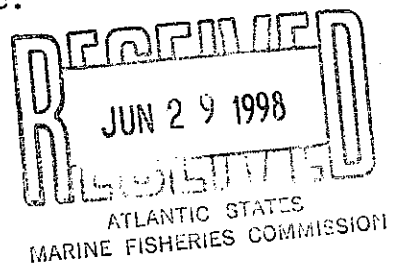


PROCEEDINGS
of the
ATLANTIC STATES MARINE FISHERIES COMMISSION
SPRING MEETING WEEK
ISFMP POLICY BOARD MEETING

June 11, 1998
Dulles Airport Hilton Hotel
Herndon, Virginia

Graham Verbatim Transcriptions, Inc.
4241 Baymeadows Road, Suite 17
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The meeting of the ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened in the Dulles Ballroom of the Dulles Airport Hilton Hotel, Herndon, Virginia, Thursday morning, June 11, 1998, and was called to order at 8:05 o'clock a.m. by Chairman Paul Sandifer.

CHAIRMAN PAUL SANDIFER: If I can have your attention, please, we'll come to order. This is the ISFMP Policy Board. My name's Paul Sandifer; I'm chairman of this particular Board of the Commission this year. I'm pleased to see you all here. Doesn't look like we have a great number of guests yet, but the morning is young. Who knows?

Let me point out to you that the best agenda for this meeting is the one that was in your agenda handout, not the one behind Tab 15 where your meeting

materials are. That one is outdated, as is the other agenda that you're being handed anyway, but it's a better outdated agenda.

As you get the agenda, there's at least one change that's been requested, and that is to move the Law Enforcement Committee report up. I'd like to move that up immediately following Public Comment, to make sure that we have an opportunity to hear from Law Enforcement prior to Bill's departure for the airport.

Are there any other changes or additions, deletions to the agenda? George.

MR. GEORGE D. LAPOINTE: For those people who don't have the binder agenda, I added two items to that. One was a discussion on coastal shark management at the request of Bruce Freeman. There's a letter that John's passing around from Bruce that we'll discuss. And we'll try to hold that off on the agenda because there's a NMFS employee, Margo Schultz, who's going to get here as soon as traffic will allow, and I told her we'd hold off the agenda item.

The second item was I had neglected to put on an Advisory Committee report on the original agenda,

and Tina brought that to my attention. Patty Jackson, I suspect, is struggling in traffic around the Beltway, so we will accommodate Patty as she gets here.

CHAIRMAN SANDIFER: Any other items for the agenda?

MS. ANNE M. LANGE: Are you talking about things for the Other Business? I have just a comment I'd like to make to the general --

CHAIRMAN SANDIFER: We could bring that up under the Other Business, if you'd like.

Let's go ahead and call the roll, George, please.

(Whereupon, the roll call was taken by Mr. Lapointe.)

MR. LAPOINTE: Mr. Chairman, you have a quorum.

CHAIRMAN SANDIFER: Thank you.

The first or next order of business for us then is the approval of the October 22nd, 1997 ISFMP Policy Board minutes. Have you had an opportunity to review those? Do I hear a motion?

MS. SUSAN SHIPMAN: Move approval of the

minutes.

DR. RICK BENNETT: Second.

CHAIRMAN SANDIFER: All in favor; opposed,
like sign. (Carried)

Let's move on.

MR. LAPOINTE: I'd just like to ask a
question. How do people like that format where -- I mean,
it's very easy for our staff, because we just reformat it,
put headings on and send it out to you, so we get it out
in a timely fashion.

MEMBER: Like it.

MR. LAPOINTE: Good. Mr. Carpenter, maybe
I shouldn't have asked the question?

MR. A.C. CARPENTER: No. I like it very
much, and I like the Table of Contents idea, too. That
really helps. I was wondering about an attendance roster,
though, is not included in here.

MR. LAPOINTE: I'll have that added for the
record, because my staff has it.

MR. CARPENTER: And that would be for all
of the minutes, I think, would be a good idea.

MR. LAPOINTE: Thank you.

CHAIRMAN SANDIFER: We now have on our agenda an opportunity for public comment. We can also take public comment at any point during the proceedings, any issues that may come up. But is there anyone from the public who would like to address the ISFMP Policy Board at this time?

Seeing no one, we will move to the next item, and I have placed the Law Enforcement Committee report there. Bill.

MR. WILLIAM McKEON: Good morning. Mr. Chairman, the Law Enforcement Committee meeting came to order at approximately 13:00 hours on Monday, June 8th, 1998. All states and government agencies were present, except for Pennsylvania, Delaware, Virginia, Georgia and Washington, D.C.

Website. Ms. Margaret McElrath from Oracle Consulting gave a presentation on how Oracle could help the Law Enforcement Committee in developing and maintaining a law enforcement website. After lengthy discussion, the Law Enforcement Committee decided to place its website information on the ASMFC's website.

The initial entry will be a contact person

from each state in the law enforcement community, as well as the state's website and present website information. Chris Schoppmeyer from National Marine Fisheries and Tom Meyer will be attending the Computer Steering Committee meeting in July in order to better coordinate the efforts in designing our website.

ACCSP. Connie Young-Dubovsky, the ACCSP program manager, presented three issues to the Law Enforcement Committee. Issue 1 was the selected sections from TSD relevant to law enforcement. Number 2 was the report of the Law Enforcement Subcommittee for ACCSP. And 3 was the items requiring action by the ASMFC Law Enforcement Committee.

The Law Enforcement Committee was asked to vote to accept action items. The committee discussed in detail the section on ACCSP Confidentiality Protocols. The Law Enforcement Committee believes, in order to be more effective, law enforcement officers need access to confidential records. Revised recommendations were submitted to Connie for review and comment. In addition, the LEC Subcommittee is drafting a letter proposing access to this data for official purposes.

Representation on Management Boards. The LEC updated the list of enforcement representatives to the various Management Boards. Some members representing LEC on the Management Boards stated that they were not receiving notification for upcoming meetings. This has been a reoccurring problem since the LEC began with this program. Therefore, each primary representative to a Management Board will contact the ASMFC coordinator and respective board chair to ensure future notification.

In addition, the LEC is drafting a letter to ASMFC. This letter will be requesting LEC meetings to start one day prior to the fall and the spring meetings. This would allow the LEC representative to attend the LEC meeting and their respective board meetings with some continuity.

ACFCMA. There was a discussion on the ACFCMA funding. The 1997 ACFCMA percent funding to each category was presented. The LEC noted a slight increase in the percentage of funds under the law enforcement category, but 11 out of the 17 states continue to receive zero funding in the law enforcement category. There was a note that there was an additional \$101,000 from these

monies allotted to law enforcement, which was very helpful.

Fish Measuring. The Measuring Techniques Subcommittee is currently collecting information from each state on their various techniques for measuring fish. Ms. Kay Davy of South Carolina is working with the subcommittee on this issue and will present a report to the fall meeting.

Other Issues. The Law Enforcement Committee would like to thank Bob Hogan, the general counsel for enforcement and litigation, for attending their meeting and presenting a legal perspective to the committee.

The Law Enforcement Committee is also drafting a letter to the U.S. Coast Guard thanking Lieutenant Commander Reb Bryant for his outstanding two years of service on the Law Enforcement Committee. In addition, the Law Enforcement Committee is drafting a second letter to the U.S. Coast Guard asking for a review of the two-year reassignment policy and the possibility of the U.S. Coast Guard developing a fisheries law enforcement career ladder.

The meeting adjourned at 16:00 hours on Tuesday, June 9th, 1998.

CHAIRMAN SANDIFER: Thank you, Bill. Any questions for Bill? George.

MR. LAPOINTE: Bill, I appreciate your comments about people not getting notice. You know that's been a recurring problem with just not the Law Enforcement Committee representatives but others, and the Commission has -- Lisa Bathaya has completely redone our mailing list to try to get through this recurring issue. So it should get better, but given the fact we're changing over, I think, next week, please keep on us about that to make sure that in fact the improvement occurs. You and everybody else as well.

MR. MCKEON: Thank you very much.

CHAIRMAN SANDIFER: Thank you, Bill.

It's been suggested we have one more addition to the agenda. Mr. Coates, would you like to present a Menhaden Board report a little bit later on the agenda?

MR. PHILIP G. COATES: I'll be glad to, Mr. Chairman.

CHAIRMAN SANDIFER: Thank you.

Let's move to the next item, which is the Fishery Management Plan Approval for Atlantic Sturgeon, Susan Shipman, chair of the Management Board.

MS. SHIPMAN: Thank you, Mr. Chairman. I believe pretty much everyone that's sitting around the table for the most part was here yesterday. We received the updated final draft of the management plan, and I'm just going to merely very broad-brush highlight the aspects in each section of the plan.

Under the Goals and Objectives of this amendment, the management unit of the stock is U.S. Atlantic sturgeon from the Canadian border to Cape Canaveral, Florida. The goal of this amendment is to rebuild the spawning stocks to sustainable levels. The rebuilding target is 20 protected age classes of females. The rebuilding schedule is a harvest moratoria in effect for 20 to 40 years in order to rebuild that 20 protected age classes of females. The definition of overfishing is any directed harvest.

Under Section 3, this is the monitoring and enhancement program specifications, which is basically the

implementation of the plan. There's extensive discussion in this of the culture and stocking, including recommendations to the states for authorizing aquaculture in accordance with the 1996 breeding and stocking protocol, which the board adopted yesterday for incorporation into this amendment by reference. It also addresses bycatch monitoring and habitat assessment of historic and current Atlantic sturgeon habitat.

The management program implementation in Section 4 includes habitat conservation and restoration recommendations, including the action the states should take to preserve existing habitat, avoid incompatible activities and restore, improve and enhance habitat. The recreational fishery measures are complete moratorium on harvest or possession. The commercial fishery measures are a total closure of the directed fishery and no kill provisions.

And then there is a bycatch discussion under 4.3.9. The board may require measures in fisheries documented to cause excessive bycatch mortality. There's also a schedule for implementation of those measures of June 30, 1998.

4.6.8 is the section for recommendations for management in the EEZ. Those include prohibiting possession, monitoring of bycatch and bycatch mortalities in the EEZ fisheries, especially the monkfish and spiny dogfish fishery. And then 4.6.10 discusses cooperation with Canada.

Then finally, Section 5, the compliance section addresses the closure of the recreational and commercial fisheries in order to monitor and also monitoring and reporting of excessive bycatch. 5.1.1.1 is a complete closure and prohibition of possession of Atlantic sturgeon and any and all parts thereof, including eggs, and closure of any directed fishery.

We have an additional motion in the compliance section that was approved yesterday, and if I could ask John to project that. An additional component that will go into this section is this motion, and that Section 3.6.2 and 5.1.1 will be adopted as written, except we will add a statement in this particular measure that there may be limited specific exceptions to prohibitions on possession for imports of non-U.S. Atlantic sturgeon and/or cultured Atlantic sturgeon upon adoption of the FMP

addenda that specify the terms limitations and enforcement requirements for each such exception.

It is intended that each such addendum shall be developed by a PRT, including representatives of the federal partners, applicable state aquaculture authorities, Law Enforcement Committee, and the states for which shipments are intended, in consultation with the parties requesting the exception.

Thank you. That's the additional clarification of 5.1.1.

The compliance schedule. As I mentioned, the moratorium provision is June 30, 1998. The other provisions for compliance reporting, which include reporting on bycatch monitoring, stock monitoring and habitat status and aquaculture operations is October 1991.

And that basically concludes the executive summary of what is in the plan, or the plan amendment. And I'd be glad to answer questions if anyone has any.

CHAIRMAN SANDIFER: Any questions from the Policy Board for Ms. Shipman?

MS. SHIPMAN: Hearing none, on behalf of the Management Board, I would move adoption of Amendment

1, or that the Policy Board adopt Amendment 1 to the Atlantic Sturgeon Plan for recommendation for adoption to the Commission.

CHAIRMAN SANDIFER: Thank you, Ms. Shipman.

You've heard the motion before you. Before we move to action on the motion, let me check and see if there's anyone in the audience who would like to speak to this motion to the fishery management plan before us? Seeing no one, any discussion by members of the Board?
Anne.

MS. LANGE: I'd like to say that the National Marine Fisheries Service supports this, but I will be abstaining because of the effects on the EEZ, the requirements for actions in the EEZ. But we do support the plan.

CHAIRMAN SANDIFER: Understood.

All in favor of the motion as presented, say Aye; any opposed. Abstentions? National Marine Fisheries Service abstains.

Thank you very much, Ms. Shipman.

MS. SHIPMAN: Thank you, Mr. Chairman.

CHAIRMAN SANDIFER: The motion carried.

George.

MR. LAPOINTE: Just at the end of this, I'd like to express my appreciation in particular for John Field and for Wilson Laney because they did a lot of the heavy lifting in getting the plan drafting done. As always, we couldn't have done it without them.

CHAIRMAN SANDIFER: Susan.

MS. SHIPMAN: The board chairman would like to echo that. You all will recall last meeting we accelerated the schedule on this plan from October of '98 to this meeting. We've met the schedule, and much of that commendation goes to John and to Wilson, and I sincerely appreciate their hard work on this.

CHAIRMAN SANDIFER: Mr. Coates, are you ready with the Menhaden report?

MR. COATES: Oh, absolutely, Mr. Chairman. The Menhaden Board met without me on Monday. I finally made it. And they discussed and acted on a number of items, and I think the first thing we did was recognize the participation of the new board members. Four new board members were appointed by you: Stan Blum from Florida, commissioner; Senator George Gunther,

commissioner from Connecticut; Representative Shirley Price, a public member from Delaware; and Ray Rogers from Virginia, another public member. So their participation was welcome during the deliberations.

As you know, the Menhaden Board is constituted somewhat differently than all the other ASMFC ISFMP boards, as is the so-called Atlantic Menhaden Advisory Committee, which consists of both scientists and members of the public. We will get into that discussion I think a little bit later during this Board's agenda.

With regard to public comment, we heard quite a bit of public comment during the public comment period, and we also provided an opportunity for a gentleman, Jim Price from Maryland, representing, I believe, the Chesapeake Bay Acid Rain Foundation, to provide their perspectives, which have been circulated in paper to many of the Board members and many of the commissioners, with regard to their concerns about apparent declining recruitment of Atlantic menhaden and apparent declining abundance of menhaden in some of the traditional areas. And this concern was expressed at the board meeting as well.

With regard to the AMAC report, the Atlantic Menhaden Advisory Committee report, they reported that two of the six triggers that are used to gauge the condition of the menhaden stock were fired in 1997. The so-called recruitment trigger and the percentage of adults in the population triggers were both fired. And as a consequence, the discussion ensued.

And then with regard to the public comments, it was determined that an appropriate course of action would be to initiate an ASMFC-sponsored peer review of the assessment and an evaluation of the stock. And this was well received by everybody at the meeting at that time.

With regard to IWPs, internal waters processing operations, there had been nothing received formally by the board, but apparently an IWP request from Maine somehow had gotten waylaid, but it was presented verbally by Lew Flagg for a request for 40,000 tons of Atlantic menhaden for the State of Maine. And the board referred that to the AMAC, the Atlantic Menhaden Advisory Committee, for action through probably some kind of a telephone conference or something, and then they will

subsequently make whatever recommendation back to the board.

We're very late in this process, and there's some question whether or not it'll be possible to act on this in time. But, you know, there is a process associated with this whole thing. And I think there were shortfalls on both ends of the situation here, and the consequence to that is that the board felt it was appropriate to go through the formal process.

I think that's pretty much it, Mr. Chairman, except that, as you know, there is a great deal of concern about the current constitution of the Atlantic Menhaden Board. My own personal opinion on this is that I'm comfortable -- this was my second meeting as the board chairman, and I feel that the current situation that basically is going to generate a review of the current stock assessment process, the stock situation, should, you know, be a good indication or a good measuring stick, as it were, of the ability of this board to act in accordance with the standards of the ISFMP process.

But I'm very heartened by the performance of the board up to this point. I think they can do the

job. But we'll get to that issue later, as I understand it.

So that's my report. And any other board members who want to add -- I'm sure I missed something.

CHAIRMAN SANDIFER: Any questions or comments for Mr. Coates? Ed.

MR. ED CONKLIN: When will the issue come up in what form later on in the agenda, Mr. Chairman?

CHAIRMAN SANDIFER: George, I assume it's under the section dealing with organization of FMPs, which is on the agenda, showing as Item 9 under this agenda.

MR. CONKLIN: Okay. I guess I don't have that agenda.

CHAIRMAN SANDIFER: We can take it up now. Let me just finish, see if there's anything on the report of the Management Board itself that requires either action -- Mr. Coates, there's no action required at this point by the ISFMP Policy Board?

MR. COATES: I don't think it requires any action to move forward with the peer review.

CHAIRMAN SANDIFER: I think the peer review plan is an excellent one.

Any comments or questions from members of the Board on the report? Any comments from the audience?
Mr. Colvin.

MR. GORDON C. COLVIN: Phil, could you just maybe perhaps comment a little more fully on what the peer review is going to address and what its expected outputs will be? I'm a little unclear on that.

MR. COATES: Thank you, George.

MR. LAPOINTE: There's an issue that's tied into the makeup of the board and the makeup of AMAC, so perhaps we could get into that next. And there have been people who have questioned the credibility of the entire process by which AMAC operates and we do the assessment. And that was expressed at the meeting.

And so this is something that the stock assessors have welcomed, saying that they're confident in the job they've done on stock assessment, and they welcome a review by an independent panel to make sure that in fact -- I mean, it's to backstop their credibility because that's being questioned.

It's been questioned over and over again, Gordon. And so it's to make sure that the assessment job

that's used in the menhaden planning process is adequate.

MR. COLVIN: May I follow up, Mr. Chairman? I guess what I'm wondering is I heard the chairman of the board indicate that two of the six triggers were pulled this year. What I didn't hear him say is the board decided to do something or do nothing. I didn't hear what the conclusion was of that. And I guess I just kind of supposed that maybe the peer reviewers were going to be asked to advise on whether that should lead to some action.

And I didn't hear that, so now I have to ask that question: What is the board's opinion or view with respect to what to do about these triggers being pulled?

MR. LAPOINTE: One of the things I mentioned during discussion on the peer review was that in fact that would be one of the terms of reference, and that importantly the terms of reference would be given to all members of the Commission, all member states, and not just the board members, so that in fact people who don't sit on the board and have some of those questions can make sure that their concerns are addressed during the peer review

as well. But that's an important addition.

CHAIRMAN SANDIFER: Mr. Coates, back to you.

MR. COATES: Specifically on the concerns. Those two triggers that were pulled relate to recruitment, and the AMAC Committee, the Advisory Committee, concluded that since the spawning stock biomass overall was at a very high level and since there seems to be evidence that the fishing mortality or the exploitation rate in 1998 will drop as a consequence of the consolidation of the two remaining companies and a loss of, I think, 36 percent of the harvesting capacity to the Gulf, that the situation does not warrant immediate action.

And there was concern expressed about this, but it looks like it's a situation where we need to have a good spawning event. And there was some information provided on a very preliminary basis. Apparently, the VIMS does conduct, Herb Austen's team conducts a young-of-the-year survey of menhaden and probably other forage-based species along Virginia's shores, and they indicated that the very preliminary information was that there was a very large year class evident for 1998.

But again, we'll just have to see how this all plays out with regard to the stock recruitment relationship, but it does seem that the spawning stock biomass is more than adequate to support a very large year class of the magnitude that was characterized, I think, in 1958 or something, when we had the last very large year class.

CHAIRMAN SANDIFER: Mr. Travelstead.

MR. JACK TRAVELSTEAD: Phil has added everything I was going to say.

CHAIRMAN SANDIFER: Mr. Conklin.

MR. CONKLIN: Mr. Chairman, this part of the discussion seems to lead into one that I was going to make later, but as a point of clarification on what this group is going to do, am I to understand it's both to review the stock assessment and the triggers, or just have a peer review of the stock assessment procedure?

CHAIRMAN SANDIFER: Mr. Coates.

MR. COATES: It's my intention that it be both. I think that there was a lot of discussion during the board meeting that the whole concept of the triggers and whether the triggers accurately represent the

condition and the characteristics of the stock and the levels at which the triggers are set to be fired are appropriate with regard to maintaining stock condition.

MR. CONKLIN: With that clarification, I'm satisfied.

CHAIRMAN SANDIFER: Mr. Williams, I believe, in the audience had a comment.

MR. ROY WILLIAMS: Yes. Thank you very much, Mr. Chairman. I'm Roy Williams of the Florida Marine Fisheries Commission, and I have been in the past few years fairly noisy about menhaden because, in the South Atlantic, we are entirely dependent upon fish that are two to three years old and less. We don't have any of the older fish. And recruitment has been very poor in '94, '95, '96. Seems to have been better last year. I don't know about this year. I've gotten mixed reports on it.

I want to make it clear that I'm not necessarily critical of the stock assessment itself. The peer review of the assessment is something that the board decided to do. I think Doug Vaughan that does this assessment is a fine scientist, and I use, in my critique,

in my criticism of the way menhaden are being managed, I use much of that data. I use -- there's a steady 15-year decline in recruitment in Atlantic menhaden, and recruitment is down to the level now where it was when this stock was overfished.

Now, according to Doug's analysis, there is an increase in the spawning stock biomass. That will be -- if recruitment doesn't improve, any of those increases are going to be wiped out fairly quickly. If you have another bad year or two of recruitment, there's not going to be very much spawning stock biomass, and you're going to be right back down to where you were when this stock was overfished.

I want to make it clear that my criticism is of the management process itself and not of National Marine Fisheries Service. I think that AMAC does not give good advice. I think they ought to be giving a lot more caution than they are giving in this. I think that the Management Board itself is not giving good advice either. I'm not seeing the kind of caution from them that I think needs to exist.

When the Magnuson Act was renewed in

October of 1996, it created much higher standards for fishery management in this country. All the federal councils -- and many of you people in here sit on those federal councils -- you are now bound by much higher standards of fishery management than you were previous to that. And we're all feeling the effects of that.

I think we're ignoring that in menhaden. This stock, the triggers are set too low. The spawning potential ratio trigger is down at three percent on this. There's no other fishery in this country, I think, that's managed that low.

I believe this fishery needs a lot more caution than it is receiving. It's a kind of keystone species. It's the forage base for major fisheries all up and down the Atlantic Coast of the United States, from Northeastern Florida clear into New England. And I think you're not getting the kind of cautious advice that you need to get, and that advice is not coming forthwith from the board or from AMAC. And I think they need to be reconstituted.

I want to make it clear that my criticism is not of the people doing the stock assessment; it's the

advice that ensues after that. Thank you.

CHAIRMAN SANDIFER: Thank you, Mr. Williams.

Dr. Bachman.

DR. BACHMAN: As you know, Maryland is not a member of the Menhaden Board, and we had some people there, and Mr. Coates put Mr. Price on the agenda at my request. And our concern, of course, is a lack of forage base or apparent lack of forage base in Maryland's portions of the Chesapeake Bay. That has been noted for five, four or five, six years, and it seems to be getting worse.

And it has just occurred to me that on three of the management plans under consideration this week, the Horseshoe Crab, the Shad and River Herring and also the Menhaden, we're talking about an ecological component of these stocks. I was rather struck by the comment in, I believe, the Shad and River Herring report which said no data available regarding the ecological significance of shad and river herring.

And it appears that none of the triggers, at least the way I look at it, on the Menhaden Management

Plan address the ecological requirements. And clearly, menhaden are of more interest to all of us, or are of interest to lots of people in this room with respect to their importance for striped bass, for bluefish and that sort of thing.

And somehow or the other, I would suggest that we need to have a process whereby we get more weight given towards the ecological significance of some of these important stocks. I certainly wouldn't propose to say how that should be done, but we all talk about ecosystem management. The Federal Government and all the states are saying we've got to do more. And it seems that somehow or the other, by incorporating those into our management plans, we ought to be able to address that.

And I guess it starts with the Technical Committees of actually putting things in their technical report and looking at it.

It's just a general a comment that I thought was rather interesting that in three major issues this week at least that I heard, there was this forage base or the ecological component of these stocks that we try to manage are of concern.

CHAIRMAN SANDIFER: Thank you, Dr. Bachman.

I'll get George to comment a little bit on the board motion that was made, and then I've got a comment and I've got a couple of others.

MR. LAPOINTE: Joe just gave me a note that one way that ecological concerns have been addressed in the Menhaden Plan is that the natural mortality rate is higher than in other plans, and certainly that's one way of handling that.

But there was a board -- Phil, did you mention the board motion on multi-species interactions?

MR. COATES: No, I didn't.

MR. LAPOINTE: There was a board motion to the effect that the Commission should explore and develop means of incorporating multi-species interactions in Commission management plans. And to that end -- Lisa, has the MSC been dealing with this issue, or Doug, I guess, one or the other?

MR. DOUG GROUT: We had a brief dealing with it a couple of meetings ago where we had a report from Eileen Sussman-Hamilton on multi-species interactions. That's been the extent of it.

CHAIRMAN SANDIFER: I think the points made by Roy Williams, by Dr. Bachman, others concerned with the ecological role of menhaden, are significant for us.

And Mr. Coates, I'm assuming perhaps -- I'm using the very bad word, "assuming." But I am assuming that in the peer review of the triggers as well as the stocks, that this would be implicit in what is being asked to be reviewed? And if that's not the case, let us make it explicit, if that's the consensus of the Board, that the peer review included looking at the triggers or additional triggers that would reflect the ecological significance of menhaden up and down the coast.

And would that take care of the major concerns here, to make sure that these things do get treated properly in the peer review?

Mr. Conklin, you had a comment?

MR. CONKLIN: It's a question, Mr. Chairman. Since we know we're going to discuss the board makeup on the other agenda item, I wonder, for the sake of not repeating ourselves in some of these issues, whether it makes any sense to take that issue up at this time?

CHAIRMAN SANDIFER: We will momentarily.

Gordon.

MR. COLVIN: Just a question, if I could. Was the AMAC report distributed to all the Policy Board members? I know I did not receive it.

MR. LAPOINTE: I don't believe it was, Gordon. We'd be happy to do that.

MR. COLVIN: I would very much like to see that made a practice, considering what we're going to talk about here in a minute. At the present time, we're not all members of it, but it is nonetheless information that we're all interested in. And if there are any extra copies lying around here today, I wouldn't mind seeing it.

MR. LAPOINTE: I guess another thing I think about, because the whole issue of multi-species interaction comes up, I would ask Doug if in fact it would serve the Commission well and the MSC's time well to spend some extra time on the entire issue about how we can, you know, use multi-species interaction in our management process? Because, I mean, we're bringing it up in the context of menhaden, but we hear about it with every management plan that we deal with now.

CHAIRMAN SANDIFER: Let's see if we can

complete our discussion of the Menhaden Board report. Are there any other items, any other questions or comments related to the Menhaden Board report from ISFMP Policy Board members? A.C.

MR. CARPENTER: The question has been raised with the consolidation of the industry to a fewer and fewer number of people or companies -- we're down to one now, I think -- about the local impacts of the fishing operation on, say, the Chesapeake Bay or Long Island Sound, or some other smaller area as compared to the data base of 30 years or 40 years where it was a coastwide fishery.

Is that going to be looked at through the peer review, or will the Advisory Committee address that issue?

CHAIRMAN SANDIFER: Mr. Coates, you are perhaps better equipped to answer that.

MR. COATES: I'm not certain. There is a data base for menhaden that goes back quite a way, obviously, and it would seem to me that that kind of issue should probably be looked at. But I --

MR. LAPOINTE: I don't think we've gotten

into all the specifics, A.C., but that was one of the reasons I suggested distributing the terms of reference to all member -- and I said "member states," but member organizations. I apologize to the Potomac River Commission. So that in fact major questions could be addressed.

I mean, we might have a list of 40, and we won't be able to get to all of those, but there will be some major ones, and I think that's entirely appropriate.

MR. COATES: Mr. Chairman, if I may, could I suggest that ISFMP Board members that would like to perhaps address this more specifically direct some questions to us, and we can convey them along to the Peer Review Team. We could develop a list of questions and issues that are appropriate beyond what we've already talked about.

CHAIRMAN SANDIFER: I think it's an excellent idea, Mr. Coates.

Also, we now have the motion that was before that board on the screen here for anybody who wants to read it and get the actual wording.

Any further comment on the Menhaden Board

report? Anything from the audience on this?

Mr. Coates, you did not present any of this for action. Do you want an approval of your report, or is there anything that really needs action at this point?

MR. COATES: I don't think there is, except this motion, of course, has broader implications than just menhaden, and perhaps that's why I missed it on my report, which I apologize for. But I think at this point there's nothing that requires action.

CHAIRMAN SANDIFER: All right. Let's move then to discussion of the makeup of the board, which is the other issue that is before us with regard to menhaden. George, you want to lead off on this, where we are?

MR. LAPOINTE: Sure. I think most people are aware that there's been some concern about the makeup of the Menhaden Board, and it was expressed at the Menhaden Board meeting on Monday morning. And I recommended that people hold off on that discussion till the Policy Board meeting, because the makeup of the Menhaden Board and the Atlantic Menhaden Advisory Committee is spelled out in the ISFMP Charter. So if there's a change, it's going to have to come from this

body.

It's also spelled out in the plan. And so, I mean, should there be recommendations for changes, the plan would need amendment as well. And so I just thought that this was the appropriate place to deal with that.

There have been members of the public and commissioners alike who have said that the Menhaden Board should be constituted as other boards are under the Charter with membership by states who have a declared interest, and with a traditionally -- a Technical Committee set up as we do other species Management Boards, and an AP set up similarly as well.

CHAIRMAN SANDIFER: Mr. Conklin, I know that you and Mr. Williams have had a great deal of interest in this particular topic. Would you like to address it?

MR. CONKLIN: Certainly. Thank you, Mr. Chairman. George, you have almost stated the motion that I'm prepared to make in a minute. There has been a lot of discussion before the Menhaden Board. Mr. Williams, on behalf of Florida, a few moments ago expressed similar concerns to my own about what has happened traditionally

in the board and the fishery.

He has suggested the same suggestion that many others have made, which is that it is time to consider making this particular board similar to all other boards on the Commission, and I am prepared to make that motion. And my motion would be simply that the Charter and the management plan be amended so that the composition of the Management Board is consistent with the other Commission boards. And as a corollary to that, as George has just suggested, that the technical review process and advisory process be consistent with the other boards.

We've already spoken to the assessment and the overfishing thresholds, so I don't think those necessarily need to be restated. But, of course, as part of that process, that the new Technical Committee as reconstituted be tasked with coming up with that assessment and overfishing thresholds.

CHAIRMAN SANDIFER: Is there a second to Mr. Conklin's motion?

MR. McCLOY: Second.

CHAIRMAN SANDIFER: Would you restate the motion, the part of this that's strictly a motion for

action?

MR. CONKLIN: Yes. Move that the Charter and the Management Plan for Menhaden be amended so that the composition of the Management Board is consistent with all other Commission boards. That's (a) or (1). And (2), that the technical review and advisory committees and process be amended so that it's consistent with the other Management Boards.

CHAIRMAN SANDIFER: Does everyone understand the motion made by Mr. Conklin and seconded by Mr. McCloy? Discussion on the motion. Jack Travelstead.

MR. TRAVELSTEAD: A question. This would in fact remove the industry members from both the board and the Advisory Committee, is that correct? Is that the intent of the motion?

CHAIRMAN SANDIFER: Just one second. Let me get Jack Dunnigan to respond to some of this. And Jack, I'd like a little history on the makeup of this board as well. I think it would be helpful.

EXECUTIVE DIRECTOR JOHN H. DUNNIGAN: Okay. First, to Jack's question. If what the motion says -- and we'll get it up in a minute -- is that you make it like

everything else, it would change the structure of how we manage menhaden. Today for most plans, we have a Management Board, a Technical Committee and an Advisory Panel. For menhaden, we have a unique Management Board, and we have the Atlantic Menhaden Advisory Committee, which serves the purpose of both an Advisory Panel and a Technical Committee.

So I think what it would do is it would remove noncommissioners from membership on the board, and every state that had an interest in the fishery would at that point become a member of the Menhaden Board. It would require then, I suppose, at the request of the new Menhaden Board, that we form an Advisory Panel, which would represent the constituency. And it would require the appointment of a Technical Committee, and our Technical Committees include a wide range of capable technical people, and there's no reason why industry people could not be included on that.

MR. CONKLIN: Mr. Chairman, isn't it also true that the Advisory Committee could include members of industry?

EXECUTIVE DIRECTOR DUNNIGAN: Certainly.

CHAIRMAN SANDIFER: Absolutely.

EXECUTIVE DIRECTOR DUNNIGAN: To address the chairman's question on history, when the ISFMP was reorganized about four years ago now, the Policy Board made the decision to maintain the unique nature of the Atlantic Menhaden Board, given the particular circumstances of that resource and fishery. The program seemed to be working, and it was the one board that in the old system had allowed noncommissioners to be members. So when it was structured that way, it was specifically set up with the specific exemption that's in the ISFMP Charter right now, that the Menhaden Board will be made up of a certain number of members all appointed by the chairman of the Commission, actually the chairman of the Policy Board, which is the same person.

But the Menhaden Management Program has been with this Commission since I ever learned that there was an Atlantic States Marine Fisheries Commission, and it's been a cooperative program working with the industry for 25 years, so there's a lot of history that's involved in how we got to where we are. And essentially when the program was being reorganized a couple of years ago, you

all didn't see a need to make any changes, and so it has continued on with its unique nature.

CHAIRMAN SANDIFER: Jack Travelstead.

MR. TRAVELSTEAD: It seems like we talk about this issue every year, sometimes twice a year for the last three or four years, and every year there have been accommodations made. I note that we just added four new members that were appointed by you, Mr. Chairman, in response to some concerns that were expressed last year.

As Jack indicates, the Commission has a long history of working with the industry on the management of this fishery. You know, they developed the management plan through the Management Board. At the meeting earlier this week, they agreed to a peer review of the assessment. They agreed to either an addendum or an amendment to the management plan to address a number of concerns.

It just seems to me that this motion flies in the face of industry who has done everything they've been asked to do to manage this species. You know, it just seems to me that if the current board had done something wrong or had failed to act, then I'd say get rid

of them right now. I'd make the motion to get rid of them and replace them with the motion that's being made now.

But it seems to me they haven't done anything wrong. They've done everything they're supposed to do up until the point now where they've actually called for an amendment to the plan and a peer review of the assessment. If they fail to act on that, then I would say let's come back next year and do what needs to be done to rectify that process. But, you know, the Management Board, with the industry members, have done everything that has been asked of them to manage this species.

And based on that, I'm opposed to the motion.

CHAIRMAN SANDIFER: Further discussion from members of the ISFMP Policy Board? I will go to the audience before we vote. Mr. Borden.

MR. DAVID V.D. BORDEN: Thank you, Mr. Chairman. In regard to the motion, I intend to take actually the opposite position that Jack just identified. But I totally concur with his characterization. I think the Menhaden Board, my own view is that it has served an extraordinarily useful and productive function for the

Commission, and it's been productive during its tenure.

The reason I have a slightly different position than Jack is that -- and I identified this concern last year -- I don't think that the existing structure is in the long-term interest of the menhaden industry. I expressed this last year. I think that we have to broaden the interstate participation in the management function so that all of the states with a declared interest can actively participate in the management deliberations, which they cannot do now.

And I just view this as it's in the long-term best interests of the menhaden industry to open up the lines of communication between the recreational and the commercial components. And I'm not here to champion the recreational arguments, but I think there's a common perception among recreational fishermen that they don't have a say on this board.

And to the extent that they feel closed out of the management deliberations, they resort to the only alternative they have available, which is to go to their state legislature and systematically close down state waters to menhaden fishing. This has taken place in Long

Island Sound and a number of other states. There's an active battle going on, if you will, in the State of New Jersey. And I see the menhaden industry losing that battle over time.

I think the only thing that will reverse that is if you pass this motion, we set up a more democratic board, a more democratic Advisory Committee composed of all interests, recreational, commercial and so forth, and broaden the lines of communication. So I intend to vote for it.

CHAIRMAN SANDIFER: Other comments on the motion? Mr. Coates.

MR. COATES: Thank you, Mr. Chairman. When I first became board chairman, I was told by several of the board members and several of the Commission members that there was a definite need to do something about reconstituting the Menhaden Board, it was very biased, and the advisory process was biased because of the representation of the industry at various levels.

And, quite honestly, I haven't really had a chance, with only two board meetings, to get a fair analysis of the performance of the board at this point in

terms of dealing with issues such as the one that's before us, before the Board with regard to the amendment and the peer review, to see how they're going to perform.

But I do want to speak to a couple of things with regard to this, because I do have some concerns about this motion at this time. Jack mentioned that there's a history to this whole process, and those of you that haven't been around a long time should be aware that basically a long time ago, the ASMFC basically ran on menhaden. The whole ASMFC system was characterized -- you've heard the old boys' network issue and things like that. Well, the menhaden industry was the backbone of this organization and sustained it for a very long time.

And I think that the current structure that you see now is probably a remnant of that, recognition of that historical support and operation. And at that time, we had a much bigger menhaden industry. We had about, I think, at least 10 or 12 reduction plants operating up and down the coast with a much larger fleet and much higher landings. And things went well back then.

And I just want people to be aware of the fact that there is a historic perspective here.

The current situation is a troubling one for me, the current motion, because I think that again the board really hasn't been given a chance to perform under what is obviously becoming a more controversial situation. At the same time, however, you know, you look at the construct of this board, and one could argue that this could be the wave of the future.

I mean, you've incorporated industry members into an advisory role and into a semi- or a scientific role. I don't want to call it a pseudo-scientific, because there's certainly advisors from the industry that have as much science at their disposal in regard to the breadth of scientific discussion that goes on in these deliberations. And that creates a very effective representational type of operation, and may be the wave of the future for all we know.

And I understand where Dave Borden's coming from. I think, you know, that if the board was viewed to be industry dominated, then there's a potential problem because it does create this singleness of operation and lack of representational breadth that is rather critical. But I don't see it that way. I think that the

appointments that the chairman made recently, adding four members, are going to help the representativeness of the board.

My last thing I want to mention is that if this motion goes forward, I might suggest an amendment -- but I'll let discussion go on a little bit -- that basically would focus on reconstituting the technical side of things, creating a separate Technical Committee and an Advisory Panel to still advise the board as it's currently constituted as perhaps a compromise.

I'd like you to think about that, because that would certainly take away the perception that there may be some, you know, dilution of the scientific quality as a result of so-called industry members who, as I said earlier, have more than adequate credentials, many of them, in terms of their knowledge of the fishery and the resource. But it would at least remove them and let the pure, so-called pure science operate under the Technical Committee as much as pure science operates in our Technical Committees. And, you know, that's a matter of perception by a number of people.

Thank you.

CHAIRMAN SANDIFER: Thank you.

Ms. Shipman.

MS. SHIPMAN: Mr. Coates' suggestion appeals to me. I, for one, find some advantages or some things that appeal to me in co-management, and I think this is the one board we have in this Commission that is as close to co-management as we can come. It's not terribly unlike the council system. I mean, the councils have industry represented on the councils making decisions, and that, in a sense, somewhat is co-management.

Can someone review for me what the current representation on that board is, with the additions, the user groups and how it's constructed? Of the four that were added, what interest groups do they represent?

MR. LAPOINTE: There was a legislator and a governor's appointee added, and then of the two new industry members, we have Representative Shirley Price from Delaware, who I believe is involved in the bait industry, and she also -- Andy, doesn't she have interest in a tackle shop, so she represents some recreational interest as well?

MR. ANDREW MANUS: That's correct.

MR. LAPOINTE: And Phil, it's slipping my mind -- and then Ray Rogers is a retired menhaden industry representative.

MR. COATES: I can't recall the actual construct of the rest of the board, but I believe we did add a -- before that, there was a bait industry person added. I believe the folks from Swansea Ark Bait -- Jerry Sousa's a member of the board representing that sector. And I thought we added somebody else representing recreational interests as well prior to these most recent appointments. But I may be wrong

CHAIRMAN SANDIFER: Mr. Borden.

MR. BORDEN: To Phil's point, last year you'll recall there was a discussion about the same subject, as has already been characterized, and the motion that we passed was to add two bait representatives specifically to the board. I had tried to make a motion to add two recreational interests to broaden the representation on the board, and that failed.

CHAIRMAN SANDIFER: Mr. Goldsborough.

MR. WILLIAM GOLDSBOROUGH: Thank you, Mr.

Chairman. Just in appreciation of the sentiment for broadening representation on species boards, I just wanted to note that in the LGA report, you'll hear of another option for doing that that may also be viewed as the wave of the future toward that end.

CHAIRMAN SANDIFER: Thank you, sir.

Mr. McCloy.

MR. McCLOY: Thank you, Mr. Chairman. I'd like to say that I think Mr. Borden has done a fine job of stating Rhode Island's position, and it could almost be a ditto for New Jersey, because we feel the same way. I won't try to improve upon his comments.

However, our personal experience has been one that menhaden is always in the forefront of the fight between the various user groups. It's a continual problem to combat the perception of the public that we're dealing with in New Jersey as it comes down to menhaden and how the board is constituted. And it becomes extremely difficult, if not impossible, especially for those people that have extremely closed minds, to convince them that everything is up and up and above board.

From my personal perspective, I think, you

know, I have no complaints with the way the board has operated over the last number of years. And I think the direction we're going with the peer review will help in the overall scheme of things, but I don't think it's going to go far enough, and therefore I think there's no alternative really for the menhaden resource down the future road other than moving in this direction as the motion suggests.

CHAIRMAN SANDIFER: Thank you.

Mr. Carpenter.

MR. CARPENTER: I would like to compliment and thank the industry for having supplied the information that the Management Board has had to work with. We have sat here for the last three days talking about data-poor, lack of data, no data, lack of information. This is the single plan that we have the luxury of six triggers.

Think about it, gentlemen and ladies. This one we know more about than any other fishery on the East Coast. It is through the cooperation of the industry that we have this very good data base that goes back as long as any data base that we have.

I think that, as I understand it, there are

now 14 members on that board. There were ten, and then four added this year. If we can't get representation of all the interest groups in 14 people, adding a few more states, I don't think, is going to broaden that. I think what we need to do is work within the confines of the existing Management Board. We may need to replace some particular individuals when their terms expire with some others.

But I would hate to see us pull the rug out from the industry by eliminating them from this board. I think that it has served the Commission well, it has served the industry well, and it has served the public well.

Phil Coates' idea that there may be some tweaking of this through the Advisory Committee and Technical Committee format, I think I'd like to hear more about. But at this point, I don't think I can support this motion.

CHAIRMAN SANDIFER: Let me move now and see if there's anyone from the public here who would like to address this motion. Would you please identify yourself when you come forward?

MR. NEILS MOORE: Neils Moore, National Fisheries Institute and National Fish Meal and Oil Association. I'm a member of both the AMAC and the Menhaden Board, and speaking on behalf of industry, I would say that although we strongly support the peer review of both the AMAC, the Menhaden Board, the science that has been formed through the process, and although we certainly also support the study of the interactions between various species and looking at the various trophic levels, we cannot support changes in the Menhaden Board or the AMAC at this point.

And one of the things that I find very disturbing about the whole process at this point is we just went through this whole process of looking at the Menhaden Board and finished up last year, in essence, adding four new members to the board. Now, it becomes curious to me as to why at this point, having convened one time with this new board and the new composition of this board, that the ISFMP Policy Board would consider making changes already.

So I think that, in a nutshell, we've already gone through this process, we've looked at the

board, changes have been made, and I would ask you to let these changes work, and to see how it pans out.

In terms of the composition of the board and the AMAC Committee, it is different. The industry is different itself. Over 90 percent or so of menhaden are caught by two companies on the East Coast here and landed in two states. There's nothing else entirely close to that, I don't think, in terms of fisheries under the auspices of this Board. And so I would ask you to consider that.

Also, echoing the comments about data, all the data that are provided are voluntary. Since there are two companies, you know, this could in essence be confidential data. It is all voluntarily provided, and I think that industry has been very cooperative and very supportive of the whole scientific process.

We do have a problem with the fishery right now. We have problems with recruitment and, as has been pointed out numerous times, over the past 15 years recruitment has declined. We acknowledge that, and it also concerns industry very much. However, my personal view on this is that the management process sometimes,

when you look at different fisheries, perhaps takes too much credit when a fishery bounces back, and then conversely, too much blame when a fishery goes down.

No matter how much each of you want more recruitment to occur, you can't make it happen. We can only control Mother Nature so much, and these species, of course, are very dependent on the environment and the amount of wetlands that we have and so forth.

But I would add that the current spawning stock biomass that we have of approximately 88,000 metric tons is the highest since 1962. And the figure that closely correlates to this in 1958 produced the highest amount of recruitment ever on record of 15.1 billion fish. Now, recruitment over the past couple of years has been bad. It's been two billion or less. But we currently have a spawning stock biomass that is roughly equivalent of that which produced the largest amount of recruitment in recorded history.

So, to summarize, we would certainly support more creation of science, looking at the science, the peer review process that has been approved by this board. We support that. We also support looking at the

interrelation between species, the whole trophic level dynamics. We support that.

But at this point we would be strongly opposed to any changes in the board and AMAC, and thank you very much.

CHAIRMAN SANDIFER: Thank you for your comments.

Mr. Williams. Are there others in the audience who wish to speak, just so I can get you in order? Go ahead.

MR. WILLIAMS: Yes. On behalf of Florida, we support this motion. Menhaden are not being managed for all the people of the Atlantic Coast of the United States. They're being managed for a few people. They're being managed for a few industries.

The needs of the states further to the south, such as Florida, are being ignored. I believe that the needs of New England are being ignored. I don't know why anybody from New England that historically was very dependent upon older age classes of fish, would support the management structure that now exists.

Florida's being -- the states to the south

are being disadvantageded because recruitment has been so bad and nobody's taking any action to try to do anything about it. The states further to the north in New England are being disadvantageded because there's not an accumulation of the older fish that they used to be able to exploit.

When the Magnuson Act -- I said this earlier. I want to say it again. When the Magnuson Act was renewed in October of 1996, it created new definitions for overfishing and new standards that you have to manage by, that we have to manage by.

The NMFS interpretation of those standards is forcing us to manage fish up around a 40 percent of their virgin biomass. It's going to be very difficult to do that for species, for the predatory fish that feed on menhaden which are being managed down at a three percent level. I don't know how you can get those higher predators to 40 percent when the food that they eat is being managed at three percent. I don't think it can be done.

I think the constitution of the board and AMAC has to change so that menhaden are being managed for

all people of the Atlantic Coast and not just the few that it's being managed for now. Thank you.

CHAIRMAN SANDIFER: Thank you, Mr. Williams. Your point is well taken, though let me remind the ISFMP Policy Board that we are not a fishery management council, and we do not manage directly under Magnuson Act the same way.

I have this gentleman here.

MR. CHARLES WILLIAMS: Yes, sir, members of the Commission. My name is Charles Williams. I'm with Omega Proteins, a commercial fishing company in Virginia. And we're very much opposed to this motion. We look at it as a means to achieve the end of curtailing the menhaden industry reduction fishery to the point where it will not be profitable and go out of existence.

There are numerous restrictions already in place on our industry. The various states on the Atlantic have severe closures to our operation: Massachusetts, Rhode Island, Connecticut, New York. New Jersey is probably going to -- well, has a bill in motion now to restrict the fishery to three miles offshore. Delaware, Delaware Bay is off limits. Maryland. North Carolina has

some restrictions. South Carolina, severe restrictions in South Carolina. Florida has, in the last few years, put restrictions on menhaden fishing commercially in their state.

The resource and the graphs that were put up on the board this week indicating the resource do not take into account the overall continuance of loss of fishing grounds over the years. The numbers have nowhere to go but down if fishing ground continues to be taken away and they're compared with records from previously gathered information over years when fishing ground was open.

So I would just like to say again we believe this to be very detrimental to the industry, and we feel it has a very serious threat to the survival of the fishery. Thank you.

CHAIRMAN SANDIFER: Thank you.

Mr. Connell. I'll come back to the Board in just a minute. Let me finish this.

MR. JOHN W. CONNELL: Thank you. John Connell. As the governor's appointee from New Jersey, I have to point out that fishermen from New Jersey have long

been concerned about the lack of a Technical Committee involvement in this species, and they are very concerned about that and would like to see more action in that regard.

Tom has pointed out the state's position. As an LGA, I have to support what Bill said that LGAs believe in broader representation on all boards, so for that regard I do support this. Thank you.

CHAIRMAN SANDIFER: Mr. Connell, you are aware we've made some representation of LGAs on the Menhaden Board this year, so we have taken one step in that regard?

MR. CONNELL: I am aware of that. Broader and broader is better and better. Thank you.

CHAIRMAN SANDIFER: Thank you for your comments.

Anything else from the audience before I come back to the Board? Mr. Manus, ISFMP Policy Board.

MR. MANUS: Yes, Mr. Chairman. Thank you. I will be abstaining from voting on this motion, but I'd like my position to be known. I think as a group we do a very good job at taking a look at various stock

assessments, taking a look at the various data sets, trying to ground-truth them, trying to figure out what's real, what's perceived, and those sorts of things.

In this discussion here, I have heard the need for structural changes. The need for structural changes, there have been compelling arguments on both sides, some dealing with the need to improve the process, some dealing with the need to address public perception. Structural changes for the sake of structural changes, sometimes they're good, sometimes they're bad. But I think we need to apply the same sort of rigor in evaluating whether or not a structural change is warranted that we do in other areas of making decisions in our business.

I have not heard a great deal about the issue of representativeness, if in fact it is a real issue or it is a matter of perception. I do not know how that relates specifically to the decision-making outcomes. I have not seen or heard a detailed analysis of that particular aspect.

And I would also like to know if the ability of the structure changes will influence sound

fisheries management. I don't necessarily think that we have applied the same sort of rigor to this particular issue that we have in other areas of our business.

So, with that stated, I think I will abstain from voting on this motion.

CHAIRMAN SANDIFER: Any further comments before I call the question? Mr. Colvin.

MR. COLVIN: I will not be able to support the motion as it's presently constituted. Having listened to the very thoughtful remarks of the many Board members who've commented on this matter, it occurs to me that it may well be premature at this time to act on a reconstitution of a board which has just been reconstituted and of which the chairman is clearly concerned about the effect of the action and has assured us of his belief that the board appears to be working effectively.

And I am also gratified by the comments we had from some members, including A.C., about the benefits of the relationship this program has had with the industry over a very long period of time. And I would not like to see that summarily relinquished at so precipitate a time

following a lengthy process of reconstitution of the management program.

That said, let me also say that I think Dave Borden made a good point when he said that it is in the best interests of everyone, including the industry, to make this a more inclusive process. And there are clearly concerns about the technical advice that is coming to this process, and I hope that those things will be looked at.

It occurs to me that we may well find there may well be a peer review scheduled, the conclusion of which is that, from a peer review and a technical perspective, there is not a problem. And if we learn that, I would have to ask why did we change anything? On the other hand, if we learn that there are problems, then we will need to address them, both in terms of making adjustments to the science and perhaps at that time making adjustments to the process of the delivery of scientific advice. But maybe we don't need to make changes until that happens.

Some members have suggested that perhaps some fine-tuning of that process at this time would be in order, and I would support that if they wanted to bring

those proposals forward. But I cannot support a complete restructuring of the board itself.

CHAIRMAN SANDIFER: Dr. Bachman.

DR. BACHMAN: I share the concerns of Mr. Colvin and Mr. Manus from New Jersey. I'm very interested in some of the thinking of Mr. Coates here. Did I say New Jersey? I do it all the time. Sorry about that. Andy, why don't you and Bob McDonald switch seats for a while and make me right. My apologies.

MR. MANUS: Point of clarification. I am from Delaware, and it's not McDonald in New Jersey, it's McDowell.

CHAIRMAN SANDIFER: We've got that, Andy. Thank for your the points of clarification.

DR. BACHMAN: All right. Thank you for getting me straightened out on that, Andy.

But I'm very much interested in some of the thoughts that Mr. Coates had brought up earlier. I certainly am interested in seeing some broader representation, especially in the area of the Advisory Commission or something like that. So I'd be more interested in some of your thoughts that you had there,

Phil.

CHAIRMAN SANDIFER: Any other comments?

Lew.

MR. LEWIS FLAGG: Yes. I certainly concur with Gordon Colvin's comments. This is my first Menhaden Board meeting this session, and so I'm really new to this. But I am very resistant to change. If, in fact, things appear to be working, as I've heard many people here say that the stock isn't in terribly bad shape, and that it appears that the real issue here is the representation, and that we're not representing all the interests out there -- and I think Dave Borden made some very good comments in that regard. But at this time, I'm really reluctant to make that change where there have been new board members appointed. And I'd really like to see this process have a chance to work.

I certainly would concur with Phil Coates' comments, too, that perhaps through broadening the representation through the Technical Committee and the Advisory Panel, that this might really take care of the concerns that relate to broader representation.

CHAIRMAN SANDIFER: Ms. Shipman.

MS. SHIPMAN: The only final comment I would add is it's my understanding the Menhaden Plan is still governed by the standards and procedures, just like all the other plans. And so the actions of that board, however it's constituted -- and I do agree it needs to certainly be more inclusive -- the actions of that board basically should craft that plan to follow the standards and procedures to address some of the issues Mr. Williams raises.

CHAIRMAN SANDIFER: Thank you.

Mr. Dunnigan.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you, Mr. Chairman. I have spoken to the Policy Board about this before, so I think you all know how I feel. I think it's important that we try sometimes to think outside the box. The strongest argument that's been made here this morning is that we need to do it the other way because that's the way we do things around here. And I'm not sure that that's a very persuasive argument.

We don't have a lot of evidence right now that the process is broke. Certainly, Roy has stated some very valid concerns about the way the management program

needs to respond.

But we have a special way of doing this business, and, as Phil said, perhaps this is the way we ought to be doing more of our business. Government is changing, and the way that we relate to the people that we serve is changing. And I think it's not necessarily always the right way to think that government control mechanisms just operating independently are the best way to solve people's problems.

The other point that I would want to remind you of is that the menhaden industry has been good friends of the states and of the Commission for a long time, and in particular when the Commission ran into difficulties in the Virginia Legislature three years ago, the menhaden industry went to bat for us at no small cost to themselves.

And I think that we have before expressed our debt of gratitude, but I think it just undermines the cooperative spirit that has worked here. And I think it's important for us to maintain and reemphasize that at every opportunity we have. Thank you.

CHAIRMAN SANDIFER: Mr. Conklin, before you

speaking, I would like to wrap up this discussion. It's been a very healthy discussion, but I'd like to wrap it up and take action on this motion so we can move on to other items on the agenda here very rapidly. So if somebody else has already stated what you have in mind, let's not belabor it. Mr. Conklin.

MR. CONKLIN: In closing, Mr. Chairman, I disagree wholeheartedly with what Jack just said. The purpose behind my motion was not to just do it because we're doing it. It's because that procedure represents what we considered to be one that is inclusive. Otherwise, why would we do it? It's not a rote activity that we have this process that identifies those interests which adequately represent a fishery. It's not done just because we do it. It's done because it's the right way to do it.

And the recognition of the need to include more people is a good one. However, we're just chipping around the edges and throwing out a little bit here and there to try to get to exactly where we need to be, and that is the process that we all know is representative.

Tradition is fine, service is fine, I

understand that. But if in fact we're going to serve all the people on all the Atlantic states, not just the processing states, we're going to have to take this action one time or another. And I recognize that we just added members to the board. I think that was -- there's no doubt in anybody's mind that that was done to try to make it more inclusive, but it ain't there yet.

If it doesn't happen this year, I think it'll happen next year. I think it would be a lot better if we just went and did it. It needs to happen. I fully believe it will happen. And it will happen because it will not be representative until it does. And secondly, we cannot assume that the only need, the only utilization of this species is to grind them up and make oil. We all know they represent an important prey base for all the other fisheries along the Atlantic Coast. And just because only certain states are grinding them up doesn't mean those are the only states that have a need to be represented in this fishery.

The fish eat the fish. I mean, we all know that. I'm saying it just because it's the exact point that needs to be made here. And because we don't grind

them in Florida or grind them in some of the other states doesn't matter. These fisheries are important to us. And it is an important point that has to be recognized. We all know that. I don't know why we're waiting.

Perhaps it's just a matter of, well, gee, we just did this last year; let's let it work. Whether or not the technical information is gathered, it won't matter, because the representation will still not be there. I don't know why the industry's concerned. What are we going to do to them? Shut them down? I don't know.

But the problem is, if we have a three percent trigger, we all know that that's inconsistent with all the other management that we're doing in fisheries. Whether or not we're governed by the Magnuson Act, it doesn't matter. We don't manage any fishery in Florida at three percent, and I don't know that anybody else here is managing a fishery at three percent in their states. It just is inconsistent. We all know that.

I say don't wait. I urge you to support this motion and let's get there. Thank you.

CHAIRMAN SANDIFER: Thank you.

Any final parting comments from the ISFMP Policy Board? I will allow one more comment from the audience, but this is it, because we do have to take action one way or the other on this motion.

MR. MOORE: Just a comment to the gentleman from Florida. The three percent spawning ratio -- I think folks should take into consideration that this is a lower trophic species here. It's not an upper trophic. It's not a cod. It's not a haddock. It's not a swordfish. There's a biological reason for the three percent, which is certainly much above me scientifically. It's been developed and peer-reviewed through the process by many scientists, including Doug Vaughan. So the three percent is there for a reason, and it appears to historically be the correct number.

I would add also that the interactions between species is taken into consideration within the science process. A natural mortality rate of .45, which I consider to be pretty significant, is incorporated within the science, so that, you know, the fact that many species such as striped bass and bluefish, which depend upon menhaden, is taken into consideration. Thank you.

CHAIRMAN SANDIFER: Thank you.

Let's move ahead. You have the motion before you. I think it's well stated on the board. In order to make this reasonable for us to determine the outcome, let me ask for a vote by show of hands. So those in favor of the motion, please raise your right hand. Those opposed to the motion, raise your right hand. And abstentions, please, same sign. We have four abstentions, the two services, the State of Maryland, the State of Delaware. The motion fails.

I do want to thank you, Ed and Roy, for bringing the issue to a very useful and open discussion. I think it is something we need to do on a regular basis.

I remind you all that throughout this discussion there has been no criticism of the existing board as to the way that it has worked, industry members or others. But the issue has been the representation of people at the table.

And Mr. Coates, I will ask, in my role as Chair, that you ask your Menhaden Board to look at the issue of representation, because the State of Florida has put it eloquently, as has Dave Borden here, but virtually

any of the states which do not have directed fisheries for menhaden are not adequately represented around the table, other than in the Policy Board. They're not there for the Menhaden Board. And that's an issue that I think the Menhaden Board should address as to how is that most properly handled.

You had something that you wanted to bring up?

MR. COATES: Yes. I think that's a good point, Mr. Chairman, and we'll bring that forward before the board. And I will also indicate that we're going to try and do this peer review in as timely a manner as possible, recognizing that Lisa Kline and the scientific staff has got an enormous amount of items on their plate.

And lastly, with regard to the issue I suggested as a possible substitute, and that would have been to restructure the Technical Committee, the AMAC Advisory Committee, I will talk to the board about that. I'll put it on the agenda for an active discussion about whether or not it might be appropriate to create a separate Advisory Panel and a separate Technical Committee as per the ISFMP process.

Because I think that there has been some concern expressed about whether or not, you know, the Technical Committee operates in the pure atmosphere of a scientific, objective, scientific perspective, and I think it does. But, you know, I think we can certainly look at that issue, and I will report back at the Annual Meeting.

CHAIRMAN SANDIFER: I think that would be very helpful and healthy discussions for the Menhaden Board to have, and I think there'll be a number of us who will follow those discussions with a great deal of interest.

Anything else on this item? If not, we will move on.

George, is there anything else on the organization of the various boards that we need to take up? Since we've just been talking about that, I think perhaps we'd want to continue that line of --

MR. LAPOINTE: I think we should, and Steve Driscoll, the chair of the Governors' Appointees group, who I think will also represent the Legislators because they aren't here this morning, would like to discuss an item they've had about board makeup as well.

MR. STEVEN J. DRISCOLL: Thank you, Mr. Chairman. The LGAs formed a subcommittee back at the 56th Annual Meeting to explore the possibility of moving from the current ISFMP board structure to a structure more closely related to the Sections for the Northern Shrimp and the Atlantic Herring established under Amendment 1 of the Charter.

The subcommittee presented a recommendation to the full LGA body which supported the motion that follows:

Motion that the Commission extend board membership to all commissioners from every state delegation with a state-declared interest in a particular fishery. Voting would be by caucus, and the necessary changes to the ISFMP Charter would be made to implement this process. Additionally, the current practice of appointing one legislator and one governor's appointee to each species management board representing all the respective legislators' and governors' appointees would cease.

I would recommend that this idea be taken up with the full Commission.

CHAIRMAN SANDIFER: Mr. Driscoll, let me make sure I understand this. You're not asking for action by the Policy Board; you're perhaps seeking some discussion here and then action at the full Commission level?

MR. DRISCOLL: Absolutely.

CHAIRMAN SANDIFER: Mr. Dunnigan.

EXECUTIVE DIRECTOR DUNNIGAN: The Commission's Rules and Regulations delegate the responsibility for this to the Policy Board, so under the current rules, it's the Policy Board's decision on how to revise the ISFMP Charter.

CHAIRMAN SANDIFER: So, Mr. Driscoll, you're back stuck with us.

MR. DRISCOLL: Well, I was trying to leapfrog, but it didn't work.

CHAIRMAN SANDIFER: Is this a motion made on behalf of the Legislators and --

MR. DRISCOLL: This is a motion from the LGAs, and I remind everyone that they are two-thirds of the Commission.

CHAIRMAN SANDIFER: Do we have this motion,

Jack?

EXECUTIVE DIRECTOR DUNNIGAN: I'm getting it.

CHAIRMAN SANDIFER: The sense of this motion, Mr. Driscoll, is to have legislators and governors' appointees appointed to each Management Board. Is that correct?

MR. DRISCOLL: Yes. But it would be by caucus vote state by state on the Management Boards. That would be the only change.

EXECUTIVE DIRECTOR DUNNIGAN: Mr. Chairman, currently in the Commission's procedures we have Management Boards, but we also have Sections under Amendment 1 to the Compact. And the way that Sections operate, first of all, Amendment 1 says that any two or more states may jointly delegate regulatory authority to the Commission and that such states shall form together a Section for the purposes of making those decisions.

The way we have operated in practice, currently we have two Sections, one for Northern Shrimp and one for Atlantic Herring. And essentially all of the commissioners from each state that's represented on the

Section are members of the Section. And when it comes time to vote, each state has a single vote, and then the Commission's normal procedure is when voting is done on a state-by-state basis, the commissioners from each state are required to caucus in order to determine what the state's vote would be on the particular matter in question.

So, as I understand the recommendation that has come from the Legislators and Governors' Appointees, would essentially be to adopt the Section model for the whole process of the ISFMP.

MR. DRISCOLL: Not exactly.

EXECUTIVE DIRECTOR DUNNIGAN: Not exactly.

MR. DRISCOLL: Only the voting would be a caucus vote. If there were commissioners at the meeting, they would be allowed to sit at the table and speak and also, when the vote came, it would be a state-by-state vote by caucus. Nothing else would change, not the authority or any of the other things. That would be the only change.

EXECUTIVE DIRECTOR DUNNIGAN: I don't think that we said anything different from each other.

MR. DRISCOLL: Good!

EXECUTIVE DIRECTOR DUNNIGAN: That is essentially the difference between a Management Board and a Section. We always invite commissioners to sit at the table. Very often commissioners decline to do that and sit in the audience, and that's clearly their choice. But they've always been welcome at the table, and we've always encouraged states to caucus among each other when it comes time to make a vote, but it's not a required practice to do so.

It would be required --

MR. DRISCOLL: We would like it to be required.

EXECUTIVE DIRECTOR DUNNIGAN: -- in this scenario, because you're voting for the state, rather than voting for yourself as an individual member of the board.

CHAIRMAN SANDIFER: We will go ahead and let you get a chance to get the motion on the table.

MR. DRISCOLL: I'd just like to say that the legislator or governor's appointee that sits on the board is in an almost impossible position to represent every legislator or every governor's appointee on a

statewide basis on a different issue. We are appointed to represent our state. And we've had situations where some commissioners have tried to do the job and found that they were no longer a commissioner.

So this is a situation which needs to be rectified. When I first came to the Commission, I was appalled at the fact that we were all sitting around in chairs up against the wall in Rhode Island, because the only experience I had had with the Commission was the sections, where the three commissioners sat up front. And I'd seen this for ten years or more in the Shrimp Section.

So this was discussed at length and has been discussed before, and I don't believe -- George mentioned that it might be a large expense, but we're all paid travel expenses to come, and I doubt if you're going to have that much more attendance than you have now. But if there is an interest, they should be able to caucus with their state director for the vote.

CHAIRMAN SANDIFER: Mr. Lapointe.

MR. LAPOINTE: Steve brought up one of the issues that I mentioned at the meeting, and it was just my opinion as director of the Interstate Fisheries Management

Program that if you did in fact make this shift, it would take extra money because commissioners would feel compelled to come to meetings that they may not now broadly because they'd have to come to all of them.

And I also added that it would likely slow down our process, just so people recognize, because the more people you get involved in discussions, the slower they go. I mean, that's just a statement of fact.

The Shrimp Section works very efficiently because it's nine people. It's three states. Herring works a little less efficiently because it's more states, seven states and the council, and it just -- I mean, that's just a manifestation of human behavior.

And those were the observations I made to the LGAs, just so that people had staff's view.

CHAIRMAN SANDIFER: Discussion by Policy Board members? Questions or comments? Steve, I've got a question for you, and it's following up on what George said, that one of the problems with the LGAs, continuing problems has been attendance, particularly for legislators, because no matter what time we meet, somebody seems to be in session. And it makes it very difficult

for many of those folks to join us for those meetings.

Would the more democratic process that you're suggesting actually result in better participation by those members, which would be good for the Commission, or is it likely to remain about the same and really not do a whole lot for us one way or the other?

MR. DRISCOLL: I think it would -- might increase attendance in some cases with people that really have an interest in the situation that's going on, which board is meeting. But the basic problem is that the commissioners are not represented properly. They can't represent their states properly the way that this Charter is working now. And it needs to be rectified. And that is the way that the Legislators and Governors' Appointees feel.

MR. LAPOINTE: One thing that the section membership and the caucusing does is that it gives those commissioners a distinct stake in what's going on, and they're there. I mean, if you look at the Section meetings, the Ls and the GAs have a higher stake, and they do get right involved, arguing about issues and paying attention. I mean, that's another observation I should

make.

CHAIRMAN SANDIFER: Mr. Conklin.

MR. CONKLIN: Question, so I understand.
Does caucus mean there'd be a single vote?

MR. LAPOINTE: Yes.

MR. CONKLIN: Thank you.

CHAIRMAN SANDIFER: Mr. Goldsborough.

MR. GOLDSBOROUGH: Thank you, Mr. Chairman.

I just want to reiterate what I see as the fundamental issue here that the LGAs are trying to bring to the table, and that is that we want to do what we've been appointed to this Commission to do, which is to represent our states. The current system, while it results from an attempt to bring LGAs more to the table, actually has made that objective more difficult to reach for the LGAs, because when they sit at the table as the single governor's appointee or the single legislative appointee at a species board, they are compelled to represent their colleague LGAs from up and down the coast, which may at times differ dramatically from the interests of their particular state.

I've been in that position myself on

striped bass, and it's a very difficult position. And Steve is right, that there have been LGAs that have been removed from the Commission by their state as a result of that process.

So to reiterate, the fundamental point here is that the LGAs simply want to find a way that they can do what they were appointed to the Commission to do, to represent their states. Thank you.

CHAIRMAN SANDIFER: Mr. Coates.

MR. COATES: I'm sympathetic to that issue. I understand the difficulty of trying to represent 15 or possibly 30, in some cases, divergent viewpoints. And I think we need to address that.

But I'm also concerned about a motion of this type and what it might do in terms of the so-called perceived efficiency of the board process if we start recognizing, we encourage everybody, all commissioners to come to every meeting, every meeting month, and we also -- I make it a point, at least if there's a hot issue coming up, I'll go out. Now Bill Adler's here today, and he came up and consulted with me on the previous vote.

And I make an effort to do that, even

though I'm a member of the old school and feel that there's really no need for anybody except me to make these decisions.

Seriously, I am very sympathetic to that, and Steve has raised it to me before, and I think we have these really contradictory situations here: the efficiency issue, which I notice is on the agenda, and this representational thing. Because it's a difficult situation, and I'm not sure that sections are the solution. But I wonder if there's some way we could create a -- oh, boy! I don't have an answer. I don't have an answer.

But I am definitely swayed by the arguments I'm hearing from the LGAs and their need to -- maybe more LGAs on a board, so that the LGAs could feel that they're representing the divergent interests anyway, and then it's up to the two of them to reconcile any median position or, you know, something like that might be a reasonable compromise.

I'll drop it for now, but I don't have an answer.

CHAIRMAN SANDIFER: Mr. Borden.

MR. BORDEN: Thank you, Mr. Chairman. I totally concur with Phil's observations. I had some of the same concerns. I'm reluctant to vote on this, to be candid with you, because I don't think we'll do justice to the serious nature of the motion. I think we should do one of two things: Either table it and reflect on it and confer with our other commissioners on it, and schedule it for discussion at another date, and also ask the staff to look at it from fiscal impact perspective; or refer the issue to a special subcommittee which would be composed of a variety of different groups.

One of those two alternatives, I think, is appropriate.

CHAIRMAN SANDIFER: Mr. Carpenter.

MR. CARPENTER: I also am going to abstain from the vote on this, because I don't have an LGA, either a legislator or a governor's appointee to represent Potomac River Fisheries Commission.

But I do have a suggestion, and that would be that all board meetings have facilities that are large enough and tables that are large enough to accommodate three people with a declared interest from each state.

There have been many meeting rooms that we have been in that, quite frankly, you can't get another person to the table, and you're elbow to elbow.

I realize there's a cost involved in renting space, but that might be at least a solution. If there's a seat next to each board member for his respective LGA from the two sides, it might encourage them to sit at the table. It's just a thought.

CHAIRMAN SANDIFER: Let me move to the audience. Mr. Connell had a comment, please?

MR. CONNELL: Thank you. The section system works; it works very efficiently. There are no long delays due to caucusing needs. I think George pointed out that going to this approach would increase interested commissioners' involvement in these plans.

And I think Phil pointed out one of the concerns we have. He did mention Bill Adler came up and caucused with him, but Bill Adler was part of the audience until that time. Commissioners should be sitting at the table. A commissioner is a commissioner is a commissioner. And they should be sitting at the table. Even though we have the right, as was just pointed out by

A.C., very often there aren't facilities for commissioners, and they should be major participants in this process.

Our discussions have indicated we don't believe it would increase costs significantly. Those people that are going to come aren't going to come to all the meetings anyway. Those people from those states that will want to come will continue to come. When you have major issues coming up in fisheries, you will have increased participation, but that should happen.

And I thank you.

CHAIRMAN SANDIFER: Thank you.

Is there anyone else from the audience?

Yes, please.

MR. WILLIAM ADLER: Thank you. I'm Bill Adler. I'm in favor of this concept here that was brought up for all reasons that you've heard. There is also concern in the LGAs about the possibility that it would become a very big, big section, and all the problems that would come with that. In some of the Management Boards now, that would be a very, very big section.

And to that point, there is a subcommittee

that was appointed to look into how that could be handled -- they took the Lobster Board as an example -- of possibly splitting the board, the newly constituted board into a region board, if it's that big of a board. And that needs to be looked at to see if it could work.

In other words, they're going to try to work the scenario of how this would work, which would address one of the concerns which I'm sure is up here with regard to how big is this board section going to be if you've got a species that goes up and down the whole coast, and you've got three people from each state sitting there, and you've rented an auditorium now for this meeting.

So they are cognizant of that, and there is this subcommittee of the LGAs that is planning to come back at the August meeting of the LGAs to run the scenario by to see if we can solve that particular problem. That would perhaps help in this particular proposal. Thank you.

CHAIRMAN SANDIFER: Your comments are well taken.

Mr. Driscoll, then I've got a couple of

comments I want to make, too.

MR. DRISCOLL: I just wanted to read into the record from the rules, Compact Rules and Regulations, Article III, Quorum, Voting and Procedure, Section 2 on Voting.

Voting in any meeting of the Commission or any of its sections shall be by states, one vote per state, with the vote of each state being determined by the majority of that state delegation of commissioners who are present. Voting in all other committees, boards or other groups shall be by individual members. The Executive Committee may approve any exceptions to this rule. Any time a commissioner casts a vote on a body on behalf of a state, consultation should occur first, if practical, with the other commissioners from that state.

Thank you.

CHAIRMAN SANDIFER: Mr. Driscoll and all of you commissioners, regardless of our home base, that is, whether we work in the public agency or legislator or governor's appointee, who may be a private, completely private citizen, businessman or work in other agencies, we

are all commissioners. That's what the Charter, the operating Bylaws of this organization say.

Mr. Driscoll has correctly pointed out that we are supposed to caucus, as we can, now. And I can assure you from my personal experience with the political process, that should my legislator, legislative commissioner from the State of South Carolina, make it to some of these meetings, I will guarantee you he will have a place at the table wherever I am. I've worked with him and for him far too long not to know how the system works.

I would like to ask perhaps a favor of the LGAs, and rather than take action on this motion today, I would ask that the states, that the LGAs take it back and do the study, the discussion at the August meeting that Mr. Adler suggested, let staff work a little bit on the efficiency ends of things of how we would accomplish this.

And Mr. Driscoll, let me ask you if embodied within this motion is also the idea that a state caucus, the three commissioners could determine that it may be in the best interest of the state for one of those commissioners to serve as the voting representative on various boards on a regular basis, in the event that

others cannot attend? I don't think there's anything in your motion that prevents that. It simply allows every commissioner to participate in the boards in which the state has interest.

Personally, I don't have a problem with that, I really don't. If we are all commissioners, we are all commissioners. And the only thing I would ask is that there be a little bit more time for deliberation and discussion of this at your state levels, and that the LGAs and the Commission staff do a little bit more work on just how much it was likely to cost us to do this, what kinds of meeting arrangements would be necessary, whether we really would anticipate a great deal of expanded attendance by LGAs and so on, before we take a vote.

Have you go through this perhaps in the August meeting and have this as a major item, perhaps our first item of business at the Policy Board for the October meeting. Because I think it's something that deserves a little more deliberation that we're likely to have time to give it today, and it's a very important issue for us.

MR. DRISCOLL: I would agree with that.

CHAIRMAN SANDIFER: Is that a reasonable

approach to take? And simply postpone a vote on this motion to get a little bit more study and have staff work with the LGAs at your August meeting to try to perfect a plan that might be presented to the ISFMP Policy Board for a vote in October, and allow each of the state directors and Policy Board members to work within their caucuses at home to see what the desire of the state would be.

Rather than have us as individual representatives at this point voting on this, let us go back and caucus with our legislative and governor appointee members, commissioners, and be sure how it is we ought to be casting our votes.

MR. DRISCOLL: Is it possible that the LGA meeting that we would have in August, we could invite the state directors again to participate? At the subcommittee meeting, we had two, but if we'd had more, we could have got more input. That would be very good if we could really sit down and bat it out.

CHAIRMAN SANDIFER: I think it would be a very reasonable procedure.

Mr. Coates.

MR. COATES: I was just going to say let's

make sure that the schedule is free for the opportunity for the state directors to show up.

CHAIRMAN SANDIFER: Mr. Colvin, you had a comment?

MR. COLVIN: I would suggest, in the course of that discussion, that something else also be added to the items under discussion, and I'll speak very frankly. It occurs to me that there could be some other impacts that perhaps may not have been thoroughly thought through and need to be. And that's why I think the chairman's recommendation is extremely wise.

Governors' appointees -- we all carry baggage into this process, and the governors' appointees, I think, to the Commission may be carrying more baggage in many cases than the rest of us. Many of them come not just from a state, and with the charge to be representative of the interests of the fisheries in that state, but they also come from a point of view within the state. Many of them are associated with particular constituencies within a state. That's certainly the case of Pat Augustine -- he'd be the first one to admit it -- speaking for New York.

It occurs to me that a very active role by all commissioners, including governors' appointees, in voting on every action that's moved before every Management Board may well -- and that, the governors' appointees' vote, may well in many cases, certainly not all, but in many cases prove a determining position with respect to a state's ballot, and may well affect the viewpoint of other constituencies within that state with respect to who holds that seat.

And I'm speaking very plainly here. And I think that that's an issue that requires a little bit of thought before we come to closure on this. And I hope that it will be discussed.

CHAIRMAN SANDIFER: Thank you.

Mr. Driscoll.

MR. DRISCOLL: I agree with Gordon a hundred percent, because in my state, being a commercial fisherman, I do all I can to try to represent all sectors of the state, not just the commercial fishing industry. And even that is difficult to do. But I believe that Gordon is right, that has to be done.

MR. COLVIN: I've heard it said here this

morning, and I'm very sympathetic to this concern, that there may well have been changes in states' governors' appointees as a result of the way we've been doing business. Let me suggest to you that if we change business to this way, there will probably be even a greater number of changes in governors' appointees.

CHAIRMAN SANDIFER: And it may not be just the governors' appointees who get changed.

Mr. Manus.

MR. MANUS: I would just suggest that to facilitate the discussion in the August or fall meeting, that if this is going to be postponed or tabled, that a copy of this be made with a cover letter from Mr. Driscoll and sent out to all commissioners so that they will put it on their respective radar screens so they know what needs to be addressed. And the cover letter should have a very succinct problem statement that this is trying to address.

CHAIRMAN SANDIFER: Thank you, Mr. Manus. That's an excellent suggestion.

Let me ask Jack what's the appropriate parliamentary procedure for us to follow? Can we postpone or should we table the vote with a time certain to take it

up again?

EXECUTIVE DIRECTOR DUNNIGAN: Postpone by unanimous consent till the Annual Meeting.

CHAIRMAN SANDIFER: Postpone by unanimous consent until the Annual Meeting? If I see any -- no dissent, so I'm assuming unanimous consent to do this. I think the suggestion from Mr. Manus is to mail out this information to all commissioners. That would help ensure that the LGAs will be in attendance as well as the state director commissioners at the fall meeting for discussion of this item.

MR. DRISCOLL: Except you were going to appoint a subcommittee or authorize a subcommittee for August so that we could work on this, and a cover letter and all that would go out before the August meeting, and then we'd bring it up at the Annual Meeting.

CHAIRMAN SANDIFER: I don't think a subcommittee, per se, is necessary, Mr. Driscoll. You've got the LGAs, and we will invite as many of the state directors who can be there for that meeting. Rather than have a subcommittee, have as many of the LGAs who can make the August meeting, as many of the state directors who can

make that, and staff to work with you. They've been instructed to work with you on the efficiency in meeting requirement. That's going to happen.

MR. DRISCOLL: Okay.

CHAIRMAN SANDIFER: And then the response would be perfection of this or any other report that would come from the August meeting to October meeting for a vote at the ISFMP Policy Board, and I will ask staff to put that as the Number 1 action item for us to take up at that time.

MR. DRISCOLL: Thank you.

CHAIRMAN SANDIFER: If we may move upon, continue to move along this what I hoped was a short agenda, which is growing by the moment here -- Mr. Lapointe.

MR. LAPOINTE: I might suggest -- Patty Jackson showed up. Welcome, Patty. Happy commuting! The AP has another item about board membership that we might as well just take up right now. I mean, it fits in well, and so I would suggest we go to Patty's report at this point.

CHAIRMAN SANDIFER: Without objection from

the Board, we'll move to the Advisory Panel.

MS. P. JACKSON: Good morning, Mr. Chairman, members of the Board. I'm Patty Jackson, chair of the Advisory Committee. Our committee met yesterday afternoon and, as part of our agenda, we reviewed the Advisory Panel process. One remaining issue from our October meeting was that the Advisory Committee had recommended at that time to the Policy Board that the Advisory Panel chairs become voting members of their respective Management Boards.

While we recognize that we would have to be representing the expressed positions of our Advisory Panels, if not our individual positions or any positions on which the Advisory Panel had not taken action, there's a strong feeling, I think, among the Advisory Committee members that we would have a stronger role in the decision-making process if we had a vote on those boards.

And I think the staff has a suggestion of how this might be addressed by the Board.

Another issue that has come before the Advisory Committee is that there is a great deal of interest among our members in adding language to broaden

our purpose. While our purpose is stated to advise this Board in your mission -- it makes it difficult certainly to change your mission; we're not proposing to go in and change the Compact language -- I think there is some opportunity perhaps for us to change or add to, amend the language in the Advisory Committee Charter. And there is interest in adding language regarding restoration and conservation as long-term goals or overall goals of the Advisory Committee.

Fred Schwab, who's a member of the Advisory Committee, has agreed to prepare a draft memo with Tina Berger, and that would be then submitted to the Advisory Committee members for our review and approval, and then we would pass it along to this Board for your consideration. Jack has suggested that perhaps that could be done as part of the strategic planning process, so that this would be something that would be considered as part of that.

We have also identified three members of the Advisory Committee who are willing to assist with how this might be implemented, and also with the strategic planning process if it's your desire to have input from the Advisory Committee. Fred Schwab, Ralph Maling and

myself have offered to be available for any or all of us to participate in that process.

The third issue is that the Advisory Committee Charter calls for us to meet at least annually. There was consensus among the members that we would like to continue to meet twice a year so that we can continue to have discussion on the issues of mutual concern among the Advisory Panels. We felt that once a year was not often enough. But if we don't have anything to discuss, we can cancel that second meeting.

I think you can tell overall from these three items that there is a great deal of interest among the Advisory Committee members in having a greater role in the process. So we're willing to try to do that in whatever way makes sense.

The last item on my list is that we do plan to elect a new chair and vice-chair at the October meeting, so this may be my last report to you officially. And I wanted to thank you for the opportunity to participate in giving the Advisory Committee's reports to the Board. I will continue to be involved and work in whatever way is necessary on the Advisory Committee.

And I wanted to thank the staff, particularly Tina, for all their help in assisting me in carrying out this role. Thank you.

CHAIRMAN SANDIFER: Thank you, Patty. On behalf of all of us, we appreciate the work that you have done and the Advisory Committee has done to help perfect the fishery management process of the Commission and make it far more inclusive and far better than it has been before. I think the last several years of involvement of a much broader spectrum of people who are affected by what we do has made what we do a lot better than it was in previous years. And all of us appreciate the time and effort made by the advisors.

MS. JACKSON: Thank you, Mr. Chairman.

CHAIRMAN SANDIFER: Let me ask George to remind us that we had planned to create a subcommittee to look into some of these items that you've raised already, and I'm not sure that it's been done yet. But let me drop to my sometimes efficient key staff person.

MR. LAPOINTE: Well, you're not sure it's been done. I'm sure it hasn't been done. Mr. Chairman, the Policy Board at its fall meeting passed a motion that

a subcommittee be formed to look at the issue of membership, voting membership on boards, because that's one of the things that AP members have asked for in the past.

When we had that discussion, Gordon Colvin also said should we bring up the issue of council membership, because the councils have in the past said they would like their board chairs to be voting members on our boards. And I did not do that.

And Jack and I were talking the other day about the fact that we need to get the Board together, and if we veneer that on top of the discussion about LGAs, there's a lot of potential changes. But that certainly needs to be done.

And we talked at the Advisory Committee meeting yesterday about two or three Advisory Committee members just as part of that subcommittee, and then we would need some Board members, some Policy Board members as well.

Jack, did we pick specific members of the Advisory Committee?

EXECUTIVE DIRECTOR DUNNIGAN: No, but Patty

and Ralph and Fred are willing --

MR. LAPOINTE: And Patty and Ralph Maling and Fred Schwab are willing to work on that subcommittee. So you might look for some willing victims.

CHAIRMAN SANDIFER: Looking around this table at the usual suspects, could I have three members of the ISFMP Policy Board who'd be willing to meet and work on this this summer with the Advisory Committee members of the subcommittee and staff to come back to us with a recommendation? If I don't have volunteers, then I get into the business of appointing. You know how this works. Either you volunteer or I volunteer you. It's immaterial to me.

MR. DRISCOLL: When is this going to happen? In August?

CHAIRMAN SANDIFER: Hopefully.

MR. DRISCOLL: I volunteer.

CHAIRMAN SANDIFER: Steve. Mr. Travelstead.

MR. TRAVELSTEAD: I just volunteered, Mr. Chairman.

CHAIRMAN SANDIFER: Thank you.

Mr. Colvin. Thank you for agreeing to serve.

It's such a pleasure to deal with such enthusiastic responses.

MR. LAPOINTE: The spirit of volunteerism is alive in America.

CHAIRMAN SANDIFER: Patty, is there anything else from your report that requires us to take action at this time?

MS. JACKSON: No, sir. Thank you.

CHAIRMAN SANDIFER: Thank you very much for the report.

George, let's move to the -- can you do the fishery management plan update in 20 minutes? We want to take a break at 10:30 for checkout.

MR. LAPOINTE: I will try. We could do shark management sooner. I mean, that's probably more likely to last less time.

CHAIRMAN SANDIFER: Are we prepared to do shark management? Who has that one?

MR. LAPOINTE: I'll do it, because Bruce Freeman wrote a letter to us and requested this be put on

the --

CHAIRMAN SANDIFER: Let's do coastal shark management.

MR. LAPOINTE: -- agenda, and Bruce isn't here. I believe you all have a copy of the letter Bruce wrote. And first of all, in humor, I would like to know what a shark puffing ground is?

CHAIRMAN SANDIFER: I assumed that New Jersey was taking a particular stand on the tobacco legislation and moving through Congress at every opportunity.

MR. LAPOINTE: The issue of shark management has come before the Commission before, and Bruce mentions that Bill Hogarth came, I believe, to our meeting in Hyannis and asked the Commission to take some action. I don't know if it was then or soon thereafter -- Susan, correct me -- when the South Atlantic Board said they would take this issue for the Commission so that we didn't have to prepare an FMP on sharks specifically.

We discussed this at the next South Atlantic Board meeting, which was well over a year ago, maybe even a year and a half ago, and at that time there

was a presentation by Highly Migratory Species staff on the identification of those nursery and pupping areas. And there was considerable -- there were a lot of questions raised about the accuracy of the information that was being presented.

And I talked at that point with Andy Kemmerer about putting together a workshop so that if in fact we took action, it would be based on the best information we could get. And that frankly fell through the cracks.

The issue of shark management has come up again because the Mid-Atlantic Council, I believe, wrote a letter to all the other councils, the Commission, all the states, Gulf and Caribbean, probably Trinidad and Tobago, but just about everybody who might be affected, asking that action be taken, because they say that we need to take action in state waters, both on the nursery and pupping grounds issue and on closure of state waters -- that's their request -- when federal waters close, because last year, and I believe this was in the Gulf of Mexico, there was considerable harvest in state waters after the EEZ closed.

So I guess with that, I mean, that's kind of my background on it.

I would ask -- Margo Schultz from the Highly Migratory Species Office of NMFS is here. Margo, do you want to add anything at this point? And then we'll just open it for discussion among Board members.

MS. MARGO SCHULTZ: I would add at this point -- Margo Schultz, Highly Migratory Species in NMFS in Silver Spring -- that we have obviously a number of things on our plate, primarily the development of an HMS FMP, which would be amendments to the Swordfish and Shark Plan, as well as development of a Tuna Plan, and that is going to be submitted for secretarial review by September 30th.

And within that, we're going to be revising a lot of the regulations for sharks, but also part of the EFH requirement identifying essential fish habitat. And we've had a couple of Advisory Panel meetings where this has been discussed, although not too much has been proposed about specific grounds. But we are looking at it, and it's likely that a lot of the grounds that would be proposed would be in state waters. And so we're going

to be looking to the states for as much cooperation as possible.

We also have a large coastal stock assessment scheduled for about two weeks now, June 22nd to the 26th, and we're going to be evaluating the status of large coastal sharks as well as, you know, any number of management measures. If there's time, we would like to get to pelagics and small coastals, but I'm not too optimistic about that.

And then we will have another Advisory Panel meeting specific to sharks at the end of July. That would be July 27th and 28th, where the results of the assessment will be discussed as well as management measures that we're drafting as part of the HMS FMP.

A couple of other things is limited access for sharks is still under consideration by the agency. We haven't forgotten it. It's just a matter of being able to get to it. And it's likely that we're looking at early '99 at this point for that. And there has been discussion and concerns raised that if states were to close state waters, that people that had been fishing exclusively in state waters may have trouble being eligible for limited

access in federal waters. And we've told the people that have raised that, primarily people in New Jersey, that that is a valid concern, and that we would, you know, try and deal with that. We don't want to do anything unfairly.

I could talk a little bit more about our time line, but that's kind of the update that we've got.

MR. LAPOINTE: Thank you.

CHAIRMAN SANDIFER: Mr. McCloy.

MR. McCLOY: Thank you. I have a different letter than you do that Bruce sent. The one I have is correct. I guess the real rationale behind Bruce's letter was a result of a meeting we had with our council members to try to implement some of the provisions that are in place in federal waters as well as to complement the various measures out there.

One of the issues that our council identified as being kind of problematic, especially when you get to the enforcement aspect, is the closure of nursery and pupping grounds. And I would use Delaware Bay as an example, because I think that's been designated as one of those areas.

Enforcement, for all intents and purposes is going to be effective primarily shoreside. We do have enforcement on the water, but the reality of the situation is that in most cases the effect of is going to be shoreside. And if you use the Cape May Harbor, for example, as an example, you have access to both the Atlantic Ocean and Delaware Bay through the canal. And if you're trying to enforce closure of a nursery area, i.e., Delaware Bay at the dock in Cape May Harbor, it's next to impossible to do because, first of all, you don't know where the person came from or where he claims he was fishing.

And we were looking at other alternatives, in particular possibly minimum size limits. Obviously, if that's -- I don't know whether that's under consideration by National Marine Fisheries Service. It wouldn't be real effective for New Jersey to take that tack all by itself, because when the fish swim out of New Jersey waters, then, you know, they're subject to capture and it probably would not be very effective for management purposes.

So I think the real purpose of Bruce's letter is to try to get some insight from the other

states, whether you think that that is a viable approach to management as well as from National Marine Fisheries Service.

CHAIRMAN SANDIFER: Go ahead.

MS. SCHULTZ: I just want to say that minimum sizes are on the agenda as a possible management measure.

CHAIRMAN SANDIFER: Thanks, Margo.

Jack.

MR. TRAVELSTEAD: For Tom's benefit, I would say that minimum sizes are a very effective way of addressing this problem. In fact, a couple of years ago, Virginia did just that. I believe we placed a 58-inch minimum size limit for all sharks other than dogfish in place, and have found that -- that was at the request of Jack Music at VIMS who has looked at sharks for a number of years and expressed concern to my commission about their status.

And it was actually his idea that we take this approach, and I think our experience in the last couple of years has been very effective.

CHAIRMAN SANDIFER: Other comments. Ms.

Shipman.

MS. SHIPMAN: We received authorizing legislation this year to allow our Board of Natural Resources to set bag limits, size limits, and also to prohibit any landing after a federal quota is met. And we will be going to public hearing this summer to implement those regulations.

CHAIRMAN SANDIFER: That legislation is specific to sharks or --

MS. SHIPMAN: The legislation actually is broadly encompassing of other species, but sharks -- and we plan to deal with it with a composite group and also have a separate category for the small sharks, being spiny dogfish and smooth dogfish. But the main driving force behind the legislation was the situation with sharks.

CHAIRMAN SANDIFER: Other comments by ISFMP Policy Board members? Comments from the audience? David Cupka.

MR. DAVID CUPKA: Thank you, Mr. Chairman. David Cupka from South Carolina. I just want to point out that we were probably one of the first, if not the first, states to implement legislation where we track the federal

plan. So we have legislation on the books that says the provisions in the Atlantic Shark Plan become the provisions of state waters as well. So whenever there's a closure in federal waters, we're closed in state waters.

We also track things like bag limits, size limits automatically. I think this has been helpful, but unfortunately if all the states don't have something similar, then you do have these gaps, and it loses a lot of its effectiveness.

CHAIRMAN SANDIFER: Any other comments? Tom, in deference to both of Bruce's letters, I'm not sure what action he's asking us to take. It's very clear that he's raising this issue. And one potential action or one possible action we could take is to have staff accumulate what the current regs are federally, what is being proposed by National Marine Fisheries Service and what looks like it's really going to go somewhere by National Marine Fisheries Service, what states already do in fact have a mechanism of effecting such closures, and any other things that may be in the works, such as the size limits and such, and bring that back to us as a compendium of where we really are up and down the coast with shark

management.

And perhaps that would give us the basis then for making any further recommendations or decisions at the Policy Board level. I'm not sure exactly what it is Bruce expects us to do here.

MR. McCLOY: I think that's probably more than he expected you to do, and I think that would be most helpful for all of us. I think, you know, from our standpoint, it's probably premature for us to move ahead with minimum size limits if it's still under consideration on the federal level. And, you know, we'd have to have consultation, of course, with our neighbor in Delaware at least, and probably in New York.

But at any rate, I think that information would be very helpful to at least set the stage for where we need to go maybe later this summer.

CHAIRMAN SANDIFER: Let me just ask, since we have all of you here today as the states represented, to pull together where you are in your states with regard to shark management and send that to George. That will be the first step.

Then I'll ask George to work with the

National Marine Fisheries Service staff, Margo, to make sure that we have both what is currently in effect and as soon as you can release something for the Federal Register Notice, or whatever your next step is, to us. Once we've got that information, then we can put it together and send it out to everybody, hopefully in advance of the October meeting. And you'll have it as a basis for making any further decisions or for us making recommendations on behalf of the Commission back to our member states.

Ms. Shipman.

MS. SHIPMAN: There's still the issue, I think, of the workshop and the identification of the pupping grounds. We all, most of us, I believe all the states, have a letter pending before us from the Mid-Atlantic Council regarding closing our pupping grounds, and there's a big gap of information there, and I think we still need to pursue that forum to try to bring this information to us.

CHAIRMAN SANDIFER: Would you care to give us a motion that we would support such a workshop or --

MS. SHIPMAN: I think we've already done it actually. I think it's just an issue of continuing to

follow up and coordinating with National Marine Fisheries Service on that.

CHAIRMAN SANDIFER: Thank you very much.

Is there any further discussion on the coastal sharks issue? If not, I'd like to recess for no more than 30 minutes for everyone to check out and get back here. We will start at five minutes till 11:00. Okay? There is no grace period. We will start at five minutes till 11:00.

(Whereupon, a short recess was taken.)

CHAIRMAN SANDIFER: I'd like to skip ahead and do the Management and Science Committee report, if we could. Go ahead and give the Management and Science Committee report, then we'll do the Habitat Committee report and end up with the fishery management plan update and other items.

MR. GROUT: Thank you, Mr. Chairman. Again, the Management and Science Committee's been very active and very busy over the past six months. I think I'm immediately going to turn you to Tab 11, Section 9 of your briefing book, and we're going to discuss peer review, the semi-annual prioritization that this Board has

to do. We can give you a brief update about where we've been, and there's several species that are going to need to have reprioritization by the Policy Board.

Again, that's Tab 11, and then Section 9. And it's labeled on the blue sheet, "Peer Review Process Update." As many of you know, there were several peer reviews that have been conducted or are going to be conducted following your prioritization last fall. They include sea herring, striped bass, sea bass, scup, weakfish and winter flounder. Also, the American shad and sturgeon went out for external review. And internal reviews either are going to be conducted or have been conducted for menhaden, red drum and Spanish mackerel.

Now, of course, menhaden has taken on a different light right now because of the request by the Menhaden Board for an external peer review.

But there are also actually four other species that have not had peer reviews conducted or prioritized. First of all, I want to point out on the table following this memorandum from Lisa Kline there was an error on it. Under northern shrimp, it says, "Is an assessment being conducted" -- in Column 2 -- "in '98-99."

That should be a "Yes." They do conduct an annual stock assessment. It probably isn't going to be the full DeLury method. But basically you need to change that. It is not, at least at this point, scheduled for a peer review, but I do want to remind you that in 1996 it was peer reviewed before we even had this peer review process at the SAW/SARC process.

So with that one change made, officially we have to put that up as peer reviews have not been conducted since we implemented this process, but, you as a Board can decide whether it needs it and what priority it has for this biennial process.

Also, summer flounder had an internal review conducted. Horseshoe crab, again may be moved up as a higher priority now. Again, that's up to your decision, since it does have a stock assessment now, and it is a stock assessment where an FMP is being developed. So that makes it one of the higher priorities in your peer review process.

Also, you should be aware with bluefish, there was no SAW/SARC peer review conducted. But you should know that there is a new model now being used for

bluefish stock assessments. So suddenly that is now higher on the prioritization list than it was before.

So from what I see here, there are four and possibly five species that this Board needs to prioritize for the next six months in our peer review process, either bluefish, horseshoe crab, menhaden based on the recommendation of the Menhaden Board, and the other two species which do not have a prioritization right now are summer flounder and northern shrimp.

CHAIRMAN SANDIFER: Doug, you're asking for direction from the ISFMP Policy Board as to the priority for the first three of these, is that correct?

MR. GROUT: The first three, and also where you want to put the priorities actually of the last two. But it's up to you whether you want to make it a higher prioritization than they are. Again, bluefish, you have a new model. Horseshoe crab, you have a new FMP. And that puts them, at least by the process which was adopted by this Board about a year ago, puts them on the higher priority list right now.

CHAIRMAN SANDIFER: And under menhaden, just as clarification before we get to discussion, there

was discussion of the multi-species interaction issue, that it be referred to Management and Science specifically for menhaden, but it's a more general issue as well. When you take up the menhaden under this stock assessment, will you also include the multi-species interactions issues wherever we placed a priority?

MR. GROUT: If the Board would like to have that on there, certainly yes, it could be used as a terms of reference for the menhaden.

CHAIRMAN SANDIFER: I think that's what I understood. I want to make sure that that's the consensus of the Board. I'm getting nods of assent around the table. That is the consensus of the Board. So whatever priority we place on menhaden, it also becomes sort of the test case for using multi-species interaction as terms of reference. Is that clear for everybody? Okay.

Now let's go to discussion of priorities.
Jack Travelstead.

MR. TRAVELSTEAD: With respect to bluefish, the new model that was mentioned that was developed by, I guess, the council and ASMFC Technical Committees, was peer reviewed by the Mid-Atlantic Council's S&S Committee,

and I'm just wondering out loud whether or not that satisfies requirements for peer review. In my mind, it does. And I know that we have letters from Andy Rosenberg indicating that that review satisfied the National Marine Fisheries Service.

So I would suggest to this group that we have a peer review, and that as a result, bluefish can be either taken off the list or lowered in priority.

CHAIRMAN SANDIFER: What's the wishes of the Board? Ms. Shipman.

MS. SHIPMAN: I agree with Jack. At that joint meeting, we all agreed that that was a sufficient peer review.

CHAIRMAN SANDIFER: Again, I'm seeing nods of assent. Is there anyone who differs with that? If so, we can delete bluefish from the list as requiring peer review, Doug. So that takes care of it.

MR. GROUT: Saying that the council S&S Committee was the peer review process for that that took place this spring.

CHAIRMAN SANDIFER: Does it meet -- are you all confident that that meets the requirements for peer

review as we have enunciated them in our documents? I hear Yeses around the table again. Okay.

So now we're left with horseshoe crab, menhaden, summer flounder, northern shrimp with regard to priorities. Further discussion from the Board? Mr. McCloy.

MR. McCLOY: Thank you, Mr. Chairman. I just think it's important with the fast track that horseshoe crab is on for approval of a plan in October, that we proceed with that with all haste. At the board meeting yesterday, there were some comments from the audience which were not real complimentary of the stock assessment because of some of the data that was used and some of the data that wasn't used.

And I think it's important to get that process reviewed by an independent outside source, so it will lead hopefully to some validity and some belief by the public in that data.

CHAIRMAN SANDIFER: Public comment. Mr. Manus.

MR. MANUS: I would echo Mr. McCloy's suggestion.

CHAIRMAN SANDIFER: May I have a motion from someone to set a priority then? Tom.

MR. McCLOY: Okay. You want me to do the other species also, or do you want to talk about them first?

CHAIRMAN SANDIFER: Talk about them, but let's -- I don't hear anybody else saying there's something ahead of horseshoe crab.

MR. McCLOY: Okay. I would make a motion that horseshoe crabs be given top priority at this point.

DR. BACHMAN: Second.

CHAIRMAN SANDIFER: Moved by Mr. McCloy, seconded by Dr. Bachman. Discussion on the motion from the Board? Anyone from the audience who wishes to have anything to say about this motion? All in favor, signify by saying Aye; opposed, like sign. Abstentions. Motion carries.

MR. GROUT: Just a clarification. That's an external review?

CHAIRMAN SANDIFER: External review.

Now, the next issue before us is where menhaden falls relative to summer flounder, northern

shrimp, or where northern shrimp and summer flounder fall relative to menhaden, however you want to look at this. So what is the second priority, or would someone care to make a motion to establish priorities for the remaining species? Mr. Conklin.

MR. CONKLIN: I'd move that menhaden take the second spot after horseshoe crab.

MR. TRAVELSTEAD: Second.

CHAIRMAN SANDIFER: Moved by Mr. Conklin, seconded by Mr. Travelstead. Discussion on the motion. Mr. Carpenter.

MR. CARPENTER: Just a question. I'm looking at this table. It says there was an internal review conducted in April of '98. Was that conducted, or was that planned to be conducted?

MR. LAPOINTE: That's the annual AMAC -- stock assessment that AMAC reviews.

CHAIRMAN SANDIFER: Mr. Grout.

MR. GROUT: Internal or external or SAW/SARC on this?

MR. LAPOINTE: External, got to be.

CHAIRMAN SANDIFER: Okay. Let's make sure

we agree that this is where we want to be. Any comment on placing this as the second priority for the Management and Science review, getting peer review? Any comment from the audience? All in favor, say Aye; all opposed, like sign. Any abstentions? Motion carries.

Doug, do we need to do anything further with the last two, or -- do we need to place them in an order, or can you just deal with them as lower priority items?

MR. GROUT: I would say just to let us know if you're satisfied with the type of reviews that have been done. Again, the only reason we brought up northern shrimp was because it was done before the peer review process was in place, even though it went through one of our mechanisms only two years ago.

CHAIRMAN SANDIFER: Mr. Colvin.

MR. COLVIN: I'd just like to address myself briefly to summer flounder. Mr. Chairman, the summer flounder assessment is not going to be SARC this year, as I understand it. But I don't know when it is going to be. Do we have some indication of the next scheduled SARC review on the Summer Flounder VPA?

MR. LAPOINTE: I'm looking at my boss, and my boss is looking at me.

MR. GROUT: I have no input on that.

MR. COLVIN: Well, I think we all know, those of us who are involved in this fishery, that the fact that our assessments tend to be a little behind what's happening in the resource is becoming more and more of an issue in the fishery. The quotas remain small, the restrictions remain pretty tight. But there are a lot of fluke around, and discarding is becoming, you know, just an immense problem.

And while some of that's unavoidable because of the way we're managing the fishery, I do think it creates even greater difficulty when we are not on top of the assessment, when we are telling the fishermen, "Yes, we know you're disgusted by what's going on, and guess what? We're not updating the assessment this year." That's a problem.

And all I can say is that I would like us to charge our representatives to the SAW Steering Committee to do what they can within the Steering Committee to accelerate the update and a full SARC on the

Fluke VPA.

CHAIRMAN SANDIFER: Gordon, would you like to place that in the form of a motion?

MR. COLVIN: I'd be happy to move that, Mr. Chairman.

MR. BORDEN: Second.

CHAIRMAN SANDIFER: Discussion on the motion. Mr. Pate.

MR. PATE: A question for the staff, George, if you know the status of the proposal that I want to remember came up last year for the review of the assessment by an outside source? Wasn't it the Academy of Sciences, money appropriated for the National Academy of Sciences to review that?

MR. LAPOINTE: Yes. Anne, do you know what the status of that review is?

MS. LANGE: No, I don't.

CHAIRMAN SANDIFER: I think we've just given some instruction to staff to find out what the status of that review is.

MR. LAPOINTE: Certainly that's a necessary step, but that will be a review of the assessments that

have been done in the past, and leading into what Gordon is saying, that that be updated as well, I think.

CHAIRMAN SANDIFER: Mr. Colvin.

MR. COLVIN: Just so people who aren't quite so close to this understand. Over the course of the summer, we're going to have to set quotas for 1999, and we're going to be setting them based on an 18-month-old, I guess, SARC report on the Fluke VPA. So we're going to be guesstimating what to do without an assessment update.

And this is when we already know that the way the VPA works, we're a year to two years behind what's really happening in the biomass when we set the quotas to begin with. So we're getting farther and farther behind the eight ball on this, and the fishermen are getting pretty disgusted.

CHAIRMAN SANDIFER: Gordon, would you restate the motion, please?

MR. COLVIN: That the Policy Board charge the ASFMC representatives to the Northeast Stock Assessment Workshop Steering Committee with doing what they can to accelerate a full update to the summer flounder stock assessment.

CHAIRMAN SANDIFER: The question's before you. Any further discussion on the question? Any comments from the audience on this? Mr. Lapointe.

MR. LAPOINTE: Just a comment, and I think I made it the other day, that the issue of discards is going to remain with us regardless of whether we update the assessment or not, and that's something that the Commission will have to deal with broadly. As our plans become more successful, the discard issue is going to be one of our major challenges in the next decade.

CHAIRMAN SANDIFER: Thank you.

All in favor of the question, say Aye; opposed, like sign. Any abstentions? The motion carries.

Doug, I think that effectively establishes your next priority.

MR. GROUT: Okay. That's three. SAW/SARC?

CHAIRMAN SANDIFER: I think you've got that one.

MR. GROUT: Yes. And then four, northern shrimp. Are you all satisfied with what's been done so far, or do you want to move it?

CHAIRMAN SANDIFER: I think we're in good

shape there, and it's fallen out as a logical fourth place in this particular exercise.

MR. GROUT: Okay. Just to update the Policy Board, per their charge, the Management and Science Committee is developing peer review standards which will set up specific guidelines for the Commission's peer review process. It was our intent -- we've come up with a rough draft which we have not finalized our discussions on, but that could be used as a basis for any external peer review process between now and when those standards are formally developed.

Number 2 would be the fish health issue, which was referred by Dr. Geiger last meeting, as he asked the Policy Board to charge the Management and Science Committee with looking into fish health issues. And at that meeting, I had asked Dr. Geiger to formally give us some specific charges to this rather than just a broad general topic. And he did that via a letter to Dr. Sandifer, which I believe Lisa has copies of for all of you.

CHAIRMAN SANDIFER: Doug, we're having a little off-the-record discussion here as to whether this

really should come before the Executive Committee or the Policy Board, but go ahead and get it distributed. You're on the agenda for the Executive Committee as well, but for the sake of completeness, let's go ahead and discuss it here and any action will be taken at the Executive Committee level.

MR. GROUT: Okay. Just a point of clarification. Since this was a charge from the Policy Board, would the Executive Committee have to come back to the Policy Board?

EXECUTIVE DIRECTOR DUNNIGAN: No.

MR. GROUT: Okay. I guess the way I was going to discuss this was to let you folks read the specific charges. Again, he sort of has Items 1 through 6, which are sort of like some of the WHEREASes in a resolution, identifying some of the concerns and potential problems here. And then if you look in the last paragraph, he has essentially eight items that he would like the Management and Science Committee to examine.

We had, in the Management and Science Committee, some questions about it. And maybe Dr. Bennett might be able to answer some of our questions about it, if

we could go through it this way.

The first question to the Management and Science Committee was, does this include shellfish and crustaceans as well as finfish?

DR. BENNETT: Well, do you want me to respond to that? Let me provide some clarity as to our thoughts when we submitted this forward. Based on the Policy Board meeting back in Hershey, Pennsylvania, where this all originated, we agreed to develop a draft charge. As a result, that's why we forwarded it to Paul. And I guess the question now becomes, how do we deal with it?

We also forwarded it, cc'd it to you, Doug, as chairman of the Management and Science Committee, so you had a chance to review and discuss it.

My thoughts are that I'd like to see -- I don't think it's necessarily all-inclusive here what we have. I'd like other people's, Board members' input into this to see whether they agree, disagree, needs to be expanded, shrunk, however everybody sees fit. This isn't just our charge. I see it as a Board charge, and therefore would look for input and maybe some mechanism to clear up this charge.

I personally have no problem with it expanding to shellfish.

CHAIRMAN SANDIFER: I'd just remind you, though, that we have an interstate shellfish management process, fishery management plan in place and so on for shellfish.

Dr. Bennett, this is a good first effort at this, and it was asked by the Policy Board last year. However, most of us, or those of us who got this, got it at most a week before this meeting, and there's probably been very little time for review. And I think the best thing for us to do at this point is to ask all the members of the Policy Board to take this home and review it and provide input, Rick, I think probably back to you first. Would that be appropriate? And let you take another cut at it, and then send to Management and Science? Or we could send it directly back to Management and Science.

I know I particularly have one major concern that's not addressed in here, and that's the national and international trade in fresh and frozen seafood products as avenues for potential disease spread is not referenced anywhere in here. And yet the recent

literature is quite replete with concerns and some specific things identified in that regard.

So there's an area of completeness that needs to be worked on here, or a sense of completeness before it's referenced for further work by the Management and Science, I think.

DR. BENNETT: I have no problem if people want to send their comments direct to me to take that crack. But I also would like some mechanism where once we do that, we don't have to wait till another Board meeting to get the Management and Science Committee moving forward on this, not have to delay till October. But I don't know if there's a mechanism to do that.

CHAIRMAN SANDIFER: If it's the sense of the Board they wish to refer this to the Management and Science as is with review comments to come back to Management and Science and let them begin working on it and assimilate a report back to us, we can do that. I'd be glad to see -- if that's the wish of the Policy Board, maybe that's the best thing for us to do, is to give this as an assignment to the Management and Science Committee.

Doug, before I do that to you, do you want

to comment on it?

MR. GROUT: Two comments --

CHAIRMAN SANDIFER: He will pass it along to the next chairman who will be just delighted to receive this charge. I can see him grinning.

MR. GROUT: Two comments. I just want to caution the Board that at least as the charge is right now, it's a voluminous task. This is not going to be back with a report in October. I guarantee you it will take at least a year, unless you want to take us all off our other duties. We are fortunate also that Items 1 and 2, we've already handled, and just going to need to be updated. But the other items may take a little while to put together.

But again, we're more than willing to take this on if the Policy Board feels it's an appropriate issue for us.

Number 2. If we're going to go the route of -- I think we would like to have the vehicle as the Management and Science Committee to have a few questions that we had about them aired either via the Policy Board to answer, or directly to Dr. Bennett. It doesn't make

any difference. We just had some questions on how to narrow things down and be more specific in the information that we're going to obtain and the report that's going to be produced. Because there are some items here that are extremely broad.

CHAIRMAN SANDIFER: But I believe I detected a volunteerism, a spirit of volunteerism from Dr. Bennett to work with Management and Science to make sure this is fully fleshed out.

MR. GROUT: Especially since he's the chairman of our Steering Committee for this issue.

DR. BENNETT: Well, I wasn't there when they did that.

MR. GROUT: Neither was I when I became chairman of Management and Science.

DR. BENNETT: And I saw how the spirit of volunteerism worked earlier.

CHAIRMAN SANDIFER: Without objection, I think we will refer this to Management and Science. Please provide comments back to Management and Science Committee. The Fish and Wildlife Service is invited to continue to work on this with Management and Science.

For those of you who may not be aware, there are also two relevant workshops this year, one conducted by EPA on risk assessment relative to viruses in shrimp in particular, crustaceans, mainly shrimp. There will be a follow-up workshop this summer, the last two days of July in New Orleans under National Marine Fisheries Service auspices to look at management of the risk associated with such viruses.

And I think both of those workshop proceedings, the process they're going through, will provide quite a bit of useful information for Management and Science. And I'm sure the next chairman of Management and Science will have access to those documents, since they're coming into my office, and we'll make sure that you get that material to use as references.

Doug, any other items from Management and Science?

MR. GROUT: Just to let you know that right now there's two major issues we're working on, one in the room right across the hall here on the workshop on long-term coordination of a nearshore trawl survey. We hope to have a proposal for the Policy Board by the fall on how to

do this and come up with the specific how to accomplish this and maybe even come up with funding potential proposals.

The second thing, major thing we have on our docket is a Tagging Protocol Workshop, which is going to be conducted at the AFS Annual Meeting in Hartford this fall. It's going to dovetail from a Tagging Symposium that's going on on Wednesday. We're going to take a crack on Thursday at evaluating the value of angler tagging programs in this workshop, and then develop a tagging program protocol for angler and scientific tagging programs.

And those are the major things on our docket right now. We have about five or six other things that we're working on, too. And if you're interested in them, you can talk to me personally or Dale.

CHAIRMAN SANDIFER: Questions or comments for Doug, Management and Science activities? As usual, they've got more to deal with than possible, but they're doing a great job. Thanks, Doug.

MR. GROUT: Thank you, Mr. Chairman.

CHAIRMAN SANDIFER: I think in the future,

one of the other areas that we may want to consider having Management and Science look at in a sort of umbrella view is this whole issue of regulatory discards. It's something that's having to be dealt with on a variety of individual fishery management plans.

And just to put it on your radar screens, as you all know, it's one of those areas that's contentious no matter what we do. And it'd be nice to have some long-term thinking as to some alternatives to regulatory discards that we might use when we get down to individual fishery management plans. Just something else to put on your radar screen and Dale's for the committee to begin thinking about.

All right. Let's move on now to the Habitat Committee report, Mr. Goldsborough.

MR. GOLDSBOROUGH: Thank you, Mr. Chairman. I want to start by distributing to the Policy Board our Issue Paper Number 2. This should seem familiar to you. It was mailed out on June 1st under separate cover in order to perhaps stand out from the mass of paper that you received. It's also in the briefing book under Tab 2, but that copy does not have Page 4. It was inadvertently left

out. Therefore, we are distributing a complete copy right now so everyone has it. The one you're receiving also has three small but significant edits that the Habitat Committee agreed to when it met on Monday.

The Habitat Committee met in February, and I want to note that, as far as I know, that's the first time the committee has met outside of the spring or Annual Meetings. And I think that indicates there's quite a bit going on on the habitat front, and I want to thank the Commission for its commitment in affording a third meeting in 1998 for the Habitat Committee.

There is a lot going on. As you know, a year and a half ago, I think, the Habitat Committee appointed two subcommittees, one on SAV, which culminated in the adoption of an SAV Policy last year by this Board; and also one on EFH, Essential Fish Habitat, and that subcommittee has been very active lately doing a lot of good work under the leadership of Wilson Laney, who I want to specifically recognize.

In addition, if you'll recall from my report at the Annual Meeting last fall, we put together what we called the Habitat and FMPs Committee, which is an

attempt to create a bridge to habitat managers at the state and federal level, some of whom we brought in to be on that committee with some members of the Habitat Committee. And you'll see the membership of both that and the EFH Subcommittee listed on the issue paper that's distributed and is in front of you now.

I want to recognize Pat Hughes from North Carolina Division of Coastal Management and Lenny Nero from the Florida Department of Environmental Protection, who are co-chairs of that committee. They have put in an awful lot of time, as have all the members. It's hard to recognize any specific individuals without noting that all of them have worked quite hard.

And, of course, none of this would have gotten done if not for the staff support that we've gotten. I want to recognize Dianne Stephan to my right in particular, and Robin Peuser who assists Dianne, and Claire Miller, who did before Robin.

Having gone through all that, now I want you to focus, if you would, on Issue Paper Number 2. You may wonder why it's Issue Paper Number 2. There was an Issue Paper Number 1 back in the winter, which the

committee developed to look at the specific question about whether or not the Commission should adopt the EFH definition from the Magnuson-Stevens Act. We did a lot of deliberation on that at our February meeting, and we have culminated in a recommendation that is the first issue in Issue Paper Number 2.

We then take it to the next step, and I'll go through these issues and describe where we ended up. We have three recommendations for the Board to consider and act on in this paper.

Let me start off by telling you that there are two themes that run through this issue paper. The first is the need for improved marine fish habitat protection, and the second is the need for consistency -- and this is a difficult one -- consistency both with the EFH designation and work that's going on under the Magnuson-Stevens Act at the federal level, but also consistency with precedents and previous actions here at the Commission.

Turn if you would to Page 2 and Issue Number I, which I'll read: "Should the ASMFC adopt the congressional definition of essential fish habitat found

in the Magnuson-Stevens Act?" This issue, as I said, was first outlined in Issue Paper Number 1. We've gone through it quite a bit. And we have determined that the definition of essential habitat that this Policy Board adopted in October of 1994 is equivalent in spirit to the definition of essential fish habitat under the Magnuson-Stevens Act.

Moreover, a number of species are co-managed by the Commission and by the councils, and in those plans, EFH will be designated using that definition from the Magnuson-Stevens Act.

Because of this, the Habitat Committee recommends -- and now I'm reading the bolded portion under Issue I; this is the first recommendation for the Board -- recommends to the Policy Board that the Commission adopt the Magnuson-Stevens Act definition of EFH. And I would offer to the Chair to perhaps take action on that before I proceed.

CHAIRMAN SANDIFER: You have a motion before you from the Habitat Committee as stated, that the Commission adopt the Magnuson-Stevens Act definition of essential fish habitat. Discussion on the motion. Mr.

Carpenter.

MR. CARPENTER: And that is the definition that's highlighted in Footnote 1, is that correct?

MR. GOLDSBOROUGH: Correct.

MR. CARPENTER: Thank you.

CHAIRMAN SANDIFER: Mr. Lapointe.

MR. LAPOINTE: Bill or Dianne, tell me what you see as the functional implications of that? I mean, essential fish habitat versus essential habitat?

MR. GOLDSBOROUGH: Well, a lot of that will become clear as we proceed through the issue paper, so I hate to say it's premature to vote on this now, because I don't think it is, but maybe Dianne can offer something else.

MS. C. DIANNE STEPHAN: The functional aspects of that, George? Is that what you said?

MR. LAPOINTE: Yes.

MS. STEPHAN: Well, the main issue here I think is that we maintain consistency between waters that are managed by federal agencies and those managed by state agencies. And maybe there's something more specific that you were looking for.

MR. LAPOINTE: My ongoing redneck concern, I guess, about how EFH might be used or, more appropriately, misused. I mean, it will just be the definition, and it won't be --

MS. STEPHAN: Well, a little bit later on, we're going to talk about the consultation authority that comes with this essential fish habitat, and the Commission is not going to be in a position to be able to implement that at all.

MR. LAPOINTE: Thank you.

MR. GOLDSBOROUGH: Mr. Chair, if it would make the Board more comfortable, we can put off action on any of these recommendations until we've gone through the whole issue paper. Would that help?

CHAIRMAN SANDIFER: Why don't we do that? You have several motions or several recommendations that will probably take the form of motions, and let's deal with them all together or separately as we may have to, depending on the wishes of the Board, but get the whole thing on the record here.

MR. GOLDSBOROUGH: That will be fine. I would ask you to move to Issue Number II, "Should the

ASMFC include EFH designations in its fishery management plans?" Naturally, that would be the next question. We addressed this by understanding that the fishery management plans adopted by the Commission are divided into three categories: those that are managed solely by the Commission; those that are managed in association with the councils; and those that are managed jointly with the councils.

Essential fish habitat will be designated, using the Magnuson-Stevens Act definition, for the latter two of those types, those that are managed in association and those that are managed jointly. So they will appear in those Commission plans, those plans that have the Commission's name on them.

Given that, this leads me to another recommendation, but I would point out first that that designation of EFH in those cases will not require additional work on the part of the Commission and would provide for maximum consistency between federal and Commission management programs, as Dianne pointed out.

So that leads me to the next recommendation in bold at the top of Page 3, which is: **The Habitat**

Committee recommends that EFH designations be included as a part of Commission FMPs developed jointly or in association with fishery management councils.

Now, having put that on the table as well -- we have two recommendations to the Board so far -- let me interject that some might wonder how the Commission would be able to be involved in the development of the designation of EFH for those plans that we are involved with the councils in cooperatively. The Habitat and FMPs Committee took up this matter earlier this week and have a suggestion to that effect. It has not been before the Habitat Committee yet, but I think it is very workable in all of our discussions formal and informal.

Their suggestion is that staff and the committee take a look at states' comments on these EFH amendments to these plans and pull them together and distil, together with some coastal considerations, a report for the consideration of the species boards on the EFH designation for each of those plans. And each species board could then consider submitting that report or something derived from it to the councils for consideration as they finalize those EFH designations.

That's a draft process at this point. I don't think we need any Board action on that, but I put it before you in case you do have any input to offer as we perfect it.

I'll let you think about that and move along to the next question, which has to do with management plans that are managed solely by the Commission and how we might treat habitat in those plans. And note first of all, to reiterate, that there are no federal habitat-related statutes or requirements associated with Commission fishery management planning. So we are not required to designate EFH in our plans.

Furthermore, there would be no regulatory effect of us doing so. There is no consultation requirement for the Commission as there is for the council plans under the Magnuson-Stevens Act. In other words, federal agencies are required to consult with the councils on any potential action they have some influence over that might affect EFH as designated in those plans. This would not be the case for Commission plans.

Furthermore, we feel that there would be quite a bit of confusion if we did move forward to

designate EFH in Commission plans. A lot of people would wonder, including many of us, I'm sure, from time to time, whether or not there were any regulatory aspects to the EFH if we did so designate it in any of our plans. And we want to minimize confusion, of course.

Finally, I want to note that the Magnuson-Stevens Act EFH mandates have required a tremendous diversion of effort and resources on the part of NMFS and the councils. So, if the Commission did decide to designate EFH in a consistent manner for its plans, it would require additional fiscal resources.

Given all of that, even if the resources were identified, I want to note again, there are no legal requirements for federal agency consultation, so there may in fact not be any improvement in habitat conservation if we took that step in a regulatory sense.

That leads me to our third recommendation to the Policy Board, which is at the bottom of Page 3, and there is a slight wording edit, you'll see, which is significant. The Habitat Committee recommends that, for the present, EFH should not be required to be designated for species managed solely by the Commission.

Those are the three recommendations for the Board captured by this issue paper.

Before you take them up, let me move to the next issue, which is probably on your minds, which is, okay, if we're not going to designate EFH in Commission plans, how are we going to deal with habitat?

And this leads me to the next thing we want to pass out, which is hopefully a final draft of a guidance document for the development of habitat sections in Commission management plans. This was mailed to you under separate cover in late April, an earlier draft. This draft has some perfections, but it is not substantively different from the one that you received.

I would propose that I go through this word by word. Now that I've got your attention, let me tell you I do not intend to do anything like that. Instead, let me essentially hit the high points. I would ask the Board not to be diverted by the guidance document I just passed out. I do want to finish up the final point in the issue paper before moving substantively into that.

In a nutshell, how we propose to deal with habitat in Commission habitat plans. We have developed

this guidance, which is consistent with EFH interim final rule. You'll note, or perhaps you're aware, that in the final rule they have identified another habitat designation known as habitat areas of particular concern, HAPC. And at this point, I can refer you to our highly sophisticated graphic on the wall behind the chair, which describes the different habitat types that I think we need to be cognizant of.

The outside line is essentially the entire range of a species, and we would propose to describe that, the total habitat for each species, in the habitat sections. The second line, the pink line, is the EFH designation that the councils are laboring over defining for the plans they're involved in. And you'll note there are what are intended to be suggestions of variance around that line. So it's a very difficult process that's taken a lot of work to define EFH.

Then the inside circle is the subset, again, of EFH and the total habitat, which is the habitat areas of particular concern. We do propose to identify these in Commission plans. These are areas, if you'll note the third paragraph under Issue III, that are defined

in the interim final rule with four parts.

First of all -- an HAPC would include one or more of these points. First, the habitat has a high degree of ecological importance. Second, the habitat is sensitive to human-induced environmental degradation. Third, the habitat is or may be significantly stressed by development activities. Or fourth, the habitat is rare.

If any of these apply, HAPCs would be identified for each Commission species. And HAPC, I must point out, is also being identified in council plans. So there would be consistency on that level as well. I can give you an example of HAPC: submerged aquatic vegetation, which we adopted a policy on last year can be defined by looking in the literature. Any specie that depends on SAV would have it included under the definition of HAPC.

So, in short, what we propose to do is identify the total habitat, the range and the HAPC for each species covered solely by the Commission.

And the final sentence under Issue III points out that we have directed the Habitat and FMPs Committee to include HAPC designation in the guidance

document, which I now refer you to.

As I said, I'll hit the high points rather than belabor this 15-page document, which is comprehensive, I think you'll agree. As I said, you had this in your hands earlier, so I'm sure you would agree as well. Let me say first of all that although it's 15 pages long, I don't think there's a need for concern about some tremendous increase in workload that would be thrust upon the PDTs or staff or Board members, for that matter.

We have heard the agencies' concerns about being overburdened and unable to devote substantial resources to habitat, something that is generally the responsibility of other agencies in the states, so the guidance is developed to make the process easy.

In addition, I should point out that we are not proposing that a voluminous habitat section be added to each Commission FMP. In keeping with the general direction of making those plans short and concise, we are proposing instead that most of the habitat material developed under this guidance be included in the source documents for each FMP, but that if you look at Page 4 under the section, FMP and Source Document Development,

you'll see four points that we're suggesting would be the elements that should be included directly in Commission FMPs.

First, the identification of the habitats and designation of HAPCs; second, the identification of significant habitat degradation issues; third, recommendations and requirements for habitat conservation or enhancement; and fourth, research needs. That is what would appear under what we're proposing in Commission FMPs.

I'd also like to note that the Habitat Committee is developing what we're calling Habitat Experts Data Base, which we intend to use as a way to provide an individual to actually draft the habitat sections for each FMP so, as I said, that task will not be thrust upon the PDT. That individual would work with the PDT but would do the work. It would be a person with expertise in fisheries habitat.

And finally, I want to note a final high point that to reconcile your concern about not being habitat managers and to avoid providing a set of recommendations that sit on a shelf, the recommendations

on Page 10 are designed as a sort of fishery manager friendly road map to help the Commission increase communication with sister habitat agencies, and to focus on areas where they can be most effective.

A good example is in Number 3 of these recommendations, nonpoint sources and nonpoint source pollution, which we know is a grave concern, but for which we have very little expertise here in the Commission, we lay out under Number 3 exactly what would need to happen; if we had a concern about a nonpoint source issue relating to fish habitat, what would need to happen.

So it's like, as I said, a road map that would help the agencies do what needed to be done to communicate with sister habitat agencies and ensure that the concerns for fisheries habitat that would be laid out in the plans and the source documents are considered appropriately for any action that might impact those habitats.

I'll leave it at that, Mr. Chairman. This is a big document, but, as I said, it was mailed out in late April, an earlier draft, but one that is not substantively different from this one. And I would note

that the final action that we request of the Board is adoption of this guidance document.

CHAIRMAN SANDIFER: Thank you, Mr. Goldsborough. This is a very comprehensive report from the Habitat Committee. As usual, it's done an excellent job. As I understand it, there are four motions or, if the Policy Board will allow us to take it as one, there's a four-part motion, either way, whatever the wish of the group is.

The first part of that motion is to adopt the Magnuson-Stevens Act definition of essential fish habitat. The second one is that essential fish habitat designation be included as part of Commission fishery management plans developed jointly or in association with the fishery management councils.

Let's see if I get these right, Bill. The third one, I guess, the inclusion of HAPC designations in the development of fishery management plan habitat sections. There it is, right. Oh, sorry. For the present, essential fish habitat should not be required to be designated for species managed solely by the Commission. And the fourth one is adoption of the

guidance document and the inclusion of HAPCs in Commission fishery management plans.

Is that correct?

MR. GOLDSBOROUGH: Yes, it is.

CHAIRMAN SANDIFER: Is there any objection to taking these as a unit? Seeing no objection, we'll take it as a four-part motion. Discussion on the motion then. Anything from members of the Policy Board? Mr. Goldsborough.

MR. GOLDSBOROUGH: I would just note something I forgot to say earlier, that none of this precludes the Commission from at some point in the future developing EFH designations for its plans. We just see no need to do it at this time.

CHAIRMAN SANDIFER: Other comments? Any comments from the audience? All in favor of the motion, signify by saying Aye; opposed, like sign. Any abstentions? Mr. Carpenter abstains. The motion carries.

Thank you for a very comprehensive report.

MR. GOLDSBOROUGH: Thank you, Mr. Chairman.

CHAIRMAN SANDIFER: And Mr. Lapointe, it's time for review of fishery management plans, where we

stand.

MR. LAPOINTE: I intend to be rather short with this for two reasons: One, most of us have been talking about these very things all week long; and secondly, you'll recall that about three meetings ago, I started preparing a fishery management plan status report. I have not updated that for this meeting. You'll be getting that in the next couple of weeks.

And so I will go through some major issues. The first ones are good and easy to report. First, that the Sturgeon Plan is done, as you approved or recommended for approval by the full Commission. And we have three FMPs, the Atlantic Herring FMP, the Bluefish FMP and the Shad and River Herring FMP, that are going to public hearing. So those are quite easy and good to report, because we're finally getting some of those off of our plate.

I will first discuss horseshoe crab, because it's not on my list as the other species are, and you will recall that last fall this Board approved a special arrangement to get the Horseshoe Crab FMP done by this fall. And certainly, for those of you who sat in the

meeting yesterday, you realize what a tough job that is from the technical and assessment perspective and getting the job done.

We are still on board with that task, and I will just briefly say that my hat's off to the Stock Assessment Subcommittee and the Technical Committee for doing very difficult work. The issue is contentious. There are people who believe strongly that our folks are too biased to get the job done, and that's the reason we recommended the peer review. And again, just my hat's off to them, and we intend to get that done by this fall.

It may require -- I think Bruce mentioned yesterday, should a special Horseshoe Crab Board meeting be needed, we certainly have the funds for that, because Delaware provided extra funds to get this job done, and it would require your schedules fit that special Board meeting. I hope Bruce mentioned that.

And last, I guess just some thanks on my part to Delaware, New Jersey and Maryland and the Fish and Wildlife Service for providing alternatively funding and staff to get the job done because we wouldn't have gotten it done without them.

On our American Eel Management Plan, the board met this week, and right now we have -- the schedule for the Eel Plan is to get that done next spring. And the board did a couple of things. One is -- well, I want to give John Connell a chance to talk about prioritization, but they passed a motion that recommends all states take action to cap fisheries on eel fisheries less than six inches, and that states without glass eel fisheries not allow those fisheries to develop.

I'll go through these quickly, if folks don't mind. On the American Lobster Plan, we approved Amendment 3 to the Lobster Plan last December. We've had a couple of major actions since then, or major things we need to do. One is that we have to continue our work with the lobster conservation management teams to get those plugged in and in place. And I believe Area 2 has finished, have they not, David? Long Island Sound is starting. We need to start that with Area 1, which is the Gulf of Maine and the offshore area as well.

We have spent a lot of time working with the National Marine Fisheries Service on comments to the draft EIS. Those comments were sent in last month, and we

will need to work with the Service over the course of the summer to try to make state and federal management match.

And the last thing I'll mention is that -- and Amy Shick sent a notice out -- that Canada has moved to increase their gauge, their lobster gauge, up to three and three-eighths inches, and I suspect a number of areas will be interested in using that in formulating their plans for lobster conservation in the next couple of years.

For Atlantic croaker, Joe has been with the states interested in croaker to compile the data, and he informs me that we will have a review of the data in August and a status update to the South Atlantic Board at our Annual Meeting, which is good news.

Atlantic herring, as I mentioned earlier, we'll be taking the FMP to public hearing.

With the Board's concurrence -- we've discussed Atlantic menhaden enough -- I'll move on to the next species.

For black sea bass, an issue has come up about the quarterly management of the quota system, and although it wasn't written down, we will be taking action

to modify the quota periods so that important periods, particularly that one of the quota periods start in June and another one -- is December the right month, Gordon?

MR. COLVIN: I think what we agreed to do was to develop an addendum that looked at options that would deal with the problems that are most likely to arise in the months of June and December as a result of the current quarterly breaks, and that that might include changes to trip limits and might include changes to where the breaks occur.

MR. LAPOINTE: Right. And you will hear a continued discussion about quota management systems with Mid-Atlantic plans, because that is an ongoing and recurring problem.

Bluefish, we have finally approved a draft amendment for public hearings. You will be contacted by -- I think the Mid-Atlantic Council staff will be contacting all states about public hearings. Right now, I believe we're going to have hearings in late July. We will not have final plan approval by the council and the Commission until October. We had originally thought that was going to be August. I was hoping it was going to be

August. And so we'll have a plan for final approval at our fall meeting.

One of my concerns about this process has been in the past that we will approve an FMP with the council, and the full Commission will approve it; two weeks after it's been approved by the council and the Commission, it will then go through NMFS review and be changed. And we will therefore be subject to a plan that's been changed from our approval.

And I've been thinking about some process, and I welcome people's ideas about some kind of conditional approval so that we get a chance to look at it again after it comes out of the NMFS approval pipeline. I think that would benefit the states to make sure that what comes out of the pipeline is close to what we approve.

On Northern shrimp, we will have an Advisory Panel meeting this summer to discuss last year's season, because there was a substantial cutback in the harvest levels. And we'll have our annual public hearing in late October, as we always do.

We have no change on red drum.

On scup, we had an extensive discussion about management of the summer quota period, and there was a motion for the Plan Review Team to review the compliance of all states with the Scup FMP, and we will be reporting, the PRT will be reporting to the Board at our August meeting. And Bob Beale informs me that we need state reports to be done very quickly for that review to occur.

Shad and river herring, I mentioned.

Spanish mackerel and spot, we have no change on.

Striped bass. I believe John is going to prepare an addendum for later this fall for the next couple of years management.

Summer flounder. There was a long discussion, lengthy discussion on the issue of equity among states in the current state-by-state allocation system. This Policy Board passed a motion last fall that directed staff basically to come up with some alternatives.

Because of staff changeover and kind of the bureaucratic reluctance of the system, the entire management system, nothing was done, and so the Board

directed that the Technical Committee and the AP meet to develop alternatives to the current quota management system, and then that report be given to a joint meeting of the Mid-Atlantic Council and our Board to consider alternatives to the current quota management system.

The last thing I will mention, I believe, is in winter flounder, the Board voted to delay the submission of state plans until the 1st of October. Those plans will be state plans to reach F40, because the council's amendment to the Groundfish Plan contains a number of measures for winter flounder management that will impact how states put their plans together.

And Phil, that will be approved at the September meeting of the council?

MR. COATES: Yes, it would be.

MR. LAPOINTE: Thank you.

Mr. Chairman, I will end with that. I'd be happy to answer any questions.

CHAIRMAN SANDIFER: Mr. Travelstead.

MR. TRAVELSTEAD: George, did you mention tautog?

MR. LAPOINTE: I did not mention tautog.

MR. TRAVELSTEAD: There is an issue that the board asked the Technical Committee to look at with respect to special data needs and analysis to support different management regimes by mode of fishing -- in other words, different bag limits, creel limits -- by mode of fishing, that will be looked at with respect to Rhode Island's compliance with that plan.

I think it's of importance to probably several other management boards, because if there are data and abilities to have different management regimes by mode of fishing, that could certainly spill over into the other species.

CHAIRMAN SANDIFER: Other comments or questions by ISFMP Policy Board members? From the audience, Mr. Connell?

MR. CONNELL: Thank you. George, you're obviously aware the report card I gave out the other day was tongue in cheek, so --

MR. LAPOINTE: I understand.

MR. CONNELL: -- you can discard it.

MR. LAPOINTE: I did already.

MR. CONNELL: We're fortunate in the

Commission to have people dedicated like George and Jack and John Field who do outstanding jobs with our plans.

My concerns have to do with process more than the people that are involved with the process. As you all know, in New Jersey, all FMPs have priority. Some have higher priority. American eel happens to be one of those plans. And if you take a look at the time line, back in October of 1997 in Hershey, in a very, very -- there was a very, very serious discussion regarding both horseshoe crabs and American eel about taking emergency action in both of these fisheries because of the circumstances that existed.

Our executive director correctly pointed out that we needed to have a fishery management plan before we could consider emergency action. Now, that leads me to believe that we have to move quickly. Here we are, it's eight months later. In regard to the Horseshoe Crab Plan, that's moving ahead or on schedule. In regard to the American Eel Plan, we're in the same place we were eight months ago.

Reasons? They have nothing to do with the American eel. The reasons are because our PDT was

involved full time with other fisheries. I'm very sympathetic, and I'm very understanding of that. However, this is beginning to develop, at least in New Jersey, to be a credibility problem for ASMFC. Our commercial, our recreational fishermen and even the general public, because the general public is involved with eels, expected that this plan would be well along by the end of this year.

Our state legislators, who have supported ASMFC, were able to place a ban on fishing until -- it was qualified by the fact that ASMFC would come up with a plan. Now we're faced with new legislation that may open the fishery without a cap in 1999, unless we as a Commission can come forward with enough action to convince the people of New Jersey that we're serious about this plan and we're serious about developing the plan.

Our fishermen, as I mentioned, they're questioning us. They're questioning the Commission's process. The legislators who have supported us are also questioning their support of ASMFC.

I bring this to your attention. I'm concerned. I would have the same concerns if it was

another plan. I think this is a plan that just fell by the wayside.

I also want to point out that when Delaware and New Jersey and Maryland agreed to provide financial and, in some cases, physical resources to assist in the Horseshoe Management Plan, it was predicated on the fact that both these plans would move forward. And it was designed so that both these plans could move forward and, to use the words that were in the minutes, concurrently.

And I think we've failed in that regard, and I'm very concerned about that. And I hope this Policy Board will take that into consideration, not only for this plan but should the same circumstances arise in the future where we end up with a manpower problem, that they will at some point set off a trigger that will entice them to either hire new staff, reallocate existing staff to provide support to the PDT that's working on a plan that has sort of fallen by the wayside.

Thank you.

CHAIRMAN SANDIFER: Thank you.

Other comments? Dr. Bennett.

DR. BENNETT: Yes. Our perspective, again,

last October was that both these plans would move forward and be done in October. I know I already addressed my thoughts and comments during the Eel Management Board, and I'm confident that the plan will be done by the spring of next year.

CHAIRMAN SANDIFER: Mr. Lapointe.

MR. LAPOINTE: Just a couple of things. And I give John credit for being open about his criticism, because that makes it all the easier. The Eel Plan was not slowed down by the Horseshoe Crab Plan. It was slowed down by the Shad Plan. So I mean, I think we need to split those issues, and that's important.

The Commission also has to pay attention to its credibility on the Shad Plan, because we were two years behind on that. And these are things we will have to juggle for a long time.

And John Field, just as a last point, pointed out to me that, in fact, the Technical Committee or the PDT will have a draft of the plan to look at this fall. Yes, it's not going to be approved until next spring, but there will be substantial work done by the fall meeting.

CHAIRMAN SANDIFER: Other issues related to fishery management plans?

If nothing else, let's move on to other business. I have Ms. Lange from the National Marine Fisheries Service.

MS. LANGE: I just want to make people aware that we will be conducting a socio-economic study on the striped bass resource. When the Atlantic Striped Bass Conservation Act was reauthorized last December, one of the congressional mandates attached to that was that the Secretaries of Commerce and Interior conduct a study on the socio-economic benefits of the striped bass resource and report no later than the end of September '98 back to Congress on the results of that study.

There were no appropriations associated with that mandate, so National Marine Fisheries Service has set up an Oversight Committee with representatives from Fish and Wildlife Service, and we also have an economist from the University of Maryland. We've contracted with a PhD graduate from the University of Maryland to actually conduct the study based on very specific guidance from this Oversight Committee.

And I just wanted to make the state directors aware that this person, Rita Curtis, will be contacting your staff, and I just ask cooperation in providing the data that she requests in order that we can get this study conducted in a timely fashion.

That was my only comment. Thank you for your cooperation.

CHAIRMAN SANDIFER: Thank you.

Mr. Manus.

MR. MANUS: This study, is it going to involve a survey form sent out to anglers? How are you going to -- just a quick thumbnail sketch on what's envisioned here.

MS. LANGE: Well, basically, again, since we have a very short time -- the reauthorization was done at the end of the December, and it took us a while to figure out if we had staff internally, either in Fish and Wildlife Service or NMFS, to do it, which we don't -- and there was no money appropriated for it, so there's very limited funding, this is really going to be more of a pilot study.

In the early '80s, there was a report done

by Sea Grant, which took -- I think it was three years and \$300,000 to complete. And we're sort of looking at updating that in a reduced format, and basically being able to report to Congress, "This is what we see now; these are some of the data that we've been able to collect and summarize. If you really want to do this right, we really need to repeat what was done back in the early '80s."

And I think it's a good idea. All that effort went in when the stock was really low. We've had now, you know, 15 years or so where we've recovered the stock, and it will be a good idea to really do a full-blown study.

And I think there's been interest within the Commission to do that. Jack, is that -- but due to the short time frame and the lack of any kind of appropriation for it, we're trying to get the job done as efficiently and completely as possible. So there will be no specific surveys conducted; it'll be based on data that's currently available. We don't have time to go out and collect new data.

Any other questions?

CHAIRMAN SANDIFER: Let me move now to

George Lapointe for some closing comments.

MR. LAPOINTE: Just in closing, I would be remiss if I didn't thank my staff for the work they do in making your program run. I've got two new staff members, Amy Shick and Bob Beale. Bob is working on the Mid-Atlantic species. He's not new to the Commission but new to the ISFMP. And Amy came on board on the 1st of May. And I want to point them out.

And then just to recognize John Field and Joe Desfosse's continued work, and Heidi's, and to broaden that to the entire Commission staff, just because when we have ISFMP meetings, we use everybody on the Commission to make the meetings run as smoothly as possible, and I appreciate their help.

CHAIRMAN SANDIFER: Thank you. Let me echo that. The staff has done an extraordinary job, despite the fact that we're behind on a couple of plans, like eels. We're always going to be behind some place with as many priorities as we have before us. Overall, I think we've done a very fine job, and both the staff support for ISFMP and for various committees, Management and Science, Legislative, Habitat, Law Enforcement, all these have

provided us with a great deal of very useful input.

If there's no further business to come before us -- Mr. Executive Director.

EXECUTIVE DIRECTOR DUNNIGAN: Well, yes, there is. And we'll talk about this a little bit in the Executive Committee this afternoon, but I think it's quite appropriate for the Policy Board, as long as we're in the thank-you mode to recognize that the next time we get together, Mr. Lapointe may be wearing a different hat.

I've got to tell you, the last three years have been wonderful years for me to have George working with you and running this program. And I know that you all have appreciated that certainly as much as I have.

And on behalf of everybody, I want to say a big thank you and best of luck. If the governor can pull it off and get you in that job, terrific, and I look forward to working for you. Thank you. (Applause)

CHAIRMAN SANDIFER: Lew.

MR. FLAGG: I would like to add my well wishes to George, and I can tell you all that nobody in this room will be more grateful than myself. (Laughter)

CHAIRMAN SANDIFER: George, you do

understand that when you come back as a commissioner, you get treated with the same lack of respect as the rest of us.

MR. LAPOINTE: I'm sure I'll get all I deserve.

CHAIRMAN SANDIFER: All right. If there's no further business to come before the ISFMP Policy Board, I'd like to adjourn it, and I'd like to reconvene the Executive Committee in the next five minutes, if at all possible.

(Whereupon, the meeting adjourned at 12:15 o'clock p.m., June 11, 1998.)

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