

**PROCEEDINGS
of the
ATLANTIC STATES MARINE FISHERIES COMMISSION
ISFMP POLICY BOARD**

November 21, 2002

**Williamsburg Lodge
Williamsburg, Virginia**

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**Summary of Motions
November 21, 2002**

Motions

Move to adopt the Aquaculture Guidance document.

Motion by Mr. Miglarese. Second by Mr. Augustine. Motion carries.

Move to adopt the peer review schedule. Motion carries.

Motion by Mr. Lapointe, second by Mr. Carpenter. Motion carries.

Move to approve the nominations to the stock assessment committee and approve the expedited process for appointments.

Motion by Mr. Cupka, second by Mr. Calomo; motion carries.

Motion to approve the LEC reporting process revision recommendations.

Motion made by Mr. Freeman, second by Mr. Pate. Motion carries.

On behalf of the AOC, I move to approve the 2003 ASMFC Action Plan as presented at the Commissioner Workshop with the following modifications:

- 1. Inclusion of an additional meeting for the Tautog Technical Committee.**
- 2. Clarify the monitoring and coordinating state response to EPA Section 316b in Task 5.1.2.**
- 3. Elaborate on the deliverables to be developed by the Artificial Reef Committee in Task 5.1.5.**
- 4. Include a task to explore devolving federal fisheries management responsibilities to state management entities in response to the governance recommendation from the NAPA Study.**

Motion by Mr. Nelson; motion carries.

Move that the Administrative Oversight Committee explore and further develop an appeals process.

Motion by Mr. Diodati, second by Mr. Pope; motion carries unanimously.

The meeting of the ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened in the Tidewater Room of the Williamsburg Lodge, Williamsburg, Virginia, Thursday, November 21, 2002, and was called to order at 8:00 o'clock a.m. by Chairman Susan Shipman.

CHAIRMAN SUSAN SHIPMAN: If we could get everybody to come to the table, please, we want to go ahead and get started. We've got some folks giving reports who need to be on other conference calls and things like that.

Okay, welcome, everyone, to the Policy Board meeting of the Annual Meeting of the Atlantic States Marine Fishery Commission. I was looking to see if we've got any new folks with us that we need to introduce.

I'd like to welcome Dr. Geiger from Fish and Wildlife Service; Gil McRae, from Florida Marine Fish Commission and Conservation Commission or whatever your new long name is. We're glad to have you with us. Okay, everyone should have a new agenda. Tom.

MR. THOMAS FOTE: We have Tom McCloy here.

CHAIRMAN SHIPMAN: Tom McCloy, welcome, glad to have you join us. And Tom Fote, the new recycled commissioner, we're glad to have you with us. Also, we do have another new commissioner with us this week.

I don't believe he's with us this morning but he has been with us through various meetings and that's Senator Richard Colburn, and please extend our welcome again to him, Eric.

Everyone should have the new draft agenda. It's lengthened a little bit, so you would make sure you get a copy of that. Has everybody looked at the agenda? Do you have any additions or corrections to the agenda? Dr. Geiger.

DR. JAMIE GEIGER: Madam Chair, if I can just add -- I see there is a National Marine Fisheries Service Activities Update. If I could have just a Fish and Wildlife Service Activities Update, I'd like to comment on two activities; a summary of the recent shorebird/horseshoe crab workshop that the Fish and Wildlife Service held; also, an update on the fishery strategic plan and give the commissioners and the commission an update on that, as well.

CHAIRMAN SHIPMAN: Okay; and if you can keep those brief, that would be fine.

DR. GEIGER: Yes, Madam Chair.

CHAIRMAN SHIPMAN: Mr. Colvin.

MR. GORDON C. COLVIN: Madam Chair, I had corresponded with you with respect to an issue I had hoped to address on the agenda today.

CHAIRMAN SHIPMAN: Yes, it was on the other agenda..

MR. COLVIN: And it's not on the agenda that was just handed out.

CHAIRMAN SHIPMAN: Well, we will certainly add that back on. There is another item on bluefish quota, I believe. That's the one, Gordon?

MR. COLVIN: Yes.

CHAIRMAN SHIPMAN: Yes, Mr. Colvin had contacted me a good many weeks back and asked that be added to the agenda, so we will certainly add that. Our apologies, Gordon. In fact, what we will do is add that in after Item Number 12, Gordon, if that would be satisfactory.

MR. COLVIN: Thank you.

CHAIRMAN SHIPMAN: Other changes to the agenda? Okay, is there any objection to approval of the agenda as revised with latitude to your chair and vice-chair to move things around as we need to? Seeing no objection, we will approve that by consensus.

The minutes were distributed to you. That's from the August 29th meeting that was held in Washington. Those are in your materials. Are there any corrections? Yes, Mr. Augustine.

MR. PATRICK AUGUSTINE: Motion to accept.

CHAIRMAN SHIPMAN: Okay, we have a motion from Pat Augustine to approve; is there a second? We have a second from Dennis Abbott. Are there comments, suggestions, edits, deletions to the minutes? Any objection to approval of the minutes? Seeing none, the minutes stand approved.

This is the point in our agenda where we take public comment if anyone from the public would like to

address the Policy Board. We would also issue an invitation, as we go through item-by-item if there is anyone from the public that would like to address the individual item, just hold up your hand in the back and we'll be pleased to recognize you. Habitat Committee report, Bill Goldsborough.

MR. WILLIAM GOLDSBOROUGH: Thank you, Madam Chair. The Habitat Committee met earlier this week and I have a few things to report. You have just been handed out a binder that includes the voluntary submerged aquatic vegetation conservation plans from the states.

You recall that this project was an outgrowth originally of our SAV policy and implementation plan of a couple years ago; and with your guidance we approached it on a voluntary basis last year, originally asking states to provide these plans according to a brief template that we provided last March and subsequently we moved that date up to October.

And what you have before you is, in binder format, the plans that we have received, and note that there are places in this binder for additional plans or for updates of any of these plans.

This is proposed as a living document that will help us coordinate our various SAV conservation activities up and down the coast. I'd like to note that our Rhode Island representative, Chris Powell, was instrumental in bringing this about and drafting a sample plan and helping pull together the template that the other state reps used to write their plan.

And one outgrowth from this, another item to report, is an SAV brochure that we are close to completing that will be available to the states to distribute as an educational document to help educate fishermen and boaters, others among our constituency, about the importance of SAV as habitat and ways that those who are using the waterways might help conserve it, so that will be coming to you in the future.

Also to report is the beach nourishment paper that has been on the table all week. I hope everyone has picked up a copy. If you haven't, please do so and please see that it gets to the appropriate individual in your agency or agencies.

This is a guidance document. It outlines the impacts of beach nourishment on habitat that is relevant to commission-managed species. It's what we know about the habitat, it's research needs. It's not a policy document.

You've seen drafts of it before so this is the completed report. I think you will find it very useful. It was written by Karen Green, contracted by the commission, who has done other work for us as well, and had extensive review help from both Mike Street from North Carolina and Bob Van Dolah from South Carolina, and we very much appreciate their assistance.

The next item I want to report is our ongoing progress on addressing another major habitat type, and that we are calling "Shellfish Bed Habitat." You may formerly recall it as being called "Molluscan Shell Substrate."

We found that to be a mouthful, so we simplified it a little bit so it's more readily understandable. We're continuing to work on that. We have had some voluntary assistance from Dr. Ken Painter from the University of Maryland on that, and the chief author is Jennifer Lowry, who was working for us and was assisting us through the NMFS office in D.C., and that office continues to assist with support to keep Jennifer going on this project.

And, finally, I did mention yesterday, when we were going over the Action Plan, that we are making progress in connection with the Gulf Coast Commission on an update of the Artificial Reef Materials Guideline Document.

I was a little premature in mentioning that yesterday, I think, because it's not done yet, but in the near future it will be and it will be available. And that is my report, Madam Chair.

CHAIRMAN SHIPMAN: Thank you, Bill, excellent report. Questions for Bill? And we'll be sure and get with you, Bill, to I guess flesh out some more language in the Action Plan with regard to the artificial reef work that we're doing under habitat. Tom.

MR. FOTE: I really would like to thank Chris Powell from Rhode Island for all the work he did getting the states to submit their plans.

He was like gentle nudging for the last year to basically get the states to cooperate and get it in. I know it was a lot of hard work so he did a great job. And I'd really like to thank, also, Carrie for coordinating it. They did a great job.

Also, yesterday -- and I could only make some of the habitat meeting because summer flounder was at the same time, but I did make the cable and I found it

very interesting.

And, again, the Habitat Committee basically brings these issues to us and basically explains it so we get a head-up and this is really a heads-up way ahead of time, so we basically can become involved, so I'd like to just say they're doing a great job.

CHAIRMAN SHIPMAN: They continue to do a great job and they're under excellent leadership with both Bill Goldsborough and Carrie Selberg, and that's why we won't let Bill retire off of that committee because he keeps cracking the whip and they keep turning out great products, as does Carrie.

Carrie is doing some plan coordinator work with the ISFMP, but continues to do a super job on habitat, so thank you both. With that, we'll move on to Management and Science Committee report. We have Dr. Chris Bonzek from Virginia Institute of Marine Science, who I understand is the new chair of Management and Science. Welcome.

MR. CHRIS BONZEK: Good morning and thank you. It's mister rather than doctor, though I appreciate the promotion. For those of you who don't know me, I am Chris Bonzek.

I work locally here at the Virginia Institute of Marine Science. I'm glad, after a wet weekend, we could provide you four beautiful fall days and I hope everybody has enjoyed themselves while they were here.

We have three action items. There are three items in which we're requesting action by the board, and then several updates. And just a quick note, in editing our review document here entitled, "The Report of the Management and Science Committee", we slipped in another page but neglected to change page numbers; and so wherever there is a page number, you need to add one.

The first item that we're requesting action on is the aquaculture guidance document. You may recall that this has been ongoing for a couple of years. You assigned this to our committee. It was developed, it went out for public comment, and public comments came back that required substantial revision.

Those revisions were made. We addressed them, each and every one. It went back out again for public comment during August and September of this year.

The comments received from that draft are on pages, I believe, 6 through 8 of the report. They were

overwhelmingly positive. A few editorial changes were made by the joint Habitat Committee and MSC Subcommittee addressing this issue, and we recommend that the document now be approved.

CHAIRMAN SHIPMAN: Thank you, Chris. As Chris noted, this is a document that has been before us about three or four times, and we last discussed this I believe in the spring. The committee went back out.

They've addressed the comments. I know the states of Maine and I believe Florida had some comments, and South Carolina may have had some comments, as well, and they are in here. And so I think at this point we need to move forward and take action. John.

DR. JOHN MIGLARESE: I move acceptance of the report.

CHAIRMAN SHIPMAN: We have a motion by John Miglarese. I assume that's a second by Pat Augustine. Okay, is there comment on the aquaculture document? George.

MR. GEORGE LAPOINTE: You can tell from the notes that my staff is recommending not endorsing this, and I'll quote one thing. There's a general theme of homogenization, standardization, and top-heavy information requirements throughout that in my staff's estimation is unacceptable. Tell me how, if you could, the document was changed to address those kind of concerns.

MR. BONZEK: It became exactly what it's entitled. It's a guidance document rather than a proposed set of rules and regulations. It's more or less a document aimed towards helping people rather than telling people how things should be done.

CHAIRMAN SHIPMAN: Lisa, did you have any additional comments to add to that?

DR. LISA KLINE: No, I think in the original document there were a lot of comments that said the state should do this, the state should do that. All of that has been removed. It essentially says these issues should be considered. It does not tell anybody to do anything. As Chris said, it is just a guidance document.

CHAIRMAN SHIPMAN: Thank you, Lisa. Also, George, there is a response on Page 7 to your comments, sort of a general response. Go ahead.

MR. LAPOINTE: If I may, given the tenor of our

comments and the fact that people said it was fixed yesterday, not having had the chance to look at it, I'm still a little reluctant about it, but I'm not going to hold things up.

CHAIRMAN SHIPMAN: Thank you. Other comments on this document and on the motion to approve the guidance relative to development of responsible aquaculture activities in Atlantic Coast States?

Okay, seeing no other desire for comment, all those in favor, signify by raising your right hand; all those opposed; any abstentions; any null votes. Okay, the motion carries with two abstentions. Thank you very much. Thank you, Chris, go ahead.

MR. BONZEK: Thank you, Chair, and thank you, Board. Peer review schedule and a couple of items related to peer review. On next to last page of your handout, Page 9 is our proposed peer review schedule.

This is more or less automatically set just by the schedule of assessments and then the five-year trigger. We are requesting approval of this schedule. And as long as I still have the mike open here, I'll move on to the other items that we discussed in this regard.

There is potential for a built-in delay in the five-year trigger on peer reviews, red drum being currently a case in point, where an assessment can be done in one year.

The plan is then developed and management actions put in place over the course of two or three years; and then that's the point where the five-year trigger starts, so it can be six, seven, eight years between the point that an assessment is done and then the next one is triggered.

We don't have a suggestion for this; we're just bringing it to your attention at this point. And I just lied. We do have a suggestion that this might be assigned to the Stock Assessment Committee when that's formed.

The second issue in that regard is during these long periods or even during just a regular five-year interval, often states or regions such as the Chesapeake Region here are doing their own assessments on certain species that may bring up issues that could trigger concern at the commission.

So we would make the suggestion that all state-level

and regional-level assessments be forwarded to the appropriate management board on a timely basis whenever they occur.

CHAIRMAN SHIPMAN: Chris, is that latter recommendation just for informational purposes so that those data are acknowledged as existing in the assessment as existing? You aren't suggesting a peer review at the commission level of the state-specific?

MR. BONZAK: Exactly correct.

CHAIRMAN SHIPMAN: okay.

MR. BONZAK: No peer review, just so that the information is out there rather than being stuck in a state.

CHAIRMAN SHIPMAN: Okay, thank you, good suggestion. So what we need to do is approve the updated schedule of the peer reviews. Is that what you are asking us to do?

MR. BONZAK: Yes, please.

CHAIRMAN SHIPMAN: Okay, on Page 9 of the Management and Science Committee report, you will see the updated schedule. Please take a look at that and see if you have any questions for Chris or Lisa. George.

MR. LAPOINTE: I read from the schedule that lobster is not scheduled for another assessment until 2005. I thought we were going to be earlier than that?

CHAIRMAN SHIPMAN: That's the way I read it, and they can respond. And Lisa, I believe, wants to respond to that.

DR. KLINE: I think the way Heather presented it to us was that in 2003 the current model would be used to update the assessment. We would also then be working on the new model based on the lobster database and be ready for an official peer review of potentially a new model in 2005.

MR. LAPOINTE: Okay. So, I mean, the 2003 it's just the "turning the crank" kind of assessment?

DR. KLINE: Yes.

MR. LAPOINTE: Thank you very much for that clarification.

CHAIRMAN SHIPMAN: Chris, what is the

acronym TRAC, T-R-A-C?

MR. BONZAK: You'll have to help me with the acronym, Lisa. It's the joint Canadian-American group.

DR. KLINE: It's the Transboundary Assessment Committee, which is the joint Canadian-U.S.

CHAIRMAN SHIPMAN: Okay. And there was the question of what the SEDAR is. That's the new Southeast equivalent of the SAW/SARC. I think it's Southeast Data Assessment Review or something like that. It's just getting going. Okay, any other questions on this chart?

We need a motion to approve the updated schedule of peer reviews. We have a motion by George LaPointe and a by A.C. Carpenter. Any discussion on the motion? Okay, any objection to the motion or approval of the motion? Hearing none, the motion stands approved. Thank you, Chris.

MR. BONZEK: Thank you, again. The third action item is nominations to the Stock Assessment Committee. Most of the states have forwarded names that they would like to see as members of this committee. Those are on Page 10 of the report, the very last page.

And, again, as long as I have the floor here for a moment, we would like to request or suggest one slight change. There are several open slots on that, about five I think at this point or at least five, if states choose to appoint more than one member.

If we don't allow a little bit of slack in how those appointments are made, then it will be the spring meeting before any more are made, so we might suggest that states could forward names to Lisa and then be approved by the chair and the vice chair or by e-mail or telephone call or whatever.

CHAIRMAN SHIPMAN: Okay, that's a good suggestion. Anne Lange.

MS. ANNE LANGE: I want to apologize. I thought I had gotten these names to Lisa by e-mail and I didn't. NMFS has two nominations, one from the Southeast Center, which would be John Merriner; and as the lead for the Center on the SEDAR or whatever, Nancy Thompson felt that he was the most appropriate person from the Southeast.

And I received an e-mail the other day -- and, again, I

thought it also cc'd Lisa but obviously it didn't -- John Borman from the Northeast Center has nominated Fred Serchuk who is the head of the conservation -- I can't remember the exactly acronym anymore. But, again, Fred Serchuk from the Northeast and John Merriner from the Southeast for NMFS.

CHAIRMAN SHIPMAN: Okay, thank you, Anne. David Cupka.

MR. DAVID CUPKA: Thank you, Madam Chairman. I'd like to make a motion that we approve the nominations to the Stock Assessment Committee, and that we also use the expedited appointment process as requested by the Management and Science Committee.

CHAIRMAN SHIPMAN: Thank you. We have a motion and a second by Vito Calomo. The motion is to approve the nominations to the Stock Assessment Committee, including those just mentioned by Anne, and to also approve the expedited process for appointments between now and when the nominations come in.

Is there further discussion on the motion? Is there any objection to approval of the motion? Seeing none, the motion carries unanimously. Chris.

MR. BONZEK: Thank you, again. We have several updates that I'll try to run through very quickly for you, beginning on Page 2 here.

We heard a presentation by an environmental consultant and the company that's underwriting a proposed new natural gas pipeline that's going to run from Nova Scotia down into the New York/New Jersey area.

They are currently at the stage of just doing some public outreach, trying to get some goodwill and just gave us a general overview of the project.

We would like to invite them in at the spring meeting again, because they currently are doing a lot of field surveys and data analysis that will provide a lot more data to us, so we will be listening to them again at the spring meeting.

CHAIRMAN SHIPMAN: Let's see if anybody has any questions. Tom.

MR. FOTE: They were basically looking at a contact list was basically, when they talked -- and I had to leave the room before I put my name on that list.

I think any of the commissioners that are basically interested should basically turn their names over to Management and Science so they can get all the available information. And also they were asking whether we want to become an --

MR. BONZEK: Intervener.

MR. FOTE: -- intervener into the process. And I think because it's going through Maine, you know, New Hampshire, all the way down the coast, that we should probably become an intervener to basically at least keep our foot in the door and be part of the record on that.

MR. BONZEK: Lisa volunteered to be a contact point for that to then spread all the news out by e-mail.

CHAIRMAN SHIPMAN: Okay, thank you. Any other questions on the Blue Atlantic Transmission Pipeline? George.

MR. LAPOINTE: I'm assuming that other states will become interveners on their own directly. I know that's what the state of Maine will be doing.

We've got a process that gets involved in it so we need to be cautious just about getting at cross purposes as the states work on it individually and the commission collectively.

CHAIRMAN SHIPMAN: Yes, I think that's a real good point, George. And maybe what would be useful is if states comment, any comments, documents, to be forwarded to Lisa so that we do make sure we don't get at cross purposes with our members. Other questions of Chris or comments on this? Okay, Chris.

MR. BONZEK: Okay, the next item, interstate tagging program. At your direction, we are developing an issues paper in regards to the interstate tagging program. Two questions are to be looked at; evaluate citizen-based tagging programs and set criteria for certification approvals. We are going to review these at the spring meeting and will forward news at that point.

CHAIRMAN SHIPMAN: Okay, thank you. You all will recall that's an issue we discussed at some length at a Policy Board meeting and asked that Management and Science put together a little bit more information for us, so that's what this one is. Any questions on this tagging project? Seeing none, proceed.

MR. BONZEK: Okay, multi-species. I'm going to take the last bullet here first and give just a very quick review of this. About two years ago, perhaps a little bit more, I'm not sure of the timing, the commission contracted with Lance Garrison and Jason Link to develop a multi-species VPA involving menhaden, bluefish, striped bass and weakfish -- and I'm sorry, Madam Chairman, for mentioning that one species.

The initial model well explained about 50 percent of the natural mortality in the zero class menhaden species and agreed very well with the single species VPA from age one forward.

That contract went into a second year to extend the model so that there was a feedback loop from the prey species back to the predator species. That model is nearing completion, and at that point there were two workshops during October.

One was another technical review of the model at which a number of the leading scientists that had the data that went into the model gave Lance more feedback. He learned a little bit more about some of the tweaking that needs to be done.

About two weeks later, at the end of October, a more public workshop was held, which unfortunately I was not able to attend. But the purpose of that workshop was trying to look at how multi-species analyses are going to be worked into the commission's single-species structure.

The proceedings from that workshop are going to be available quite soon. The Multi-Species Subcommittee of MSC is going to review those, will discuss it at the spring meeting and bring those forward to you then at that point.

CHAIRMAN SHIPMAN: Thank you. Questions or comments. Eric.

MR. ERIC SCHWAAB: So, Chris, I understand then that the proceedings from the workshop will then be refined; or sort of from that, the committee will develop a series of more specific recommendations for us to consider?

MR. BONZEK: It's hard to say at this point, I think. That a likely course. The direction that they're moving in is exactly what I said, is how to move these into the single-species structure rather than trying to make a quantum leap from going from the single species to multi-species all at once. But those are the issues that the subcommittee and then MSC has to look at.

MR. SCHWAAB: Thanks. Having attended that second workshop that you mentioned, I thought there was just -- first of all, it was a wonderful opportunity and there was a tremendous exchange of ideas. This is an important topic and I just, for one, look forward to seeing those recommendations.

MR. BONZEK: Dr. Garrison and staff and everybody involved has been doing a bang-up job on the whole process.

CHAIRMAN SHIPMAN: I think we all look forward to the proceedings and to seeing this put into action either through the single-species VPA's or whatever. So, thank you for your continued work on that.

MR. BONZEK: Power plant assessment, if I can move on. the commission has issued a contract to a consultant that is looking at producing estimates of impingement and entrainment and how that feeds into the menhaden VPA. Those results -- Lisa, 2003 is when we expect to see a report, and we will forward the results.

CHAIRMAN SHIPMAN: Okay, power plants, anybody got a question? This is another project we've been working on for some time. O

MR. BONZEK: Protected species. We have had a small subcommittee for some time that helps Tina Berger address any communications that she has in regard to protected species. MSC has gone through a number of membership changes just recently with many retirements.

Bruce Halgren from New Jersey has retired. David Pierce has moved to other duties. Jim Music from Georgia has retired. And Charlie, of course, unfortunately has retired -- fortunately for him, unfortunately for us. So the committee right now consists of one person. We will be reappointing people to help Tina in that.

CHAIRMAN SHIPMAN: So you're retooling and revamping and reupping the committee?

MR. BONZAK: Exactly.

CHAIRMAN SHIPMAN: Okay. Any questions on the protected species work?

MR. BONZEK: Regulatory discards, Item 6, we are focusing at this point on using summer flounder as a model species in this regard, around this issue, what

lessons are to be learned from studying that particular fishery, and we will forward a report to you at the spring meeting.

CHAIRMAN SHIPMAN: Comments on summer flounder work? Okay, continue.

MR. BONZEK: Okay, Asian Oysters. The NRC Panel has begun their work. They're in the middle of it. I'm not sure quite what else to say other than we noted that the commission's proposed member of that was not chosen as a member of the NRC Review Panel.

CHAIRMAN SHIPMAN: Any questions? George.

MR. LAPOINTE: NRC as in National Research Council?

CHAIRMAN SHIPMAN: Yes.

MR. LAPOINTE: Thank you.

CHAIRMAN SHIPMAN: Correct.

MR. BONZEK: The last issue is a new issue of circle hooks. The Maryland member of our committee brought this up and we're just giving you a heads up at this point.

We have appointed an ad hoc subcommittee that is trying to define what issues are involved, what issues need to be addressed. We will hear from that ad hoc committee at the spring meeting and may request permission to form a subcommittee and study the issue.

CHAIRMAN SHIPMAN: Okay, we've got several questions on that one, I think. We've got George and then Gil and then Ritchie.

MR. LAPOINTE: What was the nature of the concern? I mean, we've been hearing for years that Jesus was a circle hook fisherman, and so to hear otherwise is a surprise, so just some background.

MR. BONZAK: I think it involves how to do you define a circle hook because there are things that manufacturers call circle hooks that aren't. So if we're going to initiate areas where only circle hooks are permitted, how do we know what's a circle hook and what's not, what exactly are the estimates of improved or decreased hook-and-release mortality, those types of issues. But that's what the subcommittee is looking at as exactly what needs to be looked at.

CHAIRMAN SHIPMAN: Thank you. Let's see, I had Gil.

MR. GIL POPE: Yes, it was basically along the same line. The way this is worded it's like with the use -- I would think the non-use of circle hooks would have been better. And I had voiced that same concern about different manufacturers have different sizes.

The same hook, one of them calls it a six, another one calls it a three, and so it's very confusing. When you are going to write into regulation or even into recommendations on the hooks, it has to be specific; and not only that, specific as to who manufacturers the hook. Thank you.

CHAIRMAN SHIPMAN: Thank you, Gil. Tom, you're next.

MR. FOTE: What I also think we should be looking at, as we were talking about pound nets yesterday and we were talking about panels and basically incentives for having those panels in, maybe we should be looking at incentives for using circle hooks.

Like if you have only circle hooks on your boat, then maybe you are allowed an extra fluke or an extra scup or sea bass because to basically mandate and to get those regulations through the state is going to be very difficult.

But, as we said, sometimes -- I think it was Dave that said you hold the carrot out there, it's a lot better. And from some of the studies we've seen from Maryland, it makes a big difference whether you use circle hooks. But it's going to be a long time before we can get regulations.

CHAIRMAN SHIPMAN: Gordon.

MR. COLVIN: Well, maybe not. I was under the impression, by the way, that New Jersey already mandated circle hooks in the Delaware River Fishery, but we'll come back to that.

We're going to start talking about Striped Bass Amendment 6 for adoption real soon and the issue of regulatory use of circle hooks is going to be part of that debate.

So this is not something that's down the road, it's right around the corner, so I would urge Management and Science, in conjunction with the Striped Bass Technical Committee and Plan Development Team, to start beating the horse on this one.

It's something we've got to get after pretty quick. And personally I think that it's going to require us to engage the manufacturers and the marketers of fishing tackle and have them active parties to what we're trying to do here or we're not going to succeed. We really all need to be on the same page with this if we're going to have any kind of a regulation.

The other thing I'd point out is that I just was intrigued by the reference in the report that the Management and Science Committee is going to appoint a subcommittee, and that several of the members will be developing specific tasks for this subcommittee.

When I first read it, knowing many of the members from the Management and Science Committee for a long, long time, I couldn't help but wonder what kind of tasks they might be volunteering themselves for that involved the use of circle hooks. I just thought maybe some of the members of the Policy Board might want to volunteer for that same activity.

CHAIRMAN SHIPMAN: Volunteer to be members of their subcommittee? Yes, I think that's a good idea. Tom.

MR. FOTE: Basically, New Jersey has just put -- New Jersey Sea Grant has just put out a new pamphlet on circle hooks and basically we are distributing through the state.

I sit on the board of ASA, the Saltwater Board, which is American Sport Fishing Association, which is the tackle manufacturers, and I've been pushing this point home.

The problem, as Gil pointed out, is that some of them still basically have an off-set hook which is not really a circle hook because basically it gut hooks fish.

The other problem is you really need to talk also about tackle stores because basically when they have in-stock hooks and when they have rigs set up and they buy two years in advance, it's going to be -- especially we do around summer flounder and some of those other species -- it is going to be a long process.

And, also, if you're on a boat -- and a lot of us know, we're multi-species. We're not just going out for striped bass. We're going out for summer flounder and bluefish. And if we basically institute it for one, then they say, while I've got the hook on, I'm fishing for summer flounder.

That's why I was talking about the incentive. If you only have circle hooks on board, then maybe there could be something and that would protect a lot of the other species. That's where I was coming from.

CHAIRMAN SHIPMAN: Thank you, Tom. Well, it sounds like, Chris, this is an item we would like for you all to get going on so that you can dovetail your information into especially Striped Bass Amendment 6.

MR. BONZEK: We will do so and we will forward all these comments to the subcommittee.

CHAIRMAN SHIPMAN: Okay, great.

MR. BONZEK: And we thank you for your time.

CHAIRMAN SHIPMAN: Thank you. And that completes your report?

MR. BONZEK: That concludes our report.

CHAIRMAN SHIPMAN: Great, very good report, thank you very much, and we look forward to working with you during your term as chair of MSC.

Next I believe, if there are no other questions or any comment with regard to Management and Science, we have Law Enforcement Committee report and Mike Howard is going to give that.

MR. MIKE HOWARD: Good morning, Susan. The Law Enforcement Committee met this week. We had a Maine presentation on law enforcement efforts in the area of trap enforcement, and it has been shared with the other states. This activity is also going to be used by other states in upcoming investigations.

We hope to do that at each meeting, bring some of the technology that's being used in law enforcement in one state and bring it through our committee and share it with the other states.

During the meeting, we reviewed tautog, horseshoe crab, coastal shark, lobster and weakfish surveys and reports to the boards. Yesterday I thought was an excellent example of how coastwide surveying law enforcement on a proposed amendment in weakfish was clear and articulate, presented by Joe Lynch.

We reviewed our guidelines for resource managers and a revision will come up. It has been reviewed. It has been revised and so the printing of that will go out to each of the commissioners. This will be an

annual review.

The next review will be next fall where the actual ratings of what is enforced or not will have been reviewed. Standardized reporting, I'll get to that at the end of the report. We developed a series of short-range goals this year which is carrying us through at least until next year and includes the duties of the new coordinator.

These goals will be expanded as we look at ways to quantitate and evaluate our law enforcement efforts so that managers can easier -- it will be easier for managers to understand to what degree we're enforcing something.

Without putting in an exact percentage, like an F, at least you'll know whether it's highly enforceable or to some relative degree that all of us are speaking from the same page.

There were three motions. We did approve the recreational lobster letter with a slight amendment. That was the trap tagging issue in Massachusetts. We had a motion to accept the guidelines document as revised and also to approach this board with our reporting guidelines, which I'd like to go into at this time.

The ASMFC Law Enforcement Committee has developed the reporting guidelines for enforceability of FMP amendments. They divided this into three categories. There's new amendments, addenda, and plans.

We're interested in providing effective, meaningful reporting to these committees. Each year I hear questions like why don't we have a report on this; why doesn't it include that? Well, we've had no foundation for those reports. All the managers recognize the need for law enforcement's role in this.

And we are requested from time to time to report. The three categories are the draft plans, addenda and amendments. The second category is annual reporting on existing plans; and then special reports, these surveys like the tautog survey.

These are the areas that we feel were important to identify as a baseline for reporting on new FMPs, amendments and addendas. They affect law enforcement and require law enforcement action.

Once we identify those, to use guidelines to rate enforceability, identify concerns and offer suggestions to improve the enforceability of the

FMP, the amendment or the addenda, and then use examples of the trends that affect law enforcement under that new plan.

Annual law enforcement reports, currently within the compliance reports -- and most of the FMPs require an annual compliance report that has a law enforcement section -- we have found that the vast majority of the law enforcement reporting under this has no law enforcement input.

Some exceptions to that are generally the striped bass report. In addition, we found that we have duplicate reporting in at least three of these plans where the Law Enforcement Committee actually gives the report, which may or may not differ from the compliance report.

This one will include a survey of states and, when necessary, the report will reflect different levels of compliance in different states and causes that are known so you will still get the differences between states and what they feel they are having problems with or not.

And then, number three -- one more thing under the annual reports. We're going to ask -- we have been doing a striped bass report since the moratorium. The Striped Bass Act requires this report.

It does not set forth specific criteria. What happened was that the Law Enforcement Committee, with managers, put together criteria, which were hours spent on, number of inspections, number of fish seized, the value of those fish, and significant cases state-by-state, and it has been compiled in an annual report now for 15 years.

It is my understanding -- correct me if I'm wrong, anybody sitting here -- that report has to some degree outlived its usefulness. We recognize in law enforcement that it really, in those numbers, don't adequately inform this commission of how we're enforcing and what issues we have.

It does bring up that we're spending effort and we're checking people and we're writing tickets and how many pounds we're seizing, but what does that really tell you in the overall picture of striped bass enforcement?

There also has been an attempt to expand those number systems into other fisheries; and before we do that, we want to take a real good look in the next couple of years of a data system that will adequately inform this committee of how things are being

enforced and to what degree, some quantitative effort.

So, this annual report will replace that striped bass report if it is approved by the Policy Board. And the special reports, we've had special report requests all the time. We set a procedure -- hopefully that will be adopted -- when required by a committee or offered by the LEC to address specific LEC concerns.

The format will be determined at the time of the request because it's a special report and approved by the LEC chair. Other interested parties within the commission may request reports.

And that also would require just a brief approval. That concludes our request for you to approve this reporting procedure. Again, this is a base. This is a foundation for what we hope to build on as we move forward, is identify the three areas of reporting that we could possibly be called to do and we do now.

It eliminates some duplication. It standardizes the format for us to build on a quantitative response. The only example I can use for those who were in the weakfish yesterday, on the new ones, was the way we responded to each of the identifiable places where law enforcement would be required to act in their Weakfish Amendment 4 yesterday. And that would be an example of how that portion would move forward. Questions?

CHAIRMAN SHIPMAN: Do you have questions for Mike? They've put forward I think a very thorough and comprehensive outline of what they would like to have us approve with regard to new reporting standards and guidelines for the annual reports and other special reports and so on.

Any discussion? Any questions of Mike? Is there a motion to approve their recommendation to us? We have a motion by Bruce Freeman; second by Pres Pate. Is there discussion on the motion? Any objection to approval? Seeing none, the motion stands approved.

MR. HOWARD: I'd like to thank the committee very much.

CHAIRMAN SHIPMAN: Thank you for your very hard work. And, Mike, you're doing a great job staffing that committee and bringing information to us, and we appreciate your constant participation in our activities. Thank you.

Next we have the report of the Advisory Panel

Oversight Committee, and I believe, Dennis Abbot, you're going to report on that?

MR. ABBOTT: Thank you, Madam Chair. Before I start, I'd like to compliment Tom Fote and tip my hat to him for devising a new method for the state of New Jersey to take another striped bass, possibly.

CHAIRMAN SHIPMAN: That, Tom, always thinking.

MR. ABBOTT: The first meeting of the Advisory Panel Oversight Committee was held this past Sunday. Our committee was established by this board last February. It is composed, as you know, of a subset of LGAs and also advisory panel chairs.

We were charged with the responsibility of overseeing the advisory process, and the committee met to discuss the short- and long-term goals and strategies for improving the AP process.

This has included a review of the recommendations of the December 2001 work group and the progress being made in the Weakfish Advisory Panel Pilot Program, as well as a discussion of the committee's role and charge.

A subgroup was established to draft a charter detailing the role and responsibilities of our committee, to be reviewed at the committee's next meeting.

Some of the elements that were identified as falling under the purview of the committee include at the present time to be continuing to follow the recommendations of the December 2001 workshop; a review of participation and attendance of advisory panel members; a review of the composition of the various advisory panels; an appeals board which would provide a place for the advisory panel individuals or chairs to air their concerns and comments and to seek resolution; and we would like to be steward and champion of the AP process to maintain the integrity of the AP process and elevate the role and importance of the APs to their fellow commissioners.

In preparation for its next meeting, staff was asked to undertake an evaluation of the successful Weakfish AP Pilot Program and to develop a standard template detailing the steps of their process.

As a last order of business, the committee elected myself and Damon Tatem as chair and vice chair. We would like to thank Tina for chairing our first

meeting and getting us off the ground. Thank you, Madam Chairman.

CHAIRMAN SHIPMAN: Thank you, Dennis. Are there comments? George.

MR. LAPOINTE: Dennis, could you elaborate on what was meant by an appeals process in regard to the advisory panels? What would be appealable? And it's probably just discussion at this point, but I'm curious.

MR. ABBOTT: Yes, and I think it is discussion. We would be interested in just gaining input from the APs if they feel there are any problems in how the process is working for them and what we might be able to do to improve that.

I don't think there was anything specific unless any of the other board members can remember anything more specific than that.

MR. LAPOINTE: The advisory panel process is always a tough one, balancing, just that, advice with how that advice is incorporated into the management process; and so as this committee moves forward, I'm concerned about not having an appeals process that would allow an advisory panel to go to another body just to second guess or to dispute board decisions that weren't exactly conforming with the advisory panel requests.

MR. ABBOTT: Yes, George, I think we share the same concern as the board, that the advisory panel is what it is; advisory. And that was a topic of discussion over and over during our meeting about the actual role of advisors, and it's something that I know I stated repeatedly that there has to be an understanding and a clarity of purpose of the advisors.

CHAIRMAN SHIPMAN: Bill Goldsborough, did I have you?

MR. GOLDSBOROUGH: Yes. On that topic, having participated in that discussion, I think the word "appeal" carried unintended connotations. It was not meant to appeal a specific action of a board; unless I'm wrong, Dennis.

It was meant to bring grievances or concerns about the advisory process not really working right, give them a place to go with those kinds of concerns.

CHAIRMAN SHIPMAN: Any other discussion? Yes, Bill Adler.

MR. WILLIAM A. ADLER: Yes, thank you. I agree with Bill Goldsborough on this. That appeals thing didn't have to do with fishery management plans and boards. It had to do with the advisory panel process internally, more or less. I think that was more along the lines.

CHAIRMAN SHIPMAN: Perhaps "process appeals" would be a better terminology for it. Gil.

MR. POPE: Thank you. Basically I think it was -- there was some concerns about qualifications as to how many, who could be and so on and so on. I think it was down along those lines is what the appeals was about. Thank you.

CHAIRMAN SHIPMAN: Gordon.

MR. COLVIN: Thank you. Dennis and Tina, I hope that -- or I guess I look for your feedback on this now, that we're going to hear more back from you about your evaluation of how the process worked with the weakfish program.

I'm very anxious to hear kind of, if you will, the debriefing feedback from all of the advisory panel members as well as the advisory panel chair on their perception of the process, and also I think that needs to be two way.

I think it's also important for board members to weigh in on that as well. I assume that's contemplated, but I wonder if you could just kind of lay out for us how you intent to proceed there.

CHAIRMAN SHIPMAN: Tina.

MS. TINA L. BERGER: I think our intention is to, over the next couple of months, survey the advisors as well as the management board and the technical committee and get everyone's input on how the first year went, how the pilot program went, and then provide some recommendations and overviews to this board as well as the Weakfish Board, including, also, cost of staff time and just a general overview of what that process would be to implement across all our species.

MR. COLVIN: Thanks. One of the thoughts I had -- and I probably should have said this yesterday at the board meeting -- is that it seems to me that one of the things that sometimes is missing; not always but sometimes is missing as we do this, is contact during the FMP development period, contact between the state commissioners and the state advisors during that whole period of development, contact, interaction,

communication.

I think that it would be useful to inquire about that element of the situation as you go through. And, frankly, it probably would be useful for the Weakfish Board members now to talk to their state advisors and get their input about that element of the process, you know, kind of post-adoption of the FMP.

I know I certainly feel that I need to talk to my two advisors and get some feedback from them about what we could have done better internally within the state to help them or to hear them.

MS. BERGER: That would be helpful, thank you.

CHAIRMAN SHIPMAN: Dennis.

MR. ABBOTT: Yes, regarding the pilot program, Carrie Selberg could surely tell you about the positive points of it. The things that she did to improve communications and the participation she was able to achieve throughout this process was very satisfying to her.

And, as we said, we'd like to create a template of what she was doing so that other APs could use the same methods and the managers could use the methods as we continue developing plans.

CHAIRMAN SHIPMAN: Any other questions or comments? Well, as Gordon mentioned yesterday, it certainly was, I think, an exemplary use of an advisory panel.

It can certainly be improved but it is, in my view, just the best use of an AP that we have done; and, certainly, I think the work of the Advisory Panel Oversight working with Tina and Carrie as the plan coordinator, and Gordon as the chairman -- Gordon, I think you did a very good job with your communications in coordinating with them.

I think we look forward to taking that particular experience as a springboard to the other plan developments and other APs. Dennis, anything else on your report?

MR. ABBOTT: No, Ma'am.

CHAIRMAN SHIPMAN: Bill Adler.

MR. ADLER: Thank you, Madam Chairman. I just wanted to bring out another point that we heard at the Advisory Panel Committee meeting, and that had to do with the Dogfish Advisory Panel which,

unfortunately, apparently we've got to do some work to try to rev up that advisory panel because they're apparently very -- I could put the word "sad" in here -- sad, mad, whatever.

But I think that the advisory panel process that the Atlantic States is using in trying to get to be very productive is a good avenue because out there in the fishing world the Atlantic States has been able to get the credibility, more so than some of the other fishing agencies that, gee, they listen to us.

And that's good because when we come through with plans, any plans, we come through with plans and we've got pretty much people on the same page with us.

I mean, they may not agree with everything that we come up with, but I think our plans will be more successful if everybody sort of at least understands why we did what we did.

And even some of the things that we incorporated with their ideas, this makes the whole process much better than some of the other fishing, fishery management groups.

So the Atlantic States, I believe, is a step ahead of a lot of these other groups in not only some respect, but also this helps down the road with compliance of whatever we do decide to do.

And I think this is why this advisory panel process I think is a positive step for fisheries management. So this is why I think it's very important that we nurture it and that we try as best we can to make it work.

I thought we did a -- at least before I had to leave yesterday on the weakfish thing, I thought we were doing a very good job with listening to law enforcement, listening to the advisory panel, and doing the best we can to use their advice.

And as I was -- I'll end here with the -- unfortunately, the Dogfish Board is sort of disenchanted, and we need to sort of -- I don't know how we do it, but we need to sort of resurrect it so that they don't walk away with, yeah, well, they screwed us, you know, that type of a thing.

So, I did notice that, and I think we need to work with the Dogfish Advisory Panel to get them out of the doldrums they're in right now. Thank you.

CHAIRMAN SHIPMAN: Thank you, Bill, good points. Any other comments on this particular item?

Okay, well, thank you. Now I believe Tina is going to give us the review of the ESA workshop findings and recommendations.

MS. BERGER: Thank you, Madam Chair, I will be brief. You should all have in your packets, and was on the briefing book CD-ROM, the ESA workshop summary that was a summary of the workshop conducted on August 27, 2002.

This brought together state and federal marine fishery and endangered species representatives for the first time, at least in the history of the commission, to begin to discuss cooperative management of endangered species in state waters with a particular emphasis on the development of state-federal cooperative Section 6 agreements.

There was an incredible turnout. We had great attendance from both the fishery and endangered species side on the state level as well as the federal level. You'll see in that packet there's a list of all the workshop attendees.

There was pretty open discussion of the current state programs that are available. There's currently six state cooperative Section 6 programs, all under limited funding from the National Marine Fisheries Service.

Since the inception, the National Marine Fisheries Service has been literally zero funded on Section 6 agreements. There was some belief that congress was going to support us, support the National Marine Fisheries Service and that Section 6 Initiative in a greater way over the last couple of years. We still don't know where that's going to fall out.

Regarding the workshop, participants discussed what they thought would be the measures of success in a successful state-federal partnership on endangered species, and these fell into three general categories: secure long-term funding for all partners; strong effective partnerships between state wildlife and marine fishery agencies; and overall shared goals and open communication between state and federal partners.

They also spent some time looking at obstacles to success in the current system. I will not go into those for you. One of the major problems from the state perspective and from the fisheries perspective is that the Section 6 process is too cumbersome and inflexible, and that it does not adequately address fishery aspects or issues.

A full discussion of those obstacles is laid out on Page 6 of that document. The remainder of their time was spent looking at options and strategies to achieve success. Those were broken up into a number of categories, including securing long-term funding; improving cooperation within states fishery and non-game agencies; improving generally the Section 6 agreement process; developing some coastwide initiatives; and conducting additional workshops.

Four primary recommendations came out of the workshop. Two are general and two are more specific. The more specific recommendations that I wanted to bring to this body's attention was the recommendation to have this body explore the establishment of a protected species committee to facilitate discussions between state marine fisheries and wildlife non-game representatives and allow more full integration of those representatives, the non-game representatives, into the commission's fisheries management planning process.

What they envision for this committee different from that which comes out of the Management and Science Committee is this committee would be composed actually of the state wildlife and non-game representatives.

I pointed out in this document that may be challenging from our perspective since none of our state agencies have purview over those people, but it was a strong recommendation and was supported by all the non-game wildlife representatives at the workshop, so I don't know how we want to proceed with that.

The second solid recommendation was to conduct further workshops to explore four primary programmatic areas of Section 6 Cooperative Agreements. These include regulatory and management decisions; monitoring enforcement; public outreach and education; and recovery planning.

Those are the two large items. The two more general items was an encouragement that the commission sort of reinstate working arrangements with its state and federal partners; and through the International Association of Fish and Wildlife Agencies, to secure stable, long-term funding for Section 6 Cooperative Programs.

And the last was some general initiatives that were recommended that the commission could help put forth, including formalizing commitment of all partners to support and participate in cooperative efforts on endangered species management; the

establishment of consistent, uniform Section 6 agreements, which allow for state flexibility in the development and implementation of state plans, including commission and state marine fishery agency input in the national recovery planning process; and, of course, the last one would be to keep species from being listed as threatened and endangered in the first place. That concludes my report.

CHAIRMAN SHIPMAN: Okay, we have a report from Tina and I believe two recommendations. One is that they are recommending, or the workshop, the participants, many of whom are in this room as well as other folks in our sister agencies -- the recommendation came forward to establish a Protected Species Committee that would be comprised of the state non-game endangered species folks as well as the fishery folks? Tina, can you clarify that?

MS. BERGER: I'm not sure that was envisioned but that is a possibility.

CHAIRMAN SHIPMAN: Well, I think if we would want to maximize cross-fertilization of ideas and information and communication, it might be good if it were a "mixed committee", if you will. John.

DR. JOHN MIGLARESE: Thank you, Susan. First of all, I think that the commission staff did a really fine job in that workshop, and Tina in particular, and I appreciate you facilitating that discussion.

As I understand it, as we speak, there is a workshop ending in Charleston between the protected species folks and the fisheries folks within NOAA, so we may be a little bit premature in setting things up because the problem that we all outlined was that if NOAA doesn't have their act together, then, obviously, the states can't because their protected species folks deal with our protected species folks and the fisheries folks deal with our fisheries folks, and none of the four are talking.

So I think the dialogue issue that Tina brought up earlier needs to continue, and we may need another forum of some sort to get some more of this discussion on the table.

I'm not sure that having another committee is the right way of going just yet, because I haven't formulated in my mind what the best approach would be, especially since the feds haven't gotten their ideas in place. We may want to wait on what the outcome of this last meeting is.

CHAIRMAN SHIPMAN: Do we have an idea of when we will be hearing something back from NMFS about their internal coordination and communication, what they're setting up?

DR. MIGLARESE: I found out about it when I talked to Nancy Thompson just a couple of days ago, and they kept it close in and have not invited any of the states to participate, and it's supposed to be a little bit of their own airing of their own issues first.

It's obvious from that workshop that they've got some serious problems, and it ends up back in their counsel's office, the legal office, again, too. They really do have to have some internal discussions and then I think we can all chip in someplace.

CHAIRMAN SHIPMAN: George.

MR. LAPOINTE: I want to add to John's commendations to staff for this report. I think it's good, but I do share concern about setting up a committee right now. NOAA may have to get their house in order, but I have to get mine in order, too.

I'd like to figure out how my agency wants to deal with it, talking to my senior staff. And in Maine's case, I've got a sister agency that does endangered species and non-game work, and so I would like to talk to my fellow commissioner in Maine about how to integrate this process before jumping into having another committee.

CHAIRMAN SHIPMAN: Anne.

MS. LANGE: Yes, just on John's comment, there is a meeting going on this week, which I had hoped to be at but I'm here instead because of obvious priorities.

CHAIRMAN SHIPMAN: And we're glad to have you with us, Anne.

MS. LANGE: Well, thank you. The issues or the title is something like "Bridging the Gap", the culture gap between the fisheries and the protected resource entities within NMFS, which we know as NOAA Fisheries.

And as everyone recognizes, there is a difference. And with the states, the entities are generally or frequently in two separate agencies so there is less mixing.

We do in fact have protected resources and sustainable fisheries in the same department or the

same agency, but there is a wall between us and we're working to remedy that to bring people on the fisheries side up to date on just what the ESA mandates are and what the Marine Mammal Protection Act requirements are and also to help educate the protected resource staff on just what our responsibilities are under the legislation that we act with the Atlantic Coastal Act, the Magnuson Act, et cetera.

I think that John is right, we're still in the process of figuring that out. We're hoping to make some progress this week, but I don't know what the time line is as far as any actions that would come from this meeting that's going on yesterday, today and tomorrow.

CHAIRMAN SHIPMAN: Pres, did I see your hand?

MR. PATE: You did and not a whole lot to say that Anne hasn't already said. I, like John, just learned of the meeting just a couple of days ago, but was really encouraged with at least the title and the opportunity that if NMFS were to break down the walls, as Anne described them, between their two areas of responsibility, that may go a long ways in breaking down the walls between NMFS and the states and give us a model for breaking down our own walls within the states, so there is a real key cog in the wheel that's about to be developed now, I hope.

I'm real anxious to hear what the outcome of that meeting is and when any changes will be implemented, if there are any identified as necessary.

CHAIRMAN SHIPMAN: Would we want to get a report back at the February meeting from NMFS, maybe, of the outcome and maybe where that effort is headed?

MS. LANGE: I certainly would expect to be able to do that to some degree. One of the things that I will be talking about in my brief presentation later today is our agency's commitment to be stronger partners with the states, and I see my role here as to be sure that any interactions that should occur do occur between NMFS and the states and the commission. I would hope to be able to report something at the February meeting.

CHAIRMAN SHIPMAN: Well, I think because of the overarching nature of the Endangered Species Act, obviously, we're in this together with you. And if you are taking the lead, if you will, to better integrate and have cross-cutting decisionmaking, as it involves endangered species and fisheries, perhaps

we would be well served to see what comes out of that.

MS. LANGE: A lot of it is an educational thing, again, between the fishery versus protected resource entities, which, again, within our agency and within the states, I think it is the same issue.

CHAIRMAN SHIPMAN: And they're two different cultures, quite frankly.

MS. LANGE: Exactly.

CHAIRMAN SHIPMAN: I had David Cupka and then, Roy, I'll come back to you.

MR. CUPKA: Thank you, Madam Chairman. I just wanted to briefly mention that at least in the South Atlantic Council, that we have recently created a protected species resource and we are trying to bridge the gap, so to speak, and work more closely with the protected resources people and the regional office as we amend our plans and seek to incorporate the protected resources information into our fishery management plans.

So, there is a little bit more interaction I think between the states through the council process, at least in the South Atlantic area. And that has been quite useful, but there is still a ways to go.

CHAIRMAN SHIPMAN: I believe you chair that committee, if I remember correctly. Roy.

MR. ROY MILLER: Thank you, Madam Chair. I'm wondering how formation of such a committee that's recommended here would help in a problem. I wish I had been able to attend the Endangered Species Workshop but was unable to.

But a problem that has occurred in the past and is occurring as we speak concerns coordination with the Marine Mammal Protection Act. Delaware and New Jersey found that our lack of early involvement in the harbor porpoise issue resulted in an arbitrary line being drawn by the federal service in Upper Delaware Bay, which greatly would have impacted our gillnet fisheries.

Anyway, to quickly summarize the long process that ensued after that, the line was redrawn more logically and more reasonably down to the mouth of the Delaware Bay. We turned around and frankly kind of ignored the right whale planning process; and low and behold, they drew the line back up there again.

In other words, the corporate knowledge that entailed from the harbor porpoise didn't carry over into the large whale. Well, if there's anything less likely to go up the Upper Delaware Bay than a right whale, I'd like to know what it is.

But what I'm getting to is that somehow we don't seem to have the staff to attend every single marine mammal take reduction group that comes on board, and yet we ignore these groups at our own peril, it seems.

We've learned the hard way that we cannot afford not to send a representative, as Tina well knows. I'm wondering if this new committee can be of assistance in the states where small states like Delaware or Rhode Island cannot afford and doesn't have a body to send to each of these marine mammal take reduction teams, if somehow this committee can provide some representation from the fishing community, and also from the regulatory community, if you will, state regulators of fisheries.

CHAIRMAN SHIPMAN: Thank you, Roy. The only thing I can tell you, from our experience, I know we coordinated very closely with South Carolina on the dolphin take reduction team, knowing neither of us really had the time to send somebody there, but we knew our fisheries were very similar and we just sort of got together and decided who would go.

You're right, if you aren't at that table, you run a risk, and it is a time commitment. But even if you can't go, I think you can make sure you have a fisherman appointed and that they go and that you interface very closely with that fisherman at the state level. John.

DR. MIGLARESE: One of the problems that maybe Anne can help us with, that she can take back, is that when NOAA has these kinds of workshops, they say they'll fund one member of the protected species staff.

What really needs to occur is that both fisheries and protected species need to be at the table. It may expand the meetings and workshops a little bit, but I think the key here is that the endangered species folks can't draw those line without the input of the history and knowledge of the fisheries that are going on and being conducted and prosecuted in those areas.

So, maybe the thing we could ask is that Anne take that back and say, well, the next time you're meeting, don't forget the fisheries folks in which the endangered species actually live.

CHAIRMAN SHIPMAN: That may be an entrée, John, within the state, the two parties to better communicate, as well. In our case, actually the protected resources person was appointed.

She couldn't attend and her alternate was the fishery person, and they would coordinate very closely before someone went to the meetings. It really helped enhance our internal communications between the two units.

Well, what is the board's pleasure with regard to this committee? Do you all want to come back and visit this perhaps in February after we get a report back from Anne? I see some heads nodding in the affirmative.

The other thing I might ask, Tina, is that the initial work group that talked by phone -- I think Pres was involved, Pete Jensen -- maybe you all may want to have another conference call and discuss maybe what would be the role of this committee, if you all think that would be useful, and bring that back to us in February as well. I see nods. Yes, Tom.

MR. FOTE: Just on that point of travel you were talking about a few minutes ago, I know New Jersey is in a real tough situation because if any meeting is not scheduled a month in advance, we can't do travel.

I think that's true with some of the other states right now so we've got to be really sensitive about it. I'm hoping to write a letter that basically gets the Atlantic States and the Mid-Atlantic Council exempted from that, but I know some of the states are under those restraints so we really have to be careful.

That's why they didn't attend one meeting and I couldn't go because I was on my back, and it just really winds up in a difficult situation.

CHAIRMAN SHIPMAN: Good point, Tom. And I think in some states the only travel that is being allowed is if federal and outside sources are paying for it, so that makes it even more imperative that we get support from NMFS. Yes, Tom.

MR. FOTE: In New Jersey, even if you are paying for it, they won't let you out of the state so you could be paying for it and they still won't let -- unless we have a month's notice.

CHAIRMAN SHIPMAN: Okay, good point. Okay, we'll move on. Tina, was there anything else on that?

MS. BERGER: No. I'm assuming there doesn't want to be any further progress at this point on any more workshops.

CHAIRMAN SHIPMAN: Why doesn't your work group, on the conference call, why don't you all discuss workshops as well and see if you can think of something, but I think Tom's travel note is a real important one with regard to additional workshops right now.

Thank you very much. It's an excellent report and I'd commend it to your reading. It's in the material so please do take the time to read that if you haven't. Okay, thank you, Tina.

Next what we've all waited for, John Nelson is going to give us the report. What I'd like to do is ask John to sort of really turn Items 10, 11 and 12 into a report of the Administrative Oversight Committee. I think the first thing we'll do is take up the Action Plan, which you've all had and we discussed yesterday.

MR. JOHN I. NELSON: Thank you, Susan. Let me just again point out that you should have a couple documents in front of you. One is the draft '03 Action Plan. The other is a series of spreadsheets that show the budget, budget estimates, breakdown of where those costs come from.

Let me just briefly summarize where we've been so that the folks who hadn't been able to get to our meeting yesterday, I guess if people don't have those documents -- do we have some extra available?

CHAIRMAN SHIPMAN: Does everybody have a copy of the Action Plan?

MR. NELSON: Very briefly, the Action Plan was developed through input from the committee chairs and staff during the September-early October timeframe.

The AOC, through a lengthy conference call, reviewed the Action Plan and made a number of recommendations for modifications which the staff incorporated. That included revisions to provide for a balanced budget, which they very skillfully did, and we commend them for that effort.

Yesterday we held a commission workshop on the Action Plan, which I think all of us who had a chance to participate in that felt was very helpful. Based on the input from the workshop, we have modified the plan slightly, and I will outline those in a motion, Madam Chair.

CHAIRMAN SHIPMAN: All right, go for it.

3 MR. NELSON: Thank you. On behalf of the AOC, I move to approve the 2003 ASMFC Action Plan as presented to the Commission Workshop with the following modifications:

1. Inclusion of an additional meeting for the Tautog Technical Committee;

2. Clarify the monitoring and coordinating state response to EPA Section 316.B in Task 5.1.2;

3. Elaborate on the deliverables to be delivered by the Artificial Reef Committee in Task 5.1.2;

4. Include a task to explore the federal fisheries management responsibilities to state entities in response to the governance recommendation in the NAPA Study.

I believe those are the ones that we agreed upon. If there are any others that we had that I've missed, Madam Chair, we certainly will get those amendments, but on behalf of the AOC I so move.

CHAIRMAN SHIPMAN: Okay, we have a motion from the Administrative Oversight. Pat.

MR. AUGUSTINE: I would like to second that. We don't need a second on that, I don't believe. I just want to question -- I love that word "devolving." It's just simply marvelous. I hope everybody understands what it means. It means going away, getting away from it.

CHAIRMAN SHIPMAN: That's a Pete Jensenism, yes.

MR. NELSON: That reflects the greater role of the states in governance of this great country.

CHAIRMAN SHIPMAN: It is devolving federal fishery management --getting away from federal fishery management toward state management.

MR. AUGUSTINE: It would be clearer to have said that but I understand.

CHAIRMAN SHIPMAN: Yes. Other questions on the motion? This is something we spent a good amount of time on yesterday and I think we had a very productive discussion. Bill.

MR. GOLDSBOROUGH: Just a reminder that on the third item, the deliverables from the Artificial Reef Committee might also require reference to another section of the budget. Remember, we found that the printing for that report was actually in a different section.

CHAIRMAN SHIPMAN: It was in Goal 7, I believe; that's correct, Bill. And then Item Number 4 I think relates to Goal 6, I believe. Other discussion on the motion?

All those in favor of the motion, signify by raising your right hand; anyone opposed by like sign; any abstentions; any null votes? Seeing none, the Action Plan is approved. Thank you all very much and thank you staff who put that together and did that hard work for us. Okay, John.

MR. NELSON: Okay, thank you, Madam Chair. The next item deals with what we have classified over I think about a year or maybe even longer is the -- yes, two years, perhaps -- is the famous pink paper on ASMFC organizational issues.

I think everyone recognizes what we were trying to do, looking at streamlining our overall operations, looking at what the boards and committees are doing, how the commission functions and looking at the eliminating of potential redundancy that we may feel occurs in the process, at the same time providing as much transparency as we possibly can to the overall process.

We have a new document, I believe, that was handed out to everybody this morning, or probably yesterday. I don't necessarily have a date on it, but it is similar to what you had received in your packet previously.

It reflects the input that we've received during the discussions over the past number of meetings on this particular item. The AOC, after the review of the issues associated with this, have come up with several recommendations for the commission to consider, and those are found on the Page 5 and 6 of the document.

I will just go through those briefly, Madam Chair. I recognize everyone can read, but let me just read them for Joe for the record.

The AOC is recommending the commission do away with the ISFMP Policy Board.

CHAIRMAN SHIPMAN: "Eliminate," not "do away

with.”

MR. NELSON: I did have “eliminate” in there; the staff faked me out on that. Given this change, the commission would assume the roles of the Policy Board except for the appeals function.

If the states feel aggrieved by the action of a management board or a section, the Executive Committee would take on the role of the appeals board, when necessary.

The AOC is also recommending that the commission make the necessary changes to the ISFMP Charter and ASMFC rules and regulations to establish the National Marine Fisheries Service, U.S. Fish and Wildlife Service, Potomac River Fisheries Commission and District of Columbia as ex-officio non-voting members of the commission.

The AOC is also recommending that an Executive Committee meeting be scheduled prior to each commission business meeting to hear any appeals, if necessary. The meeting agenda would be flexible to allow the Executive Committee meeting to be canceled if there are no appeals to be heard.

The AOC also recognizes that a number of changes to the ISFMP Charter are currently being considered and recommends that all changes be made at one time. To meet this recommendation, we feel that the -- well, it says the AOC, it would be more of the commission charging the staff to modify the charter for review at the February meeting.

So those are our recommendations, Madam Chair, and we would welcome discussions. I would note that there was one other piece of paper, and that is a Figure 1 that shows the three things.

Figure 1 shows the current commission organizational structure. Figure 2 shows us the proposed organizational structure. I understand the Potomac River Fisheries Commission may wish to discuss a third alternative or another alternative to what we have proposed, and that’s also on this page as Figure 3.

CHAIRMAN SHIPMAN: In fact. I think this figure, that you should have the diagrammatic, comes to us courtesy of PRFC. A.C., we appreciate you putting this together.

On your CD briefing book there were letters, I believe, from Potomac River Fishery Commission, from Bill Pruitt as Chair. You also had letters, I

believe, from Fish and Wildlife and the National Marine Fisheries Service. I know that people do want to discuss this, and I want to take the time to fully deliberate this. Pat.

MR. AUGUSTINE: Thank you, Madam Chair. Just in reviewing the presentation, I think it looks as though we are moving ahead very, very quickly in streamlining the process, and we’ve done it leaps and bounds in the last two or three years, and here we’re taking another very, very large step.

Although it may be more efficient, the question still rises in the simplistic approach to our organization’s structure, it appears that the only balance -- and maybe I’m wrong -- it appears that the only balance we’ll have, as soon as we eliminate the ISFMP Policy Board as a separate unit by itself, for no matter whatever the purpose is, that we don’t have a clear check-and-balance system.

If there is an appeal needed, we would have to have a conference call of some sort to get all 45 participants involved. Am I right in that or am I wrong?

CHAIRMAN SHIPMAN: I think you’re a -- that’s not exactly correct. Yes, the way we envision that would be the Executive Committee, which is comprised of all of the states, a delegate, and you the delegation elect who that representative will be.

They would serve as the appeals process. And in the terminology “appeals”, I think we also might want to consider the issue of compliance. You know, right now the compliance findings and referral, if you will, all the way to the commission go from the management boards, through the Policy Board and then on to the commission, so that there is that opportunity to really revisit the compliance issue, give full consideration to that.

And I would suggest we might want to task the Executive Committee with playing that compliance review role that the Policy Board had played in the past. Pat.

MR. AUGUSTINE: And then just a follow on to that, Madam Chair, the thing that’s a little bothersome -- it may be okay with everyone else but it’s a little bothersome -- is we do have a Potomac River group representative on our various fishery management plans, and they do participate in all of the studies, surveys, and et cetera as FMP participants; likewise, Washington, although they haven’t been quite as fully participative.

It would seem to me that listing them as a non-voting member, unless there was a stipulation -- and I guess there is -- that we could vote them in as a voting member. Can I have some dialogue on that, please, for clarification?

CHAIRMAN SHIPMAN: The Compact would have to be amended for other entities outside of the existing 15 member states to be a member of this Compact. I'm not sure, I think there's some reservation, if you will, among the members of going to congress to amend this Compact.

MR. AUGUSTINE: I just thought I'd ask a transparent question.

CHAIRMAN SHIPMAN: What I'd like to do -- if you would, Tom, can I let A.C. maybe present his proposal, or is this do that point, to Pat's point?

MR. FOTE: No, this was to your other point when you were talking about the compliance issue. The compliance issue goes to the full commission for a vote, anyway.

CHAIRMAN SHIPMAN: Sure, it does.

MR. FOTE: So you're just talking about reviewing it before you send it to the full commission at the Executive Committee?

CHAIRMAN SHIPMAN: It's an extra layer of review, I believe. And you'll recall within this forum, the Policy Board, we have often worked out deferrals, if you will, on compliance issues to allow states -- to work with states and try to work out those issues so that the compliance recommendation never gets to the commission. Tom.

MR. FOTE: Just a follow up, but at the Policy Board right now it really is a caucus vote.

CHAIRMAN SHIPMAN: Exactly.

MR. FOTE: Yes, so the Executive Committee is not a caucus vote. That's the only difference it would be.

CHAIRMAN SHIPMAN: But you've basically got the same people voting. Gordon.

MR. COLVIN: Thank you, Madam Chair. I do not support the abolition of the Policy Board, and I want to state my reasons for it as clearly as I can now.

When the pink paper exercise began -- I believe it began with some suggestions that were put forward

by our former Executive Director, Jack Dunnigan -- I asked some questions about exactly what are the objectives and the intended outcomes of the organizational exercise and exactly how did the proposed changes relate to those objectives and expected outcomes.

I didn't get an answer then, and I'm not convinced by what I've read in today's report from the Administrative Oversight Committee that those questions have been addressed to my satisfaction, at least, and I wanted to make that clear to the body.

It seems to me that what folks are saying is that they would like to streamline our work and make our work more efficient and less redundant, and that is certainly a laudable objective. I'm not convinced that would be the outcome from the simple abolition of the Policy Board.

I think there would be a different outcome and that's what I want to address in my comments. As I look at today's agenda, as I have looked at the agendas of Policy Board meetings in the past, I find little that we wouldn't do, that work and time that we could save, we would not be not doing the work, for the most part.

If you look at today's agenda, there's little here that we wouldn't be doing by abolishing the Policy Board. We would be doing it somewhere else. We would be doing it at a meeting of the Executive Committee or the full commission so what have we really saved? How have we become more efficient?

Instead what we've done is we've changed the dynamics on who sits at the table and votes when these decisions are made, and that does concern me. I believe that there is -- under the Interstate Fishery Management Program, that there are policy issues, that there are overarching program management issues that affect the entire program or a large block of the program and a number of boards that require a body to meet, convene and make decisions regarding.

Those things include the custody, if you will, of the charter by which the program operates; it's annual work plan; and other kinds of policy and cross-cutting issues.

And I believe that all the partners should participate in decisionmaking on those kinds of issues, including the partners from the federal government, who provide a majority of the funding for this program, and the partners in the jurisdictions who by law are required to implement the decisions that the program

brings forward.

And I don't think that taking those parties out of the voting and decisionmaking on those kinds of management and operating policies is supportable. Now, do we do some things at the Policy Board that involve some redundancy? Yes, we do. We do have some kinds of decisions that get made at the board, the Policy Board and the commission.

They have become more limited in recent years, and perhaps we can focus just on those decisions and eliminate some steps and save ourselves some time but, frankly, if we look at today's agenda, if we look at the last Policy Board meeting agenda and the one before it, I don't think you'll find that we spent an awful lot of time, you know, maybe just a matter of minutes, if you will, approving things that came from species boards that then go to the full commission for approval.

So I don't think there's a lot of time that can be saved by redundancy. I may be wrong, and I'm certainly willing to be shown that I'm wrong, but I don't see it here in today's agenda.

I appreciate anybody's effort to try and make us operate more efficiently. Goodness knows, we need to do that. And there are many things that we need to try to do to be more efficient.

Unfortunately, I'm not convinced that eliminating the Policy Board is an efficiency measure at all. As I said, I'm very concerned about its effect and its consequences long term with respect to the participation in the sense of partnership for some of our members. Thank you.

CHAIRMAN SHIPMAN: Thank you, Gordon. What I'd like to do is ask A.C. to go through your alternative.

MR. A.C. CARPENTER: Thank you, Madam Chairman. Let me say that the Potomac River Fisheries Commission first wants to thank and express our gratitude to the commission by allowing us to sit at the Policy Board and various management boards at which we participate. We are very grateful for that.

We honestly believe that the Policy Board, by including PRFC, D.C., and the federal services broadens and enhances the stature of the commission and its goals and objectives that the Compact lays out. We will continue to work with the commission in whatever

outcome of this discussion, wherever we end up.

We looked at the charter, the Compact, the rules, and we would like to put forward an alternative to the complete elimination of the Policy Board, and it's best summarized in Figure 3 of the handout that we had provided.

In essence, things that deal with the Management and Science Committee, the Habitat and many of the reports that are on today's agenda, that those items would report directly to the commission, as you have in your proposed plan.

But we would like to have you give very careful consideration to the idea of maintaining the Policy Board for many of the reasons that Gordon Colvin just outlined, that there is a need to manage the various specie management boards. There is the need to manage the action plan.

And, we feel that by retaining the Policy Board and limiting its scope to the fishery management issues directly, the management board issues, that it would serve the efficiency needs the commission needs, but by the same token -- and I think one of the benefits of that is that the Policy Board gives the federal services and the non-voting members an active place to sit and to vote, and for the lack of a better term, a sense of legitimacy in the process.

And at the same time, it preserves the integrity of the original Compact under which you operate by not diluting the commission with non-voting members sitting at the table. I think that the integrity of the 15-member states is crucial to this.

And this gives us a place to sit and be recognized. I agree with Gordon, that I don't think the commission is going to do any less work with the new organizational structure.

I think it does simply remove the Policy Board, but all of the work still has to be done, and it's not going to be an easy task to go through all the management plans and to rewrite the charters and to rewrite the rules of the commission if you eliminate the Policy Board.

And we would very much request an active discussion of our proposal, and I'll let it go at that. I'll be glad to try to answer questions.

CHAIRMAN SHIPMAN: I think that's a good suggestion. I do want to discuss your proposal as well as the other ideas we've laid out. David and

then Paul.

MR. CUPKA: Thank you, Madam Chairman. I, likewise, have some of the same concerns that Gordon has voiced here this morning, and I do have some historical perspective I think on the commission.

I attended my first meeting in 1972 and have been coming every since and watching this commission evolve. And, indeed, I can remember a time when the federal partners and the Potomac River Fisheries Commission and the District of Columbia were not even allowed to vote on anything, where we went through a time there where we had to secure the right for them to even vote at the management board level and then at the Policy Board level, so I think the commission has come a long way in that.

And it certainly seems to have added a lot of value to the commission to have these people participate in the manner in which they're now participating. And, like I say, I do share some of the concerns that Gordon has about changing the dynamics when I think it's working quite well now.

I think we have got to the point where we don't spend as much time as we used to at the full commission level and taking actions. I want to make sure we consider this very carefully because I do think it has some important repercussions, and I'd hate to see us lose that progress we've made.

CHAIRMAN SHIPMAN: Thank you David. Paul.

MR. PAUL DIODATI: I'm very much in favor of expediting the commission's processes, but I honestly am not convinced that this recommendation does that. I guess I would have to hear more from the AOC.

They would basically have to sell me a little bit more on this. I'm still open to it, but I'm concerned that on paper, at least, as an organizational structure, what they're proposing looks very linear to me in terms of the structure, and usually that doesn't relate to expediting things.

Actually, it tends to confound things in the long term with an organization where the structure looks like this. I need the AOC to sell me. Thank you.

CHAIRMAN SHIPMAN: Sure, John, to that.

DR. MIGLARESE: I think that's an excellent idea. I was going to ask the question about could you give us an example of how you would think this would

flow in something, because I'm still not clear, too. I think Paul has got a good suggestion.

CHAIRMAN SHIPMAN: Well, basically, we're sitting here right now. This is the commission. We've got the other parties sitting in -- and I think the points that have been made are excellent.

We have tried to embrace and enfranchise, if you will, our partners, particularly the partners in the Interstate Fishery Management Program. They're sitting at the table. I think what we envision is most of the business we have taken up today, this is the commission.

We've got 45 commissioners sitting here. We've got the other parties who could be made ex-officio members and certainly fully participate in the discussions with regard to the interstate program, the things that aren't necessarily state specific such as the dues, the litigation, things that are very commission specific.

So we just see it as this is the commission sitting here. Do we need that meeting we're going to have in a few hours? And, again, maybe saving 30 minutes of an hour is not worth the streamlining. I think Gordon's points are very well made.

But two years ago, we talked about looking at our processes, seeing how we could infuse some additional efficiency and that type of thing.

And, as Gordon pointed out, then Executive Director Jack Dunnigan, said well, let's look at what is the utility of the Policy Board, and I think we've had a very healthy discussion this morning as to the value you, as member states, and as our partners see in the Policy Board. I'll turn to John and let him give you some additional background.

MR. NELSON: Well, thank you, Susan. All these points are very valid and we've all been wrestling with them. I'm not sure we have an answer to deal effectively with non-voting issues.

You know, none of us want to have the sense that we've left one of our partners behind. That's certainly not the intent. I think the objective was -- after we made the change for participation for governors' appointees and legislators' appointees, we did change what the Policy Board looked like. Before it was a much smaller table.

And at that time we would deal with various issues associated with the boards and whatnot, and then

we'd repeat the whole thing on the commission level because then you had the commission, the full commission sitting and going over and seeing if the Policy Board had screwed up anywhere or if they had agreed on everything.

Well, obviously, now, as Susan has pointed out, if you look around, this is the commission, so does it make sense to have another step that is the commission again?

I think we've been able to deal with streamlining of the agendas over probably the last two years, because we've had an opportunity to see how this works and see what makes sense for us to go through as far as a repetition issue and try to minimize that.

I think if you all remember -- well, unfortunately, I've been here a while, too. David, thank God, I can point to someone who has been here longer. But those folks that have been here for a while remember it was a repetition.

I would sit in here the first time I came and thinking, geez, we're repeating the same thing again at the next meeting, and why are we doing that?

Maybe we have gotten better with that over the last couple of years, and maybe that's a very strong point to focus on. But that was the intent. This body now is the commission.

And what do we do about the next step when we're going to hold the commission meeting? So that was the intent, to try to look at how we could streamline things. The AOC has wrestled with this for about three years.

We don't want to wrestle with it for another two years, by the way, so we would like some clarification from this body, whatever this body is right now, to give us guidance on how to proceed. Thank you.

CHAIRMAN SHIPMAN: Tom.

MR. FOTE: I haven't been around as long as David. I showed up probably about '87-'86, and then I was a governor's appointee somewhere about '90. At that point the only time that the governors' appointees and the legislative appointees had an opportunity to really do some things was at the full commission meetings.

It's a lot different now that we basically have equal sitting at the Policy Committee. We don't have that

at the Executive Committee, and none of us really want to get involved in budgets. I think at this point in time we'd sooner stay out of it.

But the commission serves -- the full commission vote serves a real purpose here. It is the states caucusing with their three delegates and voting on issues. I know the Services are partners, but they don't caucus.

I know the Potomac River has a very big -- but there's no caucus there, either; and the same thing with Washington, D. C. And there is a difference there because we all represent different. We represent the legislative branch. We represent the governor's office and we represent the division.

And that's really why the full commission is needed because that's where it is decided, where the 15 states, the part of the Compact make that actual decision.

Now, as I said, we have alleviated a lot of that concern by the Policy Board by changing. Now it is a caucus vote, which Tom and I were just discussing, because he didn't realize it was a caucus vote at the Policy Board. And that's a big difference.

And that's why the commission is still important to have a full commission vote on a lot of these important issues. Again, we also have to go back as the states and implement.

I remember some votes over the year where the services basically decide, well, we should put these things in, and they don't put them in the EEZ, and that always got on my nerves a little bit. But I remember a lot of those votes going on over the years, especially when Dick was here.

And, you know, those are the things that I've looked at over the years. And I thought that was maybe part of the correction here, too. Thank you.

CHAIRMAN SHIPMAN: Thank you, Tom. Gil.

MR. POPE: Thank you very much. A lot of the times when I get here, a lot of the complaints in the past have been is that some people see a document for the first time; and if you eliminate the ISFMC Policy Board and you have a very important matter, which will change a basic policy either in a charter or something that comes up in a compliance issue as to whether it is or is not, and you eliminate that one step, it's almost as if you come to that meeting and you have one shot at proving that you think that the

policy is either wrong or that you were in compliance.

In other words, it seems to me that there needs to be some layer of review of basic policies, non-compliance somewhere along the line before you just to go say if there is a -- if we want to change something in the Advisory Panel Oversight Committee and it's going to require either a change in the charter, it's going to require some very major change, then I don't know if you can go directly from that right to the full commission and have it decided in an hour or so, or it's getting late or it's one of those situations that we always seem to run into where the information wasn't complete.

And I see it as a step, especially when it comes to policy and especially when it comes to compliance, when it comes to things that are not just housekeeping matters, but things that are very, very important, and it's almost as if it needs a policy committee of a group of people to decide, yes, this is valid, no this isn't valid.

And if you want to make it the whole commission, fine; but I think that the ISMFC Policy Board is extremely valuable. I have to agree with Gordon on that, that it's a step that gives you a chance to think and to step back and maybe I'm right, maybe I'm wrong.

But to have all this go directly into one meeting where you're handed a piece of paper and you have to look at that one and you've only got an hour to decide, I don't think it's wise for us to eliminate it at this point without thinking some more about whether we're going to replace the Policy Board with a policy committee. Thank you very much.

CHAIRMAN SHIPMAN: Yes, I think what we had envisioned, the Executive Committee would play some of that role. But that said, I had Eric, I've got John Miglarese, Bill Goldsborough, Bill Pruitt, George and Tom, and I think I had Bruce, too. And I'll add Dennis to the list. Okay, Eric, you're next.

MR. SCHWAAB: Thank you. I believe John Nelson really hit on an important point a few minutes ago in the evolution of this process. I think several years ago there was, because of the recent change in the makeup of the Policy Board and the attendant redundancy in the agendas that came out of that, compelling reason to move down this road.

But my observation is that since that time, we have very effectively streamlined those agendas and frankly eliminated many of those redundancies and

the reason for making this change to the point where the potential benefits of making this change aren't necessarily justified, particularly when you think about the possibility that it might even in any way leave any of our partners behind who are, I think, important and productive participants in this process.

So from my perspective at this point, because of the work of the leadership and the Administrative Oversight Committee in addressing those redundancy issues over the last few years, there's less reason to do this now than there was then.

CHAIRMAN SHIPMAN: Thank you. John, did you have anything?

DR. MIGLARESE: Madam Chair, in the document that was handed out last night for reading, it reminds us of the role of the Executive Committee and a proposal for the revised role of the Executive Committee.

And please correct me, teach me if I'm wrong here, but it appears to me there is an extremely significant change in the role of the committee. Most of the committee's activities have been -- I don't want to use the word restricted but focused might be the better word on administration and operations of the commission.

CHAIRMAN SHIPMAN: And taking action in between meetings.

DR. MIGLARESE: The addition of dealing with fishery management policy issues is a significant change to me. I just want to get some feedback from you all as to whether I'm off target there or not, but the traditional role of the Executive Committee has been in making sure the operations of the commission are pretty effective, and now we're moving to that Executive Committee for more than just operational aspects.

CHAIRMAN SHIPMAN: Well, I think their role actually is larger than just operational and administrative oversight in some regards.

It also reaches into the policy arena in that interim time between commission meetings. Litigation is a good example of when we do get the Executive Committee together, selection of the new Executive Director, and just other things, so I think in the past, even though we haven't used the Executive Committee that often for those types of policy things, they have been authorized to act on behalf of the commission.

And all we were suggesting -- we knew from the last discussion there was very much interest, if we went this direction -- and I'm not hear much favorable sentiment to go to an elimination of the Policy Board, but if we did, there needed to be somebody that would take up that role of the appeals or potentially the compliance, that interim in between the management board and the commission.

So we were thinking they existed. You didn't have to create another body. They were representative of all the member states, and that would be a potential role. So that was our thinking there. Yes, Dennis.

MR. ABBOTT: Yes, thank you. Some of us would like to speak. Would it be fair if we had an opportunity before other people have a chance to speak two or three times?

CHAIRMAN SHIPMAN: I'm sorry, sure, Dennis. Well, I had Bill Goldsborough next, who I don't believe has spoken, and then Bill Pruitt, George, I don't think -- well, you have spoken so we'll get Dennis next. I'll try to keep everybody in order. Yes, Bill.

MR. GOLDSBOROUGH: Thank you. Referring to the flow diagram, I think the change that results in the four committees to the left of the species management boards flowing directly to the full commission instead of through another entity first, I think that results in an unintended disservice, frankly, to the development of comprehensive and effective fishery management plans, because I think that each of those committees, Law Enforcement, Management and Science, Advisory Panel Oversight and Habitat, all have important, if not crucial, input to fishery management plan development process.

I can think of several examples on the habitat front, but think of the work that has gone on during the last year with the AP process that is being represented by the Advisory Panel Oversight Committee and was discussed earlier in this meeting.

I think that those sorts of things come forth from each of those four committees to this body and are important to be brought out in a forum that has all the partners directly involved and do result, and will in the future even more result in the direction we're going in more effective fishery management plans. So I think that neither of the alternatives actually account for that very important function that the current structure incorporates. Thank you.

CHAIRMAN SHIPMAN: Thank you, Bill. Bill Pruitt. Welcome, glad to have you join us.

MR. WILLIAM A. PRUITT: First of all, I agree with everything that Eric said on this subject. When I first came here in 1942 (laughter), the process has really improved, in my opinion.

We used to have if you remember, Gordon, in the old days the governor appointees versus the bureaucrats, the directors. We don't have that anymore. Everybody is around the table so I'm in favor of -- the thing's not broken. Let's not try to fix it.

The other thing, I did want to respond to what Tom Fote said about PRFC. He's right that A.C. doesn't have anybody to caucus with at this meeting; however, let me tell you what we do.

PRFC was created the same way ASMFC was created, by Compact. And we now have four members from Maryland, four members from Virginia, and we meet quarterly. At that meeting, before the ASMFC's annual meeting, we go over -- Eric is sitting there.

We rotate chairmanship. As a matter of fact, I'm chairman this year. I tried to get out of it. I avoided it for about ten years but they finally caught me. But Eric and I and the other members, we sit around the table and we go over -- A.C. goes over every agenda item for this upcoming meeting.

So, no, we don't caucus here but we caucus there, but we give him flexibility. We say here's how we feel on these issues; however, when you get into the heat of the debate -- and I know how that is -- we don't want you rigid. We want you to be able to work with the other entities.

And that's what has happened. For PRFC, which has gone from shooting each other on the Potomac River to the body that we have now, this would be a step backwards. They must be at this table. Thank you.

CHAIRMAN SHIPMAN: Thank you, Bill. Dennis, I'm going to call on you, and then I think "the cat is about flat," as we say down South; or this dog won't hunt.

MR. ABBOTT: Thank you, Madam Chair. I didn't come to this meeting prepared to discuss this matter but -- and I know there's little that I will say that will change anyone's mind regarding the matter. I know also that I always listen to what Gordon Colvin says. I've said that at many meetings, that if Gordon says

something, it's probably pretty close to being right, and I don't think that's any different today.

But, I think we have two issues here. We do want to streamline the process. I think we all understand that. I think, also, the unintended effect of that is that the PRFC might feel that they're being disadvantaged, and they probably are to some degree.

But, as Tom Fote said, we come here representing a lot of people. From the time or even before the time that a lot of us were outside the room as commissioners, we always felt we weren't being treated fairly as LGAs.

And we fought for that. And when we were fighting for that, we always made the comparison that here the PRFC was, one person, one vote, and we were commissioners and didn't have any vote.

We gained one-third of the vote, and it still seems somewhat unfair to me that a group should have one vote, a group that is not a state, a group that is not mentioned in the Compact.

Mr. Pruitt said that the State of Maryland and the Commonwealth of Virginia sit down and they discuss all these issues, whatever issues there are, and they tell Mr. Carpenter that he can come to the board and act as he pleases. I mean, I could make a contrary argument that A.C.'s voice is being delivered to the two states.

What would be different if the state of Maine and the state of New Hampshire having boundary water, the Piscataqua River, formed a Compact and came to you at the next meeting and said we want a vote at the table, or how about New Jersey doing the same thing with the Hudson River and wanting another vote?

I think the Compact is very clear about the 15 states. I've also at times been baffled by the fact that the Services sit at the table and choose not to vote oftentimes, and I do understand some of the reasons.

It might not -- you know, they may not have a dog in that fight or whatever analogy you want to put to it. But I've always felt that if you're at the table, you should be voting. Why come to the table if you don't want to vote?

So what do we have here? We have a matter of equity. There's no question in my mind that when it comes to some management issues, someone is advantaged by these people being at the table.

I have seen us be advantaged by the votes taken by the Services or maybe in some instances Potomac River. We've also been disadvantaged. So we're left with an issue of equity. So, again, I'm not sure where I want to go, but I will listen to the further comments that are made by my fellow commissioners. Thank you.

CHAIRMAN SHIPMAN: To that point.

MR. PRUITT: Absolutely. There is a difference here, and that is congress formed PRFC, not the two states. And this is to the point. In my tenure on that commission, by virtue of my position in the Commonwealth, there has never been a vote, even going back to the early '80s on the rockfish heated debate -- if Pete Jensen were here, he could attest to this -- there was never a vote by state.

It was a divided vote, but it was Virginians -- we were voting as Potomac River Commission members, not as Virginians, not as Marylanders. And to me, sir, with all due respect, that and the fact that congress created us makes a difference.

CHAIRMAN SHIPMAN: To that point and then we are going to either have a motion to move forward with this or we're just going to move on.

MR. ABBOTT: I would just like to comment that I meant no disparagement to the Commonwealth of Virginia. My lack of understanding of all matters sometimes shows itself.

CHAIRMAN SHIPMAN: And I didn't take it as a disparaging remark at all. And I think, Dennis, to your point, if any states in here wanted to go to congress and get a compact formed, it could well be that this body would recognize it, certainly for purposes of the Atlantic Coastal Act.

I think there might have to be some amendments, but it wouldn't surprise me to see congress address that very issue. I've got George; do you want to add anything new to this debate?

MR. LAPOINTE: I just did want to add that I hadn't spoken on this issue before now, Madam Chair.

CHAIRMAN SHIPMAN: I'm so sorry, George. I know you had spoken earlier. Did you want to add anything?

MR. LAPOINTE: Well, Pat wants me to move the question. I think the issue --

CHAIRMAN SHIPMAN: There is no question.

MR. LAPOINTE: -- with the federal services, there is an additional point that's worth mentioning. We continually try to get the feds to treat us as more equal partners, and I think their inclusion helps in that argument.

CHAIRMAN SHIPMAN: Thank you, George. We have not heard from Pres. He was on the list.

MR. PATE: Madam Chairman, I'd like to make a motion that we make no change in the organizational structure.

CHAIRMAN SHIPMAN: I don't know that we even need that motion. I would suggest that unless there is a motion to make a change in the organizational structure, this record will reflect we fully evaluated this and there was no interest in moving further with it.

MR. PATE: I was just trying to bring it to an expedient close.

CHAIRMAN SHIPMAN: Thank you, Pres. I did hear a couple of comments that I think are good and the AOC can continue to --well, I heard a lot of comments that were good -- a couple of suggestions that we might want to take further, and that's just to continue to be vigilant in streamlining our agendas to make sure that we eliminate as much duplication and overlap as we can, and the AOC will continue to do that. Paul.

MR. DIODATI: There was a component to the AOC recommendation in this paragraph that states that the Executive Committee would take on the role as the appeals board when necessary. I think that's an intriguing recommendation that should be explored further.

I would suggest that a subcommittee of the Executive Committee be formed to develop this so-called appeals process because I'm not aware that it is fully developed.

CHAIRMAN SHIPMAN: Well, right now that isn't the function of the Executive Committee; and unless you all want to make a motion today that the appeals process would shift over to the Executive Committee, it would remain with the Policy Board.

MR. DIODATI: So moved.

CHAIRMAN SHIPMAN: Okay, we have a motion from Paul Diodati that a subcommittee of

the Executive Committee explore and further develop the procedures for an appeals process under the Executive Committee. Is that your motion?

MR. DIODATI: So moved.

CHAIRMAN SHIPMAN: Okay, we have a motion. Is there a second? Second by Gil Pope. Discussion on the motion. Gil.

MR. POPE: Very quickly here, one of the things that I think could make it work is when you have a situation where you're doing just basic housekeeping matters, findings and so on that want to go directly from the Advisory Panel to the full commission, those kind of things are fine.

I think that maybe in each one of these committees, whether it's law enforcement, management, all the ones to the left of the species boards, if you have major policy changes and stuff that need to be changed, have them written in to each one of those committees' operating procedures and then have it go to either the Executive Committee or the Policy Board, depending on how you want to do that, and have all the minor stuff or the stuff that doesn't require major decisions to go directly to full commission to streamline it so that you don't find yourself repeating yourself one hour later saying exactly the same thing.

CHAIRMAN SHIPMAN: Eric.

MR. SCHWAAB: It was my understanding that change was contemplated to compensate for the elimination of the Policy Board if that were to take place, and, obviously, that's not going to happen, and I just wonder if the maker of the motion would comment on justification as to why, with the Policy Board remaining in place, there would be any advantage to moving in this direction.

CHAIRMAN SHIPMAN: Paul, could you comment on that?

MR. DIODATI: Yes, looking at the charter, the appeal opportunity, first of all it's not developed. All it says is appeal opportunity. And that appeal is for any state that is considered or feels that they're aggrieved, then the appeal action goes to the Policy Board.

On many of our fisheries management boards, we have the same complement of commissioners that are on the Policy Board. The Executive Committee at

least is more of a discretionary unit.

It's a smaller unit. I think it might offer opportunity for different and more objective review if it is going to be a true appeal process.

So that's why I think that the appeal board would be better served being under the Executive Committee, and certainly I think that the appeal process needs to be developed because there isn't one right now.

And I think that the appeal process might become something more important in the future as this commission continues to grow. We've gotten in the mode of dealing with allocations more, quota-managed fisheries more.

I think, as we continue in that direction and as our demands on time become more critical, I think there's going to be less opportunity for real stringent negotiations.

And, you know, given that, I think that the appeals board might become an important function of this commission in the future. It might alleviate other more serious actions.

CHAIRMAN SHIPMAN: I had Pat White and then George and then Tom.

MR. PATTEN D. WHITE: Madam Chair, because of his inability to speak before, I'd like to let George go first and then I'll come.

CHAIRMAN SHIPMAN: However you want to divvy it up down there.

MR. WHITE: No, I'm just concerned. I appreciate where Mr. Diodati is coming from, but I think listening to what we just heard go around the room and people's desire to be involved in the appeals process, especially the LGAs, this sort of defeats what we just decided not to change. I don't think at this point I can see why I would support this.

CHAIRMAN SHIPMAN: Well, I would point out with the lack of action with regard to the Policy Board, you still have Item Number 9 under their roles in the charter, which is to consider and decide upon appeals of states, so this motion in essence would set up sort of a dual track appeals unless you had something different in mind, Paul.

MR. DIODATI: No, but I would perfect the motion to say further develop an appeals process under the Executive Committee or the Policy

Board.

CHAIRMAN SHIPMAN: For the Policy Board?

MR. DIODATI: Or the Policy Board.

CHAIRMAN SHIPMAN: Or the Policy Board. Is that agreeable to the seconder? Okay, the motion has been perfected. George, did you want to add anything to this?

MR. LAPOINTE: That's an important change because the Executive Committee -- using just the Executive Committee would not draw in the legislators or governors' appointees, and I think that runs counter to our trend.

It strikes me that we might want to use the Administrative Oversight Committee. We already have a group together, and to set up another subcommittee might not be efficient but I haven't really thought that out that much.

CHAIRMAN SHIPMAN: To that point, John, quickly, please.

DR. MIGLARESE: I was just going to ask if -- I feel more comfortable about this, too, but I was going to ask maybe that what we ought to be doing is taking a look at the appeals process and just putting a period after process and ask them to look at what the appeals process is and then we can decide where it belongs.

CHAIRMAN SHIPMAN: Paul, do you want to further perfect your motion?

MR. DIODATI: I'll further perfect the motion, Madam Chair. Move that the AOC explore and further develop an appeals process.

CHAIRMAN SHIPMAN: Okay, the motion has been perfected. Is that agreeable to the seconder? Okay. I had Jack and then I'll take Brian, because we have not heard from him, and then, Tom, we'll take you.

MR. TRAVELSTEAD: Thank you. The changes are much better I think to the motion, but I wanted to support Paul's comment about the appeals process. I think we do need a clearer and more definitive appeals process.

In the past, when I've sat here as a member of the Policy Board and we have looked at issues of non-compliance on the part of a state, I've been very uncomfortable in cases where I was not also a

member of the management board.

I would sit here literally not knowing the details and the specifics of the issue and was being told by the management board that this state was out of compliance. It seems to me there needs to be some improvement in getting the other members up to speed.

I place great weight in the recommendation of the management board, obviously, but I still feel uncomfortable because there really doesn't seem to be as much opportunity for the offending state to present its case in a more detailed fashion, and I think that's the part that needs to be worked out.

CHAIRMAN SHIPMAN: Brian.

MR. BRIAN CULHANE: Yes, I just wanted to respond to something that -- I think it was George that said the LGAs are not represented at the Executive Committee. As a member of the Executive Committee, I'd like to let him know that I don't feel excluded from the process, and that's up to the states to determine who is on the Executive Committee.

While my mike is on, I'd just like to take the opportunity to say that in the interest of streamlining the process, maybe the AOC should stop trying to streamline the process. (Laughter)

CHAIRMAN SHIPMAN: And well spoken by a member of the AOC; trying to get out of the workload there. Okay, I had Tom and then I would like to call the question, if there are no objections, after we hear from Tom.

MR. FOTE: I guess I was just thinking about process because we had a lot of discussion today about process; and it used to be that when you came to the Policy Committee, management plans could be changed, but that no longer even happens.

Basically, if a plan is basically decided that we don't accept the plan, we kick it back to the board where everybody is a voting member.

CHAIRMAN SHIPMAN: The Policy Board doesn't even deal with plans anymore. It goes from management board to the commission is the process now. Anything further, Tom?

All right, I'd like to call the question if there are no objections. The motion is to move that the AOC explore and further develop an appeals process. All those in favor, signify by raising your right hand --

remember this is a caucus vote -- all those opposed, by like sign; opposed. Are those opposed or in favor?

Let's do this again and please let's pay attention because we're going to take a break, so we can check out. All those in favor, signify by raising your right hand; all those opposed, by like sign; any abstentions; any null votes. Okay, the motion carries unanimously, and that's what we will do.

Okay, than you all very much, I think that was a healthy and good discussion and good deliberation and debate and I appreciate that.

Striped bass meeting attendees, don't forget that Christmas shopping. When we come back, we're going to take up Items 12, Gordon's bluefish quota discussion, Item 13; briefing from Fish and Wildlife Service; and then we'll do 14. Let's shoot for being back in here at 10:45.

(Whereupon a recess was taken.)

CHAIRMAN SHIPMAN: We're going to return to the agenda, Item 12. We have a discussion and approval of changes to the ISFMP Charter. Some of these are in a sense housekeeping changes.

I'm going to ask John and Bob and potentially Lisa, I think who was the drafter of some of this, to help lead us through this. And then we have under sub-item D of that, the compliance efficiency language that is a result of our last meeting where Mr. Colvin made a motion that we incorporate a process or better articulate into the charter a process for compliance efficiency.

Bob has worked up that language, and we'd like to go through that with you today. And if this is satisfactory, following discussion and any amendments, we'd like to approve this. So, John and Bob, take it away.

MR. NELSON: All right, thank you, Madam Chair. As Susan said, the next item does not revolve around any pink paper and therefore it cannot turn glowing red right away.

As Susan has mentioned, we've looked at the charter to try to update things as necessary, and they revolve around four particular groupings; the technical support group language; the Management and Science Committee language, which is new.

There was language in there previously, but the

Management and Science Committee met on Tuesday and reviewed this section again and have made several changes, and that's on a handout that has been provided to everybody.

That handout really boils down to just a few words on Item Number -- well, it's going to be Item Number 3. It's listed as Item Number 2 in the text, but that's Item Number 3 and Item Number 5, and Bob will just quickly go through that.

I think it condenses that down a little bit better and clarifies in both instances, and I think that the Management and Science Committee did a good job in refining that.

The other is, as Susan mentioned, as part of the motion -- oh, I'm sorry, the Committee on Economics and Social Science language is also included in here. And as you know, we are all getting more and more involved in the social-economic aspects of the fishery management plans.

And, finally, as Susan mentioned, there was a motion. I believe it was the last meeting in which they tried to incorporate the compliance efficiency language into the charter, and Bob has worked up some language.

Now the other thing to keep in mind is that if all of this is agreeable to folks, then we could move ahead with adopting this at this time rather than waiting until the February meeting, which the AOC was looking at as a combination of Items Number 11 and 12.

If you went ahead with changing the organizational structure, we needed to make changes to the charter based on that. If for some reason you didn't do that, which I guess we didn't, we would then be able to address the charter language changes as presented under this topic.

So I'll have Bob go through the particular ones and then we'll take whatever questions afterwards, and I think hopefully then we can move forward to approve it. Thank you.

MR. ROBERT E. BEAL: All right, thank you, John. What I'm going to do is just kind of highlight the sections that have been changed. Since this document was given out last night, I think most of you have read it, and actually a lot of this language is in other commission documents and isn't really new language, exactly.

The first changes start in Section 5, which begins on

Page 6, at the beginning of the -- I guess at the top of Page 7, there's some clarification or some language clarifying the staff responsibilities and then it refers back to the technical guidance documents, which give a lot of detail on what the research and statistics and ISFMP staff are responsible for with respect to our technical support groups.

The next changes are for clarification of the language for the Plan Development Teams, which is Subsection C on Page 7. There's Plan Review Team language that has been clarified.

And all the language changes that I'm going to mention here in the next few sections are consistent with the Technical Guidance Document so, you know, yes, that have been approved and published and exist.

So, like I said earlier, this isn't new language so I don't think I'm going to go through all those new changes. If you look on at the bottom of Page 8, Section E, the Stock Assessment Committee, the language, this is new language that has been added to the charter.

This is a newly formed group that came out of the technical guidance document so that group is now included in the charter and the details of what that group is going to be doing are listed in the four bullets on Page 9.

Section F is the Technical Committees. Again, there is some clarification language there on what that group would do and how their task would be communicated and then how their products would be forwarded back to the management boards.

Section G is species stock assessment subcommittees, and this is, again, new language clarifying how that subcommittee of the technical committee will work and what their products will be.

H is kind of the catchall, the other technical support groups such as tagging and stocking committees that exist for some of our species at the commission. And actually I guess that's the final change that brings up the ISFMP Charter to be consistent with the technical guidance documents that the Policy Board approved in August.

CHAIRMAN SHIPMAN: And that have been subsequently published and you should have received copies of.

MR. BEAL: Okay, the next section is in the stapled version begins on Page 13. As John Nelson said, the

Management and Science Committee made some minor changes to this. There is that single-page handout that you guys received.

I guess second Number 2 has been changed slightly on the single page. It makes the change that the ISFMP Policy Board would basically forward the charge to the Management and Science Committee rather than the species management board forwarding things to the Management and Science Committee.

And on bullet number 5, the language was just clarified there and actually simplified to -- the cross-species language is the new language included in that bullet. So that's that, and I guess I'll keep going unless I see any questions.

CHAIRMAN SHIPMAN: The only thing that occurred to me -- and this came up a couple of times this week during various board meetings -- was that one potential role of the Stock Assessment Committee was to provide guidance to the management board on the appropriate venue for peer review.

I don't know that's clearly articulated in here and we might want to add that in, but we did discuss that in at least two boards that I can think of. That would be the only thing. And it may be in here, Lisa, and I'm just not reading it.

DR. KLINE: No, actually it's not in there. I guess my question is do you want the Stock Assessment Committee to provide that advice to all management boards or just upon request?

CHAIRMAN SHIPMAN: I would think upon request, if that sounds agreeable. I'm seeing some heads nodding in the affirmative. A.C.

MR. CARPENTER: The question came up yesterday with regard to plans which were scheduled to go under review that next year, so it may be helpful that as the 2004 plans come up to go to the species board, that we could have the advice and counsel brought in on those species at that time rather than all species all the time. I think that's when you need it is when you're having that review.

CHAIRMAN SHIPMAN: And I think being proactive and getting some advice back to the management board a year ahead of when that's going to be completed and have to go to peer review would be helpful.

I'm seeing other heads nodding in the affirmative that

that's a good idea; so with editorial license to staff, I think I see a broad consensus to add that part in. Okay, Bob.

MR. BEAL: Okay, thank you. The next change is on Page 14, Section M, the Committee on Economics and Social Sciences. This is actually all new language. The CESS Committee was not included in the charter before.

They were kind of waiting for the next charter change to get their language put in, and that's where we are now, so the language in Section M or Subsection M details who serves on that committee, what the roles and charges of that committee and responsibilities will be.

The one unique thing to this group is that it does refer to the responsibilities of the CESS Committee with respect to the ACCSP program.

One of the commitments that the commission has made is that our CESS program will serve as an advisory group to the ACCSP program so those responsibilities are detailed in here as well.

The next change of note is on Page 16, lowercase "i". Toward kind of two-thirds, three-quarters the way down, there's just a couple of word changes. These actually came from the CESS Committee.

The word "benefits" to the economists in the crowd had a certain meaning that they wanted to just change the wording to read "objectives and impact", so I think the idea that lowercase "i" section is still the same; it's just changed wording to make those folks feel a little bit more comfortable with taking out the word "benefits."

That brings us to the final issue that changes are incorporated into the charter. On Page 17, Subsections E and F are added, and this is the first section in this document where language has been added to deal with compliance efficiency.

As you all remember, there is a white paper and a discussion paper; and at the last meeting of the Policy Board, staff was directed to go ahead and incorporate basically the policy change to charge the management boards with dealing with delays in implementation or short-term non-compliance issues.

And this section, or Sections E and F, basically detail -- when new fishery management plans or amendments are being developed, these two new sections will be added to deal with compliance

efficiency.

They deal with the notification time that commission staff must give to the states prior to a change being required. And it also charges the management board, during the development of an amendment or an FMP, with developing a description of the penalties and repayments that would be incurred if a state had a delayed implementation time or for whatever reason wasn't able to put the regulations in place. So I don't know, Susan, if you want to discuss those or keep going.

CHAIRMAN SHIPMAN: Yes, I think I will, I'd like to discuss these. These are new elements to the management program, and what we tried to do was capture Mr. Colvin's intent from his motion at the last meeting.

And I asked Bob to vet this through Gordon, if you will, just to make sure that we had really captured what he had in mind with his motion and that we had approved. Gordon, do you have any comments you want to make on this?

MR. COLVIN: Thank you, yes, I do, and it's short and sweet. This is important. We've been talking about it for some time. We call it compliance efficiency, but it's really foot-dragging.

We need to address delayed implementation of -- untimely implementation of management measures. I think that the staff has done an excellent job of translating the board's previous guidance into text for the charter.

I think, as we discussed at yesterday's workshop, the implications of the adoption of this will give the boards work to do in the coming year.

I have assurance from Bob and Vince that if we do adopt this language, that staff will be vigilant in getting the boards to schedule and put the issue of implementation of these measures into their agendas and actions for the coming year. I appreciate that. I don't know what else to say except when can I move it's adoption, Madam Chair?

CHAIRMAN SHIPMAN: Right now.

MR. COLVIN: So done.

CHAIRMAN SHIPMAN: I tell you what, I think what we'd like to do, Gordon, if you don't mind, is go ahead and work through the rest of it and then --

MR. COLVIN: Okay.

CHAIRMAN SHIPMAN: If you don't mind. Bruce Freeman, I'd like to ask you if you think in this section is where you would want to address your issue with regard to state's lateness on submission of their plan.

MR. FREEMAN: No, I don't think -- my issue would be somewhat different and I'd hold it to later.

CHAIRMAN SHIPMAN: Okay, that would be fine. Are there any other questions or discussion on this particular issue? Okay, Bob.

MR. BEAL: The final section with any changes is on Page 24. Section H at the top of the page is a new section that was added. And, again, this deals with delays in implementation.

Basically, what these two paragraphs do is set up a process where each management board, early next year or prior to June 30th of next year, will go in and review their management program and determine if delays in implementation are or may impact that plan's ability to achieve its goals and objectives that are stated.

And what would happen is each board would review this and determine if they do need to make some management changes to deal with this.

That would be referred back to the Policy Board and the Policy Board would then charge or prioritize which species board should go ahead and develop addendums or amendments to deal with these short-term non-compliance issues.

The last paragraph basically deals with what exactly the board should explore and what they should include in an amendment or addendum if they were to develop one.

I think the reality is that not every management board is going to meet prior to June 30th of next year, but the high priority management boards most likely will, and I think that's kind of the under -- you know, the unstated thing here is that we have to start with the high priority species.

And then the ones that probably don't need to meet within the next six months may not need to develop an amendment or an addendum anyway; so I think with staff working with the chairs of the management boards that may or may not meet, I think we can probably put together a fairly comprehensive review

of which species do or do not need to have an addendum or amendment put together to deal with short-term delays in implementation.

CHAIRMAN SHIPMAN: George.

MR. LAPOINTE: The language on June 30th suggests this is a one-time affair, and, I mean, it strikes me that delayed implementation, I wish I was going I could tell you it was going to be a one-time affair.

I mean, it's an issue that may come up again. Is this just a one-time review or would it be something that needs to be made ongoing?

CHAIRMAN SHIPMAN: In my mind, that could be a function of the PRT as they review -- at the end of each year, we do the PRT review of the plans and the implementation of the plans, and that might be an element, after we get this in place, that they would want to take into their consideration as they're reviewing. And it may not be appropriate. Gordon.

MR. COLVIN: I believe, George, what's intended here is that there will be an initial review of each management program by its respective board within this timeframe, and the purpose of that is to determine whether delayed implementation is an issue or a problem existing or potential in that management program; and if so, to develop and submit to the Policy Board a plan for addressing it probably through an addendum that establishes a penalty process.

At that point, for those boards that determine delayed implementation to be an issue, the process of implementing that management plan will become an ongoing part of the management process.

CHAIRMAN SHIPMAN: Okay, A. C.

MR. CARPENTER: With regard to the June 30th '03 date and Bob's comment that not all boards are going to meet by then, could that sentence simply say that the first meeting after January 1, 2003, each board will develop this; and then the priority works itself out as board meetings come along?

CHAIRMAN SHIPMAN: Bob says that's certainly doable. And as Bob mentioned earlier on some of these species, some of our plans, it's not going to be an issue at all. And it may be that those boards -- sturgeon comes to mind -- they may not be meeting for another nine months or so. Okay, Dennis.

MR. ABBOTT: This being a revision to the charter, is it necessary that we have dates in there? It seems like the charter is a long-term document and shouldn't have dates therein.

CHAIRMAN SHIPMAN: We can certainly remove the dates, but I think for the record we need to go out of here with some understanding, the various board chairs around the table as well as staff, of what the expectation is of when it would be done.

So I hear some sentiment to strike or just put a period after "Policy Board", and strike that last sentence, but to understand that this would be tasked to each of the boards at their first meeting following January 1.

I see nods in the affirmative. Is that everybody's understanding? Okay, then that's where we'll go with that. And I believe those are all the changes that we have proposed. Gil and then Gordon.

MR. POPE: Thank you very much. I don't know if this is the time to do it, but if we're going to approve this, there are a few little things slightly earlier in the compliance issue here that I have noticed that I would like to talk about for maybe about 30 seconds.

CHAIRMAN SHIPMAN: Okay. Gordon, you were going to move adoption. I think this would be the point, Gil, if you want to discuss any changes. A. C.

MR. CARPENTER: Back to striking June 30th, the last sentence needs to be restructured.

CHAIRMAN SHIPMAN: Yes. Okay, Gil.

MR. POPE: Thank you. It doesn't concern this last two items here on Page 24. It concerns something else on Page 22.

CHAIRMAN SHIPMAN: Yes, go ahead. What I'd like to do is get the motion on the floor to adopt the changes; and then if you want to amend the motion for further changes, I think that would be the appropriate procedural route. Gordon.

MR. COLVIN: Thank you. I move adoption of the proposed changes to the ISFMP Charter as presented this morning, with the modification on Page 24 of the deletion of the references, the sentence and the phrase that include references to June 30, 2003.

CHAIRMAN SHIPMAN: We have a motion and we have a second by David Cupka. Discussion on the motion? Gil.

MR. POPE: Thank you very much. This goes back to a problem that Rhode Island ran into earlier on compliance findings and so on where we were looking for written findings from not only the Plan Review Team where it discusses that at the bottom of Page 22 but we'd like -- I'd like to see it in here in the charter that all issues of compliance, when they go from one board to another or from another committee, also be passed along in writing if at all possible. In other words, the way it's written now, they do not have to be in writing once it reaches the full commission. Thank you.

CHAIRMAN SHIPMAN: Are you talking about an elaboration of the motion, because the motions certainly come forward in writing and the components of those motions usually include a statement of why the state is not in compliance and why their failure to do whatever the measure was has jeopardized the conservation of the stock. What additional written product are you looking for?

MR. POPE: Well, it was written by the Plan Development Team, but there was never anything. After that it no longer has to be in writing; it just has to be a finding that is found at the board.

And that's kind of what we were looking for. As it passes from one board to another, it has to be written down as to what it is and the reasoning and so on rather than just stated at a board meeting. Thank you very much.

CHAIRMAN SHIPMAN: Okay, does anybody object to tweaking the language here to say that those recommendations would be forwarded in writing? I don't see any objection, so if you could give us editorial license to work that into the appropriate parts.

MR POPE: That would be perfectly acceptable to me. Thank you.

CHAIRMAN SHIPMAN: Okay. Further discussion on the motion?

MR. AUGUSTINE: Call the question.

CHAIRMAN SHIPMAN: Okay, the question has been called. All those in favor, signify by raising your right hand; all those opposed by like sign; any abstentions; any null votes? Okay, the motion carries unanimously.

Thank you, Bob, Lisa, and all the staff who worked

on these changes very much, and thank you, Gordon, for bringing a very important issue to us in August, and I appreciate the speed with which we have addressed that. Okay, John is there anything else on AOC?

MR. NELSON: No, I believe that covers all of the issues under AOC, Madam Chair.

CHAIRMAN SHIPMAN: Okay, thank you. We have an agenda item next that is an insert after 12. We'll call it 12B, and that is the discussion of the bluefish quota. Mr. Colvin asked that we have this on the agenda, and, Gordon, I'd like to call you on.

MR. COLVIN: Thank you, Susan. I believe Brad is passing out a copy of my memo to Susan that lays out my request for a discussion of this issue at the meeting; and I commend you to read it, particularly the first paragraph.

While he's passing it out, let me just lay out kind of my version of what happened. Folks from NMFS may or may not want to retaliate, but I'll do the best I can to be objective.

We have a bluefish quota. It's an annual quota based on a calendar year fishing year. And last year, as we normally do, we were tracking our quota through the course of the year. We got into a little trouble at one point, reached out to some of you, and received some bluefish by transfer and finished the year pretty close to our quota.

However, unbeknownst to us, on December 12th of 2001, one of our dealers -- and I still don't know what brought this about -- submitted a very substantial volume -- I've heard 12 to 14 months worth of previously unreported late dealer reports -- to the National Marine Fisheries Service's regional office staff in Gloucester.

None of this stuff had been reported through the weekly IBR system as required. And there is an enforcement matter, and that is being followed up on. When that volume of fish, which was over 200,000 pounds or about 20 percent of our quota, went into Gloucester, unfortunately, it did not get reported over to the folks in Gloucester who track the quotas. It never got there.

Those reports went in and they ultimately went into the general canvass files where they were unknown to New York. They were unknown to the folks who were managing the quotas in the regional office.

The state quota reports, the state quota tallies were closed out duly around the end of January 2002, and there were no further updates made. And, of course, we all see the weekly reports so you see how the adjustments get made.

Along comes the end of January and no changes. And then, of course, as has happened repeatedly in recent years, the adoption of the 2002 quotas were late. I believe the Federal Register Notice of the proposed 2002 quotas was published in February or March.

There was no reference in the proposed quotas to any overages in New York or elsewhere, and, in fact, it indicated, I think in the original notice, that there was a perceived problem for New York that had been corrected by transfer.

The final Federal Register Notice adopting the final quotas was published in June. Again, no changes to the original notice, and so as a matter of record our quota and that of all the states was established in federal rule consistent with how it was originally published back in the winter. And, again, no signal that there was a problem.

Then what happened was that the staff of the Mid-Atlantic Council began assembling the information they need to assemble to prepare for the meeting of the monitoring committee that happens every year in the summer to provide the initial advice to the Mid-Atlantic Council and our board on the quotas for the 2003 fishing year.

And the data that they mine to create that report are the general canvass files. So low and behold, they print a table in the monitoring committee report of landings by state for 2001 that had different numbers than what appeared in the Federal Register Notices for the state quotas and in the final report of the quotas that was generated back in January.

And in three cases, New York, Virginia and Maryland, the numbers were substantially higher than the previously published numbers; and in New York's case higher by far, in fact, than the 2001 quota, higher by about 216,000 pounds than the quota for the preceding year.

After some scurrying back and forth, I got notice ultimately from Gloucester, from the regional office staff that they were going to adjust our quota retroactively and, needless to say, I had a couple of problems with that.

That generated a bunch of phone calls. And I finally

caught up with the regional administrator, when she was traveling, on her cell phone, and we agreed that I would talk to Joel McDonald just to try to understand the legal issues that were associated with it.

I did get a hold of Joel and he said, "yes, you've got a problem". He said, "Your problem is bigger than you think, Gordon, because I've got the closure letter sitting here on my desk, and I'm the last signoff before it goes to Pat to close you down for the rest of the year".

This was in August. Now that's pretty late to be experiencing this kind of a problem because now not only do I have a problem with the way this whole thing rolled out, but I'm looking at a problem for the rest of the current year.

Now, let me immediately, right now, express my appreciation to my partners and our partners in Florida, Rhode Island and Virginia who bailed us out of this mess by very quickly responding to our plaintiff pleas to help us out and transfer some quota over to keep us open for the rest of the year.

I really do appreciate that. I have written to all the states, but let me say right here before the board how much our fishermen have benefited from your prompt attention to this problem.

And part of what I was hearing during this discussion back and forth with the Service was you know, well, no harm, no foul, you know, because you got the transfer. You're okay for the rest of the year and so on and so forth.

And I suppose that's one way to look at it, but I'm not buying that and didn't from Day 1. If nothing else, the 216,000 pounds that we needed to correct this problem retroactively isn't available to anybody for 2002. It could have been available, might have been available for use by any state via transfer and it's gone. It's off the table.

Now chances are at the end of the year we'll still be more than 200,000 pounds under the coastwide quota, and maybe it won't have mattered, but maybe it will; we don't know. It's too soon to say that.

And there are just a whole series of questions that this raises. The first question I asked was, hey, wait a minute, why isn't this exactly the same situation that North Carolina encountered some years ago with fluke that was adjudicated over here in District Court in Norfolk?

And what I was told is, well, in fact, it is pretty much

the same situation but it is, after all, a different circuit. That's an interesting answer, and that could have taken us off in one direction.

We decided not to go in that direction because in the final analysis it seemed preferable to fix the problem, as we could, without confrontation and not get into the prospective problems of where a litigation-based solution might take us.

But I think any of us can appreciate that in another set of circumstances that might not be how we would be able to solve it.

The other question I asked and I still wonder about is this whole thing could have been fixed on December 13, 2001, with a couple of phone calls. And I'm not sure why that wasn't done, why it couldn't have been done and how we can have some surety that it won't come up again.

The fact is that we retired many hundreds of thousands of pounds of unused quota, we, collectively, the bluefish quota last year wasn't used. We could have solved it on December 13th and I'm still not convinced that we couldn't have solved it thereafter with some exercise of flexibility.

You know, maybe it's another application to the no harm-no foul situation, I don't know, but I was told that was impossible; not a surprising response from NOAA General Counsel. I think we've all heard that once or twice before.

So, what I'd like to suggest is that what happened here could happen to any of us on any of the quota-managed situations at any time. We've all received a letter from the regional administrator.

I believe all the bluefish board members have received a letter from the regional administrator that responded to the issue and lays out some of the changes that have been instituted to help assist at least in one element of the problem; and that's the problem that when the data came in to Gloucester, it didn't get to the people who track the quota.

In fact, it never did until it kind of accidentally was discovered later on. And I think, you know, that's certainly an important part of the fix but there are other things; one of which is just being sensitive to the significance of something like this when it arrives on December 12th and have the ability to understand its implications and act immediately in response to it.

And the other is to explore the prospect of addressing the policy question, when is it just too late to go back

and retroactively adjust a quota downward? I think we've had some indication in the fluke case that there is a prospective cutoff date.

And Joel suggested to me that we may need to consider amending

-- and he frankly lost me in some of the legal machinations here, but he suggested that there may need to be an amendment to the Bluefish FMP and regulations to facilitate dealing with this kind of process in the same fashion that has been done for fluke.

And I think that may be an issue the Bluefish Board really needs to look into, and any of the other species boards that are dealing with annual quotas, I might add.

But at any rate, there's a whole series of questions here. Some of them are articulated in my memo. I don't necessarily feel that the Policy Board can really get after them today, but I wanted to get the Policy Board members aware of the situation.

Hopefully, you do perceive it as an issue that's not just a bluefish issue and not just a New York issue, but one that could involve many species and all of our states, and perhaps give some direction that, number 1, there be a Bluefish Board meeting scheduled at some point upcoming and that this issue be looked at by the Bluefish board in terms of at least addressing Joel's recommendation, addressing the question how do we feel about whether there is a date after which it's too late to go back and revisit what happened the preceding year and so forth; and perhaps even bring some recommendations forward to the Policy Board or the other boards as a result of that investigation and inquiry. Thank you.

CHAIRMAN SHIPMAN: Thank you, Gordon. Anne, would you like to respond?

MS. LANGE: Yes, just briefly. I think, from my understanding of the situation, your summary of the events is accurate. NMFS and the Northeast Region recognize the problems that occurred in the data transfer, and my understanding also is that is being addressed by the region.

I'm not sure as far as the policy issues goes, as far as what the outcome of what happened last year, the decision from the Northeast Region, and I'm not going to go there.

As far as the direction for upcoming or potential issues that may come up in the future, I agree that's something that the various boards should address.

My understanding is the region is addressing and has addressed and is working with the states relative to correcting the data issue, the problem, the original problem or the initial problem that caused the missing data. I mean, that's the best that I think we can do at this point is to address and make sure that it doesn't happen again.

As far as future situations, I think those need to be addressed at the policy level. And one other thing, John Witzig from the region is here; and if people have questions on just what is being done or what did occur, he has indicated that he would be willing to address the board.

CHAIRMAN SHIPMAN: Gordon.

MR. COLVIN: Yes, we're very pleased that's happening, and I'm pretty well convinced we won't run into this problem again where the data doesn't get where it's got to go.

Obviously we can't be sure, however, that there won't be a situation arise like this again where we get essentially a data dump by a tardy dealer or a group of dealers very late in the year, and that's a tough one.

And it may well arise under circumstances when a transfer can't happen. It may be something like fluke or something that there isn't that opportunity to go explore the possibility of a transfer.

In the case of bluefish, there is and there has been and there probably will continue to be. I still don't know when NMFS first learned of this problem. I'm pretty well sure I know when the data folks learned of the problem, but I don't know to this day what happened prior to December 12th to have that year's worth of reports land in Gloucester on that date.

There has been a rumor going around that enforcement knew and had done some things or the port samplers knew and as early as October it was known that there was an issue outstanding, but we're not going to know, I don't think necessarily, all that.

The point is that it isn't just a matter of getting the data moved from Point A to Point B. It's also a matter of understanding under a circumstance like that, that you have to have staff handling that information who is sensitive to its implications and understands that this could cause a problem that could be fixed if we act quickly in this way. And that's a communication issue and a bunch of other things, and that all needs to be part of the fix to the

problem.

CHAIRMAN SHIPMAN: Okay, Anne.

MS. LANGE: Yes, I'd like to ask John Witzig to come up and give a brief summary or update, whatever.

CHAIRMAN SHIPMAN: Okay, that's fine. We are going to be having lunch. We're actually over our time. John, please join us; and if you can briefly summarize what has happened, and then I would like to suggest a couple courses of action.

MR. JOHN WITSIG: Thank you, Madam Chair. The facts as laid out by Gordon are pretty much the time line that we were dealing with in my office, in the fishery statistics office. We did receive reports on December 12th from a dealer in New York.

Prior to that date, we knew that they had not been reporting. We had no idea of the size of the volume of bluefish that had not been reported. Basically on December 12th the dealer reports came in to one of my port offices in New York at which time we began processing it.

The IVR obviously did not include this information for the prior month so at the point that we produced the final report at the end of the year, that did not include these late reports.

They were ultimately entered into our database, and the specifications were developed based on the IVR report as of the end of the calendar year, which did not include these data.

The IVR data should not be used to produce specifications because we know that they are incomplete; and as far back as 2000, when I made a presentation to a subcommittee of this board, I noted that the data were not complete in the IVR and that there are always late data coming in.

Regardless of that, my office, in I believe June or July, began compiling information on bluefish and, as was noted, we found that there was a disparity between what was used to set the specifications and what the final landings were as reported by seafood dealers.

Since then we have taken some measures to ensure that we don't miss information. We're pursuing statistical avenues to address non-reporting, late reporting, incomplete reporting by seafood dealers, as well as providing periodic updates to landings

information after the end of a calendar year, so that this problem will not occur again.

Basically, we're addressing it from a statistical standpoint as well as compliance, increasing our attention to compliance and reporting both in the IVR mandatory reports by seafood dealers that they have to call in summary data weekly, as well as their full dealer reports, which are supposed to be 16 days after the end of each reporting week.

So we're approaching it from a number of different venues, looking at compliance, looking at statistical issues on the way to estimate non-reporting and missing information for those dealers that do not report, and also addressing it through work with the enforcement office in the Northeast.

CHAIRMAN SHIPMAN: Any questions of John? Gordon.

MR. COLVIN: I just want to thank John for that report. I wanted to get this out here because I felt it was an issue that the entire Policy Board needed to be made aware of, if they weren't already, and I'm pleased to hear that some of the questions that I put in to this memo are well into being addressed. That's very helpful.

I would continue to suggest that the Bluefish Board be tasked to take a harder look at this and particularly to get at some of the questions that go beyond the mechanics of the quota tracking and into this policy level about overage penalties and the underlying legal implications and post-facto transfers to cover problems which are more policy issues.

CHAIRMAN SHIPMAN: That was going to be one of my suggestions, Gordon, if that would assist you in further, I guess, remedying this problem and averting future situations like this. In our Action Plan we adopted earlier, we had the one board meeting outside of meeting week which would be the one with the Mid-Atlantic Council.

I'd like to suggest that the Bluefish Board be charged to meet sometime during a meeting week. I think this is something the states need to take up probably outside of the Mid-Atlantic Council, and that you all work on that. Paul.

MR. DIODATI: I think that's good, but I see this being a broader issue than just bluefish. I mean, it's bluefish today. This could occur for any number of fisheries today.

And because of that, I think it would be beneficial if we can try to reach consensus on some type of a policy agreement with NOAA fisheries on how to deal generally with these kind of situations.

And, for the record, let my partners in New York be aware that the Commonwealth of Massachusetts stands by with its own bluefish quota ready to transfer at a moment's notice. And that goes to all my partners within this great commission.

CHAIRMAN SHIPMAN: Well, I was going to offer, Gordon, my 900 pounds, but I thought it probably wouldn't be worth all the trouble to get it transferred. What I'd like to suggest is that maybe the Bluefish Board take the lead on this discussion, but bring back to the Policy Board, I guess, overlying principles that would have applicability to obviously other quota-tracking and quota-monitoring situations because your point is very well made, Paul. Bruce.

MR. FREEMAN: This is one issue but transcends other issues. The one that concerns us -- and I know it's going to be raised at the December joint meeting of the summer flounder, sea bass, scup and Mid-Atlantic Council -- is the inability of the federal agency of putting specifications in place, particularly for the recreational fishery, until nine months or eight months after the fishery begins.

And more recently, states have taken action to increase minimum sizes so there will be no closures in particular fisheries. The Fisheries Service has not until found eight or nine months after the fact to put a rule in place.

This has prevented a harvest from occurring that has been agreed to by the council. It has been agreed to by the commission. And the states have been unable to harvest fish because the agency has closed the fishery in federal waters. And that issue needs to be addressed.

CHAIRMAN SHIPMAN: Further discussion on this? What I'd like to do is task the Bluefish Board to take the lead on this. They will be scheduled to meet; and some of these broader issues, it may be that they recommend a letter be crafted, and they may craft that letter to go to the National Marine Fisheries Service to ask some of these broader questions, to have that addressed. Pres.

MR. PATE: When are they scheduled to meet next; in February?

CHAIRMAN SHIPMAN: Well, we haven't

scheduled them yet, but I think that's our direction to staff is work the Bluefish Board into a meeting week in the very near future.

MR. PATE: It would be helpful perhaps if we could have that prior to the state directors' meeting that NMFS has organized for March. I think that's when it's scheduled. We could take it up then as a matter of common interest.

CHAIRMAN SHIPMAN: Okay, that would be fine, I think. I think the Bluefish Board is one that encompasses all of the states, Maine to Florida, so it would entail everybody, but that would be fine.

We'll just task staff to get this done in the most efficient but expedient manner. Okay, I see some nods, that that suits everybody. That's the direction we'll go. Thank you, Gordon, for bringing this to our attention. It's an important issue.

We have an update from the National Marine Fisheries Service and an update from the Fish and Wildlife Service. Bruce Freeman wanted to add a couple of items, so I'd ask that we tackle these next few things very expeditiously. We do need to have the Executive Committee meeting before we eat lunch at 12:30.

MS. LANGE: Okay, thank you, Madam Chair. I'm going to skip some of the slides that we put together due to the time, and I think I can cover the issues fairly quickly.

Basically what we wanted to do was provide a brief update on some of the upcoming events, some of the budget initiatives, which I think I'll just skip at this point. With the continuing resolution, there's not really any way of knowing what's going to happen.

A brief comment on the Data Quality Act, which there will be an impact, especially with the commission and state interactions and some of the upcoming events -- excuse me, some of the internal and external reviews that the agency has undergone over the last year or so.

As far as upcoming events, as Pres mentioned, we are having our second in our recent series of state marine fisheries directors' meetings from March 31st to April 2nd in San Diego, California.

The Pacific Commission is assisting us in the preparation for that meeting. We've got it -- it's a real nice place in San Diego. We're hoping that the next series of notices will be going out to each of the

state directors some time in the next couple of weeks.

This particular memo would be to request the name and the dates of participants so that the commission can make all of the airline reservations and hotel reservations. We are covering the cost of one state representative to participate in this meeting.

The next event is the Rec Fish II which is going to be focusing on marine protected areas from all perspectives, planning and implementation, getting input from NGOs, industry, states and everyone, and we encourage participation at that. It's February 23rd through 26th in St. Pete.

And I realize that this now conflicts with our next commission meeting which I believe was changed, the date of the commission meeting was changed, because I think they intentionally set this to not be in conflict. But, anyway, other members of your state may want to participate in that.

Again, I'll skip the budget questions. The next issue that does relate more strongly with the Atlantic States and the Atlantic Commission versus the Gulf and Pacific States is the new Data Quality Act which was established as part of the 2001 Treasury and General Appropriations Act.

It directed the Office of Management and Budget to issue government-wide guidelines to improve the data quality for all data that the federal government uses and disseminates.

It also directed -- OMB then directed each agency to develop guidelines. NOAA Fisheries has produced its guidelines and they are available as of October 1st on our website, which I think I provide on a later slide.

The information that's required on this is that -- or the information quality is defined as the utility, the understandability and the context and accessibility of the data, the integrity, where it's making sure that it's safe from improper access, and that the confidentiality of the data is protected, the objectivity, and that it's accurate, reliable, unbiased information -- I know a lot of people are thinking about this issue right now -- information related to biological surveys, catch statistics, models, and anything that's provided on our websites.

The impact with the commission relates to information from third parties such as the states or the commission that are used in NOAA products. Anything that the National Marine Fisheries Service

produces that relies on data that comes from outside sources, those sources have to meet some additional guidelines, some minimum standards.

So, for contract data collection, any new contracts that the National Marine Fisheries Service has with an individual state or with the commission or anyone else will require very specific additional compliance measures or standards. Any existing contracts, we will be looking to try to ensure that there is an effort made to comply with those new standards.

And when we use third-party data such as state data for federal management, it's subject to, again, certain standards, not the same standards that we're required to apply to, but standards above what are currently required of state data.

This, again, affects the Atlantic States Commission more so than in the other commissions, the other regions, Gulf and Pacific, in that we are asked to implement compatible regulations in the EEZ based on what the Atlantic States Commission comes up with for state water requirements.

So anytime we're implementing something in the EEZ, we have to make sure that the data that went into the recommendations meets the standards.

Right now we are asking that the states and the commission staff review the OMB and NOAA Guidelines, and we're developing a guidance package that we'll be distributing to the commission and to the state on the differences between our requirements and what we need the states and external data to comply with.

We will be providing a much fuller briefing with people who really know what's going on at the state directors' meeting in March. And, again, if you have -- the web page is there.

I can provide that, and it will be provided along with the package that we'll be providing everybody in the near future. Any questions on that or just wait until you get your package?

The next issue is reviews and there have been -- Pete alluded to the NAPA review, the National Academy of Public Administration's review of NMFS. There also have been several other reviews that relate to issues that various people have brought up during this week's meeting.

The regulatory streamlining process, something about -- you know, Bruce's comment about getting specs

out earlier in the year -- all of this timing, as everyone knows, relates to the layers and layers of regulatory things that we need and legislation that we need to address in any action that we take.

We are looking internally at ways of improving and speeding up streamlining that process which hopefully will address most of those issues that have been raised.

We're also reviewing and revising our strategic plan that's in development. We're waiting for the National Ocean Policy Committee's report, which is due out in summer of 2003. And there are a few other reports, as noted here, all addressing how we can do business better.

One of the biggest issues that came out of the NAPA report and has also been key in several of the other internal reviews is our need to strengthen our partnerships with the states, commissions and industry. I am here to say that is my role.

We have recently created, under Jack Dunnigan's office, a division within the Office of Sustainable Fisheries entitled State-Federal Fisheries Division.

I have been selected as the division chief on that, and I see my role as working very closely with each and every state and all three commissions to try to strengthen the ability of our agency to address not just fisheries but protected resource habitat, any other issues that need to be worked out between the states and NMFS. That's my report.

CHAIRMAN SHIPMAN: Thank you, Anne, for an excellent overview, good and concise and chock full of information. We appreciate that. Comments or questions of Anne? George.

MR. LAPOINTE: You will send a copy of those OMB Guidelines to the states?

MS. LANGE: Right now, the lead person within the agency for getting all this thing processed is putting together a package that includes several documents, including the OMB Guidelines and our in-house guidelines, as well as information from web pages and things that we will distribute. And I'm not sure exactly when, but I've asked her to get it together by the end of this month.

MR. LAPOINTE: Don't rush, but thank you.

CHAIRMAN SHIPMAN: Okay, any other comments? All right, Dr. Geiger, if you could

quickly give us your update.

DR. GEIGER: Thank you, Madam Chair. Two weeks ago at the John Hines National Wildlife Refuge we held the Horseshoe Crab-Migratory Bird workshop. We had excellent attendance at this meeting. The commission was in excellent attendance, as well.

Carrie provided an excellent overview of the fisheries management plan and the process. Bob Beal was available to participate in an panel discussion the second day. Bruce Freeman and Bob Munson were there as well.

We had excellent attendance, and I think for the first time we had the migratory bird experts and the horseshoe crab experts and the various NGOs and constituent groups talking with each other rather than at each other. And for that purpose, I think the workshop was a very, very high success.

The second day the group developed a variety of recommendations and suggestions and then voted on the importance of these recommendations. These have been written up and summarized and provided to two of the state directors that were there from Delaware and from New Jersey.

Right now, the directors are discussing with at least our regional director where do we go from here with these recommendations? But, all in all, I thought it was a very, very good workshop. I think we had a lot of good information out of that.

A couple of items that I think would be of interest to the commission here is that NGOs and folks outside of the Interjurisdictional Fisheries Areas have very little understanding of ASMFC and the process by which we do business.

Secondly, the migratory bird folks certainly are very committed to obviously preserving migratory bird resources, and I think are very concerned about the declining populations of at least one migratory bird species, and that's the red knot.

And, thirdly, it was very beneficial to have Bob Munson there from the Advisory Board because the migratory bird folks and NGOs heard the effects and the impacts of this on actual people that utilize the resource, the fishermen. And I thought that exchange was very, very beneficial for all parties concerned.

So, again, I thank the commission for their support and their participation, and I think we'll have some

excellent results coming out of that that I think will be very beneficial to the Horseshoe Crab Management Board and at the commission in the future. Okay.

CHAIRMAN SHIPMAN: Thank you, Dr. Geiger. We'll look forward to getting that report. Bill Adler.

MR. ADLER: Thank you, Madam Chairman. I just want to ask, with regard to the Great Seabird Flock Reduction Program we have in Massachusetts, the 140 windmills 70 feet high that are blocking the birds from getting to Monomoy for the horseshoe crab feeding, did they bring that up at all or are you looking at that?

DR. GEIGER: Certainly, habitat issues were very, very important and were a consensus opinion of the work group that this was important. That issue did not specifically come up, but I think it was sort of underlying some of the habitat concerns.

MR. ADLER: Okay, perhaps you could look at it.

DR. GEIGER: Certainly.

MR. ADLER: All the propellers, thank you.

DR. GEIGER: And we are commenting on that, as well, through other forums.

CHAIRMAN SHIPMAN: Paul Diodati.

MR. DIODATI: Are we on other business?

DR. GEIGER: No, not yet.

CHAIRMAN SHIPMAN: Any other things?

DR. GEIGER: Yes, I have one other thing.

CHAIRMAN SHIPMAN: Okay, I'll come back to you, Paul.

DR. GEIGER: One other issue. And very similar to what the National Marine Fisheries Service is doing, the Fish and Wildlife Service is being instructed or directed by OMB to devise a variety of actions to improve our business practices. And this is following through by what's called the "President's Management Agenda."

As part of that, the fisheries program of the U.S. Fish and Wildlife Service has spent two years developing its strategic vision for the future. This vision is now in OMB undergoing review and hopefully approval. As part of this process, each region of the Fish and

Wildlife Service is mandated to have partnership meetings to step down this national strategic vision to specific action items related to regional priorities.

We, in Region 5, are tentatively scheduling to have our partnership meeting the week of April 13th at the Northeast Fish and Wildlife Conference meeting in Rhode Island. We are hopeful, once we get our budget situations resolved, that there may be money available to assist various directors and partners to attend this meeting, at least we are hopeful of that.

It's very, very important, from my perspective, that we have the marine directors involved and engaged, as well as the commission, in this process, and that your inland game and fish counterparts are not the only ones represented as part of the partners.

We're also actively soliciting support from the recreational fisheries communities, NGOs; and certainly from our perspective, we have also had great interest from the BASS conservation directors who also would like to attend and provide input and feedback on our strategic vision. So this is what we're planning to do.

I will be providing you copies of the draft strategic vision at some point in the future and with further details, but I would encourage all of you all to be able to attend and, again, hopefully provide your input so that we can provide better customer service and assistance to the commission, to you all, in the areas of interjurisdictional fisheries, as well as habitat issues. Thank you very much.

CHAIRMAN SHIPMAN: Okay, thank you. Paul is this a new item? I have two other items Bruce Freeman wanted to bring up.

MR. DIODATI: I'll wait for the new items, but just a follow up on the alternative energy proposals which the Commonwealth certainly supports those type of proposals.

We have at least three others in addition to the one that Bill alluded to, so I think at some point it might be valuable that these be brought to the attention of the Commission's Power Plant Committee or that type of work.

Each of these proposals would require about 25 square miles of bottom, and I think at some point I think we need to address these as a group.

CHAIRMAN SHIPMAN: If they are project specific, perhaps the best route would be to look at

them through the commission's protocol we have set up for looking at projects like that through the Habitat Committee. That's probably the best way to do that, I think.

Bruce, you had a -- Columbus, do you want to add something? If you'll come to the microphone quickly, please. We are well into 35 minutes over our allotted time.

MR. COLUMBUS BROWN: Yes, Madam Chair. I just wanted to mention a couple items, and one of them is that we've had some personnel changes in Region 4. Our deputy regional director, Dale Hull, has now become the regional director in Albuquerque, New Mexico, and he has been replaced by Mitch King, who was our assistant regional director for migratory birds and state programs.

Also, I wanted to mention that the Fish and Wildlife Service is celebrating the centennial of the National Wildlife Refuge System in 2003, the first of which was Pelican Island, and that is in the Atlantic Coastal Area.

We now have over 540 national wildlife refuges nationwide. The role of the national wildlife refuges has evolved over time to include all sorts of wildlife habitats, including those for fish.

Along the Atlantic Coast, we have over 60 national wildlife refuges which provide tremendous angling opportunities. During fiscal year 2001, over 1.5 million visits to national wildlife refuges were for saltwater fishing, and that represents 70 percent of the saltwater fishing visits of the national wildlife refuge system nationwide.

I've provided a detailed report of fishing activities on national wildlife refuges, which is the green sheet that's being passed around, and I hope that will be helpful to you in terms of some of the fishing opportunities that are occurring within your particular states.

Also, I thought it very important to note that those refuges represent over 700,000 acres of important habitats for fish and wildlife in the Atlantic Coastal Area.

We did provide some bags with some materials on the National Wildlife Refuge System and the centennial. They're over here for any of you who have not gotten one of those, and I think the information you'll find in there very helpful, as well as a few trinkets that you might appreciate. Thank

you, Madam Chairman.

CHAIRMAN SHIPMAN: Thank you. And, Columbus, you've enjoyed having you with us this week representing the Southeast Region, Region 4. Thank you very much for being with us. Thanks for that update.

Okay, we've got other business and I believe there are a couple of items Bruce asked that we take up; and, Bruce, in light of the time, we may just want to put these issues out on the floor and come back to them in February. Would you like to go ahead?

MR. FREEMAN: Yes. One issue deals with the timeliness of technical review for state plans for an existing fishery, and we've had a situation recently where timelines were given for technical committee to review a state proposal.

State proposals are due at a specific time, and the day of the meeting some of the proposals were essentially reviewed. It simply doesn't allow a realistic review by the technical committee.

My understanding is it is up to the boards as to what policy they have for reviews, but it seems to me this could be a serious situation. We've had this problem previously with striped bass years ago where timelines were given.

If a proposal wasn't in by that timeline, it was not reviewed. We must be cognizant of the fact that when a date is given for state proposals to be submitted for technical review, that they meet that date and essentially don't have complicated proposals presented on the date of the technical committee meeting.

So that's something that there may be other boards running into this problem, but it certainly has occurred; and if it's to reoccur, we may need to get back to a policy if it's not in by a specific date, it's not going to be reviewed.

CHAIRMAN SHIPMAN: Bruce, before you leave that one, can I comment to that? I think we have tried to address that in the technical guidelines that we adopted.

I think it talks about the advanced submission, if you will, and I'm of the impression that's in the technical committee guidelines, the retooling of the technical committee process.

MR. FREEMAN: Okay, great.

CHAIRMAN SHIPMAN: Take a look at that. I would ask between now and the next meeting you look at that and see if you think that sufficiently addresses it.

MR. FREEMAN: Okay.

CHAIRMAN SHIPMAN: Addressing it on paper and application are two entirely different things, I realize that.

MR. FREEMAN: Good, yes.

CHAIRMAN SHIPMAN: Okay, your second item.

MR. FREEMAN: The second items deals really with perhaps information transfer. And I bring the example of the problems that New Jersey is having and Delaware, quite frankly.

In the Delaware River, fishing for spawning striped bass, there are regulations that both states have that prohibit the taking of striped bass during spawning period. In fact, there's a closure for the taking of striped bass for several months.

However, we're finding people targeting striped bass under the disguise of fishing for other species. We're not able to prohibit fishing for, but we're taking measures either to restrict the size of the hook or restrict the way hooks are used in an effort to reduce mortality, particularly on striped bass.

A situation like this I think is important in that results of this should be conveyed to other states because they may be facing the same problem.

And in instances where we do face common problems, it would be extremely helpful to see what states are doing, oftentimes doing it in order to solve a problem, but other states aren't aware of it. And, Susan, you had a suggestion and perhaps your suggestion is a good one to start with.

CHAIRMAN SHIPMAN: My suggestion was perhaps when these issues arise, a state could electronically lay out the question to his or her fellow commissioners and let the member states respond back to the way maybe they've handled some of these problems.

And the example that came to mind was the discussion yesterday in lobster, Gordon's problem with regard to the trap tags, and that type of thing where four other states had sort of dealt with that.

And so maybe we can make better use of the electronic technology we have available to us and share and ask for ideas back and get some expeditious responses and prevent ourselves from having to reinvent the wheel. Bruce, what you may want to do is throw that idea --

MR. FREEMAN: No, I think that --

CHAIRMAN SHIPMAN: -- your issue out on the web.

MR. FREEMAN: We talked about this, Susan. I think it's good. Again, it's simply to convey information, learn by trial and error, and then apply that in other states who may face the same or similar issues.

There's no need to go back and spend two years trying to solve a problem that another state apparently has found a very good solution to but we simply don't know. So it's really a transfer of information.

And it was raised earlier about the circle hooks, you know, that anything we learn from that that could be conveyed to other states, I think would be extremely helpful.

CHAIRMAN SHIPMAN: Thank you, Bruce. Paul.

MR. DIODATI: Just a point of information. The Division of Marine Fisheries on November 4th did sign a formal agreement with the University of Massachusetts forming a Massachusetts Marine Fisheries Institute.

This is our first such organization in Massachusetts, and I know it's one of the objectives of our charter to develop those types of partnerships, and I'm sure you'll be reading more about that. It's on our website. You can look at that.

Our headquarters will be in the city of New Bedford, which leads the nation for the second year in a row for the highest value of seafood landed products.

And what I really wanted to bring to your attention is we did our signing ceremony from the president's office of the university, and we did a live web cast of the signing ceremony.

And although I didn't send that announcement out to you all, I thought it might be a valuable way to conduct these meetings sometime in the future, given

that we are an Atlantic Coast organization and there seems to be an awful lot of interest in what goes on at the board meetings in particular.

And it's a very simple technological thing to accomplish -- well, at least we did it so I think the commission might want to consider that in the future.

CHAIRMAN SHIPMAN: Okay, thank you. We could have "Fish-Span" instead of C-span. Okay, thanks very much. Other items to come before the Policy Board? Okay, is there a motion to adjourn?

Motion by Pat; second by A. C. Any objection? Don't go away, we're going to go into the Executive Committee meeting. What we'd like to do actually is push through. I think we can do this.

We can do the Executive Committee. We only have four items to take up, and then we can probably do the commission meeting and get through and have lunch; so with your indulgence, that's what I would like to suggest that we do.

(Whereupon, the meeting adjourned at 12:15 o'clock p.m., November 21, 2002.)
