissioner who has recently retired, and then as was mentioned by Eric, and thank you for recognizing staff, Eric, we appreciate that. Justin Davis, this is likely his last week, so I wanted to present a gold compass rose pin to Jim Gilmore.

We were remiss in not recognizing you when you when you retired from New York, and you're back as a proxy, but it is a little bit of uncertainty, apparently on if you'll be back at the winter meeting. Hopefully, you will be, hopefully we'll see you at many more meetings. But we wanted to present you with the compass rose pin.

I think most folks around the table have seen these pins presented before, and the symbolism of the compass rose is obviously the direction and guidance that departing Commissioners have provided over a long period of time, and Jim as a former Chair, clearly you did that as well as anyone else. Congratulations on your retirement.

You are kind of back to the Mid-Atlantic Council and here as a proxy, so you're not very good at retirement, but we really appreciate you continuing to be here. But we wanted to recognize your retirement. Justin Davis is not leaving Connecticut, but he is taking on another job within the state of Connecticut, and he is dealing with bears and mountain bikes and all kinds of other things that are going on, and freshwater fish and other things outside of the purview of just saltwater fish.

We look forward to whoever your replacement might be, coming and participating. But we will definitely miss you, and just like Jim, you have been a part of the Commission family and contributed at many levels for a number of years, and we really appreciate your long service to the Commission, so thank you for that. (Applause)

As you may notice, Sarah Peake is not here, she is taking actually, no longer in the State Legislature in Massachusetts, she is working for the Governor now, and is not running for reelection, and as folks met Jenni Armini earlier this week, so we are going to recognize Sarah with a pin and send one up to her as well, so if you could let her know that in advance to let her know that, that would be great. It is always great to have these longstanding folks around the table, but unfortunately sometimes they move on. Thank you all for your contributions and appreciate all the efforts from everyone around the table, but just want to recognize those three in particular. Thank you, Joe.

CHAIR CIMINO: No, thank you, Bob. Appreciate that and best to everyone, it's always sad to lose some family members here to whatever else is going on, we like them to share in our misery of course. I guess one thing to mention is, it's pretty common for us to have an awards luncheon at the annual meeting, which didn't happen this year, so that is partly why I think the Policy Board seems a little different than usual.

EXECUTIVE COMMITTEE REPORT

I think the next item on the agenda, is that me? Okay, for those of you that looked over the Executive Committee agenda, it looked pretty light. We actually had a very long closed session, talked about several very important topics. We did go through our Fiscal Year '24 Audit, with of course as ever review and approved the audit. There was a quiet legislative update.

This week throughout the week, they were demoing a new website, so I hope a lot of folks had a chance to check that out in the hallway, if not, check in with Tina, she will get you the information to go through that. Actually, I think Tina is just going to be sending something out to all the Commissioners, so that they can see that.

Part of the closed session stuff that we were dealing with had to do with Cares Act money and some audits. We are not exactly sure where that is going yet, but the Commission is looking to have a one-year extension in our discussions with NOAA Fisheries on exactly how to get some of that money back from the audits, and we'll see where that goes.

We had a memo from Florida, Georgia, and South Carolina to Commission leadership, and we brought that to the Executive Committee. The memo highlighted concerns about declared interest. Well, actually, Bob and I have kind of summed this up into four comments, declared interest, de minimis voting privileges, virtual participation at board meetings and voting privileges related to stock units.

Some of this came up through the Coastal Pelagics Board and the last addendum on cobia. It was pointed out in the memo, and well said, that a lot of the stuff that we're dealing with now wasn't stuff that we were dealing with 30, 40 years ago, and it is probably time to review some of our policies.

Executive Committee tasked staff to draft a white paper on that. That white paper will go back to Ex-Comm and Policy Board at the winter meeting. Well, there was one other brief update at the Commission. As some of you know, there is a current lawsuit dealing with Atlantic Striped Bass. It's in federal courts here in Maryland, and that is ongoing.

There are some other tangential lawsuits that the Commission is tracking, that was simply an update at this time, we will absolutely report out to Policy Board as that stuff moves on. That is it for my Executive Committee Report.

UPDATE ON THE NORTHEAST TRAWL ADVISORY PANEL WORK REGARDING INDUSTRY-BASED TRAWL SURVEYS

CHAIR CIMINO: We're going to move on to an Update from the Northeast Trawl Advisory Panel Work Regarding Industry-based Surveys, and I'm

going to turn it over to Dan Salerno who is online. Dan, go ahead.

MR. DAN SALERNO: I brought my report here. The last time I spoke with you guys at ASMFC, I believe it was some time in the spring, so I'm just kind of giving a flavor of where we've been since basically the summertime, and where we will head with the next early springtime period.

NTAP has met three times. We met in July as a full panel meeting, and then we had a Bigelow Contingency Plan Working Group meetings in August, and then a follow up one in October. Both the working group meetings were focused on the IBS Pilot Survey and the long-term survey. Obviously, that is the survey that this group here voted to approve, also the Mid-Atlantic Council and the New England Council.

Just to also give you a heads up, that this IBS survey that we're working on is actually not part of the contingency plan. This is actually going to be a separate, hopefully, if it comes to fruition, a separate new time series that will be part of another data source that allows for stock assessment. As to the Bigelow Contingency Plan, it is pretty much done.

I think it's just going through some technical corrections at the Science Center, and I believe it should be out sometime soon, hopefully within a month or so, with a presentation by Kathryn Ford, probably at your next meeting. The July 11 meeting, generally that was our annual meeting. We kind of go through annual survey center updates.

You know we got an update from, well a little old hat now, but from the spring survey, you know the Bottom Longline Survey, the NMFSS Bottom Trawl Survey, the Mass DMF and Maine/New Hampshire Trawl Survey and the VIMS NEAMAP Survey. We just got updates from where they were in the spring. You know they had pretty good success.

We also got an update on the Pices. As you know, the Pices is the sister ship to the Bigelow, and that will be the vessel that is used when the Bigelow goes offline for its midlife repair. It has been identified, there are two critical tasks that were identified to get this boat up and running. One was to ensure that the trolling capabilities as a short-term fill in solution for the Bigelow.

The second one was that a wet lab overhaul for a longer term fill in when the Bigelow goes offline for its midlife maintenance. Currently the plan is that there will be a shakedown cruise of the Pices up in the New England Region sometime in November, after the Bigelow completes its fall Bottom Trawl Survey.

During our meeting, the NTAP group did get into kind of an unplanned discussion related to the IBS Survey that the working group itself is developing on. We kind of allowed this to organically develop this discussion, because obviously there were a lot of questions still around what the IBS is going to look like.

You know there is definitely some expressing concerns that the Pices will not solve what the Bigelow issues are, and that is why we felt that this IBS Survey in itself was a great opportunity to move forward. Though it seemed to have been at that discussion point, multiple objectives of what this IBS Survey would be, you know is it a Bigelow contingency? Is it offshore wind mitigation, or what else it is. I think that was actually opening up our discussion when we sat down in the August and the October meetings, to really narrow down where we felt the need for this IBS Survey to work on. As you know, the Council and Commission are very supportive of a bank wide IBS Survey. As a separate time-series that can include areas that will and have been off limits to the NOAA ship.

You know what is the focus of the IBS Survey? This is another thing that we kind of circled around on. You know are we looking at small discreet areas in and around wind energy areas, or are we looking at a wider scope? There were definitely differences of opinion on what the survey could be, and some of

the operational aspects of it, particularly about around auto trawl, and I'll get into that.

We actually had a more distinct discussion later on in our working group meeting. You know obviously there were some big outstanding questions in July of what the design is going to be, and that was really also the focus of the working groups moving forward. Additionally, we had other presentations focused on survey gear, stability, and industry-based surveys from other regions in the country that were really useful for our discussions moving forward, as we've developed our IBS Survey.

In our August 22nd Working Group meeting, really the focus of that meeting was to define the goals and objective of what a full-scale survey would look like. You know, we're also looking at draft operational plan and to refine the cost of what the pilot should look like. As you all know, or should know by now that the Senate Appropriations budget had explicit language for 3 million dollars to design and implement a pilot industry-based survey that complements the Bigelow.

Obviously, the House budget language had no funding whatsoever related to that, so we're somewhere in the middle. You know at this point the Working Group's approach is that we can't depend on any federal funding at this point as a guarantee, but we do want to move forward and have something in place, in case the money does come forward.

Even if the IBS stays in as a final budget, obviously we cannot start any work on this under the continuing resolution. We do have to wait for the fiscal year 2025 budget to be approved, and the funds to actually be distributed to NOAA through the process. There were also concerns that the Science Center was looking a possibly changing the name of the industry-based survey to call it more of a regional trawl survey.

But the point was made that because it's actually referenced as an industry-based survey in the Senate language, we didn't want to add any confusion to the process, so we wanted to keep calling it an industry-based survey for the time being, at this point. One of the things that we did work on in that August meeting was developing three long-term objectives of a full-scale IBS.

What we came up with was to improve the resource assessment by providing indices of abundance and biomass, and biological data complementary to the current bottom trawl survey. The second objective is to sample areas that cannot be sampled by the bottom trawl survey, such as wind energy areas, high concentrations of fixed gear, and currently unsampled strata, including some of the shallow strata. While also ensuring that there is sufficient and expanded spatial overlap with the bottom trawl survey, to enable data integration. The third long-term objective is to add resiliency to the survey enterprise by providing a data stream that will continue to be available in the future if the bottom trawl survey is unavailable to operate over extended period of times or in space. From there we kind of pivoted to looking at what the pilot survey period would look like.

We're looking at three phases over roughly a two-year period, so the timeline that we're working on is currently in the fall and winter of this fall, '24 into '25, really finalizing the operational plan for the pilot. The Phase 1 approach is expecting that in the spring of 2025 there would be a five-day survey, really focused on standard operating procedures, and just developing a manual that will guide how the pilot and what the eventual full-scale survey would look like.

The expectations that this Phase 1 spring survey would be roughly about \$300,000.00, based on direct cost and overhead. Phase 2 and Phase 3 would occur between the fall 2025 and 2026, and then it's a fall '26 into spring 2027. You know looking at using multiple vessels, expanding the time and space scope of the pilot, and to really start to begin purchasing, you know the sampling gear,

the survey gear and all the nuts and bolts that go with actually doing a survey in real time.

This Phase 2/Phase 3 would actually be the 3 million dollars that would be from that Senate Appropriations Bill if it were to pass, and that will be found as about 3 million dollars, based on direct cost and overhead. The intention that if all goes well that in the spring or fall 2027, there would be a full implementation of an IBS Survey would begin.

How much that would cost is unknown at this time because we're only scoping at this point, looking at scoping the price for what the pilot would look at. Some of the pilot objectives that we worked through was really to inform the development of a full-scale survey, specifically looking at vessel specific requirements, you know the feasibility of operating in and around windfarm structure, operational feasibility of oceanographic and biological sampling on these commercial-based platforms.

Obviously, the operational feasibility of day/night sampling on commercial platforms, you know testing and defining what the sampling trawl gear and protocols will be, and then really creating a draft standard operating procedures document that could really feed into, as we move forward through this process.

That was kind of hot flavor of what our August 22nd meeting was about, and then our most recent meeting, which was earlier this month on October 11th, that really was the focus on really scoping out the Phase 1 and starting to look at some of the initial scoping in Phase 2. We did have some discussions about the auto trawl.

Obviously, there is a significant difference in agreement on what the utility of this type of equipment is, between working group members, basically looking at the industry has one perspective and the NMFS participants are definitely on the other side. What we came to an agreement was that there will be a

facilitated, dedicated meeting to evaluate the benefits and drawbacks of an auto trawl system.

This meeting will probably be sometime in the summer or fall of 2025, to have a decision made of whether or not we're going to be moving forward with this gear, sometime by the fall of 2026, basically prior to the Phase 3 operations of the pilot. The Phase 1 pilot, we've actually really narrowed this down, and I'll just give you a flavor of what we're looking at here.

The Virginia Institute of Marine Sciences is going to be coordinating this Phase 1 pilot. The expectation is it will happen early sometime in April, 2025. More than likely prior to the VIMS NEAMAP Spring Survey. The vessel that will be used is the Darana R., which is obviously the VIMS current NEAMAP vessel.

The expectation is that there will be eight days set aside, five days for sea day activity, two days for loading gear, and one day for offloading gear. The expectation is that this early pilot will occur in the coastal Virginia offshore wind energy area. While this energy area is not operational, it is in the midst of construction, and there is steel to work around.

We're not sure how much underwater work has been put in, you know namely cabling. But at least we know that there are turbine platforms that we will be able to move in and around, to make sure that we can at least do some work around windmill areas. The funding for this expected to come from the Northeast Fisheries Science Center, that \$300,000.00 that I had mentioned.

Dr. Ford from the Northeast Fisheries Science Center, it says she is looking under every rock, opening every drawer, just to try and find funds under the current continuing resolution. She seems to be very optimistic that she can find this money, but we won't know until by December if we will be good to go.

But the expectation is that hopefully, if we can get this money, we are expected to be out on the water in early April. Looking at what we're trying to

accomplish here. We decided that we're only going to do some partial catch processing and biosampling, just really the operational aspect of this survey is really more of the physical, can we get the water, can we get the gear in the water, can we fish it in multiple steps.

We are going to look at some of the biosampling component, but that is not going to be a major component of this Phase 1 pilot. The work plan, you know looking at the design, the survey prep, the fieldwork, the data collection, the auditing and the editing of the data, and developing a Standard Operating Procedures Manual, which is expected to be done by July, 2025.

This is going to be a combined effort between Northeast Fisheries Science Center staff, VIMS staff, the NTAP Working Group staff, and also those from the Darana R. We did get into some of the Phase 2 component, but we didn't really get too far in that. What we're looking at for Phase 2 in the spring of 2026, really the goal in this is to warm the development of the full-scale survey. You know we're going to expand on what we learned in Phase 1.

You know we're going to include one or two more vessels, but we're going to stagger the time on water, so we won't have multiple vessels fishing at multiple times. It's kind of a cost-cutting measure, and also a staff time issue as well, to kind of make sure that we can get all these pilot trips covered in the Phase 2 process. We do plan on increasing our spatial and temporal footprint during the Phase 2. We're looking at possibly 20 days at sea. You know we want to establish the staging, the staffing and the gear and instrumentation needs as we move into the larger scales like survey. Part of what we're going to be doing is testing and refine the survey design that we will come up with.

What we try and put a little more pen to paper here on the Phase 2 and Phase 3, the expectation is that this Phase 2/Phase 3 will be

about 2.7 million dollars in direct cost, plus the overhead and like is mentioned, that this would be part of the federal fiscal 2025 budget. With our hope that passes, and that is included in there, and we can move forward sooner rather than later. That is all I have at this time, so I would take any questions. Thank you.

CHAIR CIMINO: Thank you, Dan, any questions for Dan? Dan McKiernan.

MR. McKIERNAN: Yes, thank you, Dan, great report. One of the big issues that has been revealed up off of southern New England is displaced boulders. Depending on the geology of the area where these arrays are being constructed, in some cases there has been hundreds and even thousands of boulders that have been relocated, and these are boulders that may have been buried, but unearthed by the boulder plow.

I worry about the ability of mobile gear fleets to be able to operate inside these wind arrays. I guess I'm wondering. If you're going to be doing this work down in Virginia, off Virginia, rather, are you going to be in kind of a featureless bottom, where this is not an issue? Because if you were to come up to the South Fork Area or Vinyard Wind is probably a little bit further ahead, I think, than the off Virginia arrays. You might find a slightly different set of challenges, so can you speak to that?

MR. SALERNO: Yes, thanks, Dan, I really appreciate that. We actually did talk about that. I think obviously the matter of convenience, it was kind of a cost-cutting savior, actually working out in the Virginia Wind Energy Area, obviously that is way outside of where Darana R. is home ported. But we did talk about the fact that because there is not a lot of cabling there, at least we are not worried about the unknowns that we can't see.

You know we're working in and around, obviously the windmill turbine stanchion. We know at least we can see that. Obviously, when we do plan to expand in our Phase 2/Phase 3 scope, you know we do plan on moving up into the windmill arrays that are up in the southern New England Region, where

we will now have to be more concentrating on not only the turbine structures and tills, but what has occurred, you know under the sea bed, and what is left.

I know that there are some surveys currently, there are modeling programs currently going on in some of those regions. I haven't been aware of any issues that they're trying to work in and around some of those boulder fields, but obviously that is something we are aware of, and will be taking notes on as we move into those areas that are more completed.

CHAIR CIMINO: Eric Reid.

MR. REID: I can add to that. Yes, there is a concern about where the furniture has been moved, but the New Bedford Port Authority is going to conduct some work in the Vinyard Wind Area, to see if we can actually work in that area. We're going to find out from that experiment, let's call it an experiment, what may be capable and what is not capable.

While I have the microphone, Mr. Salerno, Vice Chairman Salerno did talk about funding, and the difference between the House and the Senate versions of the proposed 2025 budget. The Senate has the 3 million bucks in it, the House does not. If you get a chance to talk to your congressmen, it would be great if you could mention to them that they might want to be in line with the Senate. If you want to know what to say, Mr. Law is sitting right there, he'll tell you.

CHAIR CIMINO: Thank you, Eric, I was thinking the same thing. Any other questions for Dan? I'm not seeing any hands. Well, a much-appreciated update, Dan, a lot of work going on, a lot still to come. On the naming, I truly admit I was one of the few who tended to crack IBS jokes.

MR. SALERNO: I understand fully, but no problems with it. We just keep referring to the industry-based survey, so there is no confusion

of whatever syndromes people are feeling at times. Thank you again.

COMMITTEE REPORTS

CHAIR CIMINO: Exactly, many people already suffered from my bad jokes, so I'll shut that off. With that, we're going to go into Committee Reports. I'm going to start off with Law Enforcement, and turn it over to Kurt Blanchard.

LAW ENFORCEMENT COMMITTEE

MR. KURT BLANCHARD: The Law Enforcement Committee conducted a hybrid meeting during our 82nd Annual Meeting of the Atlantic States Marine Fisheries Commission. The Committee welcomed Lieutenant Colonel Doug Daniels as the new Representative for the Pennsylvania Fish and Boat Commission.

We had several discussions on respective species of the Board or the respective Boards. We'll start with Atlantic Striped Bass. Staff updated the LEC on the status of the Recreational Release Mortality Working Group findings, and recommendations from a series of meetings held over this past summer.

Members of the LEC participated in the work group discussions and provided comments on the enforceability of targeting and gear provisions. Also, for that provide an update on stock status and the potential for management changes in 2025. We discussed Atlantic cobia, specifically the proposed regional recreational management measures considered under Addendum II. We also discussed spiny dogfish, where staff presented on the sturgeon bycatch reduction measures of Draft Addendum VII for the Spiny Dogfish FMP.

Both management options under Section 3 were discussed by the LEC. The LEC Recognizes that not all jurisdictions have like permitting of this fishery, and appreciate the Board's efforts to consider enforcement of this proposal. In consideration of proposed options, the consensus of the LEC at the time was to support Option 2. The LEC will continue

to monitor the development of this Addendum, and offer guidance where appropriate. We discussed winter flounder, specifically the conservation equivalency proposal of the consecutive daily trip limit pilot program for the state of Massachusetts. As presented, this proposal will allow for fishers fishing Massachusetts state waters north of Cape Cod to take and possess consecutive two-day trip limits of winter flounder, as certain program requirements that need to be adhered to.

Time of the Board consideration of this proposal, the LEC offered shared experiences with similar programs in other fisheries, and supported this pilot program based on the commitment of both monitoring and enforcement by the state. Mass DMF is committed to providing a review of the pilot program in its annual compliance report, and we would like to just note that for the enhancement of enforceability the LEC wishes to reinforce the use of VMS in these types of programs.

We went on to discuss some other business, specifically members of the National Association of the Conservation Law Enforcement Chiefs Association, presented on the Global Conservation Law Enforcement Network. This is a new communications and information network that will light the platform for global collaboration, conservation law enforcement agencies.

Users will have the ability to network a message with specific subject matter experts from participating countries. We also conducted a case study, working with the Department of Justice and NOAA Office of Law Enforcement, who presented on their case “Operation One-Way Chandelier.” This investigation and prosecution were part of a multiyear investigation to fisheries fraud in New York.

The investigation led to an indictment of one fisher, a wholesale fish dealer and two of its

managers, with conspiracy to commit mail and wire fraud and obstruction in connection with a scheme to illegally overharvest at least 200,000 pounds of summer flounder and 20,000 pounds of black sea bass, an estimated combined wholesale value of \$885,000.00.

It’s a little bit older case, it came through like 2017 in that vintage three- or four-year standard time. We highlight it now, because on July 11, 2024, the fisher that was part of this scheme was the last to be indicted, and was sentenced to serve 30 months of incarceration. We further discussed on demand fishing.

A talk of on demand fishing was discussed with the Chair of the American Lobster Management Board and the New England Fisheries Management Council’s LEC, same person. The purpose of the discussion was to highlight this topic, and to ask the LEC to consider collaborating with the Council’s Law Enforcement to advise future development of regulations related to on demand trap gear.

We’ve had a high turnover over the last few years within the Committee. The new Chair, Scott Pearce out of Florida asked for training on the roles and expectations of the LEC membership. The LEC members were provided information on the IFFP Charter, the 2025 Action Plan, and other ASMFC resources.

The travel guidelines with the Commission were also reviewed. We received an update on the ASMFC website upgrade, and we provided relevant information and graphics to support the upgrade. We also conducted a closed session of our meeting, to openly discuss new and emerging law enforcement issues. As you know, in the last couple of meetings I’ve been trying to highlight notable case work from our respective states. I want to give you a couple here with Connecticut Environmental Conservation Police.

Officers received a complaint of a charter vessel out of Groton, Connecticut taking and keeping numerous striped bass outside the legal slot limit of 28 to 31 inches. This vessel was observed coming

into the port, and was boarded by the Encon officers. Upon a special inspection it appeared that numerous striped bass were outside of the slot limit, but these fish were filleted at sea without having the rack onboard to determine the length of the fish.

Filleting striped bass at sea and not retaining a rack for inspection are state violations. The captain of this vessel was cited for multiple counts for both violations, and paid fines in the amount of \$450.00. Kind of the cost of doing business, now he will regret the fine. The second case was out of the state of New Hampshire, and it was part of the New Hampshire Fish and Game working in conjunction with their Operation Game Thief Program.

A fantastic example of teamwork between law enforcement and anglers. On or about July 23, 2024, at approximately 3:00 p.m., tips flooded in through direct calls to the conservation officers and through the New Hampshire Operation Game Thief tipline, reporting that a boat with Massachusetts registration numbers was catching and keeping oversized striped bass off the coast of New Hampshire.

The boat in question fled the area in an unknown direction after anglers stated they were calling New Hampshire Fish and Game. Officers from New Hampshire Fish and Game, Maine Marine Patrol, Massachusetts Environmental Police and local police and Harbor Master searched for the suspect vessel and operator.

The Portsmouth, New Hampshire Police Department successfully located this fisher after he loaded his boat onto a trailer and in the act of hiding fish. Police located 14 oversized striped bass, ranging in size from 37 to 47 inches on investigation by the New Hampshire officers. New Hampshire Fish and Game wants us to conduct a thorough investigation.

Upon being interviewed by the officers this person confessed. His intent was to sell his catch under a commercial striped bass permit in the Commonwealth of Massachusetts. This individual was cited for possession of oversized striped bass, over limit of striped bass, fishing without a license and gaffing of striped bass. He paid fines in the total of \$3,689.00.

The final case which was highlighted was again a multistate operation. This was a joint effort between the New Hampshire Fish and Game Conservation Officers who teamed up with the Massachusetts Environmental Police Officers, again to patrol the increased level of activity near the state border for those pursuing striped bass.

New Hampshire, Massachusetts, have regulations that allow for the recreational take of striped bass, as you all know. Massachusetts also has a commercial season that allows permitted vessels to harvest a commercial possession limit of striped bass in their state waters. Officers worked diligently throughout the night, using multiple surveillance locations and methods to keep a close eye on this activity, in so documenting violations. Very early the following morning, multiple offenders were apprehended in coastal waters with evidence of taking striped bass for commercial purpose in Massachusetts.

As a result of the efforts, officers seized evidence, which included the fish and equipment. Violations were cited again for exceeding the daily limit of striped bass, possession of oversized striped bass, and the use of gaff to take striped bass, as well as an offense for operating at night without navigation lights. The offenders each paid in the amount of \$3,658.00.

I just wanted to highlight those cases, good work. I'm a little heavy on this report on the north, and I apologize for that. Our partners to the south have been pretty busy with storm response and other matters, so a little less on their efforts, I didn't really want to bother them too much with fisheries stuff. I stayed a little bit in the north, so appreciate

that. Mr. Chair, all set, thank you. I'm available for any questions.

CHAIR CIMINO: Great, thank you. Any questions on the Law Enforcement report? I've got a couple. I'm going to go to Loren, and then Jim.

MR. LOREN W. LUSTIG: Thank you very, very much for a very interesting report on Law Enforcement. You mentioned in your report the somewhat infamous phrase "cost of doing business." I think it related to a fine of \$450.00. I was very interested to compare that to that law breaker who was involved in mail and wire fraud, and did 30 months incarceration. Is there an option that you could speak about regarding the possibility for major wildlife crimes, fish, and wildlife crimes, for the confiscation of vessel and gear? Is that a possibility?

MR. BLANCHARD: The disparity in the difference on violations and the penalties within those violations, so let's just keep perspective on that. The operation "One Way Chandelier" was a federal case, pretty detailed, pretty in depth, multiyear investigation that led to a full-scale trial and subsequent penalties.

The other case are state cases, and not to minimize state versus federal, but typically there is a level of consideration there when it comes to sanctions. With the state cases, Massachusetts, I think there were four or five fish in that case, so it was a little more commensurate with the level of violations, as far as the respective violation.

Then with the New Hampshire cases it was more of an elevated number of fish where they were in violation, multiple types of offenses, so that all increased the penalty structure on that. I can tell you that from my experience with Law Enforcement Committee, the states worked aggressively with their home agencies, to make sure there are appropriate sanctions and try to get them as appropriate as possible.

It's really up to, ultimately the judges, in the final dispositions. Some of these were tickets, so it's kind of already prepaid, the Connecticut situation, I believe those were tickets that were written. There was already a summary settlement they are working off of, where the other ones were adjudicated differently.

CHAIR CIMINO: Jim.

MR. JAMES J. GILMORE: Good report, Kurt. Just a generic question, I may have a follow up to. Does Law Enforcement Committee have any review from an enforcement perspective for MRIP, or is that something that is just few and far between? Because there are some activities going on now with MRIP, in terms of tweaking it. Do you guys talk about MRIP at all?

MR. BLANCHARD: We've had limited work with MRIP and MRIP staff or any kind of data coming out of that. We work closely with the FMP coordinators here that keep us briefed and informed on, you saw my whole report on the species board. The FMP coordinators here at ASMFC keep us briefed on that, and they do a great job. We're open to further discussions of any other scientists or data and looking at that, and offer a comment where appropriate.

CHAIR CIMINO: Follow up.

MR. GILMORE: Some efforts that we did in New York last year, turns out we had found out the data was indicating a 70 percent noncompliance with MRIP in New York, and actually I think Jersey was the other one. We're the two states that don't have a fee-based license, so we're suspecting that had something to do with it. However, when the data came out, it turns out a lot of the states aren't having that high a noncompliance, but they are still in the 40 percent, 50 percent range.

The corroborating evidence we had in New York was from our law enforcement folks, and they were saying, yes, they were only seeing about a 30 percent compliance on MRIP. Currently, as I said, NOAA Fisheries is tweaking that a bit, but just a

recommendation that that might be a good topic in one of your upcoming meetings, to see what is going on with other states. Obviously, because we're using that for management, and if we have that level of noncompliance that is definitely something we need to start looking into.

MR. BLANCHARD: I appreciate that, and I'll check back to New York, our DEC folks there, and see what they come up with.

CHAIR CIMINO: Go to Dan McKiernan.

MR. MCKIERNAN: A quick question for Jim. What is meant to be noncompliant with MRIP, to refuse interviews?

MR. GILMORE: My understanding from the Law Enforcement guys is the 70 percent, which are intercepts that officers were encountering anglers on the water. Well, actually Toni, if you've got a better answer.

MS. KERNS: I think it's when you look in the cooler and the fish are either within the size limit or not, or the bag limit. I think that is when the noncompliance values show up.

CHAIR CIMINO: I shouldn't have given Toni my microphone.

MR. GILMORE: Well, I think that is why we need to look into it, because our law enforcement guys were saying that the number of guys that they're encountering that don't have the registry in New York, the pre-registry, and they physically don't have the registry. Again, a lot of unknowns about this is why I was suggesting, maybe look into a little bit more on the details.

CHAIR CIMINO: Yes, if that's the case then I can certainly say we should. I mean we don't know the level, but there is certainly noncompliance with our pre-registry in New Jersey as well. Dan, did you have?

MR. MCKIERNAN: I just wanted to speak to the striped bass violations. My agency renews commercial permits at the end of the year or for the new year, and we fully intend to hold an adjudicatory hearing before a magistrate on some of those violations. In that case they could be facing a permanent revocation or suspension. In fact, we often ask our law enforcement officers to do that, to come to us, because we feel the courts typically are pretty lenient in most cases.

CHAIR CIMINO: John Clark.

MR. JOHN CLARK: Thank you for the report, Kurt. Dan partially answered my question. I was just curious, I mean I know what happened in Connecticut is probably even more than they would have been charged in our state, and it's very difficult to remove somebody's license. I was just wondering how many states do you know of that could take away somebody's license for this, and like in that federal case. Was that person now permanently banned from getting federal permits for fishing?

MR. BLANCHARD: In a federal case, yes. He was put out of the fishery, there were sanctions that were part of that whole settlement. He was taken out of the fishery. The respective states, it is my understanding, I speak for Rhode Island for sure, and I know Mass, I've worked with Dan on some of these topics in the past, and I'm saying, they do have ability to sanction licenses, to take licenses.

We're all member states within the Interstate Wildlife Violators Compacts, and when we do sanction a permit or a license, like other states, our partner states have the ability to also adopt those sanctions. I sanction on a case out of Rhode Island, and it's a like violation that Mass, Connecticut or New York may have an interest in. They will have the ability to adopt that, and also administer that sanction in home states, so we'll put that person out of the region for a while, depending on the length of that sanction.

MR. CLARK: Thank you, I was just curious, because like ours it would have to be our director would

have to take away the license, and he's a political appointee. Obviously, it becomes a very difficult situation in those cases. Just curious as to how many states can actually permanently ban somebody from a fishery.

ATLANTIC COASTAL FISH HABITAT PARTNERSHIP COMMITTEE

CHAIR CIMINO: Other questions? Not seeing any hands, thanks, Kurt, appreciate it. We're going to go into the Habitat Report and then, Simen, you can feel free to roll into ACFHP after that if you would like.

MR. SIMEN KAALSTAD: I am going to do it in the opposite order, only just because that is the nature of the slides that I scrambled together this morning. The Atlantic Coastal Fish Habitat Partnership, the Steering Committee met on Monday and Tuesday, and the Habitat Committee met yesterday afternoon, and are currently meeting right now and wrapping up, I'm sure.

But a couple updates. I'll keep it brief. The Steering Committee for the Partnership, we approved New England Fishery Management Council as an official partner of the Partnership, so they will be, I guess more involved with any sort of habitat restoration project, solicitation and all the parts of being a member of the Partnership.

We also approved the next funding application for the next round of funding for FY '26. You will be seeing that RFP opening very soon, following this meeting. We also decided to sort of pursue the additional \$40,000.00 that is available in the Coordination Funding and there is a little bit of a tradeoff between project funds or operation funds, and so we're sort of in discussions on how we utilize that extra budget increase.

Our next sort of focus on the science and data side will be in the submerged aquatic vegetation realm, and we've kind of had a lot of discussions on the seed-based restoration, so the interstate policy regarding the seabass

habitat and the important aspects of restoration and monitoring of follow up assessments.

We're sort of in the process of developing a workshop, and that might be something that we spend that additional operations budget towards. Action plan wise, we are at the end of our previous action plan, so we began developing the next action plan, and we were also fortunate enough to have Jason Olive from the U.S. Fish and Wildlife Service join us. I think he probably met with a few of you guys on Monday and Tuesday.

Also, Alex McOwen, who is from NOAA Fisheries and Daniel Wieferich, he presented on the new project data base that National Fish Habitat Partnership has launched. Just sort of the most recently activated or active projects is the Maryland Coastal Bay's Salt March Restoration down in Worcester County. Recently received an update that they are going to essentially shift a little bit up the coast to a larger plot of land, so that is going to go from 39 to 114 acres of habitat restoration across these two private properties.

Another dam removal on the Pequest River in New Jersey has just begun, and that is actually part of a sort of larger effort to remove several dams in that system. Then FY '25 that was the sort of last round of projects we got. That has been approved by the Board, and now we're waiting on the Congressional approval.

Again, we're in that top funding tier, so we'll receive around \$300,000.00 for these three projects, two of which are dam removals on the Pequest River, and those are part of that E.R. Collins. In total, ACFHP will have help supported four dam removal projects on that watershed, which will open up about 57 miles of riverine habitat.

The sort of non-dam removal project that recently was approved and that is an oyster reef restoration and some tidal vegetation restoration in the Matanzas River, so in collaboration with the University of Florida. I did forget to mention, also the sort of second RFP that ACFHP is involved with is now open, and it is sort of an informal funding

opportunity through NOAA Fisheries Office of Habitat Conservation and the Rec Fish Initiative, and it's about \$150,000.00 of a funding pool to go towards recreational fisheries engagement and direct habitat restoration.

I believe that has been circulated, if not check out our website, it's posted on there as well. I do also want to highlight that the National Fish Habitat Partnership Project accomplishment map is now live, and this has been a big endeavor, so when we receive projects, we upload it into this Survey 1, 2, 3 Database, and all that project information has been sort of compiled and put onto this map.

You can select via partnership or via priority habitats, and you can even look at the sort of funding contributions from the various organizations. There is a lot of data layers, so again, I encourage you all to go check that out. You can see the work of the other habitat partnerships around the nation.

HABITAT COMMITTEE

Mr. KAALSTAD: Habitat Committee Report, The Habitat Committee met yesterday and they are meeting right now, pretty briefly, again talking about the Habitat Hotline Atlantic and the conversation is always, you know, what's the format moving forward. We are probably not going to continue with the printed version.

But for this year's issue, it will be kind of a recap of what the Habitat Committee has been up to, introducing sort of the purpose of the committee and recent activities like sort of emphasizing utility of the Fish Habitats Concern Document, as well as summarizing the acoustic impacts document that was approved by you all last meeting in August.

The next focus now is on shell recycling, so we'll have sort of updates from each respective state on their shell recycling programs or lack thereof for that matter. That shell recycling topic will sort of bleed into the next Habitat Management

Series, which will be a more in-depth technical report on kind of a BMP on the aspects of shell recycling.

We've approved a bit of a questionnaire and surveys for standardized information gathering, so I'll be sending that out to the different states, and you can hopefully kind of generate some infographics, and just collect some general data, you know on how these shell recycling programs operate along the coast, and what uses and what kind of restoration metrics are important for the programs.

Most importantly, we have now voted a new Chair for the Committee, which is Kate Wilke from the Nature Conservancy, and Eric Schneider is the new Vice-Chair from Rhode Island Department of Environmental Management. That's all I've got, so I am happy to take any questions.

CHAIR CIMINO: Thanks, Simen, and congrats to Kate and Eric. Are there any questions on these two reports? John Clark.

MR. CLARK: Thank you for the report, Simen. I just was curious about the seed-base restoration. Is that for eelgrass, widgeon grass Cortina?

MR. KAALSTAD: Yes, it's for eelgrass. It's kind of the big topic, at least in the New England area. We did have, ACFHP did have a webinar recently, just to kind of get a little bit of information where we invited Dr. Chris Patrick from VIMS, who is an SAV expert, as well as Phil Colarusso from EPA, and invited some members from the East Coast SAV Collaborative, just to sort of highlight and identify, you know what are the restoration needs, and how could we sort of go about filling that gap.

There is a lot of interesting new research showing that this assisted migration, as they call it, for eelgrass and sort of figuring out genotypically what thermal tolerance exists for various species. But it's tricky, because nobody really wants to fund these big question mark projects, so there is a big need for monitoring and assessment, and the issue with the seed base policy or the seed base restoration is if you're trying to move, you know see if this

genotype, for example, works in that watershed further north.

You know you're crossing interstate lines, and so seeds from Maryland might not be allowed to be put out in a different state water. We're sort of trying to tap into how can we clarify the policy challenges. It will be probably more on the guidance side, less on the science and data side, but that is sort of what this workshop will be focused on, is how can we really improve on the sea grass restoration.

CHAIR CIMINO: Dan.

MR. McKIERNAN: I have one question. Is the purpose of the shell recycling to try to compare and contrast different state regulations or policies that might constrain a given state to effectively recycle and create habitat?

MR. KAALSTAD: Yes, the sort of purpose of the document would be exactly that, to sort of, for anyone who might be a small organization who might be interested in launching a shell recycling program, they can sort of refer to this document and there will be yes, there will be a lot of policy points, I suppose.

It will be mostly; what aspects go into it? Is it state funded, is it not state funded? You know, what are your challenges and how do you go about all the different considerations with a nuisance for animals or the food. It's now in the FDA regulations and compliances, all the bits and bobs.

MR. McKIERNAN: I know in my state, I think putting shell on the sea floor is considered a form of fill, and needs a permit under the Wetlands Protection Act, which really makes it more difficult. I wonder if that kind of state-to-state comparison might be useful in telling a state that, hey other states are a little bit more lenient, maybe you should lighten the restraints on something like that.

MR. KAALSTAD: Yes, and we'll have a separate section for permitting requirements and sort of going about, you know navigating the legal realm and those type of things. Again, it will essentially be kind of a how to guide, and we'll have to be a little careful. You know we're not advocating for necessarily this practice, but if you're interested, you know refer to the guy in the middle to sort of have all those elements in there. We're sort of working with all the states to see, you know how does your program compare to other smaller states. It might not have one.

CHAIR CIMINO: Go ahead, Lynn.

MS. LYNN FEGLEY: Thanks, Simen, for your presentation, and all the work these groups are doing. Back to SAV and/or science and research. Was there any conversation around looking at the interaction between SAV beds and aquaculture operations, particularly in suspended aquaculture? It's something we're doing a little work on in Maryland, but it is becoming a bigger and bigger issue, and I wonder if the group talked about that at all.

MR. KAALSTAD: Yes, we did talk about that a lot, and that is sort of the tricky thing. I mean with the partnership, we're sort of focusing on SAV restoration, and then ironically Habitat Committee side we're talking about shell recycling. There is definitely an overlap there. The East Coast SAV Collaborative, that is sort of the big issue that they are addressing now, in their webinars and things. Will our science and data project address that specifically?

I don't think so. I tried to sort of make that known that there is an overlap, and obviously folks on the Steering Committee are well aware of the sort of competition between space, I suppose. But right now, I think the focus will be mostly on the restoration needs in general, and sort of defining what a meadow is or, you know how can you implement this seed-based restoration in your state, without breaking any laws, so to speak. We've sort of had to narrow our focus, otherwise it

will be six years until you hear from me on that report.

CHAIR CIMINO: Follow up?

MS. FEGLEY: If it's helpful, I think we do have some work being done right now by the University of Maryland for environmental science, and while looking at that question, so they are doing some experimental, I'm not exactly sure when that might go to publication, but if it's helpful for the group to know that that is in the pipeline, it's coming, and maybe it will be an opportunity to expand on their work at some point.

MR. KAALSTAD: Thank you, that would definitely be helpful, and that is sort of what is keeping us a little stalled at the moment too, is a lot of literature, sort of around the corner. Based on that we'll sort of act on what more science or more data or restoration. You know, of course you can always make maps and you can always do more monitoring and assessments. But we don't necessarily have the bandwidth to do that, so we're sort of trying to tap into the informational side of it, and trying to bridge the gap between policy, and just general restoration guidance.

CHAIR CIMINO: Go ahead, Ben.

MR. BEN DYAR: Yes, Simen, South Carolina is proud to have a robust shell recycling program, and so this was probably brought up in the meeting, so I apologize. But the questionnaire that is going to go out, is that just going to be on like size, scale, permitting that kind of thing, but would also be an opportunity to provide input for potential best management practices, or offer things outside of the scope of just maybe the size and scale and ways that permitting happens?

MR. KAALSTAD: That's an excellent question. For the tentative outline, you know we're just going to, I wrote a couple general questions for the sake of the state updates, just to give like a

small preview. For the sort of official questionnaire, that will be as detailed as it can be. You know with a mix of multiple choice or drop-down menus.

All that, so that we can standardize that data, but then there will be several open-ended questions, where people can put in their sort of more nuanced information on their shell recycling programs. I did forget to mention to you too that Michael Hodges with South Carolina DNR, he is very involved with a neighboring partnership, and we sort of have a bit of rapport there. Between you and him, you guys can feel free to throw all the oyster information you can at me.

Then we actually have Ward Slacum from the Oyster Recovery Partnership, he's in the room right now giving a presentation, so I sort of shook his hand and said thanks, I've got to go, and ran over here. No, happy to include any input or sort of consider any more nuanced information from the various programs. That is sort of what we'll do when we develop that questionnaire, make it as standardized as possible, but also leave some room for additional information.

MR. DYAR: Excellent, thank you so much. Happy to help assist the staff or however we can, and whatever avenue, I think get with you after the meeting, so thank you so much.

MR. KAALSTAD: Yes, no problem, thank you.

CHAIR CIMINO: Job well done; we're going to move on to Review of Noncompliance Findings as the next item. We have no noncompliance findings, and so that means we will not be reconvening Business Session after this.

OTHER BUSINESS

CHAIR CIMINO: Next item up is Other Business, so I'll turn to the Chair of American Lobster Board, Pat.

MR. KELIHER: At the American Lobster Board, we discussed the ongoing desire to see some cross border collaborations with Canada, specifically DFO and their lobster management areas, but also on the science side. The Board would suggest to the

Policy Board that a letter is sent to DFO, urging their continued engagement on this issue related to lobster conservation in the Gulf of Maine including continued coordination with agency scientists, to better understand the complexities related to lobster science in their assessments.

CHAIR CIMINO: It's an important letter. I do not think we necessarily need a motion on that, so I'm going to look to the Policy Board. Is there any objection to us sending that letter? Not seeing any. All right, thanks, Pat. The other item on the agenda, as Toni mentioned is we have asked BOEM to speak to us on something that kind of came up at the Mid-Atlantic Council. I'm going to turn it over to Brian Hooker.

MR. BRIAN HOOKER: I really appreciate the opportunity to give the Commission an update on a recent event, I think that was mentioned that came up at the Mid-Atlantic Fishery Management Council meeting, I think two weeks ago now. Again, very quickly, my name is Brian Hooker, and I'm the Biology Section Supervisor for the Bureau of Ocean Energy Management, Office of Renewable Energy Programs.

First off, before I get into sharing what information we have gathered so far on these incidents, I want to thank my staff, Thomas Warman and Alex Schneider for helping to prepare this, and also to Dominion Energy as well, for their support in providing all the information that we've asked as we looked into this issue.

Just to orient you, I think we talked a little bit, this Board heard it even earlier today about the construction of the Coastal Virginia Offshore Wind Farm, the commercial project. They started this spring and they have up to 176 turbines. We had our first observation of these deceased croaker early back in May of this year.

I also, before we dive into this incident, there have been at least one other incident identified

up at the Revolution Wind Farm Project, where it's a smaller number of observations. There are more observations of what we think are white hake, and around 12 to 20 fish. Pile driving impacts to fish are well known and well-studied.

Mostly, it's been studied extensively in confined areas, you know Bays, rivers, inlets and such, where there has been bridge work. As such, we actually have very robust information on what the injury thresholds are to acoustic trauma, based on all those years of experience in bridge work in the west coast and the east coast respectively.

All of our EISs do consider that environmental impact statements for projects do consider that injury mortality could result to fish that are located too close to turbine foundations. It is something that we consider could occur as a result of these construction operations. I don't think you can read that fine print in the box to the far upper right.

But because as I said, that BOEM does anticipate that injury or mortality to fish could occur as a result of construction, all of our comp approvals have conditions about reporting dead fish of at least 10 fish or greater, and this is the condition up there is regarding being very specific that we're talking about non-ESA listed species, we have other conditions for ESA listed species.

These reports that we received from Dominion's protected species observers were in response of that permit condition that we have for the coastal Virginia offshore wind project. Just a little bit more on protected species observers. There are three protected species observers per vessel, one an insulation vessel and two support vessels.

Again, that is mainly looking at trying to observe marine mammals. But they are also reporting fish as well. The number of fish that I am going to show in the next tables are based on these PSO, Protected Species Observer estimates, and that there could be multiple observations from the same vessel. We could have different PSOs, you know reporting the same fish, because they might record them if they are in transit or a different vessel moving in a different location may see the same fish

and also report it. What I'm reporting is the number of observations from those PSO reports, but it's a conservative estimate and they may include some double counting. Lastly, there is one thing we wanted to point out, that although almost all of the observations were of Atlantic croaker, there were some observations that that included spot as well.

Again, appreciate the Commission allowing us this opportunity, because both of those species are Commission managed species, and appropriate for this Commission's consideration. As I said, there has been about 39 observations at 24 foundation locations. There is an average about 450 fish per observation.

Observations occurred at approximately 30 percent of the installed foundations. No observations in July and September. Again, it's kind of spread across that boxed area of where that is, but the green dots are potential offshore substation locations. But it's kind of spread out. The observations are spread throughout the construction area. That was the focus of this summer's activities.

I think at the time there were 78 completed monopile foundations, I think they just wrapped up the ten pile foundations for one of the offshore substations. Again, we tried to break out the observations by the type of activity that is occurring. As you can see, a lot of the observations occurred when there was actually no construction occurring.

I think there was some speculation at the Mid-Atlantic Fishery Management Council meeting that it was definitely all related to acoustic trauma. From the observations and from our analysis that I'll get into a little bit, it doesn't seem to be. That could be a contributing factor, and that may be a sole factor in some cases.

But clearly in some cases it doesn't appear that there was actually any construction occurring at the time of the observation, or it was during,

potentially during vibratory piling observations, and there are no established fish injury thresholds for vibratory piling. It does not have that same impact full force as the impact piling has.

The graphic at the top is really trying to show you graphically how the construction timeline occurs. Hence the bubble curtains. There is a double bubble curtain that is established to attenuate noise into the environment that is put in place, you know up to a day or two prior to that pile going into place.

It's not operational at that point, but it can be put into place that early. That bubble curtain is tested to ensure that it is operating efficiently, and then at some point the installation vessel will move into position, upright the pile and begin vibratory piling. At that point there may be a pause, or what may be referred to as a hammer switch, where they are switching from the vibratory piling to the impact piling at that point to the bubble curtains may go down in pressure during that switch, to maintain positive pressure to keep them cleared.

But then they'll ramp back up prior to the impact piling beginning in that last column. Hopefully the graphics help there with understanding the process. But as you can see, you know 38 percent of the observations have occurred during pre-installation activity. Impact piling only accounts for about 8 percent of the observations in 6 percent of the fish observed. Whereas, again going back up the pre-installation accounts for 59 percent of the observed fish and 38 percent of the observations. I know there are a lot of numbers to digest here on that slide. One thing I will note on the no-construction too is that could include transit to the site, or other operations such as maintaining passive acoustic monitoring buoys that are required to be maintained for monitoring the noise levels.

Again, the purpose of this slide is to try to give you again a graphic representation of where the observations are occurring, in relation to the pile and the double bubble curtains. The pile is the bullseye in the middle, and the inner and outer bubble curtain rings are the black concentric circles

around that with the red being the observation distance, roughly from the PSO reports.

The numbers here haven't changed at all from the previous slide. Again, what the graphic at the top is really trying to show where the observations are occurring. Again, during that preinstallation you're seeing observations kind of throughout the whole area, and same thing. For vibratory, some of the observations were occurring just outside the second bubble curtain and during this hammer switch you did see the observations occurring all around there.

You can tell there are a lot of different things going on during this activity that is contributing to these observations, and the impact observations are pretty limited there. We're going to zoom out a little bit, on this slide still same numbers as in the table. Again, 25 percent of the observations occurred greater than 1 kilometer away from pile, so this is again just giving you the distance for those observations that were further away.

Some hypotheses are that some of those animals may be drifting out and observed after they've drifted further away and are being observed by those transient vessels at a later time. But it's not entirely clear what the cause of those animal mortalities are. I will again reiterate that, as I said at the beginning, we do have very good science on what the injury threshold is for fish.

We do have passive acoustic monitoring of the noise thresholds from the construction of this project. We know that generally, most of the time, the injury distance from the pile is between 20 and 100 meters away from the pile. Getting beyond that, we're even getting beyond what the science is telling us about what the injury threshold is for fish.

I think some of the more-louder piles did extend out to around 200 meters, but again, that scale is very close into the pile, relative to where some of these observations have occurred.

Again, this is just trying to illustrate. Again, you can see the distance, it is about 250 meters out to the diameter for the outer ring, and 170-meter diameter of the inner ring. The vessel in the foreground is the vessel that has the hoses attached to it, and has the generators onboard for both the inner and outer ring.

That is the vessel that is running the compressors for the bubble curtains. Our working hypothesis is really something related to the interaction between not only the acoustics, but the actual pressure and activity around the noise attenuation devices, those bubble curtains that are running during that time. Working with Dominion we have sent samples, both to the Virginia Institute of Marine Science and to North Carolina State University, to do some necropsies, to really try to understand what we're seeing in these fish. One of the pictures there in the slide. We've really tried to look at, you know what are we seeing in these fish from the samples? The necropsy reports to date indicate some acute trauma, also signs of barotrauma, so like being forced to the surface rapidly.

But the N.C. State report could not identify a definitive cause of the skeletal trauma in particular, because again, when we think of some of the acoustic trauma, a lot of the research on acoustic trauma, we're looking at, hemorrhages and hematomas, ruptured swim bladders, et cetera. But what we've seen with some of these fish are broken spines, broken ribs, and even decapitation.

Again, it seems to be something more forceful than just acoustic trauma related to these fish. We're continuing to investigate, like well what can we be doing differently to minimize this type of activity, or these types of results or these incidents from occurring in the future. We're looking at all kinds of different drivers.

As I mentioned previously, you know we focused a lot of effort on trying to understand the installation process from when the bubble curtains are established, when the first pile, when it's up righted, and when does the activity first begin to occur. We've looked into time of year,

temperature, sediment type, the construction activity as we showed in that table, the distance to construction, water turbulence.

As you can see, I think there was a question earlier from Dan what the sediment types were at the coast of Virginia, and you can see it's pretty sandy out there, there are no boulders in that area. We haven't been able to identify any specific bottom sediment type. I think there was an early working hypothesis that the bubble curtains were put in play up into the water column, and attracting the croaker into the area, and then pile driving started and they were trapped inside the bubble curtain and couldn't get out.

There is still that possibility that is a cause. I think we have had in our environmental assessments a lot of assumptions that with all that level of vessel activity, the laying of the bubble curtains and a vessel either being jacked up or in this case it's an DPS vessel, a directional positional vessel, so there is no jack up legs on the aligned installation vessel.

But with all that activity you would imagine the fish would want to depart that immediate area, but for whatever reason these croakers are not departing the area with all that. As you saw, there are two vessels, two bubble curtains, a large monopile being up righted and they are still within that inner and outer bubble curtain.

We're really trying to dig in to understanding, is there a procedural process that can be done, you know I don't know if it is encourage the fish to depart the area or just understanding, is there some other process that we can adopt to potentially minimize that. As you can see, it is the information, the data that we have so far isn't pointing to any one specific cause of this, and it is something that we're continuing to investigate.

I think that is actually my last slide, so I'm happy to take any questions that Commission members might have on the information presented. I know it is kind of a lot there. I'm

sure the slides will be shared with you after the presentation. If you do have any questions, you can definitely feel free to reach out to me, and we'll let you know what we know.

CHAIR CIMINO: Thanks, Brian, I have no question that there are a lot of questions, but what we do have at Policy Board right now is a time issue. We have lunch waiting and we need to reconvene the Mid-Atlantic Council at noon. I appreciate that you offered us a bit of an exit ramp in folks contacting you directly.

But I think as staff we could work to kind of maybe field questions and get them over to Brian as well, and even have a discussion on if this needs to be on our winter agenda. I don't know, is everyone okay with that? Are there burning questions someone feels they need to get off their chest now? Roy.

MR. ROY W. MILLER: Very quickly, Brian, when you talk about observations, how were the observations made? Were these fish that floated to the top, or were they observed underwater with cameras?

MR. HOOKER: No, these were all floating at the surface, thanks for that clarification.

CHAIR CIMINO: Eric Reid.

MR. REID: Yes, can I ask my question and I'll get my answer later? The original science behind effective sound was based on a 2500 kilojoules hammer. The hammers they are using now are these big massive monopiles, it's 4500 or maybe in excess of that. I just want to know if the science has been upgraded to accommodate the much stronger hammer at 4500 kilojoules.

MR. HOOKER: Would you like me to respond?

CHAIR CIMINO: Yes, sure.

MR. HOOKER: The science, yes. Each project models what it is actually proposing, so the hammers that they are actually proposing to build, they do the modeling and then they do the actual measurements in situ. These are actual measurements made at the facility, and again based

on very rigorous information about what the injury threshold are to fish. The sound pressure levels are the sound pressure levels, whether they are measured in a lab, whether they are measuring in situ. Yes, the hammers being used are what is modeled and what's measured.

CHAIR CIMINO: Adam.

MR. ADAM NOWALSKY: Understanding that these may not all be individual observations, there may be some duplication, a worst-case scenario throws the observations approximately 450 fish each puts us in a range of 12 to 15,000 fish. Is this considered an acceptable mortality under the current permit?

MR. HOOKER: There is not a threshold mortality in the assessment. It doesn't state like this many fish, or if the fish reach a certain threshold that certain action may be taken. I think that is one of the reasons why we wanted to bring it to the Commission. I think we have looked at some of the landing's rates and some of what can be caught as bycatch. I still think we are well below what might be considered normal mortality from these types of other activities that are already permitted. But again, if there is concern on the number of mortalities, we would like to hear that from the Commission.

CHAIR CIMINO: I think that is a very good reason that we might need this as a further agenda item for ourselves. I'll task us with that. One thing I would, I guess maybe recommend or request is that if BOEM could kind of discuss the requirements for each of these projects vs. best management practices on the things that you expect. I didn't want to have to try and say this, but double bubble curtains and the like.

To know the difference between what we expect to see at every project and are some projects going beyond that to ensure the safety of some. For the future, but if that can be put together. Great, thank you. With that, I am going to have to ask you all to scarf down some

food, lunch is in the hallway here. We will be reconvening at noon, and if it is all right with you all, I would like to adjourn. All right, thank you.

(Whereupon the meeting convened for lunch)

**INTERSTATE FISHERIES MANAGEMENT PROGRAM
POLICY BOARD WITH
MID-ATLANTIC FISHERY
MANAGEMENT COUNCIL**

CHAIR CIMINO: Good afternoon, everyone, we're going to reconvene the Interstate Fisheries Management Policy Board, and we are going to begin a joint meeting with the Mid-Atlantic Fishery Management Council. I am joined up here by the Chair of the Council, Wes Townsend. Welcome, Wes.

CHAIR CIMINO: Also joined by some staff that is going to go through our first measure, which is to Consider Approval of the Recreational Measure Setting Process. I'm going to be joined by Chelsea, Tracey and Julia, so I appreciate that. I want to welcome all the Council members, both in-person and virtually. Glad to have you folks here. A special welcome to Joe Grist, it's good to see you. I have a question. Are you sitting for both Council and Board today?

MR. JOSEPH GRIST: Yes, Mr. Chairman, I'm sitting with them both.

CALL TO ORDER

CHAIR CIMINO: Just wanted to check, thank you so much. Okay, so we'll consider ourselves called to order and I'm not sure who on staff. Chelsea, are you going to start us off?

MS. CHELSEA TUOHY: I believe John is actually going to start us off with an update, before staff goes into our presentation.

CHAIR CIMINO: Yes, I'm glad we have that. With that, apologies, I'm actually going to turn it over to General Counsel, John Almeida.

MR. JOHN ALMEIDA: For those who listened in to the GC Update at the most recent Council meeting, this summary I'm going to give on the Court Decision in NRDC v Raimondo might sound familiar. Before I begin, I will note that the Court's decision is still subject to appeal. The time for that runs out in a few weeks. The NRDC Case challenged the Council's and the Commission's Summer Flounder, Scup, Black Sea Bass Framework 17, which set up the new percent change approach for the development of recreational management measures.

The Plaintiffs in the case also challenged the application of this framework, this new approach, in the development of Rec measures for 2023, '24, and '25. The Plaintiff in the case argued that the new approach violated the annual catch limit provisions of the Magnuson-Stevens Act. The overall conclusion, the Court rejected these claims, and ruled in favor of NMFS, and in doing so provided some useful guidance as the Council and the Commission are working on the replacement for Framework 17.

The Court recognized that recreational and commercial sectors are very different, and pointed out that this is reflected in the law in provisions of the Magnuson-Stevens Act and the 2018 Modernizing Recreational Fisheries Management Act. The Court noted that the monitoring of catch data in the two sectors is very different, with the commercial sector having dealer and vessel reporting that allow for timely, accurate tracking of commercial harvest.

While the recreational catch is monitored through survey-based systems that are less timely and have more uncertainty to them. The Court pointed out that the specifications process, by which OFL, ABC, ACL, RHL are developed. That process was not changed by

Framework 17. The change that the new process provides is the use of the recreational harvest target in the development of recreational management measures, which the prior approach used the RHL as the target.

Importantly, the Court found that this different approach complied with the legal requirements of the Magnuson-Stevens Act, both in the framework and its use in the 2023, '24 and '25 Rec Measures Rule. The Court found that the use of recreational ACLs in the specifications process, and the corresponding accountability measures for potential recreational overages, satisfied the Magnuson-Stevens Act ACL requirements.

The Court rejected the argument that the development of recreational measures must be tethered exclusively to a target of the RHL. The Court found that the harvest control rules goal of reducing fluctuations in management measures struck a balance between National Standard 1s two aims of preventing overfishing, and achieving optimal yield on a continuing basis.

The Court stated that the prior approach, which required recreational measures to aim for the RHL, balanced these two concepts differently, with less of a regard for optimal yield. The main difference between the two approaches is the extent to which recreational measures are adjusted in a given year to bring recreational catch closer to the RHL, or to aim directly for the RHL.

The Court found that the differences between recreational and commercial fishing and the associated differences in catch data were real, and that the Harvest Control Rule's approach reflects the difficulty with developing recreational measures, in light of the uncertainties associated with recreational catch data. The Court rejected the argument that these uncertainties were being double counted unlawfully, where they are considered in the development of the OFL and the ABC. The Court pointed out that the Magnuson-Stevens Act expressly acknowledges the distinctions between recreational and commercial fishing, and that scientific and management approaches should

be adapted to the characteristics of each sector, and that this is an example of how that can play out.

Finally, the Court rejected an argument that the Harvest Control Rule amounts to a reallocation of quota from the commercial sector in the event of recreational overages. The Court pointed out that to the extent there is an overage of a recreational ACL, the relevant accountability measures would address that. The only Magnuson concern that a commercial underharvest would address, is in the determination of overfishing, in the sense of a biological concern.

In that circumstance, the biological impact of the two sectors combined harvest are necessarily considered together. However, that doesn't change the ACL-AM Framework, and to the extent that it was a recreational overage alone that caused an overage, it would be the recreational AM that would be triggered.

That is kind of a short summary of a 60 something page court decision, and I think the takeaway that I would offer is that the Court resoundingly affirmed the approach that the Council and Commission took with regard to the Framework 17 Harvest Control Rule Percent Change Approach. Again, to the extent that we are taking similar approaches in this action, I think this opinion gives us solid legal footing to do so. That is all I have, Joe, thank you.

CONSIDER APPROVAL OF RECREATIONAL MEASURES SETTING PROCESS ADDENDA/ FRAMEWORK FOR PUBLIC COMMENT

CHAIR CIMINO: Great, thanks John. Are there any questions for John: No hands in the room, online? Not seeing any. Thank you again, John, much appreciated for that. With that we will get into our agenda item of Considering Approval of Rec Measure Setting Process Addenda/Framework for Public Comment. Now we're going to Chelsea, thanks.

MS. TUOHY: Good afternoon, everyone, sorry I could not be in the room today. But today, Tracey, Julia and I are going to give you all an overview of the Recreational Measure Setting Process Framework Addenda that was sent around as part of the meeting materials for this meeting.

Getting right into it, we're going to start off with some background on this action, followed by an overview of the options under consideration. We will also discuss some other topics that were considered by the FMAT and PDT, since the Policy Board and Council last met in August. Then we'll wrap up today with a timeline and next steps.

The objective of the meeting today is for the Policy Board to approve the Draft Addenda for public comment, and for the Council to approve the final range of alternatives for options. Working through some of the key sections of the Draft Addenda, starting with the statement of the problem.

The statement of the problem described how the Commission and Council face many challenges when setting recreational measures for summer flounder, scup, black sea bass and bluefish, including concerns related to uncertainty and variability in the recreational fishery catch estimates, and the need to frequently change measures based on those data, especially in a direction that is often perceived as contrary to stock status. Then additionally, the interim approach to address these challenges is that we are currently using the percent change approach, will sunset at the end of 2025, and if a new process for setting recreational management measures for the four species is not implemented through this action, we will revert back to the previous method of setting recreational measures that aim to achieve but not exceed the recreational harvest limit, or RHL.

Following the statement of the problem in the document is the goal. As discussed at previous meetings, the goal of the recreational measure setting process framework and addenda is to consider the process for setting recreational measures for 2026 and beyond for summer flounder, scup, black sea bass and bluefish.

The full FMAT and PDT met twice between the August Council and Policy Board meeting and this meeting, and made a number of changes to the options included in the Draft Addenda, since these two bodies last met. These changes include the addition of Option B, which is the modified percent change approach using the recreational ACT and catch.

Revisions to Option E, which include a name change from the Biomass Based Matrix Approach to the Biomass and Fishing Mortality Matrix Approach among other changes for that option. There is some additional language on management uncertainty, clarification of accountability measures under all options, and further discussion on impacts to the commercial sector, which is the topic that the Council and Policy Board directed the FMAT and PDT to explore it further, back in June of 2022.

All these changes were summarized in a memo that was addressed to the Policy Board and Council that went out as part of the supplemental materials for this meeting. That wrapped up what I have for the background, and we're going to move into the options in the document. Before starting off with Option A, I just wanted to make a quick note about overfished stocks and rebuilding plans. As a reminder, none of the options in the Draft Addenda replaced rebuilding plan measures.

For example, bluefish is currently under a rebuilding plan, and any measures for bluefish must comply with that rebuilding plan that is outlined in Amendment 2 to the Bluefish FMP. But because it can take up to two years for a rebuilding plan to be implemented after a stock is declared overfished, the options in the document can be used as temporary measures in that interim period between when a stock is declared overfished and the rebuilding plan is implemented.

Options C through E outline specific circumstances for these situations with overfished stocks. Now moving into the options.

Option A represents the no action option. With this option the percent change approach will sunset at the end of 2025, and the previous FMP requirement for the four species will be used for setting 2026 measures.

That process again is Board measures must aim to achieve but not exceed the RHL, and are set for one year at a time. Moving forward, it is anticipated that for these Board species stock assessments will be available every two years. Given this information, the remainder of the options, so Options B through E in this document allow for the setting of recreational measures on a two-year timeline, but the no action option is year by year recreational measures. Option B in the document is the percent change approach as currently implemented. For this option, as everyone is aware, the first step in the process is the comparison of the RHL in the upcoming two years, to a confidence interval around an estimate of expected harvest under status quo measures.

Then depending on if the two-year RHL is above, below, or within the confidence interval of expected harvest under status quo measures, we move into that middle column, which is the biomass compared to the target. For this option there are three levels of biomass considered, which are very high, which is above 150 percent of the target high, which is between 100 and 150 percent of the target, and low, which is below 100 percent of the target.

Then depending on the biomass category that the stock falls into, this then determines the percent reduction or liberalization needed in the upcoming two years, which is in that far right column. I'm now going to pass it over to Julia, who is going to cover the next two options in the document, and the associated accountability measures.

MS. JULIA BEATY: Thanks, Chelsea, so this is Julia Beaty with Mid-Atlantic Council staff, for those of you who don't know me. As previously mentioned, we have laid out how accountability measures or AMs would work under all of the options. AMs are included in the Council's FMP based on the

requirements of the Magnuson-Stevens Act and the National Standard Guidelines.

AMs are management controls to prevent ACLs or annual catch limits from being exceeded, and to correct or mitigate overages of the ACL if they occur. Although the AMs are not included in the Commission's FMP, the intent is that both the Council and the Policy Board will consider how AMs fit within this management action. There are alternatives for AMs and descriptions of AMs included in the Draft Addenda for the Commission. I'm going to describe some commonalities across the multiple alternatives for the AMs. In terms of how they are triggered, that is what is shown on the slide here. This would be the same across Options A through D, with some slightly different nuances for Option E.

Then in terms of what happens after they are triggered, it is treated the same for Options A and B, so I'll describe that in the next slide. What this slide is showing is that the accountability measures, reactive accountability measures are triggered when the most recent three-year average recreational catch exceeds the associated average recreational ACL for summer flounder, scup and black sea bass, and for bluefish it's based on the most recent single-year comparison, to determine the ACL overage.

The reason for that difference is because bluefish, that FMP allows transfers between the commercial and recreational sectors. That is not currently allowed for summer flounder, scup, and black sea bass, so the ability to do those transfers poses challenges for using a multiyear average for bluefish. Again, under most options in this document, everything but Option E, there would be no changes to what is shown on the screen here, in terms of how the AMs are triggered. The FMAT and PDT reviewed this and thought about the Magnuson Act and National Standard Guidelines language regarding AMs, especially in terms of how AMs are tied closely to ACLs. The FMAT and PDT agreed that no

changes are needed to this part of the AMs, because it is appropriately tying the AMs to the ACL overages.

Then the next slide summarizes what happens when an AM is triggered under Options A and B. As a reminder, Option A is the no action alternative, and Option B is the currently implemented percent change approach. What is shown on the screen here is the accountability measures that are currently in place, and would remain unchanged under Options A and B.

I'm not going to read all the details out loud, but key points are that the required AM response varies based on stock status. For example, when the stock is overfished under a rebuilding plan, or stock status stays unknown, then the exact amount of the overage must be paid back. In other cases, there is either a smaller scale of payback and the scale that payback is tied to the biomass level or measures are adjusted in a way that takes into account a performance of the measures and the conditions that precipitated the overage.

Next, I will summarize Options B and D, which are two modified versions of the percent change approach. We did cover Option C in detail during the August meeting of the Council and Policy Board, and at that time both groups approved it for moving forward in this action, so I'm not going to repeat all of those details.

Option D is new since the August meeting, but it's very similar to Option B, it's just swapping out harvest with catch and the RHL with the ACT. To give you a refresher of what we covered in August. The three key differences between these two modified percent change approaches and the currently implemented percent change approach are shown on the screen here. These are based on lessons learned over the past few years of actually using the percent change approach, and some feedback that we've gotten in various ways. First, just adds a new biomass category, so instead of the three categories there are now four. It's a new category for stocks that are around the target level, so it could be a little bit above or a little bit

below, but it's around the target so it has its own biomass category, as opposed to the currently implemented percent change approach, it split stocks that were anything above or below 100 percent of the target were treated differently.

We thought it would be more appropriate to have a separate category for stocks that are close to the target level or around the target level. This also includes more status quo outcomes and treats overfished stocks separately. The next slide shows what the new table would look like. Again, not going to walk through it in great detail, because it was covered in August, but key points are that that first column is the same as the current percent change approach.

Then the middle column, the biomass compared to the target level, you can see that has the addition of the around the target category. Overfished stocks are pulled out separately, and then on the right-hand column there are more options for status quo here than there are under Option B. That middle row that is in white, that used to be split out into three separate categories. Now it's all collapsed together with the status quo outcome, and then the cells directly above and below that are also a status quo outcome. Then at the bottom you can see how overfished stocks would be treated differently. Once again, the intent here is that this is describing what happens when a stock has been declared overfished, but the rebuilding plan is not yet in place, and it can take up to two years to get a rebuilding plan implemented.

In that interim period, this would specify that no liberalizations are allowed, because the stock is overfished, and if a reduction is needed the percent reduction would be equal to, it would basically be aimed at achieving the RHL, and these measures would be replaced with rebuilding plan measures as soon as possible.

The next slide shows Option B, and everything on this table is the same as on the previous table, except that the RHL is swapped out with the ACT and harvest is swapped out with catch. The intent of this option will be to focus more on how measures are impacting total dead catch and not just harvest. This is something that has come up a lot in the past is that our process through now has been focused on achieving a target level of harvest.

Sometimes we could need to restrain measures in the way that there is concern that that could reduce harvest, but also increase discards. If we focus more on the amount of total dead catch that measures are expected to achieve, maybe we could do a better job of accounting for discards when setting measures.

That is the intent of again keeping this option the same as Option C, and so incorporating all those lessons learned from the current percent change approach, but also focusing on catch instead of harvest, and using the ACT or the annual catch target as the starting consideration, because that allows us to incorporate management uncertainty buffers if desired.

The next slide describes a sub-alternative for the accountability measures under Option C and D. There are two sub-options for accountability measures for these alternatives, and it is the same sub-options repeated across Options B and D. Then C and D are both the modified percent change approach options.

Since they are so similar to each other we thought we could consider the same accountability measures across the two. The first sub-option that applies to both C and D, it would be Sub-Option C1 and then corresponding D1. This is the same as the current accountability measures, but with a few modifications.

The modifications are shown here with a red line version. Under the biomass level column, it would just switch out the target level for 90 percent of the target level, and that is just aimed at aligning the way the AMs would work with how the biomass

category is treated under that table I showed in the previous slide, or the around the target biomass category starts at 90 percent.

If we didn't make that change, we would have part of the around the target category falling into one cell of the AM table, and then another part of that category falling into a different cell, so we thought just to make it line up better, just change it so that the biomass categories align in the way shown on the screen here. Then the other adjustments shown in the bottom right in green. The current accountability measures say that adjustments to recreational measures will be made when an AM is triggered and biomass is above the target. But we could be in a situation where a liberalization could be allowed, and we might want to have a status quo approach instead of a liberalization as an accountability measure. The way the regulations are currently phrased poses challenges for that because it says that adjustments to measures will be made. The intent of changing will to may is for situations like that, where status quo might be appropriate as an AM.

Then also there is additional text to say that if a liberalization is allowed, then the scaled liberalization may be reduced to account for the AM. Each year that we go through the process, to consider what the appropriate AM response is, it would be up to the Monitoring Committee to weigh in on some of the specifics about when you're in one of these outcomes where it is not a specific payback, then easy to figure out what measures are appropriate for meeting the requirements there when it's not as specifically laid out.

But again, this is modeled on the current AM with just some minor tweaks, and then the next slide is additional sub-options under those modified percent change approaches, that incorporates all those tweaks that I have described on the previous slide, but it also adds in on the AM response column, so situations where an AM response would not be needed.

This is only when there was an ACL overage, the AM was triggered, but based on the most recent information it did not result in overfishing. This alternative or this option, this sub-option would change it so if the stock is not overfished, not under a rebuilding plan, you are in one of these other biomass categories. The ACL is exceeded, but overfishing did not occur, then you would not need an AM response.

But it does clarify that if overfishing did occur, then you would either have a scaled payback or you would adjust measures, depending on which biomass category you fall into. The FMAT and PDT talked about this and thought this would be an appropriate change. They also noted that these changes are actually pretty similar to the current commercial accountability measures. When the overage is due all or in part to discards for the commercial sector, a similar outcome is allowed here. That is it for my slides, and I'm going to turn it over to Tracey to cover Option E.

MS. TRACEY BAUER: Thanks, Julia. As Julia mentioned, I will be covering Option E, as well as touching on some other topics discussed by the FMAT/PDT since our last meeting, the August meeting, and then finishing up with timeline and next steps. For Option E, the Biomass Based Matrix Approach was considered through the previous option, and was further developed in this framework addenda.

After much discussion, after the August meeting, the FMAT/PDT ended up modifying this option enough that we've renamed it the Biomass and Fishing Mortality Matrix Approach. The name was basically appropriate for the approach. This new option is shown on the screen, and uses several factors to determine how to set measures.

The first being spawning stock biomass compared to the target level, and now fishing mortality compared to the threshold, as defined by the most recent stock assessment, as well as the most recent recreational annual catch limit, ACL, has been exceeded. Please note that AMs are incorporated into this alternative, so I will be addressing them as

we go along, as appropriate. The biomass categories, which you can see on the left-hand side of the slide, are similar to those that were described for the modified percent change approach, except a near overfished category has been added to allow for increased precaution when biomass is 50 to 60 percent of the target. In addition, high and very high were combined into an above the target category, to reduce some of the complexity in this option.

I will begin with reviewing outcomes for if overfishing is not occurring, and then I will move into the right-hand side of the slide of this table, which covers outcomes when overfishing is occurring, and explain the FMAT/PDTs rationale for the additional things. As I explain this option, you'll notice that outcomes are more complex, typically for stocks that are above the target or around the target.

This is because the FMAT/PDT gave special consideration to what management actions were most appropriate for stocks with higher spawning stock biomass in the different situations proposed in this option. To start, if a stock is above the target, meaning biomass near to the target level is equal to or over 110 percent, and overfishing is not occurring, this option allows a 10 percent liberalization.

Every time a stock falls into this bin each cycle, the recreational fishery isn't allowed a 10 percent liberalization. Now if the stock is around the target, meaning this biomass compared to the target level is greater than or equal to 90 percent up to 110 percent, and again, overfishing is not occurring, measures will remain status quo.

Before we move into the categories for overfishing, I wanted to just touch on the FMAT/PDTs rationale on, specifically for these categories. The FMAT/PDT wanted to take into account several other considerations they thought may be important when deciding how recreational management measures may need

to be adjusted for stocks with higher biomass in this option.

First, if a stock has higher biomass or biomass around the target, and is only a few percentage points over the overfishing threshold, the FMAT/PDT thought it may not be necessary or beneficial for the recreational fishery to require what could end up being a very large reduction, especially if the stock is doing really well, and the fishing mortality rate is so close to the threshold.

This led to the creation of a 5 percent cut-off point. Stocks with biomass around or above the target and are fishing close to, within 5 percent of the fishing mortality at the maximum sustainable yield, may remain status quo in this option. In addition, the FMAT/PDT also thought if overfishing was occurring over the 5 percent cut-off point for stocks with spawning stock biomass around or above the target.

It would be important to also take into consideration whether the recreational catch for that fishery exceeded the annual catch limit, the ACL in the previous year, or in other words, if the recreational sector contributed to the overfishing status. I will discuss the outcomes for these considerations in the next slide. We will start off when biomass is around or above the target. There are two fishing mortality categories that give you the same results, status quo. First, when overfishing is occurring, up to the 5 percent cutoff point, the second category when overfishing is occurring by more than 5 percent, and last year's recreational ACL was not exceeded. Again, meaning that the recreational fishery did not contribute to overfishing. Again, the status quo outcome only occurs when we have a larger spawning stock biomass. As you can see in the red box, it notes the status quo outcome may not be applicable if an accountability measure has been triggered.

As Julia went over earlier, it's similar, an AM will be triggered for summer flounder, scup and black sea bass if the most recent three-year average ACL is exceeded. The recreational AM for bluefish will be triggered based on the overage in those recent

single year recreational ACLs. If overfishing is occurring by more than 5 percent, and last year's recreational ACL was exceeded, meaning the recreational fishery did contribute to overfishing, then this approach calls for reduction.

For stocks with biomass above the target, consideration is given to this high biomass. If it is the first time the stock has entered the overfishing is occurring by more than 5 percent, and recreational ACL was exceeded, then the recreational fishery would need to take a 10 percent reduction in catch.

If in the next cycle, the stock falls into the same thing again, the catch would then need to be reduced to achieve the recreational ACT, with a minimum of a 10 percent reduction. The reasoning behind this stepwise approach was to try to mitigate impacts of a large reduction, by initially requiring that flat 10 percent reduction.

If the stock continues to fall into the same category, then catch will need to be reduced to achieve the recreational ACT. In comparison, the FMAT/PDT is recommending stocks with biomass around the target that fall into this bin, should be treated more cautiously, compared to stocks with biomass above the target. In this case, the recreational fishery would have to reduce catch to achieve the recreational ACT with a minimum reduction of 10 percent.

For stocks that have low or near overfished biomass, the response is much more straightforward. Stocks that fall into these bins would have to reduce catch to achieve the recreational ACT, with a minimum of 10 percent reduction required for stocks with low biomass, and a minimum 20 percent reduction required for near overfished stock.

In both cases, if an AM is triggered, scaled overage payback will be deducted from the ACT, and more information about that can be found in the framework addenda. Finally, as with the other modified percent change

approach options, we have separated out overfished stocks into their own category, with no liberalizations allowed and reductions are required, as needed to achieve the recreational ACT until a rebuilding plan is put into place.

Since this option is fairly complex, I wanted to go through it again using a different perspective of a Decision Tree, to walk through the decision-making process in figuring out what bin a stock fall into. In this option, the first question we asked is how the spawning stock biomass of the stock compares to the target level. If the stock is above the target, you then need to ask the question shown here in a blue outlined diamond, what is the fishing mortality compared to the threshold for overfishing. I am first going to go through the outcomes for a stock that is above the target. For stocks above the target, where fishing mortality compared to the overfishing threshold is less than or equal to 100 percent, i.e., overfishing is not occurring, a stock can take a 10 percent liberalization. For stocks that overfishing is occurring up to 105 percent, measures can remain status quo. If fishing mortality compared to the overfishing threshold is greater than 105 percent, then you need to ask the question, was the recreational ACL exceeded last year. If it wasn't, measures can remain status quo.

If the recreational ACL was exceeded last year, the first time a stock falls into this bin requires a 10 percent reduction. If the stock remains in this bin, then catch needs to be reduced to the choose a recreational ACT with a minimum reduction of 10 percent. Next, I'll go through the outcomes for a stock that is around the target.

Again, we're asking the question in the blue diamond, what is fishing mortality compared to the overfishing threshold? If it's less than or equal to 105 percent, then measures can remain status quo. If the stock is overfishing by over 105 percent, then we need to ask the question of whether the recreational ACL was exceeded.

If it wasn't, measures can remain status quo, if the recreational ACL was exceeded, then it has the same outcome as a stock that falls into the low

biomass category. We will need to reduce catch to achieve the recreational ACT with a minimum reduction of 10 percent. For stocks that are near overfished with a B over Bmsy of around 50 to 60 percent as a reminder, then we will need to reduce catch to achieve the recreational ACT, with a minimum reduction of 20 percent.

Finally, when a stock is overfished, again no liberalizations allowed and you would need to reduce catch, to achieve the recreational ACT or follow the rebuilding plan once established. Again, when you put that altogether, this is the Decision Tree and it is found within the Framework Addenda Document, if you wish to look through it some more. Finally, moving on to other topics. These are two topics that have been, again, further developed by the FMAT/PDT since August.

The Policy Board and Council have previously requested the FMAT/PDT consider how management uncertainty may interact with the options in this document. The figure on the right side of the slide illustrates a very simple diversion of how the OFL relate to the ABC, ACLs, ACT et cetera. The recreational ACT is highlighted in the figure in blue, and the ACT is set less than or equal to the ACL, to account for management uncertainty. None of the options in this document change the process for setting the recreational ACT.

As a reminder, the modified percent change approach and the biomass in fishing mortality matrix approach, the ACT was selected to be included, rather than the recreational ACL in the event that management uncertainty buffers are used in the future. In the draft framework addenda document, it's noted that under all options the Policy Board and Council may set more restrictive recreational measures than what otherwise be required to address management uncertainty or concerns about long-term sustainability of the stock.

The intent of this addition is to allow the Board and Council to make adjustments if desired, when setting recreational measures, which typically takes place after the ACT has been set. This can allow for potentially finer scale adjustments. Moving on to impacts to the commercial sector. Although this action only considers a process for setting recreational measures, the Council and Policy Board had requested the FMAT/PDT further evaluate potential indirect impacts to the commercial sector. This action does not consider changes to commercial management, it does not consider transferring quota between commercial and recreational sectors, or modify allocations.

It is not intended to lead to future revisions of the commercial and recreational allocations, and it does not change the process for setting the recreational and commercial ACLs, ACTs, and landing limits. The Council had also tasked the Scientific and Statistical Committee, SSC with reviewing several aspects of this management action, including potential indirect impacts to the commercial sector.

The outcome of the SSC Review is summarized in their July 2024 report, but I am going to summarize some of their points related to this topic. The SSC noted, as was previously noted in the SSC Review of the Draft Harvest Control Rule Framework Addenda that the setting of recreational measures does not directly impact ABC recommendations.

However, the SSC did note that if the frequency of ABC overages increases, they may assume the ABC overages in a projection that inform ABCs. This would have the effect of reducing the ABCs, which would in turn reduce the catch and landing limits for both the commercial and recreational sectors.

Due to the Council's Risk Policy, this has a greater impact for stocks below 150 percent of their biomass target. However, the FMAT/PDT notes that if the process in place for determining management measures results in an ACL overage, the recreational AMs can be triggered, which can help prevent the recreational sectors catch from deviating greatly from its ACL over time.

The SSC Report did not explicitly consider the role of AMs in this process. The FMAT/PDTs recommendations regarding AMs as they relate to the options were not fully developed at that time. Finally, moving into timeline and next steps. Overall timeline for this management action. We are here, as indicated by the red arrow.

In order to remain on schedule, the Council and Policy Board will need to approve the final range of alternatives and draft addenda for public comment at this meeting. This timeline is fairly strict, in order to meet the goals implementing the selected option, or the option is ultimately selected to set recreational measures for 2026. As you probably remember, the Harvest Control Rule Percent Change Approach sunsets at the end of next year, which means final action for this management action would need to take place in April, 2025.

That leads me to the conclusion of our presentation. The Policy Board will be considering approval of the Draft Addenda for public comment, and the Council is considering approving the range of alternatives. As a reminder or for reference, the options under consideration are provided in the blue box, and I thank you, and we would be happy to take any questions.

CHAIR CIMINO: Thank you, Tracey, Julia, and Chelsea. Once the Council and Commission's head stops spinning, we'll open it up for questions. A lot of stuff to be considering here, and also considering that we're taking this out to the public. Questions? Adam.

MR. NOWALSKY: Thank you for the presentation. Thank you for the work the PDT has done getting us to this point. The issue of moving from a harvest to catch-based management has certainly been something that there has been a lot of discussion about. Certainly, something that I see merits to moving forward. Looking backwards when the percent change approach was last developed.

PDT members Dustin Colson Leaning, who is a former Commissioner staff member, and Mike Celestino from the PDT at the time, had proceeded to complete a fairly robust review of past performance of recreational harvest compared to RHLs. That review and analysis was used to inform the 10, 20, and 40 percent numbers that were used in the percent change approach that has currently been implemented, and supported by the current legal review that we heard at the beginning of this presentation.

Can you confirm that for the carryover of those numbers into Option B at present time, that those numbers 0, 10, 20 and 40 percent were just carried over from the existing percent change approach, and there wasn't as robust of an analysis as had been previously carried out of RHL Direct Harvest Comparison that was done for ACL and Rec catch.

MS. BAUER: That is correct, we have not done a similar analysis. This option, like I said, was added between August and now, so we did briefly talk about that with the FMAT and PDT, and we just felt that we didn't have time to do something like that, and if we did, I think we would have to think about how to do it differently, because in the past we were trying to set measures to achieve a target level of harvest, the RHL.

We weren't trying to achieve a certain level of catch, so we could have had discards. I think it would be challenging to do that same analysis looking back at historical data, because we just weren't setting measures to achieve a target based on catch, so it might not be comparable. We could go about it a different way, potentially, but we would have to talk through how we would do that. But the short answer is yes, we just carried over those percentages.

We did have an analysis with using the Recreation Demand Model that, I guess it only looked at harvest too, but confirmed that 10 percent. We felt like that was an acceptable minimum. But the 20 and 40 was largely based on historical retrospective, and I think that side of things would be harder to be looking at catch.

CHAIR CIMINO: John Clark.

MR. CLARK: Thank you for the great presentations, Julie, and Tracey. I always find it easiest for me to understand when I look at an example like in Table 5. I was just curious, in Table 5, I think it would be really helpful for the public too, because it shows real world implications of each option. But under Option C and D, is this going to be the same for Option C1 and C2 and B1 and B2, because the table just says Option C and Option D?

MS. BAUER: The B1 and D1 would only come into play if an AM is triggered, so we can't really predict how that would impact the specific resulting percentage. But assuming an AM is not triggered, it would be the way the example is based on.

CHAIR CIMINO: Nichola, sorry just one thing. Also, anyone online please raise your hands from Council and Commission.

MS. NICHOLA MESERVE: Thank you to the team. I really appreciate all the thought that went into these options. I think it is often more difficult to come up with the proxies than it is when we're just thinking about actually setting the measures. In Option E, one of the distinctions that I noticed is that when you're reducing or liberalizing, there isn't a cap at it like there is in the other options.

I'm wondering if that was part of the FMAT discussion at all, and if you think that the way it is set up it will still avoid those really significant changes, that the other options kind of put a cap on and don't set a 20 percent or 40 percent max, depending on stock status.

MS. BAUER: Thanks for that question. Yes, I think this is something the FMAT/PDT discussed quite a bit, when trying to put together or make the changes to this option. I know we talked about, like you said, there is no cap, so every time like let's say, a stock falls into that 10

percent liberalization bin, it's going to just keep compounding.

But we have discussed how if it started, if the stock started getting closer to the target, it would move down to that status quo bin, and that would keep it level. Basically, it's supposed to checks and balances almost, within this option is what we were talking about. As for the reductions in this option, we have been mainly focusing on spawning stock biomass and how that was doing.

If a stock was low, near overfished, that is when we decided we probably shouldn't have a cap in that instance, at least for this option. Because if a stock is doing that badly, we probably need to reduce catch to achieve the recreational ACT. But we had a little more flexibility when a stock was doing better. When it was above the target or around the target, where we would maybe just be status quo or cut it at 10 percent. Yes, we try to dig into consideration when we were developing this option.

CHAIR CIMINO: Yes, sorry, Megan.

MS. MEGAN WARE: Just want to complement the staff for how well you guys presented on some really difficult topics. This is really complex stuff. You guys did a great job at that. My question is also on Option E. I guess I'm hoping you can just maybe speak a little bit more to the green box where it is status quo, but overfishing is occurring, either by 5 percent or more than 5 percent, and just wanting to understand.

I assume that is overfishing coming from the assessment, so a stock-wide measure of overfishing. Then I'm wondering if you can speak to, like how that meets or matches requirements to end overfishing for the stock. I'm just trying to think through it in my mind if we get an overfishing result out of an assessment, the typical steps we take after that and how that aligns with what I'm seeing in the green boxes.,

MS. BAUER: Yes, I think that result if overfishing is greater than 105 percent, and status quo being an option at that point. We're thinking only when the

stock is doing really, really well where we maybe consider that as an option. We also have that qualifier in there that if the recreational fishery wasn't contributing to that overfishing status, then we would just keep things how they were, essentially. I'm trying to think if there is anything else I want to add to that.

MS. WARE: Just another way to frame the question. I think sometimes where you get an overfishing status, it requires you to reduce the overall quota. Presumably, the commercial fishery may be looking at a reduction and the recreational fishery at status quo.

Obviously, you can also have a situation where you're overfishing, and if you have a big year class coming in, so the next year you are projected not to be overfishing, just because of the biomass. In that case it's not as big of a discrepancy, maybe between the sectors. Again, I'm just trying to think through how that would work for each sector.

MS. BAUER: Yes, I guess this relates. There is one thing I forgot to mention is that when we were having these discussions about something like status quo if overfishing is occurring. We did note in our discussions that the Council and Policy Board would have a discussion to put in stricter regulations if they were concerned, like if it is overfishing by 175 percent or something like that. Status quo is not going to be acceptable at this point and you need to do something else. The Council and Policy Board have that option.

CHAIR CIMINO: Look around the room and online again for Council and Commission questions. Okay, not seeing any. We're going to open it up to the public for questions of staff. Mike Waine.

MR. MICHAEL WAINE: Thank you, Mr. Chairman, Mike Waine with the American Sportfishing Association. I guess I'll just make a quick comment while I'm at the microphone

that these are going to be some tricky public hearings, with how complicated the nature of this document and options are.

I think staff did a really good job trying to lay out the flow charts of how this would work. On some of the previous public hearings I've been on, I think the polling option might be a good avenue to go for this, specifically trying to lay out kind of the polls relative to the flow charts that you guys put together. That might be a helpful technique.

Getting to my question, it's regarding the Bluefish Accountability Measures and I think it's best worded, if transfers between the sectors don't occur for three years in a row, can a three-year moving average be used as opposed to the one year? I believe that's only applicable to bluefish, so I think my question only applies there. But I guess I'll have a follow up based on that answer.

MS. BAUER: If there was not a transfer for the most recent three years, then that complication isn't there. But a change to the regulations would need to be made to allow for that to happen, so I don't know that it would be all that hard. It could just say, like if a transfer has not occurred during these three years. It would require some regulation changes, so I think it would need to be in the document if there was a desire to make that change. That's just my initial reaction. I would also want GARFO to make sure I'm not speaking out of turn on that too.

CHAIR CIMINO: Well, actually, Chris, nice having you.

MR. CHRIS WRIGHT: Could you restate that, what you wanted me to weigh in on? I'm sorry.

MS. BAUER: The question was, if we did not have a transfer in bluefish for the most recent three years, could we use a three-year average? I said the regulations would need to change to make that happen, so that would need to be in the range of alternatives here.

MR. WRIGHT: Correct.

CHAIR CIMINO: Follow up, Mike Waine.

MR. WAINE: Yes, I mean to me it would make sense, given what we know about how infrequent transfers have been in the lowest freeze in history. Previously, before we were in the rebuilding plan, I think bluefish did experience some sector transfers. But we haven't had those over several years.

I believe it would make sense to align the accountability measure timeframe, for which this is evaluated with the other species, summer flounder, scup, black sea bass, if no transfers occurred and at most in three years. I guess that would be a recommendation to the Council and the Commission to make that change before this document goes out to public comment.

CHAIR CIMINO: Much appreciated, that's why I'm glad we're taking some questions and comments from the public. I think I saw another hand in the room, Greg DiDomenico.

MR. GREG DiDOMENICO: That's a longer walk than I'm used to. Very dramatic. It's Greg DiDomenico, Lunds Fisheries. Just a question for staff, Mr. Chairman. Twice during the presentation and then the back and forth between one of the Commission members, you mentioned a phrase that was, if the recreational catch is contributing to overfishing. Can you expand upon that, and how you mean it and how it relates to this action, or the alternatives in the action?

MS. BAUER: Sorry, one second. Trying to figure out. We're basically equating, if the most recent recreational ACL is not exceeded, then that is equated to the recreational fishery is not contributing to overfishing.

MR. DiDOMENICO: You mean overages, not a level of F that exceeds the threshold.

MS. BAUER: Correct, I guess it would be almost a proxy. We do not, right now, earlier in this

action we did try to separate out F, sector-specific F. But we were, I wouldn't say not successful, but it needs more time to develop, so we weren't able to use a sector-specific F in any of these options at this time.

MR. DiDOMENICO: How does it relate to the alternatives? In other words, how does it relate to a possible 10 percent reduction status quo, or 10 percent increase? That is the part I'm not understanding.

MS. BAUER: Sorry, I'm trying to think about how to answer that. In this option, if it's not exceeded and this is only for stock status if the stock is around the target or above the target. Otherwise, that does not get taken into consideration. Also, if it's a positive stock status, biomass is high and the most recent recreational ACL is not exceeded, that is where a stock may be, or recreational measures may be able to remain status quo.

Again, we have a qualifier in there, if an AM is triggered then that will not be the case, eventually. Then for if the recreational ACL is exceeded, that is when we start getting into the 10 percent reduction, reducing catch to achieve the recreational ACT et cetera. If the recreational fishery did contribute to overfishing, that is when we have the larger reductions for the above the target and around the target.

MR. DiDOMENICO: Thank you.

CHAIR CIMINO: Don't see any other hands from the public, and again, thank you everyone on staff for fielding those questions. To Mike Waine's question, and I believe he's right that we haven't done any transfers we can set this for bluefish for some time. If it would require a change then I think the wording needs to get into this document and then need to be part of a modification to this document when we're looking to make motions. Of course, that's I think our next step is to look for motions to move the document forward.

I would ask that Council and Commission members consider that and we can certainly help try and

wordsmith that if there is interest. A little sidebar there was just simply that we do have motions to move this forward for anyone willing to start that process, and if there is general consensus around and no objection, then staff can work on the wordsmithing of adding that bluefish language, so look for a motion, look for hands for a motion. Jim, you would be a good start.

MR. GILMORE: I'll make that motion, **move to approve Draft Addendum XXXVI.**

CHAIR CIMINO: Okay, Toni would like to see at least a nodding of heads that there is consensus to add the bluefish. Thumbs up from Chris Batsavage, yes, nodding of heads. All right, I would say that is general consensus. Jim, you can make this on behalf of the Council and Commission, correct? That's why I thought this would be a good start.

MR. GILMORE: Yes, I can, so **move to approve Draft Addendum XXXVI to the Summer Flounder, Scup, and Black Sea Bass FMP and Draft Addendum III to the Bluefish FMP for public comment as modified today.**

CHAIR CIMINO: Looks like we're starting out with the Board, so second from the Board, Joe Grist.

MR. JOE GRIST: Joe Grist also seconds for the Council.

CHAIR CIMINO: Yes, excellent. Discussion. Adam Nowalsky.

MR. NOWALSKY: I will certainly support both of these motions here today. I do have one request for an additional modification to the document though, and that would be as it particularly attains to this last example exception here, it talks about status quo catch in harvest. There is going to be a lot of confusion in the public that expected catch and harvest, either of those being status quo. It's

going to mean status quo measures in the coming spec cycle.

But the reality is that with the use of the Recreational Demand Model that may not actually be the case. My request for this document would be that some additional language be added here that spells out that expected status quo or catch, depending on an option, may ultimately not mean status quo measures moving forward.

CHAIR CIMINO: Tina, do you want to respond to that?

MS. BAUER: Just wanted to clarify. If it is not clear we can try to make it more clear in the document, and if we think that the change that needs to be made, I don't know if the process is we work with leadership or something to make sure it's clear after today. But the intent was that you start the first comparison is, if you leave measures unchanged what do you think harvest would be next year?

If that expectation is fine, then that can stay status quos and measures can stay unchanged. But we didn't want to say status quo measures, because we wanted to leave in the flexibility for conservation equivalency tweaks to achieve the same level of harvest. But the expectation was besides conservation equivalency, it would be status quo measures, because it starts with that comparison of, if we leave measures unchanged what do we think harvest would be next year?

CHAIR CIMINO: Follow up, Adam?

MR. NOWALSKY: Yes, and I think as long as you provide that level of clarification then that would satisfy that, in terms of offering that additional explanation to the public. I appreciate it. I also want to add again that while I would support this today, when it comes time for final action, I am going to have a very difficult time with these catch-based options.

That is based on the fact that there has been very limited analysis done as to whether the changes proposed in this document, based on catch, they

are not grounded in the same level of analysis that the percent change were done for harvest. Given that the last action underwent a legal challenge, as was documented by legal counsel earlier today, his interpretation was that the most recent ruling gave us a solid basis moving forward, to now be changing that from harvest to catch without that robust analysis. I will have a concern about that moving forward. But I think it's good to get this out to the public, get their thoughts on catch versus harvest moving forward. But I did want to put that reservation out there today.

CHAIR CIMINO: Okay, thank you, Adam, other comments on the Board motion around the room or online? Okay, just checking online to make sure. No hands, so with that I will call the question to the Board. Is there any objection to moving this forward? Not seeing any objection. **Okay, passed by consent for the Board.** Turn it over to Wes.

MID-ATLANTIC CHAIR WES TOWNSEND: Does the **Council** need to discuss this motion at all? Anyone around the room, anything online? No hands online. Is there any objection to the motion? If you want to decline, please raise your hand. No hands, **it passes unanimously**, thank you.

ADJOURNMENT

CHAIR CIMINO: We're good there, is there any other business to come before us? Still not seeing any hands, so we will adjourn the Policy Board part of this, and that part of the joint meeting. We will be picking up the Summer Flounder, Scup and Black Sea Bass Management Board. I will be turning over the microphone to the Chair. Sorry, Policy Board needs a motion to adjourn. There we go, Chris Batsavage, Ron Owen. Thank you.

(Whereupon the meeting adjourned at 12:55 p.m. on October 24, 2024)