

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

**Beaufort Hotel
Beaufort, North Carolina
Hybrid Meeting**

October 19, 2023

Approved January 25, 2024

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1. **Approval of agenda** by Consent (Page 1).
2. **Approval of Proceedings of July 11, 2023 and August 3, 2023 Meeting** by Consent (Page 1).
3. **Move to delete “come from a period of high availability” from the closed period guidance of the document. The new sentence would read: Any closed period must include at least two consecutive weekend periods (Friday, Saturday and Sunday** (Page 8). Motion by Justin Davis; second by Doug Haymens. Motion passes by unanimous consent (Page 10).
4. **Main Motion**
Move to approve the 4th option for inclusion in the document for when CE is not allowed (Page 10). Motion by Jason McNamee; second by John Clark. Motion amended.

Motion to Amend
Move to amend to replace 4th with 3rd option (Page 11). Motion by Chris Batsavage; second by Shanna Madsen. Motion passes (12 in favor, 5 opposed) (Page 14).

Main Motion as Amended
Move to approve the 3rd option for inclusion in the document for when CE is not allowed.

Motion to Amend
Motion to amend to add “depleted” (Page 15). Motion by Justin Davis; second by Raymond Kane. Motion passes with one opposition (Page 16).

Main Motion as Amended
Move to approve the 3rd option for inclusion in the document for when CE is not allowed. The new Option 3 reads: CE is not permitted if the stock is overfished or depleted, unless allowed by board via 2/3 majority vote (the rules on voting in Article II. Section 1. apply) (Page 16). Motion passes (Page 16).
5. **Main Motion**
Move to approve Option 1 for non-quantifiable measures (Page 16). Motion by Doug Grout; second by Jason McNamee. Motion substituted.

Motion to Substitute
Move to substitute for Option 2 (Page 16). Motion by Erika Burgess; second by Ben Dyar. Motion fails (6 in favor, 11 opposed) (Page 17).

Main Motion
Move to approve Option 1 for non-quantifiable measures. Motion passes with on opposition (Page 17).
6. **Move to approve the Conservation Equivalency: Policy and Technical Guidance Document as modified today** (Page 18). Motion by Lynn Fegley; second by Ingrid Braun. Motion carries by unanimous consent (Page 18).
7. **Move to approve the Fish Habitats of Concern Document** (Page 24). Motion by John Clark; second by Malcolm Rhodes. Motion carries by unanimous consent (Page 24).

8. **Move that the Commission supports the New England and Mid-Atlantic Fisheries Management Council’s request for information on an industry-based survey and the Commission send a similar letter requesting the NEFSC completes a white paper by January 12, 2024 outlining an industry-based survey that is complementary to the Spring and Autumn bottom trawl survey for the Commission and Councils** (Page 25). Motion by Eric Reid; second by Raymond Kane. Motion passes by unanimous consent (Page 25).
9. **Move to adjourn** by Consent (Page 26).

ATTENDANCE

Board Members

Pat Keliher, ME (AA)	Loren Lustig, PA (GA)
Steve Train, ME (GA)	John Clark, DE (AA)
Allison Hepler, ME (LA)	Roy Miller, DE (GA)
Cheri Patterson, NH (AA)	Craig Pugh, DE, proxy for Rep. Carson (DE)
Dennis Abbott, NH proxy for Sen. Watters (LA)	Lynn Fegley, MD (AA, Acting)
Doug Grout, NH (GA)	David Sikorski, MD, proxy for Del. Stein (LA)
Dan McKiernan, MA (AA)	Shanna Madsen VA, proxy for J. Green (AA)
Raymond Kane, MA (GA)	Chris Batsavage, NC, proxy for K. Rawls (AA)
Jason McNamee, RI (AA)	Chad Thomas, NC, proxy for Rep. Wray (LA)
David Borden, RI (GA)	Malcolm Rhodes, SC (GA)
Eric Reid, RI, proxy for Sen. Sosnowski (RI)	Ben Dyar, SC, proxy for Sen. Cromer (LA)
Justin Davis, CT (AA)	Doug Haymans, GA (AA)
William Hyatt, CT (GA)	Spud Woodward, GA (GA)
Marty Gary, NY (AA)	Erika Burgess, FL, proxy for J. McCawley (AA)
Joe Cimino, NJ (AA)	Ingrid Braun, PRFC
Jeff Kaelin, NJ (GA)	Mike Ruccio, NOAA
Adam Nowalsky, NJ, proxy for Sen. Gopal (LA)	

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

Staff

Bob Beal	Chelsea Tuohy	Geoff White
Toni Kerns	Caitlin Starks	Jeff Kipp
Tina Berger	Emily Franke	Mike Rinaldi
Katie Drew	James Boyle	Lindsey Aubart
Madeline Musante	Tracey Bauer	Kurt Blanchard

Guests

Max Appelman, NOAA	James Fletcher, United	Chris McDonough, SC DNR
Mike Armstrong, MA DMF	National Fishermen's Assn.	Joshua McGilly, VMRC
Pat Augustine	Tony Friedrich, ASGA	Patrick Moran, MA
Carolyn Belcher, GA DNR	Pat Geer, VMRC	Environmental Police
Jessica Best, NYS DEC	Lewis Gillingham, VMRC	Brandon Muffley, MAFMC
Alan Bianchi, NC DMF	Joseph Grist, VMRC	Allison Murphy, NOAA
Jeffrey Brust, NJ DEP	Jon Hare, NOAA	Josh Newhard, US FWS
Michael Celestino, NJ DEP	Jesse Hornstein, NYS DEC	Thomas Newman
Haley Clinton, NC DEQ	Blaik Keppler, SC DNR	Will Poston
Robert Corbett, NC DMF	Robert LaFrance	Jill Ramsey, VMRC
Caitlin Craig, NYS DEC	Thomas Lilly	Kathy Rawls, NC (AA)
Dustin Delano, NEFSA	Brooke Lowman, VMRC	Harry Rickabaugh, MD DNR
Julie Evans	Chip Lynch, NOAA	Jason Rock, NC DMF
Catherine Fede, NYS DEC	John Maniscalco, NYS DEC	Kirby Rootes-Murdy, BOEM
Cynthia Ferrio, NOAA	Nichola Meserve, MA DMF	Cody Rubner, ASGA

Guests (continued)

Erin Schnettler, NOAA
Alexandra Schwaab, AFWA
Christopher Scott, NYS DEC
Ethan Simpson, VMRC
Melissa Smith ME DMR

Somers Smott, VMRC
Scott Travers, RI Saltwater
Anglers Assn.
Troy Tuckey, VIMS
Mike Waine, ASA

Shelby White, NC DMF
Kelly Whitmore, MA DMF
Chris Wright, NOAA
Daniel Zapf, NC DEQ
Erik Zlokovitz, MD DNR

The Interstate Fisheries Management Board of the Atlantic States Marine Fisheries Commission convened in the Rachel Carson Ballroom via hybrid meeting, in-person and webinar; Thursday, October 19, 2023, and was called to order at 9:45 a.m. by Chair A. G. “Spud” Woodward.

CALL TO ORDER

CHAIR SPUD WOODWARD: All right, I’m going to call the meeting of the ISFMP Policy Board to order, here in beautiful Beaufort, North Carolina, October 19th. I want to welcome everybody as we wind down from a very busy meeting week.

APPROVAL OF AGENDA

CHAIR WOODWARD: We’ll start off with we have an agenda. I have one addition to the agenda from Eric Reid, carried over from yesterday, so I am going to call on him when we get to Other Business.

I believe, Dan, you might have something you want to address in other business of the Policy Board? Okay, and then Toni has got something that she wants to update everybody about, related to some Mid-Atlantic Fishery Management Council activities. Any other changes, modifications to the agenda?

I will be presenting the Chair’s report here, and Pat asked that I do it like somebody from New York, but I’m not sure that is physically possible for me, but I’ll make it as quick as I can. Any other modifications to the agenda? Any opposition to the agenda as modified? We’ll consider it accepted by unanimous consent.

APPROVAL OF PROCEEDINGS

CHAIR WOODWARD: We also have the proceedings from July and August, 2023, any modifications or corrections to those proceedings? Seeing none; any opposition to accepting them? Then we’ll consider those accepted by unanimous consent.

PUBLIC COMMENT

CHAIR WOODWARD: Public comment, is there anyone in the room from the public? I don’t see

anyone, anybody online from the public? We don’t have any public comment.

EXECUTIVE COMMITTEE REPORT

CHAIR WOODWARD: I’m going to launch into a brief report on the Executive Committee activities, and then I’m going to follow that up with my Chair’s report.

The Executive Committee met yesterday morning. We covered a variety of topics. First is AOC Chair, Joe Cimino presented a summary of the FY2023 financial audit, which was a clean audit once again, attributable to the excellent services we have from our Financial and Administrative Support Group. That report was considered and approved by the Executive Committee.

We also had a discussion about per diem rates that had carried forward from a previous Executive Committee meeting. After some discussion there was a motion made and approved to increase the meals and incidentals rate by 30 percent. Are there any questions about that while I’m addressing that topic? Then Alexander provided an update, a Legislative update of several things that are still in the queue. Obviously, as most of us realized, things are a little tumultuous over there inside the beltway these days, so we’ll just keep tabs on things and keep everybody updated. Laura provided an update on future annual meetings, and our next annual meeting will be in Annapolis, Maryland, and Lynn has assured us that it is going to be a fun time for everybody, so we look forward to being in Annapolis.

Other business items included an update on CAA spending, and we are winding that down. I think we’re going to have most of that money accounted for, and also Pat Keliher provided us just an update on some eel aquaculture activities up in Maine. I certainly encourage you if you’re not familiar with American Unagi, you all. But they have a pretty amazing operation up there, and I’ll just throw one statistic out, you can correct me if I’m wrong, Pat. But they are producing a biomass of yellow eels from that one facility that is greater than what we’re actually harvesting. Is that right, from the wild

population. It's pretty amazing. They have a nice website; they even have merchandise. If you would like a tee-shirt that says eels across the front of it, you can get an eel tee-shirt.

That pretty much concludes our activities for our Executive Committee. Any questions about that? If not, I'm going to go into my Chair's Report. First and foremost, I want to thank you all for your support you've given Joe and me this past year. It has been a busy year with a lot of challenges and successes.

I am proud of our ability to collectively meet our issues head on and work to resolutions that we can all support. I'm pleased to say that over my term as Commission Chair, we have successfully revised three of the Commission's foundational policies, our Appeals Process, De Minimis Policy, and our Conservation Equivalency Guidelines, which I hope to be finalized later during this Policy Board meeting.

Each are fundamentally important to ensuring that we treat each other fairly, with clearly articulated guidelines and processes, and without undue burden in the management process. There has been a lot of stock assessment activities here with benchmark stock assessments for American eel, black drum, Jonah crab and winter flounder, all endorsed through our peer review process, and accepted for management use by the relevant species management board.

Another five benchmark stock assessments for river herring, red drum, Atlantic menhaden, ecological reference points, Atlantic croaker and spot are in preparation for completion in the 2024 and 2025 years. A response to the American eel benchmark stock assessment, finding that eels continue to be depleted.

The Board initiated an addendum to consider changes to the coastwide yellow eel harvest cap, to include using a new tool for setting the coastwide cap based on abundance indices, and catch, as proposed by the benchmark stock assessment. At the same time, the American Eel Board is working on an addendum to address Maine's glass eel fishery quota, which sunsets in 2024.

Commissioners also took important steps to increase spawning protection for the Gulf of Maine/Georges Bank stock of American lobster, and rebuild American striped bass. Though the adoption of Addendum XXVII, the American Lobster Board established a trigger mechanism to implement management that is specifically gauge and escape vent sizes to provide additional protection of the spawning stock biomass. Earlier this week the Board reviewed the annual data update of American lobster industries in the Addendum XXVII trigger index, and discussed whether new management measures will be needed to implement the addressed trip trigger, and ensure the sustainability of this valuable resource and fishery.

In May, for the first time in 12 years, Commissioners used the Emergency Action Provision of the ISFMP Charter, to implement a 31-inch maximum size limit for striped bass recreational fisheries, in order to control recreational harvest and protect a strong year class that could aid in strong stock rebuilding.

This action responded to the near doubling of estimated recreational harvest in 2021 to 2022, and the strong likelihood that the 2029 rebuilding timeline would not be met, unless fishing mortality was reduced. In August, the Atlantic Striped Bass Board extended the Emergency Provision until October 28, 2024, and initiated development of Draft Addendum II, to consider management measures designed to reduce fishing mortality to the target, and to promote stock rebuilding. Yesterday the Board approved this Addendum for public comment.

This year was one of heightened stakeholder and media scrutiny of the Commissioner's management and supporting signs. Concerned stakeholders contend that there is localized depletion of Atlantic menhaden in the Chesapeake Bay, largely due to the reduction fishery, and that this depletion has resulted in the declines of other fish and bird populations in the Bay.

In an effort to address this issue, the Virginia Institute of Marine Science and Maryland Department of Natural Resources are each

developing approaches to assess the ecology, fishery impact, and economic importance of the menhaden populations in their portions of the Bay. Until we get more specifics about menhaden within the Chesapeake Bay, menhaden will continue to be managed on a coastwide basis, with the use of ecological reference points.

The science behind our management of horseshoe crab populations in Delaware Bay has been criticized by stakeholders and in the media. There have been years of work by conscientious state and federal bird and fishery scientists to improve the Adaptive Resource Management Framework, which has been endorsed by an independent peer review panel of experts.

Yet shorebird activists and journalists challenged the validity of the decisions made based on the ARM Framework, opining that our management of horseshoe crabs is the primary factor contributing to the demise and endangered shorebirds like the red knot. The Commission welcomes constructive input and criticism, we will continue to refine our models and management through the best available science.

However, I want to say unequivocally that Commission leadership has confidence in the ARM Framework revision, and fully support its use in setting harvest levels for horseshoe crabs of Delaware Bay origin. In the next year and for years to come, three overarching themes will continue to dominate Commission discussions and actions. These are the impacts of potential overestimation of recreational harvest and effort, due to a bias in the Marine Recreational and Information Program Fishing Effort Survey, the effects of climate change on our coastal resources and communities. The most recent issue of Saltwater Sportsmen highlighted a tarpon caught off the beach at Cape Cod, and a new state record king mackerel in Delaware is sort of emblematic of the things that are changing out there, and the intersection of protected species and fisheries.

All three issues will significantly impact our management process, and our success in addressing them, allowing our ability to be open and honest

about the issues before us, and to seek solutions that are best for both the sustainability of the resource under our care, and the communities that depend on them.

In closing, I want to thank the staff for their support during my tenure as Commission Chair. I also want to thank Joe for his willingness to serve, as a leader and for his valuable perspective over the past few years. I know that he and Dan will do a great job as Chair and Vice-Chair. I'll look forward to working with all of you, as we strive to ensure that we have healthy fisheries along the Atlantic Coast. Thank you very much.

CONSIDER APPROVAL OF REVISED CONSERVATION EQUIVALENCY POLICY AND TECHNICAL GUIDANCE DOCUMENT

CHAIR WOODWARD: Now I'm going to launch back into this Conservation Equivalency Policy Guidelines, Technical Guidance, whatever we're going to call it. We've been chewing on this for a while, so I hope that we can bring this to closure with unanimous consent. If we're not in unanimous then I feel like, you know we'll have to call a vote on this and see if we can move it forward.

I know there are concerns about certain parts of it, and I certainly understand those concerns. We all look at this through the lens of past experiences and future possible consequences. But I think this is one of those situations where we've got to be careful, and not let the perfect be the enemy of the good. With that I'm going to turn it over to Toni, and we'll get started.

MS. TONI KERNS: I just wanted to say thank you for your leadership over the past two years, it's been a really good time sitting up there with you. We're going to run through Conservation Equivalency Guidance Document. Just as a reminder, this document is to provide guidance on the application of conservation equivalency, and how the Commission uses the process within our management plan.

We started off from a task from the Executive Committee. The Management Science Committee provided information on some of the more technical aspects of the document, in particular some of the requirements of data analyses in the requirements for proposals. At the last meeting we went through a version of the document.

The Policy Board provided some guidance and changes during that meeting. Those changes were made, e-mailed back to the Policy Board, additional comments and changes were e-mailed to me, and the document you have on your meeting materials reflect all of those changes that folks had asked for.

In the case where there wasn't agreement, it created options in the document for the Board to consider today. The document is overall more streamlined now. I tried to get rid of some of the duplications in the document. It has the background section, general policy guidance section, a portion where it describes when conservation equivalency is not allowed, what needs to be contained within the state proposal, what those standards are, what the review process entails, and then information on coordination, and guidance with our federal partners. I did receive some feedback from folks that the document was moving in a direction where states wouldn't have the flexibility anymore to do what conservation equivalency is intended to do.

That is just that part of sort of that allows states to have the flexibility to craft management measures, that meet the needs of their state fisheries, but still has the same or greater conservation as the standard FMP measure. I tried to roll some pieces back in the document. I don't know if I rolled it back enough or not, but to still be able to allow for that flexibility for states, and yet still have some guidance and policy within the document itself.

The document definitely no longer has a lot of suggestions or recommendations, so if there are places where we want to bring it back to a suggestion or a recommendation, just point those out, and we can roll those back. Today I am just going to go over the sections where we have options in the

document, as to not reread the entire document for the group.

The first part is where conservation equivalency is potentially not allowed. Just thinking about what is the status of the stock, and do we want to give guidance to the Board, on whether or not conservation equivalency can be permitted. The first option, and the first three options would be standard across the board for all FMPs, and then the fourth option gives the responsibility back to the management board itself.

The first option is to not allow conservation equivalency in any FMP if the stock is overfished. The second option is to not allow conservation equivalency if the stock is overfished, depleted or unknown. The third option is to not allow conservation equivalency if the stock is overfished, unless allowed by a board via two-thirds majority vote, and the application of the voting policy on two-thirds in Article 2, would apply, and that's if the federal partners abstain then they don't count to the denominator.

Then the fourth option is to allow for board discretion for making the decision on whether or not conservation equivalency is allowed or not. It can be based on stock status. If a board implements a stock status restriction for CE, it can choose to apply that restriction to the entire fishery, or part of the fishery, meaning identify a specific sector that that would apply to.

If a board decides to not implement a stock status restriction for CE, the board would provide a rationale in their meeting proceedings as to why the CE restriction is not needed for that species if the stock were overfished or overfishing was occurring. Then moving on down into the document, and looking at the nonquantifiable measures.

This section just identifies if a state is submitting a proposal that has something that cannot be quantified. It can be a part of the state's proposal, but it can't count toward meeting the equivalent standard of the FMP. It provides some examples of what are nonquantifiable measures at this time.

These can change in the future if we have the ability to quantify them. These nonquantifiable measures include circle hooks, nontargeting zones or periods, no gaffing, outreach promoting best practices or release, and measures that are expected to reduce release mortality or overall, just other measures of other discards. There were some folks that felt strongly about removing this language, and other folks that wanted to keep this language, so I just made it an option. The next section where we had disagreement amongst the Board is looking at the standard that has to be in a conservation equivalency proposal, and this is looking at standards.

If a proposal has a closed period as part of its proposal, the document states that any closed periods must come from periods of high availability, and include at least two consecutive weekend periods, a weekend meaning Friday, Saturday and Sunday. There were some folks that did not want this bolded language to be a part of the document, and others that did.

I will note that this language came from that management and science group that had evaluated some of the more technical aspects of the document, and were part of their recommendation. Then lastly was actually a question from me. As I went through these last final changes, while we had originally said that conservation equivalency plans had to include an end date from the state.

I thought to myself, if we are reviewing these conservation equivalency proposals every year, and the Board can terminate a program if its not working in some way or another, then does that proposal need an end date if it's being reviewed each year or not? Just a question to the Board if we can make a change to that or not. Then just as a reminder, as Spud said, we're trying to get this document finished today, so that will be our final consideration is to approve the document. Any questions?

CHAIR WOODWARD: All right, go ahead, Jason, and then I'll go to you, Doug.

DR. JASON McNAMEE: Thank you, Mr. Chair. Yes, Toni, the only question I had, I was thinking about

the high availability are kind of subjective still, so I'll offer you how I interpret that. My concern is, you know if you put a closed period in, it might not be the highest wave, let's say, but it has harvest in it that is relatively high for the year. That would be my interpretation of that. Is that what you think as well?

MS. KERNS: Yes, I agree with you, Jason. It doesn't necessarily have to be the highest availability, but it shouldn't be the ones where you basically have no catch during that time.

CHAIR WOODWARD: Al right, Doug, then I'll go to Dan.

MR. DOUGLAS E. GROUT: Toni, I just wanted a clarification on Page 4, this wording under what are nonquantifiable measures. The way I read it; it said these measures could include several of those nontargeted zones. But is the intent of this is it would say that as of right now, these are the ones that you cannot use period, or if you could come up with, say for circle hooks.

You've got studies that show how much lower mortality you have with certain species for circle hooks. But the problem we have is we don't have an idea of how many people are using circle hooks. But if people put in a study, or put it in their recreational monitoring, where they could actually say, 50 percent of our public uses circle hooks on this, so we're realizing this percentage. Could they in fact use it? I just want to make sure this isn't just locking these out forever, but if they can demonstrate it in a quantifiable manner they could use circle hooks, or some of the other things.

MS. KERNS: Someone had asked me to put some examples in the document, so that is originally why I put these in here. I phrased it in a way, it could include, because we wanted to leave the window open, if we do come up with ways to quantify them, then they are not 100 percent fine to use. You just need the math to show that the measure can be equivalent to the standard of the FMP that you are trying to replace.

CHAIR WOODWARD: All right, Dan, and then I 'll go to Shanna.

MR. DANIEL MCKIERNAN: My question follows up on Jason's comments, relative to the requirements of closing times of high abundance. My understanding of how we've used that data is, for example Wave 5, September/October. In Massachusetts there is a whole lot more fishing going on, on Labor Day weekend than there is on Halloween.

The catch rates are average for that month, but if you lose days on the back end, you're probably not saving many fish. My question is actually relative to Richard Cody's presentation. Are we seeing a future where we're going to have monthly MRIP estimates in the future? Would that help resolve that?

MS. KERNS: I think we are going to have a future where we will be getting monthly information. I'm going to turn to Jason. I think it will help resolve that, but he is shaking his head, yes, so yes.

MR. MCKIERNAN: I think that would minimize the need for that, because if you're looking at a two-month wave, the catch rates can vary a whole lot, you know trending from one end of the wave to another. But if you're getting into monthly waves, maybe you don't need that.

MS. KERNS: Can you go to these proposed changes at Slide 6. That is the pleasure of the Board. If you think you don't need it any more or not, I think the intention of the group, and Jason has his hand up, so it's to make sure that the state is considering these higher availability timeframes versus incredibly low variability timeframes, where catch is not really occurring.

You're not really impacting the stock. I'll note that the two-week consecutive period with the weekends was to make sure that shorter closures you see a lot of recruitment, and you want to have at least a minimum amount of time for that. But Jason, go ahead.

DR. McNAMEE: Yes, just to clarify. I think it is a goal of MRIP to get there. When that happens, I am not

sure, given all of the things that they are trying to do. But to your point, Dan, I think there is still a need to, I think it gets better. You know you can be a little more refined a month with that. But you still have, there have been in the past people trying to put in conservation equivalencies where they are like kicking off, like a couple of days, and then they sort of spread them out. I think that's what this is trying to avoid. I think there is still a need.

CHAIR WOODWARD: All right, is everybody good on that? I'm going to go to Shanna and then to Eric.

MS. SHANNA MADSEN: Thank you, Toni. I know this document has been a labor of love, so I just wanted to give you a shout out and say, thank you very much for listening to all of us, and giving us some options to talk about this morning. My question actually is also related to this, so I'm glad that this is up here.

I think, Toni, you did a really good job of kind of telling us that you're looking for making sure that there is a long enough time period that there is not recruitment. I did have a question. Has Law Enforcement gotten to like kind of look this over and think about whether or not that is a long enough time period

I think one of the considerations that we make in trying to create a closure mid-season is yes, to make sure that we're not creating a short enough period that you know if you have three days there that doesn't really mean anything, but also, what would be most effective for, like enforcements, so like a minimum closure period?

I'm kind of less, I guess not less concerned, but less concerned about the high availability times, and more kind of worried about like how long do we need to close maybe mid-season, in order for Law Enforcement to actually see, to have enough time, to make sure that people aren't out there still fishing during kind of that open/closed season period. Just a question to that.

MS. KERNS: We did not specifically bring it to Law Enforcement. I'll offer Kurt to come to the microphone if he has any insight. I know that we've

talked about two-week closures in summer flounder, scup, and black sea bass prior before, so maybe he remembers from then.

MR. KURT BLANCHARD: Short closures are not really liked by Law Enforcement, because there is such a fine window. But as far as having the ability to enforce them, or be prepared to enforce them. As long as it's going out publicly and noticed, and it's been regulation codified, we're already planning for that.

We will be aware of that up front on a seasonal basis of what our priorities are and where we're going to be. We'll have that opportunity to do that. But have a short closure like this is not really ideal for Law Enforcement. But we understand it has to happen at times, and it does happen at times. I hope that answers your question.

MS. MADSEN: Thank you, just a quick follow up. Do you think that two weeks is kind of optimal for that? It seems kind of short still in the middle of the season, but just wondering.

MR. BLANCHARD: The longer the duration the better.

CHAIR WOODWARD: All right, Erika.

MS. ERIKA BURGESS: Thank you, Mr. Chair, and Toni, thank you too for the time that you spent on this and the time that you spent with me talking through me through this document. I wanted to ask you whether you thought under the measures that cannot be qualified, rather that italicized bold wording is actually needed, in order for the TC to make a decision about the effectiveness or measurableness of a CE proposal.

MS. KERNS: Strictly examples, so whether or not examples are needed, I guess some people ask, what does that mean? Maybe sometimes it can be helpful for a group, but is it a hundred percent necessary to conduct the business, probably not? Still need to evaluate.

CHAIR WOODWARD: Tell you what, why don't, Lynn, and then why don't we focus on what is up on the screen, and see if we can make a decision about that one, and decide whether we want to keep that bolded language or not, so Lynn, I'll go to you and then I'll come back to that.

MS. LYNN FEGLEY: This is not really a question, it's just a follow up to what Erika said, and yes, thank you, Toni, for your work on this. I do think, just to Erika's point of whether we need this sentence, given the TC is going to evaluate. I do think what this does is provide the state with some guidelines up front to save time.

I think it's really important, you know messages to the state, don't be doing this stuff, where you're doing a weekend here and a weekend there, a Wednesday and a Friday. It just puts everybody on the same playing field going forward, so I think it has that value.

CHAIR WOODWARD: Yes, I kind of liken this to when you take a father's daughter out on a date and he says bring her home early enough or he says, bring her home at nine. There is some value in specificity. Roy.

MR. ROY W. MILLER: Looking at the wording that is before us, any closed period must come from a period of high availability, and include at least two consecutive weekend periods. I can think of examples from the past, where if the required reduction was relatively modest, something in the 5 to 10 percent range.

Lopping off several months at the beginning or the ending of a fishing year might suffice, even though that is not the period of high availability. But in the past, if we wanted to make a modest change, sometimes we took those off-season approaches to get a fairly low percentage reduction.

CHAIR WOODWARD: All right, Justin, and then Doug.

DR. JUSTIN DAVIS: From my standpoint, for the record, I like Option 1. I appreciate the guidance to keep sort of a minimum length of any closure, to

make sure it has some chance of being effective, and that the effort just isn't displaced before and after the closure. But the term high availability to me is just subjective. What's high, what's not?

I'm not sure exactly what availability means in this context. Is it a period of high harvest? Is it a period when the fish are available? I mean I'm thinking about tautog in Long Island Sound. There are plenty of tautog available in New York in the summer, but they've been closed for a long time, so we don't have any record of catch and harvest there in the summer. As someone who likes to spearfish in the summer, Long Island Sound is a constant source of annoyance for me that you guys aren't open in the summer, but that's neither here nor there. For me, I appreciate the intent, but I just think the term is too subjective, and the metric of the effectiveness of the proposed closure should be the math, whatever math is done to estimate the potential savings in harvest.

MS. KERNS: Just to note. When someone makes a motion on this, if you're deciding you want to keep the language about the closed periods, will you make sure you are very clear about what is getting deleted versus not? In the end I was thinking that the whole sentence would go away. I was sort of short-handing for the slide. Just be very clear if you're going to split the sentence in half, and you want to keep part of it, then make that motion that way.

DR. DAVIS: I would be willing to make a motion to try to advance the ball forward here, if you want to do that at this point in time.

CHAIR WOODWARD: Why don't you go ahead and make that motion, and we'll wait until we get a second, but we still have other people in the queue, so go ahead.

DR. DAVIS: Okay, so I would **move to delete the words, "come from a period of high availability and" such that it would read any closed period must include at least two consecutive weekend periods, Friday, Saturday and Sunday**, and that section type was bolded.

CHAIR WOODWARD: All right, we have a motion,

have a second from Doug Haymans to that motion. I had Doug.

MR. DOUG HAYMANS: Yes, I was just going to agree with both Roy and Justin's points, and Justin knew exactly where I was so that's fine.

CHAIR WOODWARD: Shanna, was that your topic too? Go ahead.

MS. MADSEN: It was, and I completely agree with Dr. Davis's points. One thing I guess I would say is to kind of take into account for what Roy is discussing. I sort of envision this closed period as a more mid-season issue than a beginning of season issue. For instance, I think that like Roy said, there are times when we do closures, especially from maybe the beginning of the season, that I think that we can actually get some pretty good savings for.

I maybe don't agree with that being just a couple of days, but I could maybe find some comfort level on it being let's say a week. I think that the two-week period is a little bit long, if we're considering like Roy is saying, maybe some small reductions that need to be made, from either the beginning or the end of the season.

CHAIR WOODWARD: All right, Malcolm, and then I'll go to Doug Grout.

DR. MALCOLM RHODES: Yes, I think I agree with the motion, and it takes out some of the question. When reading this, the initial document said it must come, and then when we have the keep or delete it says should come, and to me that's a very different point. One allows the TC some ability to look at what the option is, if it's a should. The other one requires that it must come from that. I was going to say, if the document said should, which gives the TC a chance to look at it. But Justin, your option takes care of a lot of that also.

CHAIR WOODWARD: Okay, Doug Grout, and then I'll go to Ray Kane.

MR. GROUT: I definitely feel supportive of including the words, it must include at least two consecutive

weekend periods. I was wondering, because this period of high availability, would it be more comfortable for the Board if it said, period of high availability within a wave? Because I could see where there are certain waves, if you took it at the end of the wave or the beginning of the wave you could have a two-week closure, and have absolutely no impact.

If you narrow this down to within a wave, you're not talking about having to take it, say during where your highest catch waves, like in New Hampshire you catch the most fish in Wave 4 for many species. But if I was to need to put in a closed season for striped bass, for example, in Wave 3, I had to take a 15 percent reduction. I could get two-weeks closures in Wave 3, but if I took it at the beginning of the wave there is no effect.

If I take it during the period of high availability during the wave, I would have some actual impact on it. That's where I personally think we have to include some aspect of high availability in the motion. Maybe if, I don't know if Justin would feel more comfortable with. I'll see where the discussion goes, and I may do a motion to amend on this, or just to try and include some concept of this, but within a wave.

CHAIR WOODWARD: Ray Kane.

MR. RAYMOND W. KANE: Why don't we have enforcement in the room? I would like this to read, the closed period of retention, because I don't know how we're going to stop recreational fishermen from fishing. I think that's what we're talking about, and I would like to hear from enforcement, how they would enforce something like this, if you're just going to tell the public you can't go fishing. People are going to fish. I think the word retention has got to be in this motion some place. Can we hear from enforcement, get an opinion?

MS. KERNS: Ray, I'll just state that a proposal can have retention, harvest closures, no targeting closures. There are all different types of closed periods. This document isn't getting into the specificity of the types of closed periods that need to

occur, it is just generally talking about closed periods.

I would just say, if we start getting into that type of nitty gritty of the document, it would be very, I don't know. We're going to start spinning our wheels here a little bit. But Kurt can discuss the enforcement of those things. But we didn't get into retention versus no targeting at all, when we were discussing this as the Management Science Group, it was just about closed periods, period.

MR. BLANCHARD: Basically, closed periods is not new to us. In law enforcement we deal with it in several fisheries, striped bass commercial being one with closed days. The key to any type of closure like this, with a short window or a tighter window is proper education, getting the message out, letting the regulated community know what is going on, get the voluntary compliance. All of those things help us in law enforcement, you know the impact for these types of closures. But again, having the proper notice and having it codified in our regulations up front, not a last-minute type change, we'll have time to prepare for these types of things, and dedicate resources as needed.

MS. KERNS: I'll just remind the Board that this document is for all of our species, it is not just for one particular species that I think we have our minds on. Any species management board can add additional requirements to conservation equivalency in the FMP itself, which striped bass has done, and it does have additional CE requirements. If there is something that a species board wants to be more restrictive on, then that species board can do that. But this is intended to be useful for all of our FMPs, to give some guidance. Keep that in mind as we try to move forward here.

MR. KANE: Thank you, Toni, for the explanation.

CHAIR WOODWARD: What we have now has removed the high availability term, but still includes two consecutive weekend periods. This would be the guidance, or you as a state proposing conservation equivalency would have to propose something that includes that, so that's the question.

Is that too prescriptive or not? Bill, I'm going to go to you.

MR. WILLIAM HYATT: I was just going to speak in favor of the motion without any further amendment. I think the argument that this all comes down to math is valid, and the inclusion of at least two consecutive weekend periods is sufficient to give us confidence in that math.

CHAIR WOODWARD: Yes, also just maybe read this from the bass document says, when evaluating closed periods availability will be considered parenthetical, even within a month availability can be very different, particularly when comparing the beginning and the end. That is sort of implied that you are going to have variability, whatever you're looking at. We have a motion; we have a second. We've had some discussion. Any more discussion on this motion? Any opposition to the motion?

MS. MADSEN: Not opposition, but can we caucus?

CHAIR WOODWARD: I'll give you a couple three minutes to caucus on this.

MR. HAYMANS: Mister Chair, quick question. By approving this motion, we're basically approving Option 2, right? There is no need to go back and revisit whether we keep or delete.

CHAIR WOODWARD: Well, yes, Option 2 with modifications. All right, Lynn, you have a question?

MS. FEGLEY: Just a clarifying question, if I might. To be clear on this. A technical committee, if there is a needed reduction for these, the Technical Committee could recommend to the Board as an option a six-day closure, right? This doesn't limit what a Board may consider outside of conservation equivalency, correct?

MS. KERNS: Correct, a Board could have less than. It is fairly standards, I will say, to have closed periods be no less than two weeks. I recognize we recently had some that were ten days, but it is pretty much a standard that they should be two weeks' time, because of recruitment. Spud asked me this

question, that this closed period for the CE proposals is, it's what is it, 16 days? It ends up being 16 days, because the closed period has to include two consecutive weekends, and you can't have opening in the middle. It is an entirety of the closed period.

CHAIR WOODWARD: Yes, 10 days. That would be 10 days. All right, we've had a caucus, so I'm going to ask the question again. **Any opposition to this motion? Seeing none; we'll consider this accepted by unanimous consent** and the document going forward will reflect that. I am going to ask Toni to back up to the beginning of this, so we can go back and deal with the choices we have to make in the order in which they were presented. I'm going to turn it back over to her, just to quickly go over this one again. Doug, do you have a question?

MR. GROUT: That was a motion to amend the wording that was in there, we haven't made a decision yet, as to whether.

CHAIR WOODWARD: No, that was the motion to accept, basically Option 2 as modified. Is everybody clear with that?

MS. KERNS: The first set of options, and I'll note that the options were not numbered correctly in the document, I'm sorry. It is one, two, three four in order. But these are when conservation equivalency is not permitted under stock status guidance. The Option 1 is just simply when it's overfished. Option 2 includes depleted and unknown, as well as overfished. Option 3 is when the stock is overfished, unless the Board by two-thirds vote says it is allowed. Option 4 allows it to be to the Board's discretion itself.

CHAIR WOODWARD: All right, Jason.

DR. McNAMEE: I have a motion, Mr. Chair, whenever you're ready.

CHAIR WOODWARD: I say make your motion.

DR. McNAMEE: Okay, so I **move to approve the fourth option for inclusion in the document.**

CHAIR WOODWARD: All right, do I have a second? John Clark second. We have a motion to accept Option 4, Board discretion, species board will consider the use of uh oh, go ahead.

MS. KERNS: Jason, can I add just a couple words to the end, so it is transparent to the public. It's in the document, for when CE is not allowed, just to say **when CE is not allowed** to the end of your motion.

DR. McNAMEE: Yes, oh that is totally fine, yes.

CHAIR WOODWARD: All right, we'll get that list of options back up, so everybody knows what we're deliberating on here. All right, go ahead, Erika.

MS. BURGESS: I have a question that is about how this will work, and maybe this applies to all of these, all the options before us. Does the Board's decision have to be codified in an amendment in order to create CE options for that species, or is it simply a motion by the Board, and that codifies what CE is allowed for each species?

MS. KERNS: To my reading of this, when a board gets an assessment, and the stock is either overfished or overfishing is occurring, then the board will make a decision if CE is not allowed. The standard is that it is allowed unless a board decides otherwise. If the board says no more CE, then the automatic would be continued.

CHAIR WOODWARD: Follow up to that, Erika, are you clear?

MS. BURGESS: Just to be clear. Does that decision have to be codified in an amendment, or is it the motion at the board that lays it out?

MS. KERNS: It would be a motion by the board.

CHAIR WOODWARD: All right, so we have a motion and a second. Discussion on this motion. Is everybody clear what this means? Chris Batsavage.

MR. CHRIS BATSAVAGE: Yes, I think the specificity kind of makes Option 4 clear, but it's kind of what we do right now. I feel more comfortable with some

guardrails on when conservation equivalency could be used when the stock is overfished. I would like to make a **substitute motion to approve Option 3**. If I get a second, I'll add a little more justification for why I think that.

CHAIR WOODWARD: All right, we have a substitute motion by Chris Batsavage and a second by Doug Grout. That is **Option 3 is now the substitute motion**. Discussion on the substitute motion. Shanna.

MS. MADSEN: I think we had a pretty robust discussion on this the last time this document was brought to this Board. I completely agree with Mr. Batsavage. I am much more comfortable with Option 3. Essentially, it is Option 4, but it requires a majority, which is something that we don't do right now. I think the thoroughness of requiring a majority means that we'll have a much more robust conversation on the records regarding why we are deciding to either permit or not permit conservation equivalency. I am in full support of this motion to substitute.

CHAIR WOODWARD: All right, Jason.

DR. McNAMEE: I'm in agreement that 3 and 4 have a lot of similarities, and I'm okay with Option 3 as well. I think it makes it a little more formal and rigid, which is why I selected Option 4, because what I was trying to avoid is deep regret in the throws of a board meeting with, you know multiple votes going around, because you can never foresee all of the situations you might want to be sympathetic with. I can get behind this. I fear regret, but we can always come back and fix it later.

CHAIR WOODWARD: Yes, I think regret is part of our world we just can't seem to get away from sometimes. I've got Joe Cimino and then Dan.

MR. JOE CIMINO: This is my first time on the microphone, so I also want to thank Toni for all the work on this. I'm exactly where Jay is, because I think a lot of the discussions that we've had show an inherent bias to CE. We've had discussions about backs to the wall and needing guardrails in a way that

suggests that we're not talking about equivalent measure, but something we think people are getting away with.

That concerns me with some of these votes, because we have technical experts that are saying it is conservationally equivalent, but we are treating it differently. I agree there are going to be options that are uncertain, and that's where board discretion is important, and trusting our technical folks.

I too can live with the two-thirds, because I think, you know when Dan put that in, it hopefully will give us flexibility for types of CE that we're not really thinking about necessarily, that are going to be important in the future. But I do worry about that bias, and I hope that as we move forward, we can recognize that in some of our votes.

CHAIR WOODWARD: We'll got to Dan and then to Justin.

MR. MCKIERNAN: This I think is a question for Toni. Could you paint the scenario where this would take place? Is it my correct understanding that the board would approve an addendum and it would be at the following meeting where somebody would be coming back saying, hey we know what was passed there, but we really want to take a different tact on this, or do you expect that when the board approves the addendum, at that point they have to start playing a conservation equivalency card.

MS. KERNS: If this motion were to pass, and there are stocks that are overfished, it's not an addendum, because it is when the assessment comes through. You get an assessment, and if the assessment says the stock is overfished, then the board would need to consider either at the time that they receive the assessment, or I would suggest the following meeting if they are going to task the TC with evaluating some information that came out of that assessment.

The board would then decide either one of those two meetings, whether or not they want to allow CE for some reason, and then they would need to vote to do that. Any CE program that was in place prior to

the assessment, and then have the overfished status, and the board keeps conservation equivalency not allowed.

Then any CE program the board would need to work with that state to end those programs, and put new measures in for that state at that time. It wouldn't be like immediate, must change everything right away. You would have to work through that process to bring those CE plans back to whatever is the standard of the FMP.

It may be that the Board is putting an addendum out or an amendment out to change the measures of the plan to address that overfished status, and those states would just come in to new measures through that addendum or amendment process. That would be what I think would be the most likely that would happen.

CHAIR WOODWARD: All right, Justin, then we'll go to Dennis.

DR. DAVIS: I was interested in the language in Option 2 that says overfished, depleted or unknown. I note that that isn't included in the suggested amended motion. I don't know, I was trying to think through a scenario in which conservation equivalency would come into play for species that are depleted or of unknown status, and I was kind of having trouble coming up with one.

But I just thought I would throw it out there for the Board's consideration that maybe it would be important to include that, if we do end up going with Option 3 of including that language that CE should not be permitted if the stock is overfished, depleted or unknown, unless allowed by board vote. Just putting that out there for consideration.

MS. KERNS: If you want to add it then we would need to put it into the motion.

CHAIR WOODWARD: All right, Dennis, and then I'm going to go to Doug Grout.

MR. DENNIS ABBOTT: Just backing up a little bit. The idea of this revision to the conservation equivalency

document was intended to put more teeth into the document. This is the result of quite a lot of work by various people, including say myself, Joe Cimino and others, that worked on a subcommittee for, I don't know, off and on for a year it seems like.

But I support Option 3, and I really like the idea of having a two-thirds vote, because it isn't, how many times have we sat here and some of us have not been happy with the fact that the Technical Committee, by virtue of how they do things, were led to support a conservation equivalency proposal, when people knew that the effects of it probably wouldn't meet the intended purpose.

I think the whole object here is to put some boundaries around conservation equivalency. I view this as a very correct approach in dealing with conservation equivalency moving down the road. Because there are socioeconomics and other things that have to figure into our decision making, other than the Technical Committee alone saying, okay we've run the numbers and this is what it is, so let's support Option 3, it's a good compromise.

CHAIR WOODWARD: All right, Doug Grout, then we'll go to Steve Train.

MR. GROUT: I'm just going to pass, because I've already had my questions answered.

CHAIR WOODWARD: Steve, then I'll go to Roy Miller.

MR. STEPHEN TRAIN: Maybe I'm not fully grasping this. If we have a species X that is overfished, and we decide the states need a little more leeway, and we vote two-thirds, then each state may be able to go to conservation equivalency. My question is, do we evaluate each conservation equivalency plan and require a two-thirds majority for that if we do it?

MS. KERNS: No, the two-thirds only is to allow the use of conservation equivalency. Then any state that puts forward a proposal, if it is allowed, is just a regular vote of the board.

CHAIR WOODWARD: Roy, then I'll go back to you, Dave.

MR. MILLER: Mr. Chair, I wonder if I might ask. If Option 3 were to pass, or perhaps even Option 4 as well. What happens to grandfathered conservation equivalency measures? I thinking of striped bass, for instance, where we have some grandfathered conservation equivalency for an overfished stock. If someone could answer that for me, then it might color how I would vote on Option 3 or 4.

MS. KERNS: Roy, at this time the Striped Bass Board allows the states of Delaware, New York, New Jersey, to have some CE plans. I would not use the word that they are grandfathered in, because those plans get approved through the changes in the FMP every time there is language in the FMP that says, this will or will not be allowed. I wouldn't use the word grandfathered. If the Board want to just say, in any point in time in one of their addendums, that these programs are in perpetuity until the state decides to make a change, that is the prerogative of the Board.

But any CE plan that is in place, and if overfished comes forward, then all of those plans would need to be evaluated as the Board addresses that overfished status. A board can make a decision to say, yes, this is allowed and this is no longer allowed. It is up to that board to make that decision. But I would not use the word grandfathered for anything.

CHAIR WOODWARD: All right, Jason, then I'll go to you, Lynn.

DR. McNAMEE: If unknown comes back up, it hasn't yet, but I'll hold my comments until if and when that does.

CHAIR WOODWARD: Okay, Lynn.

MS. FEGLEY: Just back to the process. I think I can live with Option 3, but I think I can think of several species, where conservation equivalency with the guardrails in place in other places in this document, could actually serve the resource better. But perhaps tension in this room might make it more difficult for a state to go down that road.

I'm wondering if when an assessment comes up, and the stock is overfished, if it would be too much to ask if the Technical Committee or the SAS, as part of that assessment, could help the board understand why management measures might have different impacts in different areas.

A simple version of that is striped bass, where the same size limit in Chesapeake Bay in Maryland Chesapeake Bay, isn't necessarily going to have the same conservation impact as a size limit on the coast, so that when an overfished status comes up, the board has a real understanding of, okay, we have a situation here, where this species really is distributed as a different demographic, a different age distribution, a different something. That would make it, more difficult to provide a uniform regulation. I don't know that I'm totally clear, but I think more information would inform a two-thirds majority vote better. I think it could be helpful.

MS. KERNS: Lynn, I'll give you two paths that you can sort of utilize what you're looking for, I think. A board is going to get a stock status. You know if this were to pass that there are some CE plans out there. If your state has one that you're interested in sort of retaining, then when we get that assessment.

You can task a technical committee to evaluate the CE plans prior to making a vote on whether or not conservation equivalency is allowed, so that you can utilize that during your voting process. If CE is no longer allowed, and again if the stock is overfished, I'm assuming the board is going to do something to address that overfished status.

States that have CE programs can include the measures that are in your CE program through this upcoming addendum or amendment process. It's not saying that individual states cannot have unique measures, it's that you need to go through the FMP process to get to those unique measures. Part of I think where some folks have hesitation in the use of CE, is that you don't go through the public process to get there.

No one gets to comment on them, and so individual state programs can go into that addendum or

amendment that is addressing the overfished status, and you can still have those, especially for ones that may provide more conservation to the resource. It will be evaluated, and the Board can make the decision on them there. I think that there are two paths where you can get there.

CHAIR WOODWARD: All right, John.

MR. JOHN CLARK: Thanks to Toni and the committee that put this together, a lot of work clearly went in. I seconded Option 4; I still think it's the best way to go is have board discretion. We had a good example bringing up striped bass again yesterday, where if the addendum had included a commercial maximum size the gillnet exemption would have required states to come forward with CE, and it's an overfished stock.

Go through another two-thirds vote just to get those plans approved after the addendum would have required them to come forth with a CE proposal seems like a bit of overkill there. Plus, just seeing some past votes. Sometimes we have difficulty determining what two-thirds even means for some of these boards, whether certain entities are even eligible to vote. I think it's better just to stick with Option 4.

CHAIR WOODWARD: All right, we've had a lot of discussion here, but I think we're at the point we need to vote. We have a substitute motion before the Board, and based on what I heard from Justin, if we do vote the substitute up to the main motion then we can certainly entertain a motion to amend that motion to add any language that we think is necessary to improve it.

At this point I'll give you a few minutes to caucus if you think it's necessary. I think it's good, caucus on this before we vote. All right, I'm going to read the substitute motion, just to make sure everybody is clear on what we're going to be voting on here, and that is move to amend to replace the fourth with the third option. Let's put that slide back up that shows exactly what that third option is, so everybody knows what we're doing. **All those in favor of the motion to substitute, amend, signify by raising your hand. Those opposed, like sign. Null votes, any**

abstentions. I don't see any. Motion 12 yay, 4 nays, no abstentions, no nulls. That now becomes the main motion. The main motion now is to accept Option 3. Yes, Doug.

MR. HAYMANS: We counted 5 nays, but maybe that's wrong.

CHAIR WOODWARD: All right, **5 nays**. Any need to caucus on this vote? Justin.

DR. DAVIS: Sorry to belabor this, but I did want to offer a **motion to amend, to add the words depleted or unknown to that option** that I discussed earlier.

CHAIR WOODWARD: Okay. Let's see if we can put that up there. Is that your intent with that? Okay, do I have a second for that? Ray Kane seconds it. Is everybody clear what this motion to amend does? It simply adds those words into Option 3. **Option 3 would say CE is not permitted if the stock is overfished, depleted or unknown, unless allowed by board, et cetera, et cetera.** Any discussion on this? Jason.

DR. McNAMEE: Yes, I would caution. I'm opposed to this amendment. You know you can have a stock with unknown status has an enormous abundance, you know. I think this adds a bunch of uncertainty into the process, so I don't think we should make this amendment. Even depleted gives me concern, so I think keeping with the original motion is the way to go here. This is again, just like before. I think this would cause us regret, probably pretty quickly, so I don't support the amendment.

CHAIR WOODWARD: I've got Megan and then Erika.

MS. MEGAN WARE: I think I'm on the slightly similar page to Jason, where the unknown is making me a little nervous, just as the volatility I've seen in assessments, but also assessments failing, or going from a model based to an index based or whatever. I am, I think a little more comfortable with depleted, but definitely I'm struggling with the unknown part of that.

CHAIR WOODWARD: All right, Erika and then Chris.
MS. BURGESS: I'm also speaking in opposition to this motion for specifically the unknown part of this. Many of our coastal sharks we do not know their stock status, and we likely never will. For species like red drum, we manage that based upon spawning potential ratio, so we don't have an overfished or overfishing determination for that stock. I think leaving it with the previous motion is better than adding depleted or unknown.

CHAIR WOODWARD: All right, Chris Batsavage, then I'll go to you, Shanna.

MR. BATSAVAGE: I could support depleted, you know kind of for the reasons that Megan gave, and I was thinking about some examples where unknown would fit in, so I appreciate Erika giving a couple. I couldn't support the motion with unknown in it, but I could support depleted being added to this option.

CHAIR WOODWARD: All right, Shanna, and then I'll go to Marty and Doug.

MS. MADSEN: Yes, I won't belabor the point, because I think Megan and Chris covered it really well. I completely agree, I am not comfortable with unknown. However, for a depleted stock, I will say that I feel like we don't afford them a lot of protection or thought sometimes. There is not a lot of action associated with the depleted stocks. I'm not sure if this is necessarily the appropriate place to do this. However, I can't support this motion as stands, but I could have some more conversation on adding depleted.

CHAIR WOODWARD: All right, Marty, then I'll go back to you, Justin.

MR. MARTIN GARY: Just a point of clarification. It's still a Board decision though, right, at the end of the day, or not?

MS. KERNS: Under this option, if you have an assessment that comes forward and it is overfished, if you add these two, depleted or unknown, CE will not be permitted unless the Board decides to allow it via two-thirds vote.

MR. GARY: But regardless of that language change, correct? It doesn't matter. Maybe I'm not reading it right.

MS. KERNS: You don't have these two statuses. CE will not be permitted if the stock is overfished. The Board can allow it by voting to via two-thirds vote.

CHAIR WOODWARD: Yes, this language just merely adds those other two stock status descriptors into it. That has been the subject of the discussion is, you know those have different meanings to different people in different circumstances than overfished does. Justin.

DR. DAVIS: I don't know if it's a possibility, but I would be fine if this was **changed to just say depleted**. I think we've heard around the table that the unknown part is what is giving people pause about this. I don't know if Robert's Rules allows for that, but maybe Spud's Rules allows for that at this juncture. I don't know.

CHAIR WOODWARD: Yes, Spud's Rules of Expediency do permit such things as that. Are you fine with that, Ray? **We're going to take the word unknown out of this motion to amend**. Now we have the word depleted, so now we can have a discussion about that, if anybody would like to. If not, then anybody need time to caucus on this one?

I don't see any heads, okay good. I'm going to try. **Is there any opposition to the motion to amend? All right, we do have one vote in opposition, any null votes? Any abstentions? I'm going to assume the others are yeas, so that motion carries, so now we have an amended main motion**, which is the language of the third option with the word "depleted" added, so it's overfished or depleted, and then that would require a two-thirds vote by the Board to allow conservation equivalency in those circumstances. Basically, we have a slightly modified substitute motion that you voted up. Any discussion on that? Any need to caucus on that? If not, is there any opposition? Malcolm.

DR. RHODES: Can you just read the current motion into the record, please?

CHAIR WOODWARD: Yes, we've got to make sure we've got it right here. Okay, the **motion under consideration is CE is not permitted if the stock is overfished or depleted, unless allowed by board via 2/3 majority vote (the rules on voting in Article II. Section 1. apply.) Any opposition to the motion? Seeing none; any null votes, any abstentions? All right, so that motion carries**, so in the document going forward it will be Option 3 under that section. Ready to move on to the next one?

MS. KERNS: Madeline, if you can bring up Slide 5 in the presentation, this is whether or not we want to include the examples of what nonquantifiable could include or not.

CHAIR WOODWARD: Doug, go ahead.

MR. GROUT: **I move to approve Option 1, including the sets above**.

CHAIR WOODWARD: All right, do I have a second for that? Jason, I have a second from Dr. Jason McNamee. Any discussion on this motion? Erika.

MS. BURGESS: I would like to make a substitute motion. That **substitute motion would be to remove, or to choose Option 2**.

CHAIR WOODWARD: Okay, we have a substitute motion. Do I have a second for the substitute motion? Is that a second, Ben? New guy, all right, so now we have a substitute motion in front of us, and that is Option 2, so once we get that up, we'll bring it back up, so everybody knows exactly what we're looking at. Lynn.

MS. FEGLEY: I just have a question, and I think it's just because I don't know, my brain is probably tired. But what would be a scenario, where not having this language in the document would matter? I'm just trying to figure out, how would it matter? Does that mean that if somebody said, oh we're going to use circle hooks as a CE method. Well, if you can't quantify it, the Technical Committee should review that and say you can't quantify it. I'm trying to understand where practically this language would impact a CE proposal.

CHAIR WOODWARD: Yes, I think these were, as Toni said, included as examples of the types of things that are difficult to quantify. It doesn't mean they are impossible to quantify, it just means they are difficult to quantify. I can just tell you from the South Atlantic Council's standpoint it's descending devices. It's proving you know a word, but knowing it and proving it in a quantitative manner is a completely different situation. But we do have a motion that belongs to the Board, Jason.

DR. McNAMEE: Yes, just to add on. I thought Lynn's comment was good, and it is how I was kind of thinking about it too. The value that I saw in having it, which is why I seconded Doug's motion is, you could see this list, and then if a motion is, you could see this list, and then if you're intending on using something like that in a CE, you know that you've got a burden of proof that you know, so it's very clear. I saw value in it for that reason.

CHAIR WOODWARD: Further discussion, Erika.

MS. BURGESS: Thank you, as maker of the motion I thought I would speak to this. As Lynn said, not including this language does not change or alter the Technical Committee's ability to evaluate what the magnitude of catch or harvest might be under a conservation equivalency proposal. Several of the options that are listed here, Florida is actively trying to quantify right now. Florida things are happening at the South Atlantic Council. I think that including things may date this document, and it would be better to just leave it.

I'm concerned that we are driving decisions. It hasn't been, but before I was very concerned that we were driving decisions about what goes in this conservation equivalency guidance for the entire Commission, based on one or two species, and not considering the full suite of species, and assuming that all conservation equivalency is some way to circumvent the Commission's management intent. I think that by removing this we would show that we're not looking down upon conservation equivalencies, and we're considering all species.

CHAIR WOODWARD: All right, any further discussion on this? Any need to caucus on this before we vote? All right, I'll give you all a few minutes to caucus on this one. Everybody ready on this one: **All those in favor of the move to substitute for Option 2, raise your hand. Got them?**

All right, lower your hands, those opposed. Okay, null votes, abstentions. All right, that was 6 yea, 11 noes, and 0 nulls and 0 abstentions. The motion fails, so we're back to the main motion, which is to approve Option 1 for nonquantifiable measures. Can we put that up there again, just to make sure everybody knows what we're looking at? Okay that's the sentence that would remain in the document. **Is there any opposition to the motion to include this in the document?**

Don't see any, no opposition, one vote, I have one opposed. Any nulls, any abstentions? Motion carries, so this language will remain in the document. I think that is all of the option choices we needed to go through, but there is a question that needs to be answered by the Board, so we can finalize this and get this document approved for implementation, so Toni.

MS. KERNS: Back to that last question that I had, as I was reviewing the document. If we are going to review each states conservation equivalency each year, and evaluate, does a conservation equivalency proposal need to have an end date or not? If you think it should have an end date, I can alter the document. I mean if you think it should have an end date, then the document would stay as it is. If you think that we do not need to have an end date, then I can just change the language in the document.

CHAIR WOODWARD: Doug Grout and Jason.

MR. GROUT: I would say that you do not need to have it in the document. Do you need a motion, or can you just take general consensus?

CHAIR WOODWARD: Jason.

DR. McNAMEE: I was just going to say the same thing, so I support what Doug just said.

CHAIR WOODWARD: Okay, is everybody clear? Restate that, Toni.

MS. KERNS: I would alter the document to say, proposals do not need an end date, and the reason for that is that they are being evaluated each year through either a process set up by the Board or via the FMP Review process. The Board has the discretion, if they think it's not meeting the objectives of the states plan, then it can terminate that CE in any given year.

CHAIR WOODWARD: Is everybody clear on that? I see a lot of heads nodding. Okay, that was the last decision point related to modification of the document. Now we need a motion to approve the document as modified through today's deliberations. I think you've got a written motion? Yes, we've got one we're going to put up on the board, if someone is willing to make it, I will get you to read it into the record once it is up there. Mike Ruccio, I see your hand up.

MR. MICHAEL RUCCIO: I'm sorry for belaboring the conversation around an end date. I'm looking for some certainty that that process that Tonis described about deliberate evaluation for something that exists in perpetuity as either complicit within the document, the commission processes, or within the respective FMPs or a board process. I guess I do have a little bit of concern that something could exist in perpetuity, and just want to make sure that we have some checks and balances on that, to make sure that as it proceeds through time it is achieving what it's designed to do.

CHAIR WOODWARD: All right, Mike, she's looking through the draft, just to see where that is addressed.

MS. KERNS: Mike, on Page 7 is the Plan Review following Approval and Implementation. Number one states that it will be evaluated on an annual basis, either through the FMP Review Process, or something otherwise specified by the Board, and that the PRT is responsible for evaluating all aspects of the program.

If the conditions and goals of the FMP are maintained or not. If it's not then the PRT would report to the Board on the performance of that CE program, and can make recommendations to the Board to change it if necessary or not, and the Board can make that determination to end that program.

CHAIR WOODWARD: Any follow up to that Mike? Did it answer your question?

MR. RUCCIO: Yes, thank you for that, Toni. I think I still have some reservations, but I'm satisfied that there is a process. Thank you, my question has been answered.

CHAIR WOODWARD: All right, thank you. Where is our motion? Is someone willing to make this motion? Lynn Fegley.

MS. FEGLEY: I would **move to approve the Conservation Equivalency: Policy and Technical Guidance Document as modified today**

CHAIR WOODWARD: Thank you, do I have a second? I have a second from Ingrid Braun. All right, any need for any more discussion on this? **Any opposition to this motion? Seeing none; motion carries**, thank you, very, very much. Very good. I can go into my semi-retirement with a clear conscience now, thank you.

Just to keep us moving along, I mean if you need a biological break, just step out. I want to keep us moving along, so we can stay on schedule.

NOAA FISHERIES UPDATE ON NORTH ATLANTIC RIGHT WHALE FUNDING FROM THE INFLATION REDUCTION ACT

CHAIR WOODWARD: We've got Dr. Jon Hare online; he is going to walk us through an update on North Atlantic Right Whale funding from the Inflation Reduction Act. Jon, can you hear me?

DR. JON HARE: Yes, I can, thank you very much, Sir.

CHAIR WOODWARD: All right, I'm going to turn it over to you.

DR. HARE: Okay, great, and I'm sorry I'm not there with you in Beaufort, but it is a beautiful day here in Woods Hole. See, I just wanted to quickly provide an overview of the North Atlantic Right Whale Inflation Reduction Act funding, and then open the door and be working with all of you to just coordinate all of the activities that are going on.

You know the funding; we've got 82 million dollars for North Atlantic Right Whale activities with the Inflation Reduction Act. Really a historic opportunity to invest in sort of the future of how we're going to address this conservation challenge. We sort of laid out the IRA funding to follow the agencies road to recovery, which has two main components.

Address the threats to North Atlantic Right Whale, and monitor our progress and recovery, then there are three elements to each of those two major pieces. We're going to use the IRA funding to focus on developing and implementing transformative technologies and approaches as part of this road to recovery.

We will again, as I said before, we'll be complementing and leveraging other funding sources. The IRA funding really enables these transformative investments, and our goal is to develop and advance technologies and new approaches that support dynamic management, based on a more informed understanding of the spatial-temporal distribution of right whale, and also enabling the timely responses to where whales are detected.

We're going to be deploying existing and developing new technologies for North Atlantic right whale detection. We're going to be integrating these detection technologies in the risk models and assessments, to support more dynamic management. Again, fully recognized partnerships with multiple industries to help us do this together. Then leveraging the IRA funding with other pieces, to really support the science components, the management components, and the enforcement components. This just gives a breakdown of how these funds, how this 82 million is going to be used. We have 3.2 million to support sort of the

administration and project coordination, and then we have a large chunk of funds to support monitoring and modeling. A big emphasis, 17.3 million in passive acoustics monitoring, and there the Regional Wildlife Science Consortium hosted a workshop a couple weeks ago, to make sure that we were getting out in front on coordinating all the passive acoustic work that is going to be going on.

We have 3.5 million to help us think about satellite tagging, which currently we don't do with North Atlantic right whales, but we are going to see if there are new technologies that could be applicable. We have some funds for uncrewed systems development, and we're going to be continuing to advance models, which we're using to support management, decision support tool, for the entanglement risk, and the models which support the vessel speed rule.

Then another investment in using very high-resolution satellite imagery and artificial intelligence detection, to see if we can't really expand the footprint of the areas that we're able to protect right whales over. The next big component of the spend plan is this vessel strike risk reduction. Currently, the Agency doesn't really have dedicated funds to think about a more dynamic vessel strike science and management paradigm.

These 20.1 million dollars is going to be used to help us do that. Looking at identifying, developing, implementing technologies for vessel detection and avoidance, to sort of help us reduce vessel strikes as a risk to North Atlantic right whale. Then the other component is continued additional support from the on-demand fishing, and working to develop interoperability standards for gear conflicts, training for use of systems, and just providing additional support to ongoing activities.

Then 5 million, relatively modest amount, going to the Office of Law Enforcement, to provide them some additional equipment for enforcing regulations with regards to North Atlantic right whale, and also to support some of their operation. I think that's it, I just really wanted to quick provide you all an overview. Happy to take questions now, but looking

forward to working with you to continue to address this challenge that we face together, so thank you very much.

CHAIR WOODWARD: Thank you, Joh. Any questions for Jon on his presentation? I don't see any, but thank you for being with us this morning, Jon, and giving us an update.

DR. HARE: Yes, sorry I'm not there in person, but I'll see you next time.

CHAIR WOODWARD: All right, we did have one individual that wished to make public comment. We started early, so they were not able to, they didn't log on until after we started, so I'm going to give Tom Lilly a couple of minutes to address the Policy Board, so Tom, go ahead, I'll give you a couple of minutes, please.

MR. THOMAS LILLY: Spud, you just said that you are not going to do anything to help Chesapeake Bay until you get more spatial data available. What you're really doing here is nailing shut the coffin on the Chesapeake Bay. I hate to think that you're really trying to return back to quantitative management of this resource, and refusing to do the holistic management that Amendment 3 really requires. Are you abandoning your ERP science that says, the striped bass are the indicator species of the level of menhaden harvest. Five years of young of the year failure in a row, a catastrophe. Spud, and the Board members, Bob, and Lynn, don't you agree that the Board and every one of you knows right now that based on the ERPs, that there is not nearly enough menhaden in the Bay. Do you agree with that? Isn't that what the ERPs are telling you by definition?

Whatever the amount of menhaden in the Bay right now, what we know is that it's not nearly enough, am I correct? Is there really any other information needed? Knowing we don't have enough, Policy Board, is it your policy to stop right there, or does your policy to apply the holistic management required by Amendment 3, or are you abandoning both the ERP science and Amendment 3, and a requirement that you are to act on the available science.

Just ask yourselves the questions, Board members. What can the Commission do right now to increase the menhaden coming into the Virginia Bay by at least 50,000 tons? Ask yourself the question, am I don't everything right now that is necessary to make sure the Chesapeake Bay experience for our people and our children is the best it can be.

Because it's all up to you, right now, this Board, to set the policy of the ethics and the justice required by your charter, to treat Maryland fairly. Maryland is probably having about 2,500 schools of its menhaden that would be migrating to Maryland, to help us, being caught in Virginia. Is that justice?

Is abandoning Amendment 3 and the ERP science the direction that this Policy Board wants to go? Isn't this situation so important that this Board right now can direct the staff to look into the cause of this catastrophe with the reproduction of striped bass. The cause shouldn't be too hard to figure, your ERP science defines it.

Really the question is, holistically, not quantitatively, how do you effectively reduce that harvest in Chesapeake Bay? I think the staff could give you some very clear options. I appreciate your giving me this time, but isn't this such a question that the staff could give you those options within a week or so, they are pretty obvious, and the Striped Bass Board, the Menhaden Board, isn't this important enough that they could have a special meeting within the next 30 days, and take some action.

CHAIR WOODWARD: All right, Tom, wrap it up.

MR. LILLY: Spud, thank you very much, and have a great retirement.

COMMITTEE UPDATES

CHAIR WOODWARD: All right, thank you. We're going to move on to our Committee Updates.

ASSESSMENT SCIENCE COMMITTEE

CHAIR WOODWARD: I'm going to call on Jainita to give us Assessment Science Committee Report.

MS. JAINITA PATEL: The Assessment Science Committee met in late September, and there are two main changes that we wanted to bring to the Board’s attention. The first is that the river herring assessment, which was meant to be presented in February of 2024 has now been moved to May. This is based on the Assessment Workshop in August, where the SAS decided that they needed a little bit more time. The second and larger change is that the spot and croaker benchmark assessments, which are usually done together, have now been uncoupled. Croaker’s assessment will be completed in 2024, and the spot assessment has been moved to 2025. The main reason for this is because we no longer have a stock synthesis modeler for the joint assessment. Additionally, there is a project being conducted for spot at the University of Maryland that follows a concurrent timeline as the new stock schedule.

We are seeking support from the Board for the changes presented today, and just for your reference, here is the updated stock assessment schedule. I know it’s really hard to read, but this is also included in the supplemental material for your reference, and with that I would be happy to take any questions.

CHAIR WOODWARD: Thank you, any questions? We don’t need necessarily a formal motion, just general concurrence with those changes. Does anybody have any concerns about those changes? Seeing none; then we’re good to go.

LAW ENFORCEMENT COMMITTEE

CHAIR WOODWARD: Kurt, I’ll turn it over to you for Law Enforcement Committee update.

MR. KURT BLANCHARD: The following is a report of the activity of the Law Enforcement Committee since our last reporting period. The LEC has been successful in and has participated in the following deliberations. We participated in discussions in reference to the current tautog tagging study out of New York.

We have provided comments in reference to tag types and duration of the study, as well as

collaborating with the striped bass Plan Development Team with proposed regulatory language in reference to filleting at sea and consideration of for-hire participants to have specific regulatory options in Draft Addendum II.

Additionally, the Committee was informed on the status of Addendum XXVII to Amendment 3 of the American Lobster Fisheries Management Plan, specifically the consideration of timeline of gauge size and escape vent changes in LCMA1. The LEC has been convening this past week and we addressed the following topics.

Continued review of the documents, the Document Guideline for Resource Managers on the Enforceability of Fisheries Management Measures, this document, dated 2015. A subcommittee was established in the spring of 2023, with the goal of finalizing a draft document for the LEC approval. Three meetings were held over the summer, and a revised draft document was presented to the full LEC at the annual meeting.

Our next step will be to score and prioritize the management measures contained in this document. This will occur in late 2023, with a goal of the Board’s approval in 2024. Deputy Chief Jason Snellbaker of New Jersey Fish and Wildlife, reported on his experience in the second phase of the NACLELA/ICCA Wildlife Officer Exchange Program with the Belize Fisheries Compliance and Enforcement Agency.

He shared his experience of traveling to Belize and learning about their fisheries manager programs. This shared experience helped to increase international collaboration and individual capacity to address wildlife crimes globally. The Committee also discussed how best to utilize the interstate wildlife violators compact, to share licensed sanctions among participating jurisdictions. For example, if the state of Maine were to issue a licensed sanction for violation of their regulations, the state of New Hampshire or Massachusetts or any compact partner state, with like regulation, can also revoke the privilege of this same fishermen in their state, based on the Maine suspension.

For our member state agencies, this appears to be an unused resource that could help protect our marine fisheries and offer a deterrent. The following is an example of patrol effort and case work being conducted along the coast by our law enforcement partners. Two Maine Marine Patrol boats, involving six marine patrol officers, hauled 870 traps in one day.

A Maine fisherman was charged with exceeding the lobster trap limit of 800, and fishing 30 untagged lobster traps. The charges are currently pending in court, and 70 excess traps were seized by the officers, and will be liable. Additionally, a five-month investigation resulted in another Maine fisherman being charged with possession of an untagged and undersized halibut.

These violations were witnessed by officers during a boarding in the overnight hours. The fisherman was summoned for lobster without a license, for possession of undersized and untagged halibut, and a Marine Mammals Protection Act violation for possession of harbor porpoise that was referred to NOAA.

Through continued surveillance offshore, this fisherman was also charged with fishing 56 untagged lobster traps. Five months later, he was again boarded offshore, and found to be engaging in a licensed activity while under suspension. Officers from Georgia DNR, while working a NOAA JEA Patrol, boarded a vessel at Grays Reef with four people onboard. These fishermen were found to be in possession of 11 undersized black sea bass. They also possessed one red grouper and one gag grouper.

The season was closed for both grouper species. They also did not possess a descending device onboard, and the fishermen were not using circle hooks as required. These violations resulted in federal referral for a summary settlement of \$825.00 with the state. Finally, this past week, officers from Rhode Island Environmental Police received a complaint of people shore fishing, and reportedly taking overage of striped bass.

Officers responded to the area, and upon investigation they found a fisherman who was in possession of three undersized tautog, and upon being interviewed, the fisherman admitted to hiding striped bass in the tree line. Officers located 13 striped bass, 12 of which were undersized and one of which was oversized.

This fisherman was summoned to District Court for these violations. Mr. Chair, this is my report. One anecdote is I would like to thank the Commissioners who were able to find our meeting room and participate in our session. For those of you that did try to get there and couldn't find us, we really appreciate the effort.

CHAIR WOODWARD: Well, you all know you all do some of your best work undercover. I guess they were just trying to make.

CHAIR BLANCHARD: We did not place the caution tape outside.

CHAIR WOODWARD: Thank you, Kurt, any questions for Kurt on his report? Thank you, we certainly appreciate the efforts of our law enforcement folks. It's a tough job these days, and getting tougher all the time, so we really appreciate it.

ATLANTIC COASTAL FISH HABITAT PARTNERSHIP

CHAIR WOODWARD: All right, at this point I'm going to turn it over to Simen for a report on Atlantic Coastal Fish Habitat Partnership and the Habitat Committee. The floor is yours.

MR. SIMEN KAALSTAD: Hi everyone, I just want to give you guys an update on what the Atlantic Coastal Fish Habitat Partnership and the ASMFC Habitat Committee have been discussing, while you guys have been having fun up here. The Steering Committee for the Atlantic Coastal Fish Habitat Partnership, we met on Monday and Tuesday, and we reviewed a number of items.

We went over our newest Action Plan, sort of to revisit what we've accomplished so far in 2023, and the next steps going into the next year, as well as we

updated the Subcommittee and Working Groups for the various tasks that we do as a partnership. We discussed fundraising strategies, the ACFHP Business Plan, as well as all of the BIL/IRA funding opportunities that relate to habitat restoration.

We also finalized our annual funding application for fiscal year 2025. We were honored to have Todd Miller from the North Carolina Coastal Federation do a presentation about the amazing habitat restoration work that they're doing. We also had Jason Olive from the National Fish Habitat Partnership, and the U.S. Fisheries and Wildlife Service give an update on the activities on a national level, as well as Ryan Roberts, who was part of that conversation as well.

Regarding the BIL and IRA funding opportunities, the Atlantic Coastal Fish Habitat Partnership, we did put in a letter of intent for the NOAA Climate Resilience Regional Challenge, which was a string of eight projects, all the way from Florida up to New Hampshire. Those projects were focused on oyster reef restoration and engaging the underserved community.

We sought almost 25 million dollars in funds, and we were not successful. There were about 900 applicants for this particular opportunity. I'm not the only one who is disappointed. Then coming up, we are going to submit a similar type of proposal for the NOAA Transformational Habitat Restoration. That is a bit of a smaller fund, but our target is around 15 million dollars, and we're going to have a bit of a more focused watershed approach in Georgia, Delaware and New Hampshire, and hopefully this one will be successful.

Regarding the funding application that ACFHP puts out every year. This year's funding application will be open at the end of the month on October 31st, and it will close on January 31st. That's also because the projects have to be recommended to the National Fish Habitat Board by the end of March, so there is some reviewing and ranking in between there.

As per usual, it's focused on fish habitat conservation projects. There has to be a one-to-one non-federal match, which can be the tricky person with a smaller projects and partners. But more or less it's the same as it has been, a little bit more emphasis on DEIJ components and public access. This year we have run the application through an online form, rather than the classic Word document.

HABITAT COMMITTEE

MR. KAALSTAD: Moving on to the Habitat Committee. We met on Wednesday and today, and yesterday morning actually, I forgot to include this, Todd Miller gave us all a tour of the North River Wetlands Preserve, and we got to see one of the sites that actually helped fund for the Dunna Marsh Project, and it's beautiful out there, and they are doing really well.

If you ever have a chance, go check it out. But yes, Habitat Committee, we met on Wednesday and Thursday. We discussed the Habitat Hotline. Conversations surrounding maybe changing up the format, figuring out what topics we need, but most importantly there is a need to follow up with you all, and the broader audience, to kind of figure out what the most applicable content for that publication is.

We also discussed the Habitat Management Series; the current version being focused on acoustic impacts. It's at the finish line, we've just got to clean up some comments, and then also topics for the next issue. Most importantly, we have now completed the Fish Habitats of Concern. Hopefully you have the Fish Habitats of Concern Document, which I'll give you guys a tiny overview of in just a minute.

We were also fortunate enough to have Bill Crowell and Judd Kenworthy of the Albemarle-Pamlico National Estuary Partnership provide presentations on their work, and they have a lot of interesting projects going on with mapping SAV around the North Carolina coast. For the Fish Habitats of Concern documents.

The Habitat Committee drafted this FHOC designation for all Commissioned only managed species, plus Atlantic sturgeon. In drafting this

document, we considered current Commission documents, such as the Fisheries Management Plans Species Habitat Fact Sheets. The Habitat Management Series publications, and of course current literature.

The destinations for these fish habitats of concern are based on four criteria, the importance of the ecological function provided by the habitat, the extent to which the habitat is sensitive to human induced environmental degradation, whether and to what extent development activities are or will be stressing that habitat type, or the rarity of the habitat type.

For example, here is spot. The Habitat Committee recommends for larvae brackish and saltwater marsh and SAV in mesohaline and polyhaline waters. For juveniles from Delaware to Florida, low salinity bays and tidal marsh creeks of mud and detrital bottoms that contain their epifaunal and infaunal prey, as well as submerged aquatic vegetation in the Chesapeake Bay in North Carolina.

For young of the year in the early spring, sea grass habitats are very important, so we've estimated those, and for adults, tidal creeks and estuarine bays with mud and detrital substrates, which support mud and prey. Sort of additional points is that bottom tending fishing gear may impact spot FHOCs. That is something to consider. With that I am happy to take any questions.

CHAIR WOODWARD: Thank you, Simen, any questions for Simen? Lynn.

MS. FEGLEY: Yes, thank you very much for your presentation, and for your work on this. I think it's just becoming increasingly important as we face climate change effects. But I just wanted to ask you a couple questions about the striped bass section, and that section opened by saying that adult striped bass are highly concentrated, and most vulnerable to exploitation in their offshore wintering grounds. I'm just a little bit curious about that sentence, and wondering, that doesn't include outside three miles, right?

MR. KAALSTAD: That's a good question, and full disclosure, I was not here for the development of the document. I was the one who whipped everyone into finishing the document.

MS. FEGLEY: That's totally fine. Thank you.

MR. KAALSTAD: But I will ask the one who is responsible for that section.

CHAIR WOODWARD: All right, any other questions? Thanks, Simen, and certainly thanks to all the folks that worked on habitat. Without the habitat, the rest of this stuff we talk about is kind of pointless. It's just good to have the effort and energy put into it like we do have. Toni, go ahead.

MS. KERNS: I just want to reinforce something that Simen said. The Committee is needing to decide, there are two things I wanted to talk about. The Committee is deciding on their next habitat management series document, so if the Policy Board has issues or ideas of what that document topic should be, please get in touch with myself or Simen, and let us know what those topics are, or if you just generally have some topic ideas, so that Simen can bring them back to the Habitat Committee that would be great.

These management series documents are to help out the states, and so they can come up with ideas, but they would love to have topics that you all are interested in, or will help you, as you develop policy back at home. Please, let us know what those are, and then the second part is, we are looking for an action today to approve the Fish Habitats of Concern Document, if people are comfortable doing so. Lynn, I do not have the answer to your question though. I bet we could check with Wilson; he wrote that section.

CHAIR WOODWARD: We have a motion regarding what Toni just described. All right, so we have a draft **motion to approve the Fish Habitat of Concerns document**, is someone willing to make that motion? John Clark. Do we have a second? Malcolm Rhodes is a second. **Any discussion on that motion? Any**

opposition to that motion? Seeing none; the motion carries.

MS. KERNS: Lynn, we'll get a response to you, and if there is a major change we can make a small tweak, and let the Board know what that small tweak would be.

MS. FEGLEY: Thank you. I have a couple of, I know this should just sail in, no problem, but maybe I'll give you a call, talk over a couple of things, it would be good.

MR. KAALSTAD: Yes, I would be happy to discuss that further.

CHAIR WOODWARD: All right, very good, thank you, Simen. All right, we do not have any noncompliance finding, thank the good Lord, to deal with.

OTHER BUSINESS

CHAIR WOODWARD: We do have some Other Business to deal with. We've got Eric Reid online, Eric brought this up earlier in the meeting, so I'm going to turn it over to Eric, he's got a subject he wants to discuss with us, and a request for possible action of the Policy Board, so Eric.

MR. ERIC REID: Thank you, Mr. Chair, Mr. ex-officio Chair, whichever you prefer. I did bring this up yesterday under the Business Session, the Executive Committee, I'm sorry.

BIGELOW TRAWL SURVEY

MR. ERIC REID: It's mainly to bring attention to the Board members who are not on the New England and Mid-Atlantic Councils, who have already addressed the issues surrounding the Trawl Survey performance by the Bigelow.

If and when the federal trawl survey fails or falls short, which it has been doing quite a bit in the last several years. The impact on the fishing community is really not ideal. Survey alternatives to the current trawl survey are conducted by the Bigelow are being considered now. NTAP, the Northeast Trawl

Advisory Panel, of which the Commission is a member, is working on it now.

One alternative under development is using industry vessels to complement, not replace but complement, the current survey. New England and the Mid-Atlantic both passed similar motions at their last meeting, and I'm really looking for a unified position of support from all three management bodies on the east coast, and I'm happy to read this motion for the record whenever you're ready, Mr. Chair.

CHAIR WOODWARD: Go ahead, Eric.

MR. REID: **I move that the Commission supports the New England and Mid-Atlantic Fisheries Management Council's request for information on an industry-based survey and the Commission send a similar letter requesting the NEFSC completes a white paper by January 12, 2024 outlining an industry-based survey that is complementary to the Spring and Autumn bottom trawl survey for the Commission and Councils.** If I get a second, I'm happy to answer any questions. I don't really think I need to provide any additional rationale, unless it is necessary, Mr. Chair.

CHAIR WOODWARD: Do I have a second to Eric's motion? Got a second from Ray Kane. All right, so we have a second to the motion. He's provided some rationale. Any questions for Eric? Any discussion on the motion? **Any opposition to the motion? Does everybody feel comfortable doing this? A lot of heads nodding, so it sounds like the Policy Board is fully supportive of this, Eric.** Staff will work to get this done, and make sure we weigh in as we need to on this, so thank you for bringing it to the attention of the Policy Board.

MR. REID: Thank you, Mr. Chair, it's a beautiful day here in southern Rhode Island, thank you.

CHAIR WOODWARD: All right, Dan, you've got an item, I think, for us.

MR. McKIERNAN: Yes, thank you, Mr. Chairman. I'm wondering, it dawned on me toward the end of the Horseshoe Crab meeting.

POT FISHERY EFFORT

MR. McKIERNAN: I'm wondering if we could communicate to the Horseshoe Crab Board or the State Directors or the leads, to endeavor to quantify effort in pot fisheries that use horseshoe crabs, and I'll just give you a little bit of background. My agency has applied for an incidental take permit with the National Marine Fisheries Service for the take of leatherback turtles, and occasional right whales.

As part of the exercise, we were required to describe our pot fisheries, which is one of the gears that entangles leatherback turtles. It was quite revealing for us to be able to document about a 55 percent decline in the trap hauls, which means there is probably a 55 percent decline in the need for horseshoe crabs within the Massachusetts sector of pot fishermen.

It dawned on me that it's probably the kind of statistic that we should be gathering. This was the whelk fishery, of course, we don't have an interstate whelk plan. But I think within each of the agencies that is represented in the Horseshoe Crab Board, at least most of them, they have access to that data.

I was wondering if we could communicate informally to, maybe through Caitlin, asking states, maybe at their next meeting, the next time we do convene that group, or maybe just through correspondence. The potential for enumerating trap haul or effort, especially in light of today's conversation with the folks from Delaware, to talk about reduced effort. It would be nice to put some numbers to that, and not just have anecdotes.

CHAIR WOODWARD: Toni, do you have?

MS. KERNS: I think Caitlin will reach out to the states, and we'll do the best we can to get responses.

CHAIR WOODWARD: All right, thank you, Dan. All right, and I think you have something you wanted to make the Board aware of.

MS. KERNS: This is just a quick FYI, because it's coming up quickly and I think we just learned about it yesterday. The Mid-Atlantic Council is going to hold a public webinar/scoping session on November 1, to solicit stakeholder input on some summer flounder regulations, including minimum mesh size and mesh exemptions.

We will e-mail out the information on the webinar itself, it's from 2 to 5 on the 1st but I think it would be good for the states to send this information to their summer flounder permit holders, so that they can provide input. I think the Council is soliciting this information, because they may take up this issue. I assume that our Board would also take up an issue with them, since we have full state water and federal water commercial fishermen using mesh. I just want to make sure that the state permit holders get input into this process.

CHAIR WOODWARD: Any questions about that? All right, seeing none.

ADJOURNMENT

CHAIR WOODWARD: Any other business to come before the Policy Board? Seeing none; then before I adjourn, I'm going to call on Bob.

EXECUTIVE DIRECTOR ROBERT E. BEAL: Just real quick kind of where we are within the meeting now.

CHAIR WOODWARD: All right, thanks, and we will stand adjourned. Thank you.

(Whereupon the meeting adjourned at 11:45 a.m. on October 19, 2023)