

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

**Crown Plaza Old Town
Alexandria, Virginia
February 4 and 5, 2009**

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1. **Approval of Agenda by Consent** (Page 1).
2. **Approval of Proceedings of October, 2008 by Consent** (Page 1).
3. **Motion to authorize the signature of the commission on the MOU pertaining to American Eel Activities between the ASMFC and the Great Lakes Fisheries Commission** (Page 29). Motion by Mr. Carpenter; second by Dr. Geiger. Motion carries (Page 29).
4. **Adjournment by Consent** (Page 23).

ATTENDANCE

Board Members

| | |
|---|---|
| George Lapointe, ME (AA) | Roy Miller, DE, proxy for P. Emory (AA) |
| Pat White, ME (GA) | Bernard Pankowski, DE, proxy for Sen. Venables (LA) |
| Douglas Grout (AA) | William Goldsborough,, MD (GA) |
| Rep. Dennis Abbott, NH (LA) | Russell Dize, MD, proxy for Sen. Colburn (LA) |
| Ritchie White, NH (GA) | Jack Travelstead, VA, proxy for S. Bowman (AA) |
| Paul Diodati, MA (AA) | Ernest Bowden, VA, proxy for Del. Lewis (LA) |
| William Adler, MA (GA) | Louis Daniel, NC (AA) |
| David Simpson, CT (AA) | Willard Cole, NC (GA) |
| Lance Stewart, CT (GA) | John Frampton, SC (AA) |
| James Gilmore, NY (AA) | Malcolm Rhodes, SC (GA) |
| Pat Augustine, NY (GA) | Robert Boyles, Jr., SC (LA) |
| Brian Culhane, NY, proxy for Sen. Johnson (LA) | Spud Woodward, GA, proxy for S. Shipman (AA) |
| Tom McCloy, NJ, proxy for D. Chanda (AA) | John Duren, GA (GA) |
| Tom Fote, NJ (GA) | William Sharp, FL, proxy for G. McRae (AA) |
| Gilbert Ewing, NJ, proxy for Asm. Fisher (LA) | Bill Orndorf, FL (GA) |
| Leroy Young, PA, proxy for D. Austen (AA) | Steve Meyers, NMFS |
| Eugene Kray, PA (GA) | A.C. Carpenter, PRFC |
| Bill VanDusen, PA, proxy for Rep. Schroder (LA) | Jaime Geiger, USFWS |

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

Ex-Officio Members

Staff

Vince O'Shea
Bob Beal

Toni Kerns
Pat Campfield

Guests

Chris Moore, NOAA
Najih Lazar, RI DFW

Gordon Colvin, NMFS
Arnold Leo, E. Hampton, NY

The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, February 4, 2009, and was called to order at 2:50 o'clock p.m. by Chairman George D. Lapointe.

CALL TO ORDER

CHAIRMAN GEORGE D. LAPOINTE: Good afternoon, this is the ISFMP Policy Board. We have an agenda that was handed out with the meeting materials. I have three other items of other business that I am aware of. One is an update on the MOU between the ASMFC and the Great Lakes Fisheries Commission on eels. One is what I call the Striped Bass Law Enforcement Issue, and the other is a discussion on a format for Status of Stocks Review that Vince is going to talk to us about. Are there other business items that need to be put on the agenda? Pat White.

MR. PATTEN D. WHITE: I would like to reserve a little bit of time to task the Chair to discuss seating at the table, an extension of the discussion we had the other day.

APPROVAL OF AGENDA

CHAIRMAN LAPOINTE: Other items of other business? Is there any objection to approval of the agenda with those additions? Seeing none, the agenda is approved.

APPROVAL OF PROCEEDINGS

The next item of business is approval of the proceedings from October 2008. Are there any changes to those proceedings? Is there any opposition to their approval? Seeing none, the proceedings are approved.

PUBLIC COMMENT

The next agenda topic is an item reserved for public comment on the agenda for folks in the public. This is for comments that aren't related to other agenda topics because we will ask for public comment during those. Are there any members of the public who want to make comments at this point? Seeing none, we will go to the next agenda topic and that is

the discussion of the use of roll call votes. Bob is going to begin this discussion.

DISCUSSION OF THE USE OF ROLL CALL VOTES

MR. ROBERT E. BEAL: A memo is being handed out that I drafted to the Policy Board on the issue of using roll call votes. The 2009-2013 Strategic Plan that was approved by the commission includes strategies in increase transparency and accountability. One of the ideas is possibly using roll call votes. In the 2009 Action Plan there is a task that is specific to this issue. It is included in the memo.

It is Task 5.5.3, which is established guidelines for roll call votes on major management actions. Essentially this discussion is in response to that task. The ASMFC staff surveyed the fishery management councils, as well as the other interstate fisheries commissions, to see how they handle roll call votes.

The majority of them handle roll call votes the same way that the commission currently does, which is when any member of a management board or the policy board requests a roll call vote then one is conducted. There were two exceptions to that. One was from the North Pacific Fishery Management Council. They handle roll call votes a little differently. They conduct a roll call vote for any final actions or when there are two or more dissenting votes on a motion.

The Caribbean Council takes a roll call vote on all of their motions, but they have only got I think six members so it is a little bit easier and less cumbersome than it would be for some of our 18 or 19 management boards that we have. There are a couple of principles that seemed to be reasonable for the development of guidelines for roll call votes and those are included in the memo.

They simply are commissioners would retain the right to request a roll call vote on any issue. The process shouldn't become overly cumbersome due to roll call votes. In other words, approving agendas and minutes and those sorts of things obviously don't warrant roll call votes or at least they don't seem to. The third principle would be that roll call votes can be used on controversial issues to promote transparency and accountability.

There are a couple of options down at the bottom. Obviously, it is not an exhaustive list. The idea here is just to start the discussion, but roll call possibly

could be used for final actions or final actions with disagreements; actions that take a super majority, the two-thirds vote; and if a board takes an action that is less conservative than what the technical committee has recommended. Again, the idea here, Mr. Chairman, is just to get the discussion started. Staff can be tasked with additional work on this and we can come back at the next meeting with more documentation.

CHAIRMAN LAPOINTE: Thank you, Bob. My initial thought on the very last item, final actions that are less conservative than technical committee recommendations, we might as well just do them on all votes, but that is just my off-the-cuff remarks. I saw Dave Simpson's hand.

MR. DAVID SIMPSON: Just a quick comment; I wouldn't want to burden the process with roll calls all the time. I think Magnuson requires that roll call votes be taken any time they are requested. That is right in the Act. I think that makes sense for us to do as well. One thing that I have mentioned to Bob on the side is that it would be really nice for every vote we take to record in the minutes and on the screen the number for, against; the actual tally so that we do have a record of that.

MR. WILLIAM A. ADLER: I think we should keep it simple. I think the way we were working, I don't see any problem with the way it has functioned so far. I didn't know why are getting bogged down and getting too complicated.

CHAIRMAN LAPOINTE: Bob reminds me that as part of the Action Plan it was something that was discussed in part to give some transparency to our process and in part to give a record for important actions.

MR. WILLARD COLE: Mr. Chairman, I did have a chance to talk with Mike before he left. As a county commissioner they go through quite a few of these. He did have one suggestion on this that we'll pass on to you. They have found that on roll calls they should not be done in the same order each time. It should be random or varied to some extent because the people that are at the tail end of the roll call perceive they have some advantage. He suggests that when we do it, that it should be sort of a random or in an inconsistent manner for the calling of the roll.

DR. EUGENE KRAY: I think the issue of the terms of the possible guidelines should be taken off. I don't understand the rationale for it. And that final actions with disagreements; I mean, I don't understand what

the rationale for that might be, but I think that can be scrapped.

MR. TOM FOTE: I was a member when we went through – and this was years ago – when we through the full commission for a vote on most of the issues. When we approved a plan or even when we had an election, it used to be a roll call vote all the time just as a regular procedure. I notice when we had the election yesterday we didn't do a roll call vote.

It was just by a raise of hands and things like that, but in the old times it used to be always done as a roll call vote when we did a final plan approval at a full commission meeting, which used to be the business meeting, where all the three commissioners vote, but that was way a long time ago.

CHAIRMAN LAPOINTE: I guess a couple of questions. One is, is there an interest in formalizing this in the manner that it is put forward, so that is Question Number 1. If the answer is no, we don't have to worry about the details. What do folks think, try it or not? Bill Adler was saying keep it simple. The other alternative is to give us a little more formality and then we can talk about the specifics. A.C.

MR. A.C. CARPENTER: I really think the commissioners' right to ask for a roll call vote is what is important. Even after a vote is taken by a show of hands or a voice vote, if someone thinks that the chairman didn't count right, he can certainly ask for a roll call vote at that point. I don't think that would be a violation of any kind of rule and it may be a safeguard rather than having to write a policy.

REPRESENTATIVE DENNIS ABBOTT: I feel that a member should have the right to request a roll vote for whatever reasons he feels at the time are necessary. It is democratic.

MR. P. WHITE: I am in favor of leaving it as is and having the flexibility to do as we want.

CHAIRMAN LAPOINTE: Is there interest in moving this forward?

MR. FOTE: I am just agreeing with Dennis and Pat because, again, there are times that we have to go back to our states and say that we voted a certain way and without a roll call vote we can't prove that. That is why some of the commissioners at times ask for a roll call vote.

CHAIRMAN LAPOINTE: Yes, we have that right now and I think that if it were any policy move forward we could retain that quite easily because I think that is an important function. I don't get any sense of enthusiasm for this right now, and so unless somebody says otherwise we will have the information, we will have it for our potential use in the future if we want to, and we can reconsider it at future at Policy Board meetings, so I will go to the next agenda topic.

UPDATE AND DISCUSSION ON THE MARINE RECREATIONAL INFORMATION PROGRAM

Fair enough, thank you, and thanks for staff for preparing that. The next agenda topic is an update and discussion on MRIP. I assume our federal partners are going to come and join us.

MR. PRESTON PATE, JR.: Thank you, George, and thanks to the board for the opportunity to come back and give you yet another update of the progress that we're making in developing the Marine Recreational Information Program. We have been here a couple of times before at various stages to give you some detailed information about the process that was developed to address the concerns that were expressed over a number of years about the adequacy and the reliability of the data generated by the Marine Recreational Fishery Statistics Survey.

As we move along with the implementation of our plan to ultimately provide better recreational data to groups like this, we feel that it is very important that this group be up to speed on where we are and why we're doing it and where and when we're going to get to where we hope we will be. There is no better way to get that information out to the states than starting with the group that represents not only the management agencies but some of the key constituent and political groups within these states.

It is going to be very important for the ultimate success of this program that we have the support and buy-in from our state partners, and you have to fully understand and appreciate what we're doing and how it is going to benefit this group and the individual states in order to develop that level of partnership.

In the past we have done some powerpoint presentations that we have opted not to do today, but instead to present to you a document that we have put together over the last week or so that we want to use not only for this presentation but for broader use in

our outreach efforts to provide some timely information about the status of some of the projects that we began this year and what some of the projects are for next year.

As I look around the table, I know the majority of the people that are here today have much experience in dealing with the issues surrounding the Marine Recreational Fishery Statistics Survey, but there are a few that may be new to this. So, at the risk of being repetitive to the majority of the group, I feel like I like to back up and give a little bit of background for those that may not be as well informed about what we're talking about.

It was over a period of quite a few years that we were dealing with some growing criticism about the way that recreational fishery statistics were collected and analyzed and used by management agencies, and most of that was directed at the National Marine Fisheries Service's Marine Recreational Fishery Statistics Program, which led the Service to contract with the National Research Council to do an independent analysis of the MRFSS and present the agency with some recommendations on how to improve that program, which they did.

Their analysis was very extensive and detailed and their report was quite critical but also full of recommendations on how to move forward with improving the deficiencies. The recommendations from that report and workshop of fishery statistics and survey experts that the Service put together and held in Denver, Colorado, ultimately led to the formation of the plan for the MRIP, which is governed by an executive steering committee of which Vince O'Shea is a member of, which as the name implies is the premier leadership of the program and provides the oversight to the more technical operations that are underneath it.

Underneath the executive steering committee is the operations team, which I chair, and is responsible for evaluating the technical aspects or survey design and analytical methodology. The operations team is about 20 members strong and is composed largely of representatives from the states and other agencies that have expertise in sampling and survey design. The registry team, which Gordon Colvin chairs, was formed to guide the formation of the registry requirement which was put in place by the Magnuson Act Reauthorization two years ago.

The communication and education team, which Forbes Darby chairs, which again as the name implies, is responsible for developing and

implementing a plan of outreach and education to our partners and the general public about our MRIP Program. One of the first steps that the operations team took in fulfilling its responsibilities as assigned by the executive steering committee was to look at the recommendations that came out of the NRC Report and the workshop that was held in Denver and prioritize those in terms of putting together a plan and project proposals for developing new survey methodology.

The operations team chose as a matter of priority addressing the deficiencies in the survey design and analytical methodology before moving forward with other aspects of necessary improvements such as increasing sample size and spatial expansion of the current MRFSS Program.

We felt like that it was necessary to those fundamental issues before we expanded the use of a flawed program or deficient program into other areas. Based on the priorities that were set by the operations team, the workgroups underneath it – and there are four of those, the data and analysis workgroup, the data management and standards workgroup, for-hire workgroup and highly migratory species workgroup – put together project proposals that would get us down the road in developing new methodology and satisfying the concerns that were expressed by the NRC in its report.

The plans that were developed by the workgroups were submitted to the operations team the fall before last. They were approved and funded and many of those projects began early in this year and most of them are nearing completion. In some of the earlier presentations that we have made we have given you some detail about those projects. I think there were 16 or 17 of them that span the breadth of the recommendations in the NRC Report and addressed the priorities set by the operations team. I'll get to the status of those in just a minute.

But at the same time that those projects were ongoing we felt like it would be necessary to go to the next phase in the program by understanding a little bit more about the specific needs of the various regions and other areas where the MRFSS and other data collection program are being applied. We put together a strategy last spring to visit all of the NOAA Regional Offices and meet with regional staff, science center staff, our constituents and state policies to give them much of the same information that we have been providing to this group about where we want the program to go, where it is, but more importantly to get feedback from them about

region-specific needs for program design and the like.

Those meetings turned out to be very helpful to us. The three of us that are considered the program leads learned a lot. I would ask you, as you're looking at this report and thinking about what we're doing, to think broadly about what we're trying to do and that what we're trying to do is improve a recreational statistics program that applies not only to the Atlantic coast but throughout the entire United States and its territories.

That was an adjustment that I had to make coming from a management program that was limited to the Atlantic coast. I had no full appreciation for what the state of Hawaii might need or the Virgin Islands or American Samoa and Guam. We learned during our travels to these regional areas that some of those needs are very specific and unique to particular areas based on geographical issues and cultural differences that we were not fully appreciative.

We took that information and started developing a priority list for the next round of research projects that included not only what we learned from our listening sessions and the recommendations that we got from people that interacted with us in those forums but also went back to the NRC Report and looked at some of the fundamental issues that were yet to be addressed and established priorities for funding for this current fiscal year.

Those priorities were submitted to the four workgroups with the charge that they develop projects to address those issues and submit those to the operations team for review and approval. The projects are due to the operations team the end of this month. We hope that we can stay on that schedule and have those project plans reviewed and approved for funding by the middle to late March.

If you go through this report, we have tried to put a little bit of structure to it by identifying the projects that are ongoing and those that will be proposed in terms of what phase they are and how they fit into our ultimate plan. I failed to mention a major effort that we had last summer to develop an implementation plan which set out, we hope, in very clear and detailed form the strategy that we are using for this program with a lot of detail about the ongoing projects, which is absent on purpose from this current presentation.

So if you need more detail than what you are getting today in this report or what I am providing to you

with my comments, please refer to that implementation plan which is on our website along with just about every other thing that we do relative to the MRIP Program. We have several phases, as you can see, the evaluation phase of the program where we were looking at current programs and trying to identify from those reviews the breadth and diversity of the various data collection programs that are now being used by the states and the federal management agencies and then take that information and move into what we term the innovation phase where we're planning for new methodologies to address the issues identified in the NRC Report, and then the activation phase which is putting into place what we are learning from these reviews of existing surveys and the projects that are ongoing.

Going on down to the mid or the bottom of the second page of the handout, there is some very general information and summary information about the projects that the workgroups are working on, and the first workgroup that is addressed is the Design and Analysis Workgroup. We have found when we first started putting these projects together that it would be helpful for several important reasons to not just rely on the expertise that was in the individual workshops but expand that level of support to experts that are in the field, statisticians and folks that have some good credibility in survey design and analysis.

So we brought on board a group of experts and assigned them to several of the projects that we are doing now or are soon to be completed. The securing of the expertise from the consultants was completed last summer. The Design and Analysis Workgroup had a project that would document the current sampling and estimation procedure for existing recreational surveys, which was very exhaustive and found certainly to my surprise that there are many more independent surveys in the area that is covered by MRFSS and the other surveys than I fully appreciated.

It will be based on that program that we move to the next phase of developing projects that will be more region-specific and address some of the inconsistencies that are apparent among those various surveys. There are a couple of projects ongoing, one in the Gulf of Mexico and one in North Carolina, that are utilizing license databases.

You will learn from listening to Gordon's comments that one of the fundamental improvements that are going to be made in the MRIP is relying on the license database as the database for conducting our

samples. Instead of having a phone book that includes everybody that is in the coastal region, we will now have a much more concise listing of people that actually fish, so that should improve certainly sampling efficiency and accuracy quite a bit.

But even with that phone book available to us, we have to deal with the various exemptions that the states have. In order to do that we are conducting some dual frame surveys which rely on the license databases but also the random survey of coastal households much like the MRFSS Program does now to try and fill the gap in the license databases created by the various exemptions. Hopefully that will present to us a methodology that can be expanded to all of the regions.

We are also testing the use of a mail survey which hopefully will increase some of the efficiencies and potentially provide better coverage than the telephone survey does and help address and eliminate some of the possible bias that is created by a growing reliance on cell phones and making household contact that much more difficult.

A couple of key issues that popped up in the NRC Report and what we heard during our listening sessions is the lack of coverage by anglers that fish at night and that have access from private access points. The NRC Report identified that as a source of bias. Note that the current survey makes assumptions that those people fishing at night and departing and returning to private access sites have the same behavior and catch and effort characteristics as those people that are fishing from public access sites that are being captured in the MRFSS Survey.

We are looking at ways to try and assess that level of bias; and if the bias exists, finding a way to have more complete coverage of fishermen that are in those categories. We're working with the California Department of Fish and Game to develop some panels of anglers that will help test those assumptions.

The level of discards and the way that those are estimated is of great concern, and we are developing some pilot studies to try and find some more efficient and better ways to estimate the level of discard from the private angler trips. I keep referring to pilot studies and probably haven't explained well enough that a lot of the effort that is being made by the workgroups at this point is to look at the deficiencies in the current sampling methodology and pilot studies that will address those deficiencies.

The next phase that we're into with this upcoming round of projects will be to put those pilot studies in place. The development of the pilot studies, the phase that we are in now, those will be completed here hopefully in the next few months and we will be able to move on to the next phase.

Some of the projects that the Design and Analysis Workgroup are developing now are to expand the sampling estimation analysis to additional regions; regional control of telephone surveys in Hawaii. Hawaii has a great interest in conducting the telephone surveys themselves instead of relying on the current contract that NMFS used for the MRFSS Program. Their thinking is that having local control and local staffs doing the telephone surveys could help minimize some of the cultural problems that someone from outside of Hawaii calling into Hawaii are experiencing and that are affecting the response rates and the quality of the responses.

And then other pilot studies are to test new access point intercept survey design; development of effort surveys that utilize angler lists as sample frames; and a couple of other pilot studies to assess potential biases and test new methodologies for collecting discard data.

The Data Management and Standards Workgroup is one that I fully appreciate because they're really in the weeds with some of the analytical aspects of this program. They are the group that is responsible for developing the uniform standards, I will call them, and protocols for the various data collection processes and the data elements that go into the database.

The initial phase of their project was completed in the fall of 2008, which was to develop a comprehensive inventory of existing recreational data collection programs. Now they have been into the phase of developing the standardization of the data collection elements. They're working with the Pacific RECFIN Website to provide better access through that website to recreational catch.

It is a project that the Pacific RECFIN Group was interested in to address some of the concerns that they heard about the difficulty that management agencies and the public were experiencing having access to the data through the existing website.

The Highly Migratory Species Workgroup is, as the name implies, working on those fisheries that target highly migratory species. Even though there was not a recommendation in the NRC Report specifically on

improving the data collection programs that are specific to HMS, the report did say that all of the data collection programs used by MRFSS need to be improved, which captured the HMS surveys, so we have developed a workgroup to satisfy that requirement or very strong recommendation.

There are several projects that are ongoing with that; the survey of HMS private boat fisheries in the Gulf of Mexico and South Atlantic to test new ways to contact those people with the HMS permits, and there has been some very encouraging results that come out of that with the high response rates and the development of future surveys, based on the findings of this report, should improve precision and accuracy quite a bit. The final report of that project is one of those that is due here very soon.

The landings during HMS tournaments have been a big concern for some time relative to the methods that are being used to report landings out of those events, so there was a project developed to interview the HMS tournaments captains at a selected number of tournaments and data was collected based on those interviews and will be compared to interviews collected through current surveys to see how they match up and identify which methodology is the best.

We started a project to characterize the HMS Private Boat Fishery in Puerto Rico; again, with the testing of new methodology for catch estimation in the territory. We are looking for that final report here soon. The next round of projects to be considered by that group is the implementation of the next phase of the Puerto Rico Project and the development of data collection procedures for HMS on the west coast.

The for-hire fishery is certainly one of great importance in most of all the fisheries that are managed by the regional councils and the interstate commissions and have a major impact on the decisions that are being made. The NRC Report gave particular attention to the methodology for sampling the for-hire fleet and in fact made the recommendation that sector be considered commercial in nature and subjected to similar reporting requirements as that of the commercial fisheries.

The first step in looking at the surveys applied to the for-hire fishery was to inventory current data collection programs, which was completed in the fall of 2008. Some of the consultants that we brought on board last summer were assigned to work with that group to review current programs and make recommendations specific for the for-hire mode.

That report in draft form was submitted to the for-hire workgroup last month. It was sent back to the consultants for further modification to address some of the comments that came up during the review by the for-hire workgroup. The latest draft of that report has been submitted back to the workgroup this week and we have scheduled a conference call of the workgroup on Monday of next week to see if the changes that were recommended have been adequately addressed by the consultants.

I think we're real close to completing that project, and it is one that is going to get certainly a lot of attention and hopefully go a long ways in improving the surveying of that mode and is going lead to the development of project plans for the next round of funding. We also funded last year an electronic data collection program for the for-hire fishery in Puerto Rico. It got a lot of support locally with the for-hire captains.

It ran into some delays for various reasons and got started later than initially planned, but it is well underway now and we are looking forward to getting some results from that effort sometime next fall. That is it in a very general sense. I know I didn't provide a lot of detail but again if you need that, the information is in the implementation plan, which is on the website.

As these reports are finalized and presented to us, they will also be placed on the website, so there is a mechanism there for you to satisfy your need of getting as much detail on this program as you find necessary. But if you can't get that from the website, certainly I'm available, Gordon and Forbes are available to provide you, on request, whatever you feel like you need to keep you up to speed on where we are. Any questions on my phase of it?

MR. PATRICK AUGUSTINE: A quick question; on anglers who fish only on licensed party, charter and guideboats will not be required to register with NOAA since these vessels are surveyed separately from angler surveys; have there been any changes made to the reporting criteria for partyboats, anyway, in terms of are they having to either capture names and addresses or date of birth, or is the same as it has always been where just record the number of anglers and so on?

MR. PATE: There haven't been any changes since we have been into the MRIP Program, Pat.

MR. AUGUSTINE: Okay, so it is going to remain the same and that satisfies the need for adequate

information from party/charterboats. I guess my question is when you look at the number of people that do participate in partyboat activities, it seems like there may be a very significant number of folks that could be used for calling for survey purposes. Maybe that is creating another database, but if I were to have my druthers I would say anybody who fishes – like North Carolina is doing, I believe anybody who fishes 16 and older will have a license. Gordon, did I lose you on the partyboat report.

MR. GORDON D. COLVIN: Momentarily but I caught up to you, Pat. That is unusual but I did this time because your question actually transitions into the registry part of the program, I think, and bridges between that and the ongoing work of the for-hire workgroup. You will recall that the National Research Council's review clearly and unequivocally recommended that in the future surveys and data collection for the for-hire segment of the recreational fishery should be separate – in fact, they recommended a distinct census-based methodology – from the surveys that collect data from the shore and private boat modes.

As a consequence of that, the registry program is designed to collect information that will establish a sample frame for telephone surveys of anglers to collect effort for the shore and private boat modes and not for the for-hire modes because we recognize that is a separate survey element and is now and it will continue to be consistent with the NRC Report.

As a consequence it is not necessary nor could we demonstrate the necessity of requiring anglers who only fish on party and charterboats and never fish in any other mode to be part of the national registry so that they would be surveyed for their fishing effort because we don't want that fishing effort through that survey. We will get it through whatever we do for the for-hire, whether we use logbooks or whether we use an approved system of surveys or whatever. That is why it is done that way, and it was explained that way in the proposed rule and it stayed that way in the final rule.

MR. PATE: George, as a closing comment, if I may, one of the emphasis that we have been putting on our presentations right from the very start is to make sure that all that are involved in this program and all that are following these programs and have expectations for improvements from the current recreational survey designs are not being disappointed by the pace at which we are proceeding.

We have chosen out of necessity and out of good scientific principles to be very deliberative in evaluating the best possible way that we can collect information from the various recreational fishing modes and that takes time. It takes the involvement of a lot of very talented and knowledgeable people in how to make changes from programs that have been in place for decades. It is going to be one of gradual transition from the MRFSS Program into the improved surveys of MRIP.

Those of us that are intimately involved with the program are very encouraged with the way that these projects are being developed and what we are seeing as potential outcomes of those projects and how those can be fairly soon transmitted into improvements in the various existing programs, but it is going to be gradual and the changes are going to be subtle, but I think they're going to be meaningful in the long run.

Hopefully we will be able, as we continue to come back and give updates to this group, be able to give you some concrete examples of how the results of these surveys have been put into place and how the improvements that are being anticipated can actually be measured so that we're not coming in and playing the seagull game on you.

That's not the intent at all, and it is just a matter of some of these – the strategy that we have developed again is going to be deliberative and the results are going to be forthcoming but applied over a period of the next couple or several years. Again and part of my closing remarks I want to take yet another opportunity to thank the states that have committed resources to helping us with this program.

The workgroups that I've been explaining in my remarks are populated primarily by representatives from the states, and so the Atlantic coast states have been a major contributor to that effort. We couldn't do the work and we have gotten to where we are now without that level expertise and support. The level of commitment by the staff that you have made available to us has been truly impressive, and I think everyone that has made that investment into this program and hope we can continue to count on that and work together in getting us where we need to be.

MR. JOHN DUREN: Gordon and Preston, thank you guys for the deliberate and wise approach of taking to doing this. You could have made a lot of people angry, but you haven't which is great. Secondly, of the states on your chart that are green, I know the states don't all have the same program, but I am assuming from your comments and also the written

report that those registries are satisfactory to be used in data collection. Then my second question is are those registries already being used in the data collection effort or will that not happen until all of the states have an adequate registry system?

MR. COLVIN: John, I actually was going to take a couple of minutes to kind of update everybody on the registry. Let me do that and then I'll take your question at the end of that. Just a couple of things teeing this up, as Pres indicated this is kind of the first rollout of this format of the project update document that we have passed out to you today.

You are the first audience for it. It would be helpful for us to get feedback from you as to whether you find this format to be informative and helpful and whether you think it will be helpful for constituents and stakeholders as well, and so any suggestions that you have for improvement, both to help you as well as your stakeholders back home, in any format, just stop by and chat with us, mark some notes on it and hand it back to us, certainly, Forbes and his team will be glad to work on it. This is definitely a work in progress.

Up until now we haven't had a lot to say to you when we have come to you at these meetings about the substance of the work that is being done under MRIP beyond the registry. This is really kind of the first time you're getting some details of the progress that has been made on these many technical projects to begin the process of redesigning the surveys.

So, it is new information in many instances, and I think the pace of that is going to accelerate. One point I wanted to just mention so that it is in everybody's minds is that we don't have a budget yet for FY-09. We have been led to believe that we may actually get to that point before the end of this month. A lot of the work that will take place in the next round of projects, using funding from the FY-09 budget hasn't yet been finally set because we don't technically know how much money we're getting.

We have an expectation and a hope of what our appropriation will look like; and when we do, we clearly are going to have to fine tune this document and make some decisions about project funding for next year, and you will see some changes, I think, including probably a couple of projects that are not here, one of which is something I mentioned to you on Monday about a joint venture with the Fish and Wildlife Service and the Bureau of Census to look into the comparison of the methodologies between the National Survey and our telephone surveys.

There will be some other things as well that are also in the discussion stages. One of those might – and I will say “might” – address recent correspondence that we had from the commission. I just wanted to acknowledge for the chairman and for Vince O’Shea we did receive a letter recently from Vince expressing the commission’s interest in some pilot work to look at the possibility of estimating recreational catch of anadromous fish in the tidal freshwater rivers.

Certainly, we will be in a position to give consideration to that and to ask the appropriate work team and operations team to look at the possibility of recommending it for funding once we have a clearer picture of our budget. I just wanted to mention that, Vince, before I went forward.

With respect to registry matters, a couple of things; we have adopted the final rule. I am not planning to spend a lot of time today outlining the contents of the final rule. I have talked to you many times before about that, and we have passed out today a Fact Sheet which summarizes kind of what is in the final rule and the changes that were made as a result of the comment period that we had.

I suspect that based on the detailed presentation that you all got back in your annual meeting over in Delaware that you don’t see too many things there that surprise you. The rule became effective January 29th, and it is in effect now and there are essentially two different implementation dates.

The overall implementation of the rule is effective January 29th, and that means that the process of designating states as exempted states under the rule can begin now, has begun now, in fact, and we will be throughout this year in a dialogue with those states that want to pursue that designation and ultimately leading up to the implementation of memoranda of agreement with those various states.

Each of the states in the country and every territory and commonwealth has by now received a letter from David Detler, who is the acting director in our Office of Science and Technology following John Boreman’s retirement. The letter informs them for the record of the adoption of the proposed rule and the opening of the opportunity and the window for negotiation with the National Marine Fisheries Service on exempted state status. The states are invited to contact us to initiate that process and to designate a staff person who will be their lead person in that discussion with me.

I want to just emphasize to all of the state directors here that if you haven’t seen that letter, tell me today because you should have seen it by now and we should be in a position to get started with the process. Even those of you who are in states that presently don’t have the kind of licensing programs that you think would qualify for exemption of your anglers, you may have – in many instances I think you do have – programs in place that would qualify you for exemption of your party and charterboats.

We can enter into a memorandum of agreement that just covers that segment of your fishery, and I would hope that we would want to try to get that done this year while we’re working on the rest of fishery. That said, the other issues that are addressed here are basically the technical details of the implementation.

I am not going to walk through all of them other than to say that we do have a database workgroup that has been working with us on this. Again, many of the members of it are the state agency staff from around the country that has helped us develop essentially a requirements document and a standard process for data transmission.

They have made a great deal of progress; they’ve got a little bit more work to do. Roy Miller has been good enough to step in and chair that committee now that Eric Barth has move on, and we are appreciative to both of them for their leadership. We have just about finished actually creating the web portal through the National Permit System that will be used a year from now for the registration process.

We had to get it pretty close to ready in case we actually went live this year, so we’re just about there, and we will be testing the registration process as the year goes on. We may want to work with some of you on some testing processes as well. That is pretty much it. Now let me get back to John’s question with respect to the map that appears at the end of the fact sheet.

The states that are identified as green on the map are the states that based on the information that we have in our records are likely to qualify for designation as exempted states because of either the structure of their current licensing programs, that they appear to us to be sufficiently complete in their coverage to qualify and/or that they are partners in a regional survey program that would meet the requirements under the rule for exemption based on their participation in the regional survey program. We think that is how it is.

And those other states that are yellow and red, we have communicating with each and every one of them for well over a year now about the reasons that they're yellow and red, and there shouldn't be any surprises there for anybody. In fact, I think in some cases we were over a year ago talking to the states and attending meetings in some of the states about actions that would help address those situations. I think that was the first of your two questions, John, and the second was?

MR. DUREN: The second one was are these state registries that already have them in place; are those name being used now for data collection?

MR. COLVIN: In those states that have been part of that dual frame study that Pres mentioned, which up until now has been the Gulf states of Louisiana through Florida and more recently North Carolina, the answer is that we are using their license databases as part of the dual frame study. On the west coast, all of those states are participants in regional surveys where they are already using their angler registries as part of their survey sample frames. They have been and that is kind of an ongoing situation.

Alaska, for instance, does all of its surveys based on its license database. They draw a sample from their license holder database. In part, yes. Now, we're going to continue to refine that process and we will be talking to the states about different opportunities to contribute data to the registry.

But for the time being for those regions of the country, mainly the Atlantic, the Gulf, Puerto Rico and Hawaii, where MRFSS or MRFSS-like surveys have been employed, we would not transition entirely to registries at the outset. We would be doing some kind of dual frame work as we have been with North Carolina, and next year I think we're going to at least continue with Louisiana on the Gulf.

MR. ADLER: Gordon, basically it looks like there are 13 states or territories that don't have some type of registry program. In other words, they aren't green or yellow. Are most of these states or territories moving towards getting a license; and if so, NMFS is going to be out business; aren't they? There is not going to be anybody that registered with the feds. Are they moving that way?

MR. COLVIN: Well, I think that it would be fair to say, Bill, that in the northeast states where there are presently no licensing programs for anglers, that in virtually every state there is some level of ongoing

dialogue and legislative consideration of a registration program or a licensing program.

We could spend all afternoon and some of you are going to spend some time tonight talking further about that, but there is something going on everywhere. In Puerto Rico there is consideration of implementation of a regulatory program requirement for licensing, which apparently they can do. In the two places where there is really not much happening is in Hawaii and the U.S. Virgin Islands right now.

The Western Pacific Islands Territories are actually part of a regional survey partnership with our Western Pacific Islands Fishery Science Center called West PACFIN, and they expect to be able to become exempted from the registration requirements by virtue of improvements they will make in the West PACFIN Survey.

You can't do telephone surveys in Guam, American Samoa and CNMI. We have to come up with an alternative. Our scientists out in Honolulu think they have an alternative and that is what we're going to do out there. With respect to those states that have incomplete license frames now, the yellow states on the map, all of them are engaged in some form of discussion with us and with their legislatures about changes that could be made to get them sufficiently covered to be designed.

I am hopeful that we will see a lot of progress with both the red and yellow states, if you will, over the course of this year. That is the reason that we deferred the implementation of the mandatory federal registration requirement for a year was to enable the states and the state legislatures to have a final federal rule in hand for a complete legislative session to try to enable that action to occur.

MR. MILLER: Gordon, I may have misheard you, in which case perhaps you can enlighten me, but I thought I heard you say something to the effect that for purposes of the registry – I believe you were talking about the registry – the registry folks will be in contact with exempt states for party/charterboat purposes. Now, it is my understanding, of course, that party/charterboats, as Pres told us, are exempt from the registry process, so why would the registry folks need to contact the states in regard to party/charterboat?

MR. COLVIN: Passengers on party and charterboats are exempt from the registry process. The boats themselves are not. The way the federal rule reads, a party or charterboat that is not otherwise exempted,

who fishes in the EEZ or who fishes for anadromous species, will need to register with NOAA Fisheries. Why; because we need a directory of all the party and charterboats so that we can survey them; not their customers, them.

Now, I suspect that very few party and charterboats in this country are ever going to need to register with us because they can be exempted if they are on a list that is provided by an exempted state – and most states do register their party and charterboats – or if they hold any other party and charterboat permit that we issue.

In many regions of the country, most of the party and charterboats have some kind of a NMFS-issued party and charterboat permit, whether it is for tuna, bluefish or fluke or king mackerel or whatever. But if they don't have that exemption, then they would have to register with us a year from now.

MR. MILLER: If I may follow up, then the purpose of having them register either with the states or with the registry folks is basically for the completion of a name and address file, am I right, so that is the type of information that you will be seeking via this process?

MR. COLVIN: Right, basically the same kind of information we get from anglers except in the case of the vessels, Roy, I think the rule specifies the owners name, address and phone number; and/or if different, the operators and vessel name and identification number.

MR. LEROY YOUNG: Gordon, on Page 2 of this handout it talks about MOAs between NMFS and the exempted states, and on that it states that there would be a commitment by the states to get a telephone number, date of birth information of the license or registration holders. I know in our state, although we have computerized licensing system, we do not collect phone information.

In working with consultants, for example, who have done telephone surveys for our state, they have methods of getting this data routinely. Did you discuss NMFS acquiring that data and not requiring the states to do it, because it would be I would think simpler for – using the sampling the frame of the licenses and then the names are pooled for maybe one entity to do that work rather than each state. There is going to be a cost for the states to do that.

MR. COLVIN: We had some comments on the proposed rule, including from Pennsylvania and Texas and some other states, that informed us that in some instances the telephone number is not a

required a field in the state license issuance forms, so they don't get them all and so on and so forth. In the proposed rule the telephone number had been something that was a requirement for the state data submission to be designed as exempted.

Because of the comments we got, we changed that in the final rule. The final rule reads more or less that in the memorandum of agreement that we would enter into with exempted states, we would address how we will work with the state to generate more complete files of telephone numbers, but it is not a requirement as it was in the proposed rule.

It is not a requirement in the final rule for telephone numbers to be provided for everybody in the registry, and that was specifically in response to the comments, Leroy, that we had from your state and a couple of others. What you have suggested is one way to get at it, but those are the kinds of things we'll talk about when we get into the MOA dialogue.

MR. GIL EWING: The original date was January 1, 2009, for implementation of this registration. There was not going to be a charge in 2009, but there was in 2010. The date is now set at January 1, 2010. Will there be a fee associated with the implementation in 2010 or will that be a one-year grace for 2011? Thank you.

MR. COLVIN: Both the proposed rule and final rule set the initial date for the fee implementation at January 1, 2011, and that is consistent with what the law said. The law said we could not charge a fee before 2011.

MR. SIMPSON: Just a question on the registry for party and charter vessels; doesn't the MRFSS Program currently have all the data it needs from each state the way the survey has been reconstructed in the last few years, contact information?

MR. COLVIN: You would think so, but the answer, it turns out, is no.

MR. SIMPSON: Okay, so there is some additional details that you might need and –

MR. COLVIN: In order to get the vessels exempted from the requirement in the law to be registered, we have to formalize that agreement, anyway, Dave.

MR. SIMPSON: And it is worth doing that separately and sort of to get a piece out of the way this year; is that –

MR. COLVIN: If I were you, I would want to do that, and we're certainly prepared to help you do that.

REPRESENTATIVE ABBOTT: Gordon, you mentioned that you're deleting the requirement for having telephone numbers. One of the selling points we have been using for having a program or a license program is the fact that you want to build a better phone book so you can access the anglers. When you tell us that you're not going to have that, the question will be amongst the constituents is how are you going to be improving things?

Also, in this day and age of cell phones, the younger you are the less apt you are to have a permanent home phone number. Are we really accomplishing what we're intending to do? It may be an improvement, yes, but I don't think you're getting to where you want to be.

MR. COLVIN: We're going to build a registry with phone numbers. What we're saying is that those states that have licenses but don't have a phone number for every license holder in their current database can still be designed as exempted states, and we will work with them to figure out how to get the phone numbers for the people we don't have. That's all we're saying.

REPRESENTATIVE ABBOTT: So obviously in our licensing effort we would still seek to have that telephone information even though I know in my state –

MR. COLVIN: Right.

REPRESENTATIVE ABBOTT: – under the privacy business there are a lot of folks in the legislature that don't like providing any kind of extra information.

MR. COLVIN: I understand. You know, we're basically looking for name, address, telephone number and date of birth. If we start with name and address and add the other stuff as we can collect it, that will work for us, and we will get to a complete registry in time. One thing to remember, everybody, is that if we don't find a way to work with the state databases we won't get a complete registry because we are not empowered to register everybody.

That is kind of in the background. This has always been a bit of a give-and-take; how can we work with the states to get a complete license list in light of the limitations on our registration authority? We recognize the need to be accommodating, but still all of us want to get to the same place, I think.

DR. KRAY: Gordon, I understood your response to Gil Ewing's question, because I knew the federal registry would not take effect with a fee until 2011, but if New Jersey or any of the other northeast states implemented a license in 2010 they could charge a fee before that time; could they not?

MR. COLVIN: Yes.

CHAIRMAN LAPOINTE: Other questions or comments? A.C. Carpenter.

MR. CARPENTER: I take it that giving all these phone numbers is going to automatically revoke the option that people have chosen on the "do not call list"?

MR. COLVIN: My understanding is the do not call list never applied to government-funded and sponsored surveys.

MR. MILLER: Gordon, I was wondering if you might want to relay some of the information you and I have exchanged in private conversations in regard to the portability of the registry. In other words, let's say an angler registered from Pennsylvania comes to fish in New Jersey or an angler from North Carolina goes to fish in New Jersey how that will work.

MR. COLVIN: I will take a shot at it, Roy, and hopefully I will cover everything you and I talked about. One of the questions that comes up frequently does relate to exactly what Roy brought up, the kind of the what if questions that people ask, you know, what if I have a license from this state and can I do this over there and what if I have a federal registration can I do that over there, so kind of the way things break down is this.

I encourage you to read the rule because I actually think that – Connie Sathree in our general counsel's office who advised me on the legal aspects of the rule itself did a nice job of organizing the way the requirement got laid out in the rule to make it pretty clear when you read it and think about it.

You need to register with NOAA Fisheries if you're going to fish in the EEZ or if you're going to fish for anadromous species unless you're exempted. One of the ways you get exempted is that you're a resident of an exempted state. And how does the state get exempted? It gets exempted because it issues you a license.

So if you hold a valid fishing license that is issued by an exempted state or – and this is an important aside that we can come back to – if you are legally exempted from the requirement to have a license and you are a resident of an exempted state, and maybe you're legally exempted because you're fishing without a license on a free fishing day or maybe you're legally exempted because you're 70 years old and you're in that two-year window when you don't need to be accounted for by your exempted state, although after two years you're going to have to be, or maybe you're legally exempted because you're disabled; so, if you have the license or you're not required to have the license from the exempted state, then you don't have to be registered anywhere in the U.S. EEZ, anywhere in U.S. waters to fish for anadromous species.

So if you hold a Delaware FIN number and Delaware is exempted and go fishing for striped bass up in the Hudson River or yellowfin tuna 105 miles offshore, that Delaware FIN number is all you need once they have been designated as an exempted state. If you decide to take a trip up to Alaska and fish in the EEZ for halibut or out to Hawaii to fish in the EEZ for marlin, you're covered by your Delaware FIN number.

Now, on the other hand, if you have a Delaware FIN number and the day comes when New Jersey issues a saltwater fishing license and requires a saltwater fishing license to fish in their side of Delaware Bay and you're fishing over there for striped bass, you would still need to have New Jersey's license.

Our registration requirement will never trump or supersede any state licensing requirement. We can't do that, but if you're designated as an exempted state and you issue one of your folks a license – and that includes a non-resident license, too – we will recognize that as complying with the federal registration requirement anywhere in the country. Does that cover it, Roy?

MR. MILLER: Yes, thank you. There was one other wrinkle you and I discussed and I hesitate to even bring that up at this point.

MR. COLVIN: Yes, me, too, I wasn't going to bring it up.

MR. EWING: Mr. Chairman, maybe I'll bring that up. I'm a South Jersey resident; I fish in the Delaware Bay. I have a boat and we have a non-resident boat license for Delaware; does that exempt me?

MR. COLVIN: Well, the boat license alone, as I understand it, probably wouldn't, but I think kind of the technical answer to the question, Gil, is that at some point the state of Delaware is going to come to us with a description of their license program, and it is going to include all the licenses that they issued to cover recreational fisheries and the new FIN Number Program.

They are going to propose that they be designated as an exempted state based on their ability to provide us with a list of their license holders and their registrants based on the following database. If we accept it, then those people whose data is provided to us under that program are going to be exempt.

Now, if they were to say to us that they would submit a list that would include every person who has a FIN number, and that's it, which it could be because it is a very inclusive program, if you have a FIN number you're okay. But if you don't have a FIN number, then the boat license alone might not do it. It depends on how they structure their exemption proposal.

DR. LOUIS DANIEL: I am sure Pres has thought of this, but I am going to ask it anyway. In North Carolina we don't have to have our license on us. Have you thought about that? I mean, if I'm out in the EEZ and get stopped by the federal enforcement, I don't have to have my license on me for North Carolina. I didn't know if you thought about that or not.

CHAIRMAN LAPOINTE: I am going to ask the question where do you have to have it?

DR. DANIEL: The license was passed and said you did not have to have it on you. We opposed that, obviously, or Pres did, it was his –

MR. COLVIN: Now I know why your license sales went down half a million last year.

MR. PATE: I couldn't deal with it at home; how am I going to deal with it everywhere else.

DR. DANIEL: Well, if you were to tell me that if I go fishing off of Florida in the EEZ and I don't have to have my license on me in North Carolina, then I wouldn't have to have my license on me if I was fishing off of Florida.

MR. COLVIN: Well, it is like any number of other challenges the law enforcement folks face. If

someone can't present evidence that they qualify for an exemption or that they are not required to be federally registered, they're probably going to get a ticket and then they're going to have to tell their story to the judge. I mean, really, what else could there be?

MR. PATE: I am no expert in federal enforcement by any stretch, but I would think that if you're working under – if you're an angler working under an exemption provided to the state in which you are licensed, you would have to have some proof of holding that license. Remember, Gordon's comment was that the registry program wouldn't trump any of the state requirements, but if you are working under authority that has been granted to the state from the federal registry requirement, you would be wise to have some evidence that you are properly licensed in that state in order to set aside the federal enforcement.

CHAIRMAN LAPOINTE: Other questions or comments? Well, thank you, both, for coming. Gordon and Preston will be here through this evening so if you have other questions they will be available to address those as well. I suspect we will have a few more of these conversations before it all gets put in place.

UPDATE ON ALIGNMENT OF STATE/FEDERAL MANAGEMENT DISCUSSIONS

The next agenda topic will be the update on the alignment of state and federal management discussions. You will recall that we have had a number of meetings about the issue of state and federal management and how to better manage the relationship in joint plans or joint planning. We had a meeting in Baltimore, myself, Vince, Paul Diodati, Jack Travelstead, the New England Council was there, the Mid-Atlantic Council was there and the National Marine Fisheries Service. It was a very good discussion. There was a consensus statement that came out of it that Bob is going to run through and then we will open up for discussion.

MR. BEAL: The document was passed out at the beginning of the meeting and also e-mailed around at the end of last week, I believe. It is the State/Federal Alignment Working Group Consensus Statement, January 12, 2009. George mentioned the folks that participated in the meeting. I'll just quickly run through the consensus statements that were

developed by the group and then we can answer any questions on them.

I'll probably paraphrase some of these, so the exact wording that is on the paper is the statement from the group. The first one is the recognition that actions that ASMFC takes or the states take has the potential to impact federal fishery management plans. It may modify allocation or disrupt allocation and result in early closures of federal quotas due to anticipated state harvest.

Second, the National Marine Fisheries Service has little flexibility to interpret the current legal requirements of the law. The requirements and obligations that the National Marine Fisheries Service has are most likely intractable or immovable in the short term and possible in the long term as well.

The Magnuson-Stevens Act as it was reauthorized a couple of years ago has new requirements for implementation of annual catch limits and accountability measures. These measures definitely have the potential to exacerbate state and federal divergence in joint and complementary, so there is the potential that these ACLs and AMs could, to put it bluntly, make things worse between ASMFC and the federal government.

Number four is monitoring of these ACLs is going to require more timely and more complete state monitoring. In the absence of improved reporting at the state level, the federal government may need to take a more precautionary approach than they have which could result in lower quotas at the federal level.

The group came up with a series of impacts of divergence as we have seen in the past. I will go through this quickly. More liberal ASMFC or state plans have the potential to adversely impact or appear to undermine the goals of the more restrictive federal plans. The misalignment has resulted in apparent reallocation between state and federal permit holders as well as between commercial and recreational sectors.

Misalignment creates management uncertainties for fishermen, particularly on the commercial side, the harvesters and recreational folks have to make business decisions around; and as the uncertainty goes up, the difficulty in making those decisions is increased as well. The misalignment between the state and federal government has created opportunities where stakeholders can plan one entity

off another and sort of drive a wedge between the interstate level and the federal level. Misalignment may reflect poorly on both the federal and the ASMFC managers.

The group had a fair amount of discussion on what are some of the possible solutions of misalignment. I'll go through those quickly as well. There is recognition that the federal rebuilding requirements are fixed and they are requirements at the federal level. They're not optional and ASMFC should consider adopting those for joint fishery management plans. If the states were to do this, the states would maintain their flexibility to tailor management measures to achieve common goals such as conservation equivalency and allocation of quota with the states.

Also, when considering joint plans and action between the National Marine Fisheries Service, councils and commission, the more restrictive quota should be controlling is one potential solution. Number 6C applies to the science. There should be efforts made to increase the jointness, transparency and participation of state scientists in the scientific process.

Greater acceptance up front of the science results increases the likelihood that the state and federal government will be aligned on fishery management programs. The final possible solution is a bit of a catchall, which is the group discussed the concept that the lack of ability to change the federal requirements, current or future, in joint plans creates the need for a more complete discussion and response by AMFC. Those are consensus statements that are pulled together from this working group.

CHAIRMAN LAPOINTE: And hence the reason for a conversation. Paul Diodati.

MR. PAUL DIODATI: I am sorry I didn't get a chance to comment on the document, but I will make a few comments now. Item 2, NMFS has little flexibility to interpret the current legal requirements and the law will not change in the short term, et cetera, was sort of a driving force in developing a lot of the other elements in this paper.

I was sort of uncomfortable with that at the meeting and now I know why, because they certainly do have the flexibility to interpret legal requirements as evidenced by a recent lawsuit filed by the Commonwealth and the state of New Hampshire relative to Framework 42. That case did argue that the National Marine Fisheries Service had flexibility

to implement different measures and the court so far has vacated the rule and is asking NMFS to respond as to why they weren't more flexible.

Likewise, the presentation that we just got, the federal law required implementation of a national registry January 1, 2009. Now in the past when we had a federal law like that we have heard things like there is no flexibility, this will happen on such and such a date according to the law. Well, in fact, by administrative process a rule has come out where they unilaterally delayed implementation of this rule until January 1st of 2010.

So, there seems to be a blowing of the wind when it comes to how you interpret federal rules, federal laws and federal guidelines. If necessary, if it has to be tested in a courtroom, maybe that is the place, but certainly there is ample evidence that number two is not very accurate, and it is repeated again in the last item, d. So, I think this consensus statement – or we need to meet again as a group and talk about that, maybe after our litigation is complete.

MR. ADLER: I love the word "partners". We're partners with the federal government provided we agree with them. I don't know how many times – when there were divergence of plans and rules, how many times did the National Marine Fisheries Service adjust its rule to us versus how many times did the ASMFC adjust its rules to get in line with the National Marine Fisheries Service?

Reading this gives me the impression that we just might as well just go with the National Marine Fisheries Service because if we're not the same we have got to change. A perfect example of the quota situation is how this would have worked if when we went up to the higher number on the dogfish quota and the federal government did not, according to this we would have had to back down and go with the federal government dogfish quota because that would be the one that according to this would be controlling. So, I'm still very upset with the fact that we call them partners, but they're really partners as long as we agree with them. I am still upset. Thank you.

MR. ROBERT H. BOYLES, JR.: Mr. Chairman, I don't know about the flexibility to interpret the legal requirements. My sense of things, particularly from the southeast perspective, is first the administration in late 2006 made strong statements about ending overfishing. Congress codified that in December 2006. My sense of things is the train has left the station.

So, if it is not legal flexibility I think it may very well be in fact political flexibility. My sense of things is that I am sensitive to the partnership issued that Mr. Adler brings up. I think he is right on that, but I think the way I see things from our perspective down south is that the decision has been made, and the Fishery Service is going to go forth and carry out that policy. It certainly would be easier with the states on board, so I think the train has left the station.

CHAIRMAN LAPOINTE: Other questions or comments? This was shorter than I thought it was going to be. Regardless of the words written on the paper, and you can change some of them, and Paul's comments about the amount of flexibility is a good one, we have the imposition of AMs and ACLs, the catch limits and the accountability measures which I think are going to bring these issues to the forefront quicker as those rules are put in place into various plans.

We all need to think about what we do with this in the context of the commission. You know, we have talked about – I talked to some folks and they said, “Well, maybe we need to look at our plans and see which ones we should be engaged in or not.” I know that doesn't make people feel good necessarily, but I think we need to step back and strategically look at how we engage in this problem.

If you think about the process in terms of the efficiency of the council process or the commission process or the processes in our states to run two different traplines that have different results and then you have to hammer them back together may not be an efficient use of our time.

Again, that is kind of the context within which this came up, and so I think we still need to try to look at the joint planning process, whether it be joint plans or complementary plans and see how we make it work. Lou Daniel and I spoke this morning and he said, well, the states should have a greater role. I don't care how we approach it, but I still think it deserves attention, and whether we deal with it collectively or plan by plan, I think that is something that we all need to spend some time on.

DR. DANIEL: Just a quick comment, I guess. To quote a recent litigation with the Federal D.C. Circuit on Snapper Grouper 13C, the judge wrote that the data don't have to be sound or representative. They simply have to exist, and that is the plans that we're dealing with on the federal side.

That is the thing that scares me the most about having anymore a joint alignment is that we don't have the flexibility to use our informed judgment and to do the things that we feel are most appropriate in state waters oftentimes with a lot better information. Some of the states, North Carolina in particular, spends a tremendous amount of money collecting the information that we use to make our informed judgment.

Sometimes we're criticized for that, but a lot of times we know more about the fishery because of that. So I look at sharks, I look at the things that we have been able to do just at the last meeting to eliminate the thousand pound trip limit on smooth dogfish; boom, done. Hopefully we're going to be able to resolve the processing at-sea issue and the bag limit issue; bam, done. It makes common sense and flexibility.

We had a good discussion about this the other night and I appreciated that discussion, but I just have a lot of angst over having to comply with the federal side of the thing when I oftentimes disagree with what they have done. I think dogfish is a great example of one of those problems that we have had, and I think we will just have more as we move along.

MR. DOUGLAS GROUT: Did the Policy Board or this subcommittee in the past, before I got on the Policy Board, look seriously and try to evaluate which potential species we might want to separate from joint management. It seems like we're running into a conflict between Magnuson and ACFCMA right now. To me that is the logical thing to do is to look at certain species. I mean, the feds punted lobster to us and we took it on. Are there other species, whether it be herring or fluke or whatever, that we want to seriously look at saying either you take or we take it?

CHAIRMAN LAPOINTE: We have discussed it kind of in a superficial way but we haven't – I don't remember if we burrowed down into a plan-by-plan analysis and what that might mean from an operational perspective and moving forward.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Mr. Chairman, it seems to me that an example that Doug just gave in lobsters, one of things that was going on there was a strong component from the industry regarding where they wanted that management to be. I am not sure that is going to shake out as obviously and as easily with some of the other species that we have in joint plans right now, because there is a big issue with the federal permit holders and how those guys are going to come out in the deal; vice versa,

how the state guys are going to come out if they fall totally under a federal plan. I can't imagine a state signing off their state fishery to a federal plan.

MR. ARNOLD LEO: I think it would be useful to keep in mind that NMFS had it forced on them to become inflexible through these ACLs and AMs and ten-year rebuilding periods and so on. In fisheries management, which is not the most exact science, flexibility really is a virtue. One of the examples for me that was outstanding was with scup. Now everybody knew the data driving the scup management was worthless, virtually.

Certainly, the Mid-Atlantic Council's Scientific and Statistical Committee, Dr. Brian Rothchild said it was worthless, and yet NMFS had no choice but to use it as best available science. Now we have learned, of course, that the data was wildly inaccurate and that indeed the quotas could be much larger than they were allowed to be for some significant period of time.

I mean, to me that was a good example of inflexibility. NMFS was simply forced to use that data to come up with unreasonably restrictive curtailments of the fisheries. I don't know what the answer is, but it might be that the Atlantic States Marine Fisheries Commission is actually the one to legally challenge the imposition of those ACLs and AMs on the NMFS process.

CHAIRMAN LAPOINTE: Thank you, Arnold; other comments? What do we do? Gene.

DR. KRAY: Mr. Chairman, I mentioned this morning at the executive committee meeting that I have been asked to chair the ACL and AM Committee for the Mid-Atlantic Council. In my discussions with the staff – and it is very premature at this point. We haven't gotten into a lot of discussion at this point.

But, my understanding and the way we're going to move on this is the development of an omnibus plan to cover all species, including the joint plans. There is a methodology where we're going to bring in our FMAT and bring in a subcommittee of our SSC together. They're going to have a shot at some of the things we're trying to put together.

Then the next step in the process would be to go out to the individual species committees. Now for those committees for which we have joint plans, they will obviously be talking with ASMFC on those issues. Then we will have public comment and then

adoption. That is just a broad brush. It doesn't solve the issues or the questions that are coming up here, but I am just giving you a heads up as to where we think the process is going to go.

CHAIRMAN LAPOINTE: Any guidance? We have identified the issues and the tough nature of this. Paul has identified an issue with flexibility, which I think is a good one to explore as we can. I think as the ACL and AM issue moves forward it will bring this to the fore again, and we may want to consider specific actions that we may take at that time. I think we need to go from the general to the specific to make some progress on this issue, whatever that progress may look like. Jack.

MR. JACK TRAVELSTEAD: I think you just said what my point was. There are obviously some wide-ranging views on this subject around the table, and I think it can only benefit from more discussion, but it seems to me it might help if the working group or the staff could come up with some very specific examples.

I mean, we're tending to talk in general terms. For one, I don't interpret what is here on the page the way Louis did, that what is on the page here means complete alignment with every aspect of every federal plan. I think what the working group had more in mind was some base-level agreement on the science or the ACLs. Once that is agreed to, then we still have conservation equivalency and the ability here to do our own thing. So we maintain some of flexibility, but that is not clear to everybody, I think, and maybe if we had some specific examples that we could run through it might help.

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, one of the things that had been discussed with the working group was the advantage of getting some sort of a legal brief or legal presentation to the Policy Board regarding the federal rules. There were some opinions expressed that people thought that might be helpful to the commission side.

We have never had really somebody come in and talk about that and maybe even perhaps with a spin on ACFCMA requirements as well. That is one thing that the working group discussed. It is not in the consensus statement, but that is out there as a potential next step. The additional one was to do a specific case study of a species where – it might have even been two species; one that is working smoothly and then another one under a joint plan where we were having intersections that were not working as well and where we thought there would be problems.

I guess the question then, Mr. Chairman, might be which way would be best to sequence them.

DR. KRAY: Jack asked for specific examples. When Magnuson was passed a good part of Magnuson – and it came out in a worksheet from the National Marine Fisheries Service as to who was responsible for this task. The congress wanted a report by such and such a date, such and such a date, such and such a date.

In many cases it was the councils. In other cases it was the National Marine Fisheries Service. I know we met our obligations in terms of meeting those deadlines at the council level. We know the National Marine Fisheries Service still has not, and they're over a year behind. So if you talk about the law and you talk about flexibility, it all depends on who has to be flexible.

MR. DIODATI: I guess I wouldn't be that comfortable with the legal briefing on the interpretation of what the guidelines or laws actually mean unless my attorney was doing it. I think that is the position that we might get into there. So unless there was a summary of court findings that have already been decided by federal court, that might make sense, but I think it is very, very clear based on the record that there is a lot more flexibility here in the rules and the guidelines – much more flexibility than is being interpreted.

I don't think anyone here believes that congress ever intended fisheries to be dismantled piece by piece by regulatory frameworks. That is not the way to do that. They would have issued a buyout order or a consolidation order if they wanted to do that. That is not their intent. If you talk to the designers of the law, they are going to tell you that.

I think that there is plenty of opportunity here to work on things. I think if it is important, I like Mr. Leo's suggestion. If it is important to the commission members that some of the laws seem to be misinterpreted or some of the guidelines seem to be misplaced, then I think it is up to managers like us to set the record straight.

Maybe we should comment as a commission as to what we really think about a ten-year rebuilding guideline. How comfortable are any of you as managers that you're going to recover any one of our failing fisheries within any timeline given to you by a law? That is an interesting assignment, but you're almost set up to fail from the beginning because it is very difficult to do that. Maybe we need a group to look at the law a little bit more carefully and maybe

we need to advise lawmakers as to what we think is more practical in the future.

CHAIRMAN LAPOINTE: We've had your caution about the legal review is probably a good one. I like the idea of waiting on what we do with regard to the flexibility issue until we do find out what happens through this most recent court case because I think it will be pretty telling, so it strikes me that we need a little bit of time on that.

In terms of case studies, that would be interesting to dig into, and that is something concrete we can do. Then it would just be a choice of which plans we dig into further. Do people have comments on which plans would be a case study for something that is working and a case study for something that is working less well? I hear dogfish.

MR. GROUT: Well, actually, now that we're in the same quota I was going to suggest that maybe dogfish wouldn't be, but I was going to suggest herring and fluke.

CHAIRMAN LAPOINTE: Other views. Louis.

DR. DANIEL: Well, I was just going to say that I don't read this as aligning all our plans with the feds. All I was thinking about were those joint plans. I think any of the joint plans where we do run into disagreements on and the feds have a strict law that they have to abide by, and I understand that, but I think looking at flounder – black sea bass is one that I'm particularly interested in from a multi-jurisdictional perspective with the South Atlantic, Mid-Atlantic and the ASMFC. I think that one would be a very interesting one to look into.

MR. DIODATI: One of the comments I made during the meeting of this group was that if striped bass were managed under Magnuson guidelines as interpreted by the National Marine Fisheries Service today, that fishery never would have reopened in 1995, the fishery never would have been conducted as it is being conducted today, and you would have forsaken the billions of dollars in economy that fishery has generated over the past 15 years.

I guarantee you; do that as your case study. I guarantee you, take the status of that stock and give it to the federal scientists and see what the ACL looks like. Then make a decision as to how to go forward with aligning us with federal management.

CHAIRMAN LAPOINTE: Here is my concern about that. It raises an interesting question. You could ask it in the context of lobster, you could ask it

in the context of Northern Shrimp from some examples that we have. But to try to back-cast striped bass into a federal plan strikes me that you would have to almost ask somebody to do another FMP, and who is going to volunteer the time to do that?

That case study strikes me would be a cool thing to do, but it would be a huge amount of work. I think Paul's point is well taken. In Maine lobster is the same way. If we had set catch limits on lobsters in the early nineties, we would still be catching 30 million pounds a year. I think his point is well taken, but trying to do that work would be a huge time commitment on somebody's part.

DR. DANIEL: I kind of agree with you in that I think it would take a lot of time and effort to do that, but in striped bass the thing that came up in my mind when Paul made his suggestion was the EEZ opening. Here is a plan where we are the lead agency in managing the fishery, and we have basically begged and pleaded for how many years to get the EEZ opened to striped bass and we never get any positive feedback.

Now it is an executive order for game fish so it probably makes it moot until perhaps somebody changes it, but I think it is an important component of what the collaborations mean. Like Mr. Adler said, they agree with us when we agree with them but not vice versa.

DR. JAIME GEIGER: There is an old saying be careful what you ask for. I would submit that we may want to take this under a little more advisement. Certainly, when one looks at the underpinnings of the Atlantic Coastal Fisheries Cooperative Management Act, if we look what came before, what occurred since the passage of that Act and what we have accomplished, I think we can proudly say that this commission and all the partners have accomplished a significant amount in fisheries conservation.

I think the future is just expanding on what we can do collaboratively and cooperatively. I'm still struggling to see what the real issue is here. I am still struggling to see why would we want, when we have talked about expending energy and questioning monitoring and compliance and assessment and everything else for numerous fisheries management plans, that now we are contemplating doing possibly something else and diverting energy for something that I am seeing very little defined resource outcomes.

What is going to benefit the resource here; what is going to benefit the mission of this commission and the state and federal agencies that participate in it? Folks, I am a little confused of where you want to go; and more importantly, why you want to go there. Thank you.

CHAIRMAN LAPOINTE: Well, joint planning is hard and joint planning does divert resources from this commission. Joint planning causes political problems for this commission and the federal system. That is the reason we're trying to figure out how to sort a path on how to work on those issues.

We aren't very clear on it, so my suggestion at this point is we cut off discussion; and if people have ideas about how to do concrete steps I am happy to hear those. You can talk to me, you can talk to Vince; and if we get a clearer picture for many of us on reflection about how to move ahead we will consider that at future Policy Board meetings.

Does that make sense? I see heads shaking yes. I mean, it was a good meeting; it was a good meeting to identify tough issues, but, clearly it raises as many issues as we addressed. Thank you. Now we will get to something easy, Multi-species Technical Committee Report.

MULTI-SPECIES TECHNICAL COMMITTEE REPORT

DR. MATT CIERI: My name is Matt Cieri and I am with the Maine Department of Marine Resources. I am also TC Chair for the Multi-Species Technical Committee. Over this past year we have been updating the model as per a charge from this board as well as the Management and Science Group; or, where are we going and why are we in this hand basket of ecosystem management?

The difficulty, as you guys all know from single-species assessments, is it doesn't account for a lot of the mortality terms. For example, if you look at menhaden there is growth and reproduction, there is fishing mortality, and then there is this black box that we call all other mortality. So, it typically ignores all these bottom-up processes, is what we call it; you know, some of the recruitment indices as well as some other issues.

The reason why we need to go to these types of multi-species modeling is in many ways the processes that control a population size are very, very large and complex. We have predation removals,

which are actually a function of our own management actions. We have fishery removals, we have other processes like disease as well as starvation. There are environmental variabilities which feed into how many fish that we have in the ocean, as well as things like food availability.

So I guess the reason is why an MSVPA-X? An MSVPA is pretty very familiar with – you're very familiar with already. It is your standard age-structured VPA Model with a couple of little different twists, which I will get to in a minute. The first is to have this recognition that you can't have all of your species at your current Bmsy estimate. It is simply not possible.

Menhaden is both a directed fishery as well as an important forage fishery for some other important commercial and recreational fisheries. One of the added benefits of using an MSVPA is that it reduces this reliance on a constant M . When you get a bunch of stock assessment scientists in the room and they go through their modeling exercises, they don't figure out natural mortality on a year-by-year or age-by-age basis.

It usually comes out to be one value across all ages across the entire time series, whether that time series started in 1982 or whether it started in 1963. If you think about a population size at any given time, you can talk about pretty much your total mortality as basically your fishing mortality, what you removed; in this case what was eaten by the predators that are in the model – that is a very important point.—and then all other sources of mortality; or basically whatever dies is what was caught, what was eaten and what dies from other causes. It is pretty simple.

Here we talk about $M-2$ as being the predation mortality of all the predators that we have in our current model with $M-1$ being pretty much everything else, getting struck by lightning, getting run over by a truck, that type of stuff. But it is actually a fairly complex way of going about and doing this type of modeling. It really is kind of complicated.

When you talk about the fact that you have got commercially and recreationally important species such as bluefish, striped bass and weakfish that are being removed from the population themselves by commercial and recreational entities and you have also got a bunch of forage species, for example, like menhaden, as well as some other forage species like spot and croaker, you can start to see that if you start filling in whatever you might happen to have in the

diet of a typical striped bass, bluefish or weakfish, there is a whole huge host of things that are there.

So what we try to do is take a look at this model from our three predators and model in most of what they eat, so this is a very predator-centric model in this way, and it certainly doesn't incorporate all the possibilities within the modeling structure, but it does represent the major components of each one of these predator diets.

The conceptual structure again is pretty hard to explain. Basically it is all centered around a consumption model; how much do these predators eat when, where and of what. In this consumption model we have a number of factors that feed into it, including these other food items, which I will get to in a minute, as well as our current age-structured modeling that is currently going on in each one of the technical committees.

All of these things sort of get fed together, put into this consumption model and then estimates of natural mortality are kicked out. The data requirements are actually kind of huge. There is age-structured catch and biological information for each one of our explicitly modeled species, and that currently includes menhaden, striped bass and weakfish.

There is also these biomass predators and prey, which we include in the model, but they're put in a pretty much just inputs. They're not modeled inside. These include bluefish but as well as a whole host of these other prey items, including bay anchovy, squid and butterfish, spot and croaker, lobsters and crabs, worms, as well as shrimp.

The model pretty much in and of itself needs a few things to run and one of these are the consumption parameters; pretty much how much does a striped bass eat, what does it like to eat and what kind of water temperature is it in. Then you also need things like diet data, what does it like to eat, what is its type, does it want to go after a worm, does it want to go after a crab, does it want to go after a fish, as well as how these things interact in time and space.

You need all this stuff by year and season and by water temperature so the compiling of the data gets pretty darned large, but we do have all that data from each one of the individual single species as well as some literature searches. For the explicit species within the model, they came from already peer-reviewed assessments. These are things that are just off the shelf, you have seen them before, the

technical committees have given you the data on them.

For some of these biomass species, most of these are from recent assessments; again, peer reviewed. Others are from other sources including academic institutions as well as in some cases some estimates done by the committee. For the consumption data on what gets eaten where and when, that data comes from the ChesMMAP Survey, the Food Habits Database, as well as scientific publications and theses.

All of this whole dataset was all signed off by the SARC in the Northeast Regional Science Center during a SARC that took place in 2005, I believe. Since 2005 and because the model was only up through 2002, what we were asked to do was to update this model as far along as we could to give you guys the best estimate of information. So basically this is the stuff that you have seen before but just simply an update.

But, of course, we're scientists; we can't leave a thing alone if we tried. Instead of just simply updating it, what we have done is we looked at the SARC run – we have three different runs – the SARC run, which is pretty much what we did for the peer review. We have a continuity run, which is pretty much that SARC run updated with some corrected mistakes found within the last time around.

Then we came up with our best estimate, which is a new configuration. The corrections in the continuity run are fairly small. Basically there was difficulty with weakfish and how we chose our plus-class. There wasn't really much of a major observation difference because there is not a whole lot of older weakfish left in the population. There was some timing offsets with the Virginia Pound Net Index. Some of the other major changes to the base run – now that's the run in which we think is our best estimate – we used the new biomass from the peer-reviewed assessment of bluefish.

Since the time we updated the SARC Model there has been a new estimate of bluefish. We also used new prey preferences. These included new additions to the food habits database, ChesMMAP, NEAMAP as well as a couple of scientific publications by Anthony Overton and the North Carolina Striped Bass Diet Study. We also updated the catch-at-age matrix. Then we included a new survey for menhaden from New Jersey and lots of other stuff.

We also used the MRFSS CPUE Index from New York, all of the striped bass work that was done on the surveys; that has been incorporated. Then we went through and did all the other biomass prey items, and this included population sizes from our whole host of our biomass prey items. There have been some fairly significant changes in the model between our last SARC run and the run that we did this time, and I will show those in a second.

First is the understanding that our predator population has changed over time. As you can see here, our striped bass population has increased by quite a lot. Our bluefish population declines up until about the mid-1990s and has since been steadily increasing. Our weakfish population, while cyclic, has been on a downward trend over the entire time series. This is all information that you have gotten from your single-species assessments.

The changes in the MSVPA Model since the last SARC run have been that the bluefish population has been revamped to be higher. The weakfish population, in the last run that we did for the MSVPA showed that weakfish populations were increasing; whereas, this time around it showed a dramatic decrease, and this will have an impact on your menhaden population, as I will show you right now.

Within the SARC base run, when you look at the predation mortality or your risk of being eaten by one of our predators is the best way of looking at it, the SARC based run showed a fairly high degree of variability but generally an increasing natural or predation mortality over the time series.

However, when we put in the continuity in the new base run, adding those years as well as making those corrections, we can see for the continuity run there is almost a dome-shape relationship. Then for the new base run, again, it has been slightly increasing but not quite as high as we found in the SARC run, and this is for age zero menhaden.

For age two menhaden there hasn't been a whole lot of difference except the actual magnitude has changed. When we compare zero age recruits for menhaden there have been some differences. And this time we have added in a purple line here, and this shows the menhaden single species assessment. As you can see, recruitment for both has been roughly the same for all of our model configurations.

When go through and we look at the SSB, however, that is different. In fact, while our base runs, our SARC runs and the stuff that comes out of the

MSVPA shows an estimate of biomass at about 60 down here, the last update of the single-species assessment for menhaden was nearly double that, so we're showing less fish than what was being shown in the 2006 update for menhaden, and we will explain why in a second.

When we look at the differences between actual consumption between our two runs – and in this case I am just going to do the SARC run and the new base run – that removal of weakfish, that revamping of weakfish dramatically dropped how much was getting eaten by weakfish and our new base run, and it dropped it by a lot considering the order of magnitude.

Over here predation mortality is about 1, which is roughly the same thing as the fishing mortality, and down here it is pegging in at about 0.6, 0.7. For age one menhaden, again weakfish pretty much go away as an important predator. Bluefish and striped bass take over in general over the last part of the time series. Again, in this case age one menhaden are being estimated to have a higher predation mortality than the last time we did this.

Finally for age two, again the same thing; weakfish drops out. In general there is more of a striped bass and bluefish predation. However, the predation mortality on age twos have been estimated to be higher than they were previously, so striped bass and bluefish are eating larger menhaden than we first had in our SARC run. So, that is sort of a preliminary update of what we have gotten so far.

Just to give you a few caveats, an MSVPA Model is not going to make really bad data any better; so if you have got problems in your single-species assessments, they are going to come out in your MSVPA. Of course, it is also not a good idea, as I stressed in previous presentations, of making long-term projections. If you try to sort of project striped bass populations out by ten or fifteen years, you have got to remember the life cycle and the life history of our forage species.

In some cases menhaden spawn by age two and they are dead by age six, so you really are working on a virtual population by the time you get out to age 20 striped bass, for example, or 13-plus. The model is currently only a one-way model. How many prey items there are does not affect the recruitment or the population size of the predators; only the other way around.

The SARC was very adamant about saying that this particular model wasn't really good for defining reference points as it currently is or as currently formulated and the suggestion that the model may not be compatible with some of your single-species assessments, and that is certainly true for menhaden.

What it can give you is an idea of how to make more informed choices about tradeoffs between predators and prey items within a multi-species or an ecosystem sort of framework. What the model can do is it can provide natural mortality estimates by age and by year for this upcoming menhaden benchmark assessment. We have done that in the past, and so we can actually give to the menhaden technical committee values of natural mortality by age by year to be incorporated into the next benchmark assessment, which I believe the data workshop is going to be fairly soon.

You can also examine some of your harvest strategies of predators and prey at the same time and then project those results forward. You can look at changes in recruitment or harvest of predators and how that is going to impact the food availability to your other predators in the model and look at that based on different harvest strategies. I am going to give you an example. Let's say you want to fish your striped bass population closer to your target than where you are currently.

What the model can provide for you is it can tell you how much menhaden consumption is probably going to increase, and it can tell you what age of striped bass to do that where, in some cases, as well as what ages are going to be affected in the menhaden population. It can give you an idea of what changes you might expect to see in the menhaden natural mortality both over the entire population and at a particular age.

It can compare those natural mortality changes under different strategies. It can also give you an idea, if you did change the striped bass F, of what that might do for food availability overall for striped bass as well as for the other predators in the model and also under different harvest strategies for menhaden.

You can actually take a look at food availability and menhaden availability as food with changes in management for your predator populations and then compare that back to historical; will striped bass have as much food now as they did then and what proportion of diet do you expect menhaden to change as you increase the striped bass population.

So what is next? The what is next part is the model pretty much updated and ready to go. We will add in some weakfish changes as they become apparent from the technical committee. Weakfish is currently in the process of undergoing an assessment; and as soon as that catch at age is ready we will pop that into the model when it is completely finalized.

This model will be used in the next menhaden benchmark assessment for SEDAR, and we will be working in close collaboration with the guys from Beaufort and incorporating some of the M components into the model. But probably the biggest change will be an MSVPA peer review, which we're still uncertain about when the timing would be.

And that may potentially include incorporating shad and river herring into this assessment framework as well as Atlantic herring, which seems to be an important forage species at the northern edge of the striped bass range; also to work on the feedback between prey and predators to actually make the direct link between food availability and recruitment success in your predator population, as well as the potential of actually constructing reference points during this next go around, and the addition of whatever other prey seems to be important within the modeling framework.

But the bottom line is we actually have a tool that can help you make some ecosystem-level management decisions today. The model is updated through 2006. It can give you an idea of projecting what might happen in the future and what has happened in the past. As long as you ask very specific questions, you can get some of those answers. And that's it.

CHAIRMAN LAPOINTE: Questions for Matt? Doug.

MR. GROUT: Just a clarification; I thought I saw on an earlier slide that we shouldn't use the current model for reference points? You're saying in a future model we could.

DR. CIERI: What I'm suggesting is if we bring this model back to peer review, we can put in a term of reference to actually construct reference points. That is a possibility.

DR. DANIEL: We're going to use this for a natural mortality estimate; is that the plan?

DR. CIERI: You mean for menhaden?

DR. DANIEL: Yes.

DR. CIERI: We already do.

DR. DANIEL: Well, maybe I have been behind a desk too long. I'm trying to understand – the way I'm reading this is if the population of striped bass goes down, the natural mortality on menhaden is going to go down, but what about the dogfish and the bluefins and the king mackerel and all the other things that are going to eat those menhaden if the striped bass don't? I'm trying to wrap my arms around that.

DR. CIERI: My thought would be you might want to actually pick up the SARC document that explains all of that. The difficulty is you're never going to be able to account for every single critter that eats menhaden. What you really want is you want an idea of what ones are important to the commission that eat menhaden, and that is why most of those species are in fact included.

We went through the exercise of going through every single species gut by gut in the Food Habits Database as well as other species, looking for whether or not menhaden were important to the diet. In many cases, you know, some of these species, there might be an importance of menhaden in their diet, but their impact in both spatial and temporal over the entire menhaden population is fairly small.

So, weakfish, bluefish and striped bass overlap very strongly with menhaden in many of the different seasons throughout the entire year. Overlapping, for example, with bluefin tuna for two months doesn't create that much of a predatory impact on menhaden. They might be vital for bluefin tuna, but we're the commission, who cares about bluefin tuna?

MR. CARPENTER: Mr. Chairman, I am tempted by the last line on this slide. It says if you ask a specific question you can get an answer that we're looking for. I want to know where the weakfish went; can this model help me answer that?

DR. CIERI: It can't tell you where the weakfish went, but it can tell you that overall food availability to weakfish has declined as menhaden recruitment has declined.

CHAIRMAN LAPOINTE: Clearly, this is what we asked for and it is becoming more refined. I think I am going to have to sit down with Matt when I can have him in the privacy of my own office and I can beat on him a little bit to understand – you know, you say we can use today, but what does that really mean

because we're simple managers and we want to say, well, what happened to menhaden or to weakfish; or, if we make this change in the availability of one species, what is going to happen to the other species; you know, is it going to cause and effect?

And back to Louis' question is there are a lot things in this model but there are a lot things not in the model, and the reason we care about bluefin tuna and kingfish and all the other species he has mentioned is if they are a significant enough predator on one of the prey species in the model; does that bugger up our ability to use it in terms of trying to understand the species.

DR. CIERI: The question maybe I didn't answer it correctly. The question gets back as to really if you're trying to focus in on the central species of this model, you know, striped bass, bluefish and weakfish, it you're trying to concern yourself just with those, this will be a good avenue to do that.

If you're interested in how much menhaden is being consumed coastwide by all the different predators, birds, whale, bluefin tuna, those types of things, this isn't really the best approach. That best approach is actually through something called Ecopath and Ecosim. What this will do is it will be able to give you significant or least give you an idea of what sort of management changes – if you make a management change in your predator or prey population, what is going to be the result in your prey population as well as your other predators and their food availability.

CHAIRMAN LAPOINTE: And the result, my sense is we need to be cautious of saying if we reduce striped bass abundance by half, weakfish abundance is going to go up by twice. It is going to be more directional or trends or helping us just have some informed background as we consider those other kinds of questions.

DR. CIERI: Right, the model won't tell you that weakfish populations will go up. What the model will tell you is that, for example, the availability of food to the weakfish population will go up.

MR. WILLIAM GOLDSBOROUGH: But if we're using it to estimate natural mortality for menhaden, which apparently we're doing, and we're only looking the predation from those three species that are commission-managed species, doesn't that estimate end up being a minimum and are we utilizing it that way?

DR. CIERI: Yes and no. One of the things, as I suggested, is that we went through a lot of the food habits database for a lot of these predators. In general it seemed as if – and we did this in a quantitative way and you can read the source document – that it seemed as if the biggest impact on some of these species was from striped bass, bluefish and weakfish, because, again, as I suggested species that only overlap for a short time and don't have a very large population size don't have that much impact on a very abundant prey item, for example.

Beyond that, yes, it is used in the menhaden single-species assessment, not just its absolute value but how it has changed over time. The way that we refer to this as stock assessment scientists is this provides the vector, but the actual magnitude is scaled internally within the single-species model, so it is a part that goes into the single-species model.

It is used to analyze trends in some cases. Amazingly enough, when we compare this with some of the menhaden tagging models that had gone on in the past, the numbers are roughly fairly accurate, they're fairly comparable. That suggests that the bulk of the predation mortality that comes out of the menhaden population is coming from many of these species, these three species in general.

MR. GOLDSBOROUGH: I am wondering then about some of the bird predators which do overlap quite a bit. I thought we had heard last year some input from some of the bird folks that this was a growing need, and so how do we account for that?

DR. CIERI: In this modeling framework you can; they're very, very easy to add in. Unfortunately, as you keep adding in predators and prey things that may not be important, you're actually adding more variability than you are actually adding in something that might be important.

For birds themselves, it depends on whether or not the bird population has to overlap strongly in time and space, which means that they have to be in the same area that the menhaden population is in, and they have to be of significant size to actually reduce fairly large quantities of menhaden. So it has to be a very large population, on the order of how many striped bass that you have, and they have to overlap during most of the year.

For example, striped bass overlap with menhaden during most of the year, whether it be inshore or whether it be offshore. Striped bass follow menhaden, bluefish follow menhaden, and some age classes of weakfish follow menhaden. Bird

populations tend to not overlap as strongly and certainly don't feed as heavily because they're not around with menhaden in the winter offshore.

DR. GEIGER: I noticed on the benthic invertebrates and the micro-zooplankton component – I know you stated in the report that you considered strongly the invertebrate taxa; primarily amphipods, isopods and polychaetes. I am curious why didn't you look at some of the variability between the copepod populations, especially looking at recruitment of young of the year, especially striped bass. Certainly, if you had a massive copepod failure you're going to have significant reductions in young-of-the-year recruitment of striped bass and all of them. Explain to me why you focused on those three invertebrate species, if you would, please.

DR. CEIRI: Well, first off, you have to remember that striped bass and all the other predators are inputs into this model. I mean, they're coming directly from the single-species assessment, so if the single-species assessment didn't assess food availability in the striped bass population, we certainly did not in recruitment success.

In general for our menhaden population we can only start the model at basically – I think we call it half age zero, basically 0.5, and that is because of the variability associated with the recruitment indices. So, you can't really resolve the species with a high degree of environmental variability, and so we didn't even include things like copepods. This would be only those things that are important for striped bass, bluefish and weakfish since recruitment.

CHAIRMAN LAPOINTE: Other questions or comments? It is a huge amount of information. It strikes me that it would be worthwhile – and you and I can start the conversation – to do what it can and can't do for us, kind of a frequently asked questions, so we have three pages of stuff, so as we consider this and its potential use we get a better understanding of how much more development it needs, how it will help us in some of the management plans and how it may not help to guide us so that in fact we do not use it.

Clearly, we're developing it for a reason, but on the other hand it doesn't raise expectations that we have got some magic willy wonka machine and we have put the numbers in and good management comes out the other end. I am going to do that with him regardless and obviously we will share that with people and that will be a list that we can work on

through time so that in fact it comes more useful for us because I am way over my head.

Does that make sense to folks? Matt, thanks for the work and for the report. The Habitat Committee, Pat Campfield.

HABITAT COMMITTEE UPDATE

MR. PATRICK A. CAMPFIELD: We have a couple of quick items to update the Policy Board on from the Habitat Committee. The first is ongoing work on the Artificial Reef Subcommittee which consists of members of the Habitat Committee from ASMFC and also representatives from the Gulf States Marine Fisheries Commission.

They met in Jacksonville this past November. The subcommittee compiled an artificial reef program summaries document. For anyone who is interested, there are copies available in the back of the room. This document includes an overview of artificial reef programs in eight of the Atlantic coast states.

This Artificial Reef Subcommittee also put together summaries of the states' reef monitoring programs, so not just the establishment of artificial reef programs but monitoring of reefs that were put in place. The next step is information on monitoring that will be provided to the Habitat Committee to get their input and potentially expand on the information gathered to date.

Also, under artificial reefs, at our annual meeting the Policy Board requested an update on special management zones and had asked if there was an existing document that ASMFC had produced on the special management zones. There is no document in the Habitat Management Series, and our habitat coordinator is continuing to look around for reports providing guidance on special management zones.

However, just a couple of quick highlights on SMZs. South Carolina has several special management zones for artificial reefs in place. The regulations in South Carolina include restricting certain fishing gears in that area, mostly pots. Florida also has a few SMZs that their counties have put in place, and the regulations there primarily restricts spearfishing.

The second item from the Habitat Committee has been a long time coming, but they have finally finished and are publishing the Atlantic Coast Diadromous Fish Habitat Source Document. This is the most recent document in the series of the commission's fish habitat management series.

Copies will be distributed to all commissioners, TC members and Habitat Committee members later this month.

There is also a supplementary DVD that goes along with the document itself. The DVD contains GIS maps of diadromous species spawning habitats. These materials will also be made available to the public.

CHAIRMAN LAPOINTE: Great, thank you, Patrick, and congratulations on the completion of the Diadromous Fish Habitat Document because that has been a long time coming. Questions or comments for Patrick? Our next agenda topic is an Atlantic Coast Fish Habitat Partnership Update.

ATLANTIC COAST FISH HABITAT PARTNERSHIP UPDATE

MR. CAMPFIELD: There is just one quick item here on ACFHP. The 2008 Atlantic Coastal Fish Habitat Partnership's Memorandum of Understanding has been finalized. There are 30 parties to the MOU, including the commission, all Atlantic coast states, plus the state of Vermont, federal agencies, NGOs and even one Native American tribe. Again, copies of the 2008 MOU and the list of signatories are available in the back of the room.

A full set of signature pages as well as this MOU will be provided to each signatory contact in the MOU. In terms of updating the MOU on an annual basis, probably early in each year, in January, we will revisit the MOU and if new signatories come on board we will update it each January.

Finally, Emily Green, the ACFHP coordinator, and the ACFHP committees are working on several products to be completed in 2009, including a database compiling all existing habitat information along the coast, so we will have an update on this product and all of the ACFMP products at the May meeting.

CHAIRMAN LAPOINTE: Thank you, Patrick. We're on the second year of our two-year grant; and so if we want to continue this partnership we need to renew that grant so that in fact we can continue the effort?

MR. CAMPFIELD: Yes, that is correct, the grant will run out at the end of 2009, but we're working

collectively to find an additional two years of funding.

DR. GEIGER: Mr. Chairman, a question for Patrick. When do you think the Atlantic Coastal Fisheries Partnership will apply to the National Fish Habitat Board for formal recognition?

MR. CAMPFIELD: My understanding is that with the completion of the MOU. That is a major step so there are a couple more signatures that we need to get on board, actually receive the physical documents, and then I think that will be final and sent forward to NFHB.

DR. GEIGER: Okay, just for information for the board, as I understand it, once we apply for formal recognition as an established fish habitat partnership, then the ability to apply for funds that may be available to support those habitat restorations will be more expedient, so to speak. We will be able to apply for funds that may be available through both the Fish and Wildlife Service, if the National Marine Fisheries Service puts in their budget to do that, and so on and so forth.

I do know that there are three new partnerships applying at the spring meeting for formal recognition. I would urge this commission to take that application process very seriously and apply as soon as possible to the board at the earliest convenience to get formal recognition. As you may know, several of the NGOs have asked for increases in national fish habitat funding to support this activity. That is being received pretty favorably by congress. Again, since this is the only marine partnership on the boards, I think it would really be beneficial. The sooner we can apply, the better I think it will be. Thank you, Mr. Chairman.

MR. MILLER: While we still have Patrick to talk to us, a question occurred to me from an agenda item, two back. If I may, for just a second?

CHAIRMAN LAPOINTE: Hang on for one second. Are there other questions about the Habitat Fish Partnership? Go ahead, Roy.

MR. MILLER: Patrick, under the topic of special management zones around artificial reefs, you mentioned specifically South Carolina having regulations and Florida having regulations. Is there anymore general guidance for the states in this regard that would be available to us?

MR. CAMPFIELD: Not that I am aware of. Jessie Thomas, our habitat coordinator, did some initial digging to get the brief summary I provided about South Carolina and Florida. It may be possible to talk directly with those states to request more details from them and guidance from them.

CHAIRMAN LAPOINTE: Other questions or comments for Patrick? Our next issue is the NEAMAP Update?

NEAMAP UPDATE

MS. MELISSA PAINE: The NEAMAP Nearshore Trawl Survey underwent a peer review last December, and that happened in Virginia Beach, Virginia. An external panel with representation from the east coast, the west coast and Canada was invited to review the technical aspects of this survey following terms of reference provided in that full advisory report that was actually sent out to you as part of your supplementary materials. They are in the back as well if you're interested.

There should be a memo being passed out right now by staff. Very shortly you will be receiving a summary of the peer review findings, and on the back of that sheet is a memo from the NEAMAP Board to this Policy Board indicating the NEAMAP Board's approval of that advisory report.

Also in that advisory report are comments from the survey personnel in response to a lot of the recommendations that came out of the panel's findings. Overall the panel found the NEAMAP Nearshore Trawl Survey to be a valuable project with high scientific standards. The panel found the meeting to be very successful and that all of the terms of reference of the review were addressed.

The panel finds that the NEAMAP Survey is sound, but they did offer some suggestions to improve the survey in regard to sampling procedures, but they did that there are no major deficiencies that would affect any of the data collected thus far. The panel recommended some modifications and suggested improvements in the areas of survey operations, biological sampling, data collection and fiscal analyses.

In general those are provided below also on that sheet, and they are explained in further detail in the full report. The NEAMAP researchers evaluated the review panel recommendations and will be looking at making those improvements in 2009. The board

recommended that the survey protocol stay as is for 2009 and then for any changes to be enacted in 2010. Additionally, the NEAMAP researchers are developing a formal survey manual which is based on the background material that they provided for that peer review.

A lot of what is discussed in that survey manual addresses many of the panel's recommendations. Both the survey personnel and the peer review panel said that there was a need for a new electronic data collection system, and so the NEAMAP Board has tasked the Data Management Committee with determining an appropriate data collection system.

Overall, the panel found that the work is considered to be an excellent example of a cooperative project with extensive outreach work and good data accessibility. They find that the data collected has high potential for use in stock assessments, ecosystem analysis and increased understanding of the nearshore waters from Cape Hatteras to Cape Cod. Finally, the panel recommends that permanent funding should be obtained. That's it for my report.

CHAIRMAN LAPOINTE: Thank you; questions or comments? Seeing none, thanks very much. Update on Non-Native Oysters Activities, Bob.

UPDATE ON NON-NATIVE OYSTERS ACTIVITIES

MR. BEAL: Just a brief update; following the last Policy Board meeting the ASMFC did submit comments on the Draft Programmatic EIS on Chesapeake Oyster Restoration. Those were submitted to the Army Corps of Engineers. The Army Corps is currently working through all the public comments on the non-native oyster project.

The states will be getting together I think over the spring and making a decision. There will be a 30-day cooling off period and then a final record of decision by the summer is the schedule that has been published by the folks that are working on that project. That is just a brief update. I don't know if anyone from the Chesapeake Bay has anything to add, but I can answer any questions.

CHAIRMAN LAPOINTE: Any additions or questions for Bob? Are you doing the Interstate Shellfish Transport Committee as well?

INTERSTATE SHELLFISH TRANSPORT COMMITTEE REPORT

MR. BEAL: The Interstate Shellfish Transport Committee was revitalized or reconstituted to deal with the non-native oyster project or Chesapeake Bay Oyster Restoration Project. It appears that project is wrapping up right now. The ISTC wanted me to seek direction of what their future role is with ASMFC.

There is a memo from me to the Policy Board dated January 9th that was on the CD background material for the board. The ISTC did propose a few things that they could work on such as discussing standards associated with native oyster transportation, transportation of clams, permitting issues associated with aquaculture sites and transport, enforceability and, biosecurity issues associated with shellfish transportation.

There are a number of things. Obviously ASMFC doesn't have FMPs for clams or oysters, but these folks felt they could add some value to the states by getting together and talking about some of the collective issues that they had. There are no resources in the '09 Action Plan for those folks to get back together and talk about those, but they wanted to essentially put a placeholder in when the commission thinks about future work and 2010 action planning and budget and those type things.

CHAIRMAN LAPOINTE: Board members, questions or comments? Seeing none, we will keep that as a placeholder for next year. We do a bucket load of work with the BISSC dealing with a lot of these issues as well, and so before we give somebody a new role the juxtaposition of those two processes I think will be a necessary step to understand before I would want to make a commit next year for a different role. Other questions or comments? I see a few heads shaking yes and so we will bring that information back to them for some discussion.

OTHER BUSINESS

We are at other business. The first other business item is the MOU on eels between the Atlantic States Commission and the Great Lakes Fisheries Commission.

MR. BEAL: The American Eel Management Board recommended to this Policy Board that the MOU for American Eel Activities between ASMFC and the Great Lakes Fisheries Commission be signed by

ASMFC pending the final editing by the Great Lakes Commission. We received that final editing.

They made relatively minor changes; mostly a description of all the signatories to the MOU. It is anticipated that the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the Canadian DFO and possibly the maritime provinces will sign off on the MOU so we can get sort of a comprehensive involvement in eel management.

That document appears to be very consistent with what the American Eel Management Board recommended to the Policy Board for approval. The decision before the Policy Board today is ASMFC comfortable signing off on that MOU.

MR. CARPENTER: I want to express thanks to the staff for working on this for going on a little over two years now, but if it is necessary I would be happy to make a motion to authorize the signature or participation of the commission – or recommend it to the full commission. I don't know exactly what we need to do, whether the Policy Board can sign off on it or whether it has got to go before the full commission. I would support signing the document.

CHAIRMAN LAPOINTE: I think the Policy Board is where the attention has been so I think that – I mean, we can keep it here. Is there a second to A.C.'s motion? Seconded by Jaime Geiger. Do we need discussion on the motion? Seeing none, all those in favor raise your hand; opposed, like sign; abstentions; null votes. Unanimous vote; thank you very much.

I want to add my thanks to staff and the folks on the Eel Board who did work on this because it has been a long time coming. Thank you very much. Our next agenda topic is the Striped Bass Law Enforcement Issue, and Bob will get us started on that.

MR. BEAL: Under other business during the Striped Bass Management Board meeting earlier this week, the issue of the poaching case for striped bass in the Chesapeake Bay was brought up. Some very cursory information was provided to the board on what was known about the case at that time. The Striped Bass Management Board recommended to the Policy Board that a letter be sent suggesting that the individuals involved be prosecuted to the fullest extent of the law.

The Striped Bass Board indicated that probably the best course of action would be to provide staff some flexibility in deciding when to send the letter and

exactly who to send the letter to as the details of the case come out in the future. The question before the Policy Board is, is the Policy Board essentially comfortable sending that letter when more details are known about the case and providing staff with the flexibility to sent that off working with the Chair.

DR. GEIGER: Mr. Chairman, I would recommend we wait until the court cases proceed to some kind of finality and then pending that, then I think it would be certainly appropriate for the board to send a letter to you all may desire to send it to.

CHAIRMAN LAPOINTE: Other board members. I am not opposed to sending the letter at all. The timing exactly and to whom it is sent is a question. My other question is when do we get – you know, this is one of these questions of when do you engage and don't you? Obviously, this is a high-profile case and so I don't mind at all having the letter sent, but we may need to think about – I don't want to start sending letters to every court case that comes up and down the coast. This is a high-profile one, but there are other high-profile cases as well. That is something I think we need to think about in the long term. Ritch.

MR. G. RITCHIE WHITE: I guess the only concern I would have is if we don't sound in now, then if there are settlements, that a judge might like to see this kind of letter and to take that into consideration in coming up with a settlement.

CHAIRMAN LAPOINTE: Which argues for finding out what the right timing is but sooner than later. Gene Kray.

DR. KRAY: I said this earlier at the Striped Bass Board but I think in addition to sending the letter we should also send a press release indicating what we said in the letter, the concern that we have for this unlawful act.

CHAIRMAN LAPOINTE: I am a little less comfortable with sending out a press release about – I think we need to let it play out the course of this just because I don't want there to be an expectation that we engage in letters and then press releases about different activities as they come along; you know, why this one and why not other cases. I am a little concerned about that, but, again, it is just me speaking for myself at this point. Other board members? A.C.

MR. CARPENTER: That is exactly my point is what makes this case so much higher profile than a number of other cases in the past that we didn't send letters

on, and where do you decide what is high profile and what is not high profile? As far as I know, the charging documents weren't even prepared when the newspaper got hold of this.

It sounds to me like this may be a very slippery slope that we're starting down. As you said, everytime there is a newspaper article about an undercover operation; are we going to send letters in those cases as well?

MR. COLE: Mr. Chairman, I did a little bit of checking working with law enforcement staff. These cases are being filed by DOJ attorneys, which is a little bit unusual. It is not the district attorneys; U.S. district attorneys. I think there is some other information that our enforcement staff may have available for us that Bob and you can use to decide when it would be appropriate to send what to whom.

CHAIRMAN LAPOINTE: Again, I think we need to pay attention to precedent. I don't mind sending a letter in this case, but it will come up again. In Maine we have talked about increased enforcement and they like public hangings with certain cases, and so you really have to watch when you engage and when you don't.

If it is the will of the board, we can certainly send that letter. We have to pay attention to the precedent. I am concerned about the idea of a press release at the same time just because that makes me uncomfortable at this point. Vince and then Dave Simpson.

EXECUTIVE DIRECTOR O'SHEA: I guess maybe one way to look at this is what is the intention here? Is the intention to somehow change the outcome of what happens on the prosecution side in this immediate case or is it to somehow alert the system of the importance of natural resource law enforcement to us. If it is the latter, then that is after they have done case to say that we appreciate what they did type of thing as opposed to saying – I mean, I think that is one question to think about.

MR. SIMPSON: It just seems awful premature. There is a whole due process thing that has to happen here and conviction would have to happen I think before we wade in on the penalty phase. I think we would be getting ahead of ourselves.

CHAIRMAN LAPOINTE: What is the will of the board? I see most people saying wait so we will wait. Thank you. Status of the stocks, Mr. O'Shea.

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, our new Strategic Plan and during the discussion of

that we talked about the arrival of 2015 and overall progress towards rebuilding stocks or have restoration in progress by that due date. There was agreement as reflected in the plan that our progress is something that the Policy Board should be looking at on a periodic basis and in time to perhaps give corrections or give advice to change the outcome and not wait until the next five-year plan to say, "Hey, you know what, we didn't anything."

The issue was how our individual management boards make their progress cumulatively as a reflection on the entire commission, and that progress where some boards may be doing well and other boards may not be towards progress; that that would be a Policy Board issue. The idea was to somehow do an annual review of that at the Policy Board.

I think the question on the table now is sort of what sort of information relative to those plans should the staff sort of bring before the Policy Board, what the elements would be. In thinking this through, the idea would be to maybe get some ideas and perhaps bring a template to the board in May with the idea of saying then when we meet at the summer meeting we could spend the time to go through that review. That is not necessarily a recommendation; it is just a thought.

CHAIRMAN LAPOINTE: Thoughts for Vince. Many of us have talked about just having a document that shows where we are with the various species. When I think of status of stocks, I think of big, fat documents and I don't think that is what we want in this case. We want something that has got concise information in it and it shows the trends.

I view something shorter and simpler than longer and more complex. If there are templates out there and I think we can look at them, I think we should try that, but do folks have ideas about status of stock documents that might be out there?

MR. AUGUSTINE: Mr. Chairman, I had mentioned to Tina that maybe we should have something within our status of the stocks as to where we were and where we are as a single page. We are trying to make progress to 2015. Some of changes have been very long in coming but we are making progress. I do think if the reader of those documents – I am always asked where are we on this, where are we on this.

I hand out probably 300 of those a year as I give a lot of presentations, and they always ask. So, it just seems to me if you see the status of the stock, flip the page and here is where we are relative to where we

went. If it needs in some cases a one liner, more technical information, whatever it happens to be, but it doesn't have to be large and cumbersome, I think that would give us a picture. And by the way, it is a measure for us to visually see. After having gone over what we have done the last three days and ask the question what have we accomplished in three days, it is kind of a hard question mark.

MR. ADLER: How is that different, Pat, from Tina's document that she puts out, which I think is great, on the stocks and the checkmarks and then there are a couple of line? How is what you're proposing different from what Tina puts out?

MR. AUGUSTINE: It's all one page. It would be on the first page and then the follow-up sheets. If someone wants to go back into it and see specifically what has happened with that stock, it would be there. This would be like that report card that we have talked about on where we are and where we're going; maybe a template of that, take a look at that and see if it would fly and would it make sense. If it doesn't, we will just discard it. We made a commitment that we were going to try to keep the public informed in some kind of a format. I'm not sure it is clear enough at this point in time.

MR. GROUT: I agree with some of the concepts that Vince has laid out. I think having a report card like this is great. I also like the concept of showing where we have been in this and not just where we're at right now, but where we have been, and that's probably just a graphical part of it.

CHAIRMAN LAPOINTE: So unless I hear otherwise, we will work on some templates for the May meeting. We have all seen different ones. If you look at some of the real catchy ones like environment groups about what fish you can and can't eat, it goes up and down and they're very clear. I think some of those are biased and I don't like some of them, but we have got to have enough information in there to give some meat about what is going on, but again making it short enough so that it is pretty easy to explain.

MR. GROUT; One other follow up on those where we have been, it might be good to have little pieces of information of what management actions were taken so we can see what the results were.

CHAIRMAN LAPOINTE: Thank you. We will take that course of action. The last agenda topic for the Policy Board is Pat White's other business.

MR. P. WHITE: I realize the late hour, Mr. Chairman, but it is not going to be any better tomorrow either. I am just very concerned about the discussion we began yesterday morning, and I would like to task the Chair or whoever he might choose to task with developing standards or policy as to how many representatives the state of Maine may have at the table and what their participation level may be. We had this discussion at the fall meeting. I thought it was resolved but evidently it isn't, and I think it needs to be clarified before the next meeting.

CHAIRMAN LAPOINTE: Well, the state of Maine and other states. I looked through those minutes after yesterday's discussion, and there is more clarity but some areas of vagueness, too. Vince and I have already had a conversation and sketched out some ideas, and so we will work on that and bring it back to the next meeting.

Any other business before the Policy Board? We have concluded the business of the Policy Board, and so tomorrow we don't have any non-compliance findings unless there is a surprise in weakfish and menhaden. Do we expect one?

MR. BEAL: We do not.

CHAIRMAN LAPOINTE: We do not, and we don't have any plan amendments to approve, and so we will not have a Policy Board and a Business Meeting tomorrow. Thank you for your attention.

(Whereupon, the meeting was adjourned at 5:58 o'clock p.m., February 4, 2009.)