

ATLANTIC STATES MARINE FISHERIES
COMMISSION

AMERICAN EEL MANAGEMENT BOARD

Holiday Inn By the Bay Portland, Maine

June 8, 2000

The American Eel Management Board of the Atlantic States Fisheries Commission convened in the Casco Bay Hall of the Holiday Inn By the Bay, Portland, Maine, June 8, 2000, and was called to order at 10:15 o'clock a.m. by Chairman Lance Stewart.

CHAIRMAN LANCE STEWART: Okay, in the interest of expediency, at this time I would like to call the American Eel Board to order. Okay, at this time, I'd like to look at the agenda, and there would be some change in order to proceed with the Delaware compliance issue.

Could we have an approval of this agenda change? I guess before we start, Heather, would you call the roll.

(Whereupon the roll was taken by Ms. Heather Stirratt.)

MS. HEATHER STIRRATT: Mr. Chairman, you have a quorum.

CHAIRMAN STEWART: Thank you, Heather. So, to proceed with the change of agenda, we'll take up as the first issue the compliance issue with Delaware. Is there any board member who would like to start this off? Yes, Mr. Lesser.

MR. CHARLES LESSER: Yes, on behalf of the state of Delaware, we have adopted that -- or the Legislature has enacted, and the Governor has signed, as of May 16, 2000, an Act to amend Title VII of the Delaware Code relating to Eel Fishing.

It's a very simple bill. It reestablishes the 6-inch size limit as a possession limit, which is much further along than we were before, where it was a take limit. So, now in Delaware, you're no longer allowed to possess any eel less than 6 inches, which prohibits the stock piling of elvers in Delaware, as they were doing.

So, yes, we believe we are in full compliance now by having the legislation enacted.

CHAIRMAN STEWART: All right, thank you. Is there any comment or recommendation from the Board? Do we have a motion?

MR. LESSER: Motion to get rid of the motion, or something like that. What do we do?

EXECUTIVE DIRECTOR JOHN H. DUNNIGAN: Charlie, I would suggest a motion to withdraw the recommendation of the Board that Delaware be found out of compliance.

CHAIRMAN STEWART: So moved.

MS. SUSAN SHIPMAN: Second.

CHAIRMAN STEWART: All right, the motion is all understood by Board members.

At this point, all those in favor, signify by saying aye; those opposed; any abstentions, one abstention, the National Marine Fisheries Service. Okay, just a second, until we complete the motion.

The motion passes with one abstention. Yes, Mr. Dunnigan.

EXECUTIVE DIRECTOR DUNNIGAN: Just to tie the loop, then with this action by the board, there will be no need to reconvene the full commission. So, anybody who is standing around just to stay here for a potential recall of the commission, you don't need to stay for that.

CHAIRMAN STEWART: Okay, thank you very much for the Board's indulgence in the change of schedule, and we did that business pretty rapidly. So we'd like to proceed now with the real meat of the meeting, and this point I'd like to welcome Julie Weider from the Maryland Department of Natural Resources, who is sitting in for Vic Vecchio, the Chair of the Technical Committee.

As you see, from the list of motions we deliberated at the last meeting, or we passed at the last meeting, we have taken care of the Delaware compliance issue, and now we're looking at the Technical Committee's

Review of the particular sampling protocols and implementation of the FMP for American Eel.

We'd also, on Heather's urging, like to thank the Board for participating in this pilot CD ROM type ingestion of the data, rather than the regular paper format. Any comments on that might be well received after the meeting.

With that, I guess I'd like to have Heather review some of the summary documents that have been passed out. You all have a copy of the meeting? Yes, Mr. Adler.

MR. WILLIAM A. ADLER: Did we go through the minutes already?

CHAIRMAN STEWART: No, no, we didn't. I'm sorry, I got out of sequence and --

MR. ADLER: I'll move they be approved.

CHAIRMAN STEWART: Okay, second by Pat. All right, any other comments about the meeting minutes of last session? Okay, the minutes from the previous meeting have been approved. Now, Heather, thank you.

MS. STIRRATT: I just want to make sure that everybody has all of the materials again. I want to thank you for cooperating and working with Commission staff in this new pilot program for the CD ROM.

Many of you, most of you, all of you should have received a copy of the CD ROM in advance and should have been able to print out meeting materials. However, if you do not have access to a computer, or if you had problems printing out this material, there are copies on the side table.

In addition to that, you should have received two new documents today. I apologize for not being able to get them out to the Commissioners prior to this meeting. They include a minutes' summary of the last Technical Committee conference call, which was held on May 18th, and also a written report from Vic Vecchio.

Understanding that you have not had the time to review this information, we have Julie Weider, who has generously afforded her time today to come to Maine and present this report to you in the hopes that if you

have any questions, she will also be able to answer those as well.

I think that covers the meeting materials. In addition to that, there should have also been an attachment on the CD ROM relative to the CITES update. I will be providing that this morning on behalf of Marie Maltese, and certainly the representatives here from the U.S. Fish and Wildlife Service can add their input as they see fit.

So, at this point in time what I'm going to do is pass the mike over to Julie Weider. As a brief introduction to her, as you all know, the Fishery Management Plan for American Eel requires that states and jurisdictions submit an implementation plan for implementing this FMP by January 1, 2001.

That deadline passed May 1. We received all of the 17 states and jurisdictions implementation plans on time. So, I would like to thank all of you for making sure that that happened.

It certainly expedites the process when we can get that information in a timely fashion. In addition to that, as you all know, de minimis status can be requested at any time.

So, in addition to reviewing the implementation plans, we will also be taking a look at what was originally five de minimis requests and has subsequently been increased by one to six de minimis requests at this time.

And since they are linked at the hip, we'll have to consider both at the same time. So I'm going to turn things over to Julie, and thank you very much.

MS. JULIE WEIDER: Hello, good morning. The Technical Committee met via conference call on May 18th of this year to review the implementation plans that Heather mentioned. We recommended acceptance of plans for the following states and jurisdictions:

Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Potomac River Fisheries Commission, the District of Columbia, Virginia and North Carolina.

However, the Technical Committee does not recommend acceptance of the implementation plans

that were submitted for South Carolina, Georgia and Florida. I'll discuss briefly what issues there are for each of those states.

South Carolina's current regulations don't include recreational fisheries minimum size or possession limits. The American Eel FMP Section 4.1 requires the states and jurisdictions to establish uniform management measures for the recreational fisheries of a 6-inch minimum size limit and the possession limit not to exceed 50 eel.

The implementation plan that South Carolina submitted does not address these issues, which causes the Technical Committee to not recommend their plan. We recommend South Carolina can remedy the situation by submitting a proposal that adopts the provisions of the FMP regarding recreational fisheries regulations.

CHAIRMAN STEWART: Okay, at that point is there any comment from South Carolina? Mr. Cupka.

MR. DAVID CUPKA: Yes, it's not quite true when they say we failed to address that requirement. We did address it through the request we pointed out for our de minimis. So, we were very conscious of that and did think that we didn't need to do that because of our request for de minimis, which we think we can document that we're eligible for.

CHAIRMAN STEWART: I see. There will be further discussion from the Board. Is there any other comment on South Carolina's condition at this point? No, we'll proceed with the next --

MS. WEIDER: All right. Now, Georgia's implementation plan had similar issues. It did not include any minimum size or possession limit regulations and did not address any plans to implement such regulations.

Again, the FMP Section 4.1 requests that all the participating states and jurisdictions implement a 6-inch minimum size limit and a possession limit not to exceed 50 eels.

So, Georgia was not recommended for that reason. They may remedy the situation by submitting a plan which does include those recreational fisheries management measures.

CHAIRMAN STEWART: So, it's an identical situation. Ms. Shipman.

MS. SUSAN SHIPMAN: Our response is identical. We felt like we addressed it in requesting de minimis for both commercial and recreational fishery.

CHAIRMAN STEWART: All right, thank you. Now to Florida.

MS. WEIDER: To address your concerns, the Technical Committee discussed at great length the ramifications of the request for de minimis and how they might impact the recreational fisheries requirements; and as Heather mentioned, we'll be getting into the meat of that after we talk about some other things.

So, the last state that we're going to talk about that was not approved for implementation was Florida. So, Florida also has no recreational fisheries management regulations on the books, and their management plan did not address any plan to implement such regulations; the same ones, 6-inch minimum size, 50-eel possession limit.

In addition, Florida's implementation plan includes the Young-of-Year Survey Protocol, but their protocol deviated somewhat from that that was approved in the Management Plan.

Specifically, they said that they would be conducting the survey in 2000, which is contrary to the revised protocol that was discussed in the February 9th and 10th board meeting.

The Technical Committee also found that they didn't have sampling frequency which conformed to the requirement. Specifically, their plan said that their sampling would occur over plus or minus 6 weeks, but at least 6 weeks is required by the plan.

Also, they mentioned the use of lift nets, which is a type of gear which is not approved at this time for use in the Young-of-Year Survey. It's not specifically prohibited, but it isn't addressed.

Finally, along with the issue of lift nets, the stratified sampling design is required for use of any active gear, and that was also not addressed in the plan. So, Florida may remedy the situation by submitting a plan which

includes the recreational fisheries regulations of a 6-inch minimum size limit, 50-eel possession limit and a Young-of-Year Sampling Survey that conforms to that outlined in the FMP.

CHAIRMAN STEWART: Okay. Yes, Heather.

MS. STIRRATT: Just an update on the status of Florida's implementation plan, Florida has resubmitted an addendum to their original implementation plan. Unfortunately, given the timing of this meeting, it was simply not possible for the Technical Committee to review that implementation plan.

Commission staff has looked at it in depth, and they have rectified most, if not all, of the young-of-the-year sampling protocol issues. They have also submitted a additional request for de minimis, which will be getting into soon.

CHAIRMAN STEWART: Okay, thank you, Heather. Is there any comment by Florida? Bob.

MR. BOB PALMER: Heather, I think did a good summary of what I was going to say. Joe Crumpton, our technical representative, missed part of the telephone call, as I understand.

When he did submit the plan, there were some errors and we discussed it, and we believe we've tried to address remedies for all of the concerns; although, the way we did address the recreational regulations is through the request for de minimis status, and we'll need to wait the outcome of that discussion to see where we go from here.

CHAIRMAN STEWART: Okay, that seems to be next on the agenda. Pat, did you want to make a comment?

MR. PAT AUGUSTINE: Thank you, Mr. Chairman. Does that mean that Florida will essentially be in compliance within 30, 60 days or not? I mean, when will this come up again where they get an approval or disapproval change in their status?

MS. STIRRATT: My understanding is that that would come before the board at the next scheduled meeting. But just to let you know again, Pat, their plan, as it currently is written in the new revised addendum, seems to meet all the necessary provisions. Again, we just need to discuss the de minimis status.

CHAIRMAN STEWART: Yes, at the heart of this is de minimis, whether we're all compliant with the implementation plans here.

MR. PALMER: Mr. Chairman, Florida, again, if I could ask a follow up. The Technical Committee review, was that done through a meeting or was that simply done through circulation, and telephone meetings, and conference calls?

CHAIRMAN STEWART: Heather, would you add some detail.

MS. STIRRATT: The meeting materials were distributed following the May 1st deadline, when all of the reports had been received. They were distributed to all of the members that were participating on the Technical Committee as well as state representation, otherwise.

There was a conference call that was held on May 18th. The individuals participating in that call had a lot of time to review this information and discuss it on the conference call itself.

MR. PALMER: Will that again be able to occur before the next meeting?

MS. STIRRATT: Absolutely.

CHAIRMAN STEWART: Okay, fine. I neglected to call for comment from the audience before we got into the heart of this. So before we bring up de minimis, is it legitimate to ask if there are any people in the audience who want to make a comment to put an issue before the Board?

Okay, I guess there are none, so at least we can proceed and have that as part of the meeting agenda completed. So, this point, Edie, would you like to discuss de minimis?

MS. WEIDER: Sure. Well, as Heather mentioned, at the time of our conference call, five states or jurisdictions had requested de minimis status. That was New Hampshire, Pennsylvania, South Carolina, Georgia and the District of Columbia.

And then subsequent to our conference call, Florida has requested it, so all together we have six requests for de

de minimis status that were addressed within the context of the implementation plans.

So, the FMP provides that the states may petition the board at any time for de minimis status. It was the feeling of the Technical Committee then that we have no authority to convey, of course, the de minimis status on individual states, and so we cannot recommend that they be given de minimis or not.

Now, at the February 9th and 10th Board meeting, the data needs with respect to de minimis for American Eel were discussed.

And the position of the Technical Committee was discussed at that time, and basically we've looked at all the landings data, which is compiled annually by all the different states.

The landings show that there are significant data gaps for particular states in particular years. Sometimes that's because there is no information available. Sometimes it's because the information is confidential, and so the Technical Committee was not able to see it.

In addition, there is some problem with comparing NMFS data to that collected by individual states, because NMFS data is not broken down by life stage, while individual states' data is sometimes broken down by life stage.

So, there are problems with data gaps, and there are also problems with comparison between different data sources. So, the determination of de minimis, according to the FMP, is not possible because the total landings can't be calculated for the entire fishery, let alone for specific life stages.

Basically, the landings data, in the Technical Committee's opinion, does not give us enough information to calculate de minimis.

The Technical Committee was presented with several solutions, one of which was to look at retrospective use of the data, which we didn't feel would represent very well the current situation of the fishery.

We chose to advise the Management Board that we do not have the data necessary at this time to determine whether a state meets the de minimis requirements. We don't have credible data.

Once the mandatory reporting provisions of the FMP are implemented, after two years it is the Technical Committee's feeling that then we will be able to advise the board on de minimis status issues.

In the interim, the board can use its discretion to award de minimis to states and jurisdictions based on what fishing regulations they currently have in place, or based on any other information.

CHAIRMAN STEWART: Okay, given that situation, and also recalling past board meetings and the recognition that the essential thrust of the management plan was to acquire data and to substantiate the amount of ecological importance of the eel species within all the respective states, this is important to consider. Mr. Cupka.

MR. CUPKA: Thank you, Mr. Chairman. We certainly recognize the need to gather good data for this plan, as well as all of our other plans. However, I would submit to you our reason for requesting de minimis was not to get out of anything we currently have ongoing.

We have all the commercial regulations in place. We have mandatory reporting in place that we've had for the last three years. We're doing the young-of-the-year survey. I would submit to you that our data for our state is not going to get any better, since we've already got mandatory reporting.

I would submit to you if other data becomes available from other states, that all it's going to do is make us even more de minimis because that total landings figure is going to increase.

I think that there have been some calculations done, and we were somewhere around 0.04 percent of the landings. I think, if anything, if that additional landings data were to become available, that that number is certainly going to get even smaller.

In our case, we didn't request it to try and get around any of these. We agree we need better data, and we think we've implemented everything we can to do our part to get that data.

The only thing that we didn't do was implement the recreational requirements, and we really don't have a

large recreational fishery. It's practically non-existent in our state.

So, based on that, we feel like we should be granted our de minimis request. I know Georgia has some of the same feelings, and Susan may want to elaborate on that.

CHAIRMAN STEWART: Okay, Mr. Cupka, there's nothing better than internal knowledge of the situation in the fishery in your state. Yes, Ms. Shipman.

MS. SHIPMAN: Thank you. And our situation is identical to South Carolina's. We, too, have mandatory reporting. I have the table in front of me of our landings by year, and I even have the trip data. They are simply confidential data.

So the way we approached this was to take a 10-year average and submit that as a proxy for annual landings against the 2-year running average. That average, by the way, is 1,359 pounds per year annually over a 10-year period.

I would also advise you our '99 landings are now complete. We had no landings in 1999. So our commercial fishery is very small. With regard to the recreational fishery, we, too, have a very minor, virtually non-existent -- I did go back and pull our creel survey data for 1999.

Of 2,331 anglers we interviewed in 1999, we had 35 eels caught. All were released. All but two were released alive. I would submit to you that substantiation of the de minimis nature of recreational fishery.

CHAIRMAN STEWART: All right, thank you very much. Yes, Heather.

MS. STIRRATT: In addition to this information, if I may speak on behalf of Pennsylvania and the District of Columbia and their implementation plans, they did submit that they have no commercial fishery for American Eel, and this may also have a bearing on your determination for de minimis status for those states and/or jurisdictions.

CHAIRMAN STEWART: Mr. Flagg.

MR. LEWIS FLAGG: Thank you, Mr. Chairman. I have a question for Susan. Could you give us an idea

about what the high and low landings were, the range of landings for the data that you have? I think that would be helpful.

MS. SHIPMAN: Yes, this is a range; the range is from zero to 5,400 pounds over an 11-year period. It's been declining, headed down since the late 80s.

CHAIRMAN STEWART: All right. Yes, go ahead, Edie.

MS. WIEDER: Just to substantiate the numbers that you're describing, when Georgia's landings were calculated with a 10-year running average, they did make up 0.09 percent of the total coastwide landings, and South Carolina's 2-year average was 0.04 percent of the landings.

CHAIRMAN STEWART: So those two states are clearly well below what could be de minimis. Yes, Mr. Nelson.

MR. JOHN I. NELSON: I just want to see if I can get a lower percentage than my sister and brother states from the south. I suspect I have. My point, how do you want to deal with this, Mr. Chairman?

I would say there are several states that have some type of non-acceptance of their plan, whereas others that have requested de minimis have acceptance of their plan. So, would you like to separate those out, or do you want to deal with de minimis all together?

CHAIRMAN STEWART: I think it would be good to take the states that have a non-compliance issue at this point, rule on all those, review the particular level of de minimis status, and then go on to the whole de minimis as a group.

I have one question, though, in terms of de minimis. Is your fishery controlled? Could it be possible to have an insurgence of out-of-state fishermen, or do you have a cap on your commercial licenses, Mr. Cupka?

MR. CUPKA: I can speak for South Carolina. As I indicated before, we have implemented the commercial requirements. We have a limited entry system. We hold the number of permits that we issue in the commercial fishery constant. So, there's no way that fishery can expand, and we intend to continue that.

CHAIRMAN STEWART: I just wanted to have that stated.

MS. SHIPMAN: Yes, we have the ability to recommend to our Commissioner that he close certain waters under certain circumstances; and if we saw an insurgence in the fishery, we would approach it that way.

We do have commercial regulations. What we're lacking is the recreational regulations, and we simply don't have a fishery, and we would have to go to our legislature, and I can see myself being laughed out of our capitol when I go ask for a statute for a fishery that doesn't exist.

CHAIRMAN STEWART: Okay, yes, understood. Okay, at this point, Mr. Perra.

MR. PAUL PERRA: Yes, for the South Atlantic states, although, you don't have people fishing for eels, I've heard that you may have people using them as bait for other fisheries.

Is that happening? I mean, do you have, like, fishermen who may be carrying more than 50 eels? The other question is those are most likely, hopefully, picked up in your commercial landings.

I'd just like to clarify if I note, is that -- I've heard that that activity goes on sometimes in the South Atlantic. People, they will take live eels and fish them, but I don't know how big an activity it is.

CHAIRMAN STEWART: Is there a response? Yes, Heather first.

MS. STIRRATT: Not to that point, Mr. Chairman.

CHAIRMAN STEWART: Okay, Mr. Cupka.

MR. CUPKA: We do have a limited situation of primarily fishing for cobia where they use eel as a bait, and a lot of that bait is purchased through bait dealers. Some of it, if it is caught in state, they are required to report that to a wholesale dealer so it does get picked up in the commercial landings.

Some of it is brought in from other states, but it's a very limited, again, fishery in the southern part of our state.

MS. SHIPMAN: If I might add to this, it's also a very seasonal fishery. It's a spring, maybe a six-week to a two-month fishery, the cobia fishery.

CHAIRMAN STEWART: Okay, yes, Mr. Palmer?.

MR. PALMER: Yes, I thought I would also weigh in on the de minimis. We, of course, have mandatory reporting. There is a limited license program to identify eel fishermen for purposes of qualifying them for horseshoe crabs.

We seem to be the high liner of the de minimis states with a 15,000 average over the last two years. And I would be interested to hear what the averages that Ms. Weider has, are.

CHAIRMAN STEWART: Could we hear a report from the Technical Committee?

MS. STIRRATT: I'm sorry, Bob, which averages were you talking about, for the last year?

CHAIRMAN STEWART: For de minimis.

MR. PALMER: Well, first, what would be used to determine de minimis status, but she also seemed to have data available for South Carolina and Georgia, and I assume that same data is available for Florida.

MS. STIRRATT: Okay, just to review some of the numbers, again, the NMFS coastwide landings data is missing significant numbers. But if we go based upon what shows up in the database, when you pull it up on the internet, the previous 2-year average is 964,998.

For the state of Florida, you have submitted -- let me grab this data.

MR. PALMER: Yes, Joe said 17 in '97, and then I believe 13,000.

MS. STIRRATT: Correct. As it's written in the addendum to the implementation plan, 1997, it was a total of 17,317 pounds. And for 1998, it was 13,441 pounds, of which you'd add those together, average them, and then compare that percentage contribution to the coastwide total.

Again, that has not been reviewed by the Technical Committee. I have done those calculations, and I

would defer to them to have them substantiate the calculations that I've also come up with.

MR. PALMER: Sure, and I can tell you that based on our experiences with weakfish, where we're requesting de minimis status under a May 1 reporting deadline, we can never complete that report because landings are incomplete on a coastwide basis at that time.

I'm sure that it would behoove the Technical Committee to make sure that there is a complete record of landings. If I could address Paul Perra's question, there certainly is the use of eels as a cobia bait.

I think that everybody knows that it's a preferred bait. We just held a commission meeting in Pensacola the week before last, and there was extensive discussion on several issues related to the for-hire sector.

We had Charter Boat Association representatives from Panama City, Destin and Pensacola all at that meeting, and I took the opportunity to talk to them about that. The 50 limit does not appear to affect any of those operations.

Everyone said that the eels that they are using for bait are all coming from the Chesapeake area.

CHAIRMAN STEWART: Okay, thank you. Yes, Heather.

MS. STIRRATT: I have just two additional comments, and not trying to complicate the subject matter here, but simply to give me a little bit more information as we do this on an annual basis.

I'd like to raise the actual definition of de minimis as it's written in the plan and the way it's described. It says that states may apply for de minimis status for each life stage if, for the preceding two years, their average commercial landings by weight of that life stage constitute less than 1 percent of the coastwide commercial landings.

This isn't a problem for those states that actually request de minimis for all life stages. Where it becomes a problem and we have difficulty comparing apples to apples is when a state -- for example, we have two that are requesting de minimis for the adult life stage, which would compromise two of the life stages of the American Eel; namely, the yellow and the silver eel stage.

So, that being the case, I would like some clarification on how staff should interpret this in the future, or if this part of the FMP should be changed or not. I really don't know.

I just know that it will present problems to the Technical Committee, being that the NMFS database does not divide their data up by life stage.

In speaking with Dave Sutherland of the NFMS Commercial Statistics Division, they don't have plans to initiate any such type of a movement in the next few years. So, I simply throw that out there for discussion.

CHAIRMAN STEWART: Thank you. It is quite a substantial problem considering the use of all stages here. Is there any comment from the Board? Ms. Shipman.

MS. SHIPMAN: Well, correct me if I'm wrong. I thought the National Marine Fisheries Service is committed to adopting the ACCSP Module; and if that entails reporting by life stage, I would hope the National Marine Fisheries Service would incorporate that.

But that's a whole another issue. The reason we requested de minimis for the adult life stage is we don't allow the harvest commercially of other life stages. And it seemed contradictory and non-sensical to us to request de minimis for a life stage that is illegal in our state.

So that's why we did it. I mean, if it will help, I guess we can revise our request, but it just doesn't seem to make sense to me to request de minimis for a life stage that you consider to be illegal, because that's implying you don't want to have the regulations for it.

CHAIRMAN STEWART: That's understood. I guess if it's non-existent, it doesn't need to be controlled or recorded. So, several states are very different, obviously, in this regard. So, I think that's the purpose of the board discussion and to treat individual cases differently. Mr. Freeman.

MR. BRUCE FREEMAN: Thank you, Mr. Chairman. Just for clarification, I understand South Carolina, actually, Georgia and Florida all lack the recreational regulations as one of the difficulties?

The question I would have, both to Susan, David and Bob, is there anticipation in the near future of putting regulations in place? I know oftentimes it's difficult to get regulations in place.

It's a timely process. Is that the issue, or you have no interest or desire to do that or need, in your opinion?

CHAIRMAN STEWART: Ms. Shipman.

MS. SHIPMAN: Thank you, Mr. Chairman. We would have no intent in going forward to our Legislature, which would be required to get a statute for a fishery that doesn't exist. As I mentioned, we have a creel survey in place that's extensive.

We've just taken over the MRFSS intercept part for the state of Georgia. I have requested that the inland people add eels into their creel survey for our riverine systems. All indications are we don't have a fishery, so that's why we're requesting de minimis for the recreational regulations.

MR. FREEMAN: Susan, let me just interrupt. It's your desire or anticipation that that survey will continue to pick up these rates in the future? In other words, you'll be able to monitor; if for some reason there's a dramatic interest in eels, you will be able to notify or recognize that?

MS. SHIPMAN: Yes, and that's our intent. In fact, we noted that in our implementation plan. We plan to coordinate very closely with the inland people, as well as continue to monitor this for the tidal waters.

MR. FREEMAN: David.

MR. CUPKA: Again, it's such a small fishery, we'd like to prefer to save, as George would say, our political green stamps for things like shad and what not instead of getting tied up in eel.

But, we certainly can monitor that catch; and if there's indication that it's going to go way up, I wouldn't anticipate it would, but we certainly have the ability to monitor those.

Again, like I say, we aren't trying to get out of anything. It's just a question of the size of the fishery, and we

think we've got a good handle on the commercial fishery, which is where our real concern is.

To answer your question, no, we don't intend to pursue any legislation unless it becomes absolutely necessary.

CHAIRMAN STEWART: Okay, Bob, do you want to chime in on the question?

MR. PALMER: American Eel in Florida has been managed, historically, by the Game and Fresh Water Fish Commission. And the Technical Committee representative was a man who has -- in fact, Preston was telling me at the break that he worked with him 32 years ago.

Joe, in putting together our report, had a division meeting and discussed doing regulations. Because of his depth of experience and because the fresh water side is a top-up organization, and there are regional biologists out there, I believe if there was any kind of a fishery going on, they would be aware of it.

And so he naively said we have no fishery. Now, I haven't even looked at our intercept data. We also, of course, have an intercept program, and I'll be happy to make that available.

I suspect that because of the site distribution, that you will pick up few, if any, eels in that survey. When I pointed out to Joe that the document or management plan itself says that because of the uncertainties about recreational fisheries in states, these regulations should be adopted, but at his division level, they would rather not do a rule for, again, a fishery that they do not believe exists.

I believe they have pretty good local knowledge in making that assertion. It certainly could be done, but we thought we would take this route and see what the discussion was.

MR. FREEMAN: Okay, if I may just contribute. I think we all have concerns of having to go to the Legislature to do anything, and I certainly appreciate the concerns expressed by the states, and Florida is a little different situation.

I would be of the opinion, Mr. Chairman, to pass a motion to exempt these three states from the recreational requirements to the plan, providing that

they continue monitoring the recreational fishery through their existing programs and report annually.

And if there is a change, then deal with that at the time. I think that's probably the most reasonable. We need to be aware of, certainly, the collection of information, the need for that, but we also need to be cognizant of what we're asking some agencies to go through on species that may be minimal in harvest, when, in fact, we'll want them to take action on other species through their legislative process. I think it's a reasonable request that they're making.

CHAIRMAN STEWART: Okay, thank you very much, Mr. Freeman.

MR. AUGUSTINE: Point of information, did you make that in the form of a motion?

CHAIRMAN STEWART: Yes, was that a formal motion? You were talking in favor of a motion.

MR. FREEMAN: To do that as a motion, I would move that the Eel Management Board allow the states of South Carolina, Georgia and Florida to be exempt from the regulatory requirement in the recreational fishery.

However, they will continue monitoring those fisheries, and report annually to the Management Board of their harvests.

MR. AUGUSTINE: Second that, Mr. Chairman.

CHAIRMAN STEWART: Seconded by Mr. Augustine. Has that been declared pretty well? Okay, yes, Mr. Fote and then Pat.

MR. TOM FOTE: Just a question. Before I got involved with this, and when I actually used to fish, I used to pot a lot of my own eels. There were certain times that I would have a box that would be loaded with maybe two to three hundred eels when we started using them for the season.

That happened, because we had a thousand people doing that, and there was -- I noticed about that in New Jersey, which was not reported in landings. That becomes a substantial amount, because I use to have two or three hundred pounds of eels just as one individual when I used to do it. Does that take place in any of those states?

CHAIRMAN STEWART: Yes, Ms. Shipman.

MS. SHIPMAN: In Georgia, Tom, that's not an allowable gear. That would only be allowed commercially. You'd have to be licensed and so on and so forth.

MR. FOTE: So your recreational fishery can't --

MS. SHIPMAN: No, all these eels are being caught on hook and line, that are subsequently released.

CHAIRMAN STEWART: Okay, yes, A.C., and then Bill Adler.

MR. A.C. CARPENTER: Mr. Chairman, I'd like to ask a question about the appropriateness or the validity of the motion. Can we suspend plan requirements by a simple motion of the Board; or, is this something that's going to require an addendum to deal with this?

CHAIRMAN STEWART: Okay, Heather seems to indicate she might have an answer.

MS. STIRRATT: Hopefully, this will get at your question, A.C. I think that if this Management Board was to actually approve those states' de minimis request, then that would meet this need.

Being that under the de minimis section in the FMP, it actually says that de minimis status would exempt a state from having to adopt the commercial and recreational fishery regulations for a particular life stage listed in section 4, which would be the recreational and commercial fishery management measures and any fishery-dependent monitoring elements for that life stage.

So, I think that that would be consistent with the motion that's up there. Unfortunately, that's not what that motion says. It's not recommending de minimis for approval.

CHAIRMAN STEWART: All right. Yes, A.C.

MR. CARPENTER: In light of Heather's remarks, I wonder if Bruce might want to reconsider his motion?

CHAIRMAN STEWART: Exactly.

MR. FREEMAN: Well, if I may, as I understood the discussion, that these states have very well thought out regulations for their commercial fishery, control and reporting.

They conduct the young-of-year data collection, which we request. The only thing that they're being found out -- or the Technical Committee finds lacking is regulations pertinent to the recreational fisheries, which they all indicate they monitor and find to be extremely small.

Although we could essentially allow them de minimis, that would remove the responsibility to collect the commercial information and the young-of-year, which they say they're doing.

I would like them to continue. So, if we could give them de minimis status with the proviso they do the other things they're doing, that would be fine, too.

CHAIRMAN STEWART: All right, we have a comment from the Technical Committee in regard to the plan, so, Heather.

MS. STIRRATT: Bruce, I'm actually going to respond to that. What I just read would not exempt a state from having to report on an annual basis the status of harvest from those fisheries.

In addition, it does not exempt a state from having to participate in the young-of-the-year annual sampling survey. So, those two items which you've expressed concern about are still covered, even though a state may be de minimis.

MR. FREEMAN: Well, if that's the case, I'd be certainly happy to change the motion to essentially vote South Carolina, Georgia and Florida as de minimis states.

CHAIRMAN STEWART: Any further comment from the Board?

MR. AUGUSTINE: That's acceptable.

CHAIRMAN STEWART: All right, very good, Pat, that's acceptable. Yes, Mr. Perra.

MR. PERRA: Yes, I guess I want to be clear what we're voting on because we're voting on the

recreational regulations. Do all of those three states also do the elver monitoring? I think one state -- do you all have an elver monitoring program?

MS. SHIPMAN: We have ours planned for 2001.

MR. PERRA: Oh, okay. And they all have commercial regulations, so I have no problem with it.

CHAIRMAN STEWART: Okay, thank you. Mr. Pope.

MR. GIL POPE: Thank you, Mr. Chairman, just a quick question. Is the Eel Plan the only one that has de minimis status for life stages?

MS. STIRRATT: Yes.

MR. POPE: That's the only one?

MS. STIRRATT: That is correct.

MR. POPE: Okay, number two, Susan. In my tackle shop, I sell a lot of eel pots to the public, and I sell a lot of minnow pots to the public. And sometimes I'm not sure if the public at large realizes that they are supposed to have for that, if they're going to pot even one eel or one minnow, and stuff like that, they're supposed to have commercial licenses, believe it not, to be able to do that.

I don't know -- can you sell eel pots to the public, and so on, and so on, without --

MS. SHIPMAN: Actually, we sell minnow pots, but we have elaborate minnow regulations after last year. We went through this. Yes, our gear statutes are written where a gear is prohibited unless specifically allowed by statute for a particular species.

The only thing pots are allowed for for eels is for commercial purposes. Now the public may not know that, and we can certainly work to do a better job enforcing that, but our public, basically, is buying their eels similar to what Florida, you know, Florida's recreational people are doing.

MR. POPE: And it's for only 50 eels. I was just calculating. That's about \$75 to \$100 in some places now.

CHAIRMAN STEWART: It brings up a point. There's some latent potential for take that may not be recognized, and although the statistics show de minimis, we'd recommend the states that are eventually now going to receive that vote, to try to be sensitive, to try to disclose any volume that occurs in this particular category, because it is somewhat hidden, or could be hidden, by this last discussion.

With that, would we entertain a vote on the motion?. Any further discussion? Okay, one more comment from the Technical Committee and then we'll call the question.

MS. WEIDER: Just for the record, when the Technical Committee had our conference call, we were not presented with the information from Georgia's creel regarding the recreational fishery, so that was not a factor in our determination.

MS. SHIPMAN: And that's not your fault, Julie. I want to quickly add, after we found out this was going to be so controversial, we went back and ferreted out those data.

MS. STIRRATT: In addition to that, I simply want to follow up to Julie's statement and say that for the record, Florida's addendum to the implementation plan has not been reviewed by the Technical Committee either.

But that certainly wouldn't preclude this board with moving forward if they wanted to.

CHAIRMAN STEWART: Okay, everyone understand the situation? At this point, I will call for a vote. All those in favor, say aye. Oh, should I read the motion? Move that the Eel Board approve the states of South Carolina, Georgia and Florida as de minimis states, exempting these states specifically from the regulatory requirements in the recreational fishery.

However, they will continue monitoring these fisheries and report to the board annually of their harvest. Okay, all those in favor; signify by saying aye; those against; any nulls; abstentions. Yes, Mr. Perra.

MR. PERRA: I voted aye, but at the next board meeting, I would like to hear a report from the Technical Committee on Florida's addendum.

CHAIRMAN STEWART: All right. Anyway, the vote on motion carries unanimously. Okay, Heather, would you like to continue?

MS. STIRRATT: I'd like to make a suggestion that we've covered those states with issues relative to being in compliance with their implementation plan.

If I may make a suggestion, relative to how we proceed, we still need to address all of the other states who have not requested de minimis and were recommended for approval by the Technical Committee, including the additional states that have requested de minimis status, which were New Hampshire, the District of Columbia and Pennsylvania.

CHAIRMAN STEWART: Okay, Mr. Augustine.

MR. AUGUSTINE: I'd like to make a motion that the Board approve the states' plans as presented for Maine, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Potomac River Fisheries Commission and Virginia.

MR. PERRA: You left out one.

MR. AUGUSTINE: And New Hampshire, I'm sorry.

CHAIRMAN STEWART: I thought you were seconding the motion.

MR. AUGUSTINE: And North Carolina. Do we have them all?

MR. ADLER: I'll second.

CHAIRMAN STEWART: Yes, okay. Amy, did you get that? She indicates, yes, she has the motion.

MS. STIRRATT: Amy, it's all of the other states and/or jurisdictions that weren't previously covered in the first motion.

MR. FREEMAN: Mr. Chairman, clarification. As indicated, New Hampshire, Pennsylvania and the District of Columbia were approved by the Technical Committee for de minimis. Does this motion cover that?

I know they were all mentioned, but it could be construed as those jurisdictions, including those three, would be -- their plans would it be approved, but not for de minimis, just be approved. I'm just trying to get a clarification.

CHAIRMAN STEWART: Yes, Mr. Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. That was why I dragged my feet in adding those three states at the tail end of it, when I was reminded that they should be included.

I felt that the Technical Committee absolutely and clearly stated those other states fully met the plan and did not ask for de minimis status. I was going to ask to have another motion put on the table that covered those last three, as had been stated, so not to confuse the issue.

They did not apply for -- I'm sorry, they weren't considered as having met the plan requirement, but the Technical Committee did recognize them as not having a plan or requirement, and that they did qualify for de minimis.

I think you're right. I would almost like to take those three back, if it seems to make more sense and would be clear.

CHAIRMAN STEWART: All right, Mr. Nelson.

MR. NELSON: Before he takes anything back, I think there might be some confusion, or maybe I'm reading it wrong. I understood that the Technical Committee approved all the implementation plans for all the states, except for those three previous states that --

CHAIRMAN STEWART: That we acted on, yes.

MR. NELSON: -- we had dealt with, and that they had suggested that they did not want to act on the de minimis request; therefore, the de minimis request has been bounced back to the board.

So the motion, as it's stated, is appropriate for all the states, and then we can just deal with the de minimis question separately.

CHAIRMAN STEWART: Absolutely, that's the way I see it. Okay, the Technical Committee nods yes, and

any other board members? Okay, everyone concurs. Any further discussion on the motion? Okay, Heather?

MS. STIRRATT: Just a clarification to Commission staff. That should actually be moved that the Board approve all state and/or jurisdictional implementation plans, so it should include all 17 states and jurisdictions.

CHAIRMAN STEWART: Okay, the mover accepts that rewording?

MR. AUGUSTINE: Yes, thank you.

CHAIRMAN STEWART: Amy has that. A.C., was that your question?

MR. CARPENTER: I was going to point out that the District was not listed. Okay, we covered that. Anything further? Ms. Shipman.

MS. SHIPMAN: Does that include our request in the implementation plan? I believe we and another state requested an exemption for the 2000 young-of-the-year sampling, and that that be delayed until 2001. That was part of our implementation plan.

CHAIRMAN STEWART: Okay.

MS. STIRRATT: That's a very good question. Maybe we should bring that up now and discuss that before we actually vote on this motion. It was a separate part of Julie's presentation to the Board, so maybe, with the Board's -- if the Board is amenable to that, then we can go ahead and discuss that now.

CHAIRMAN STEWART: Should it be part of the discussion for this motion. Amy, that was seconded by Mr. Adler, Bill Adler. Mr. Flagg.

MR. LEWIS FLAGG: Yes, thank you, Mr. Chairman. I do have some concern about putting off the young of the year survey, because, as you know, the strength of the survey is based on the participation of all the states.

We really do need all of the states involved in order to make it meaningful. If it's one state, that may be okay, but if there are others that are contemplating that, I think it creates a situation where we don't -- it puts us back in terms of collecting the appropriate data that we need to collect in terms of recruitment to the Atlantic Seaboard.

So I'm a little bit concerned. I appreciate the concern about staffing and trying to get geared up, but I do have some real concerns about not having a complete set of sampling stations so that we can -- this will be a very long-term dataset, in fact, and the longer we put it off in terms of getting complete data, it's going to be more difficult to provide for appropriate management of this resource.

CHAIRMAN STEWART: Okay, Mr. Nelson, and then we have a comment by the Technical Committee.

MR. NELSON: Okay, again, trying to just deal with what is it that we're approving here, I think the wording is still incorrect; and with the listing of all the states, it doesn't need to show up anymore.

I think if we just say all states and jurisdictions, implementation plans are approved, then that covers everybody, because right now we've got a list that doesn't include everybody.

So, that point alone, and perhaps the maker of the motion would work with Amy on that. The second point is that I would suggest that the implementation plans were, again, reviewed and approved, as we've discussed, for the states.

We've taken care of three other states that had a problem. But they did not, again, they did not -- as with de minimis, the Technical Committee did not, as I understand it, approve any exemptions for the request of the young-of-the-year survey, and they suggested that that be discussed at the Board level.

Therefore, this motion would be -- that would not be part of this motion. If I'm incorrect, certainly we could defer.

CHAIRMAN STEWART: Okay, we'll defer that to the maker of the motion, and he's going to clarify that, plus the identity of the different states and jurisdictions.

MR. AUGUSTINE: Thank you, Mr. Chairman. That was why, when I started my motion, that the board approve the following states, as opposed to approve all state and jurisdiction implementation plans as presented.

I know in the past I've been criticized for not having specifically named those states that were being covered

and accepted in that particular motion. If we could change the language back to "following states", and then name them all, I think we've clearly stated anyone who gets this document later on are covered.

Then one other item. I talked with Byron about it, and wouldn't it be another part of this issue, isn't it too late for the year-of-the-young for 2000?

CHAIRMAN STEWART: That was going to be my point.

MR. AUGUSTINE: So maybe it's a moot point, then.

CHAIRMAN STEWART: It's a mute point, and the Technical Committee wants to address that right now. Heather, if you would.

MS. STIRRATT: If you'll just bear with us for just a minute and let Julie go through this section to describe what we're talking about, I think that even if we were to leave it the way it originally was, Pat, it will cover it just as soon as you hear this particular part.

MS. WEIDER: Two states requested an exemption from the 2000 Young-of-Year Survey, New Hampshire and Georgia. They requested that they have an exemption during 2000.

The FMP provides that a state will be found out of compliance if it doesn't conduct the annual Young-of-Year Survey unless it's exempted by the Management Board.

Therefore, the Technical Committee doesn't have the authority to approve such a request from any state or jurisdiction, and we suggest that New Hampshire and Georgia petition the Management Board for the exemption.

MS. STIRRATT: Okay, along the same lines as this discussion, I would simply add that, if you remember, we had a lot of debate around the table about the implementation date of this plan, and then also an earlier date, which was put into the plan relative to the young-of-the-year sampling survey, and when it would be accomplished and implemented.

As it currently is written, that particular part of the plan was supposed to have been implemented this year. However, it was an understanding around the table that that was going to be done with some leniency, given

that the run of American Eel starts much earlier in the year, the further south that you are located on the coast.

Therefore, for states like Georgia, they would have most likely already missed their opportunity to participate in the young of the year sampling regime by the time the plan was actually up and running.

CHAIRMAN STEWART: Yes, Mr. Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. Therefore, to pursue any further discussion, those two or three states being found non-compliant, it just -- we're spinning our wheels again.

So, I think if we could just move on to the main motion, I would call it myself, if I may.

CHAIRMAN STEWART: All right, is that procedurally all right? Okay then, we should -- with one comment from Heather.

MS. STIRRATT: I'm sorry to interrupt one more time. And, Lew, to your concerns about this, the necessity of collecting this data and it being very important, annually from here on out; again, this is only for one year, this year, that those states are asking for that exemption.

After that, all of the states and jurisdictions under the ASMFC umbrella are planning on implementing the Young-of-the-Year Survey.

CHAIRMAN STEWART: Okay, so at this point, I guess we're ready to vote, unless Lew has some burning desire.

MR. FLAGG: Well, just a item of interest here. Back when we were discussing the Young-of-the-Year Survey, there were states that indicated they might not be able to do it.

I had suggested at the time that perhaps we shouldn't have any states be compelled to do the Young-of-the-Year Survey until 2001. That was rejected, and so I'm a little concerned about now giving exemptions for some states.

In fact, the requirement for the Young-of-the-Year Survey was held to the states that were doing the work. And that's the only point I'd like to make.

CHAIRMAN STEWART: I think it's an issue of timing, and yes, Mr. Nelson.

MR. NELSON: I think that we did try to take that into consideration. There were a number of factors involved with trying to gear up for young-of-the-year indices and sampling, finding the right location and that sort of thing.

Some states have been harvesting, you know, younger stages for a number of years and have had some experience in knowing where to go and look; whereas, other states have not done that.

In the case of New Hampshire, well, let me just say the Board specifically put in the wording that they would be out of compliance unless they asked for an exemption.

So, it's very specifically put in there for that reason. In the case of New Hampshire, although I haven't been able to get back to my office for about a week, we were in the stage of having finished the design that had been recommended, and we had obtained all the materials for that.

I would expect that someday, if I get back to the office, I'll find out that they actually are sampling. We would be sampling during a number of more months. So, we probably will have information to provide on the young of the year. It's just that we will not have started as early as we think we need to start.

CHAIRMAN STEWART: Right, okay. I think it's generally recognized that there has been some acceleration problem in getting into a protocol that's relatively new to many states, and essentially a fishery that's relatively new so that there needs to be some gear-up time and some site-selection time to take place. So Lew, your concerns -- but many states are well ahead of the others in engaging in this census. Mr. Adler.

MR. ADLER: I move the issue, please.

CHAIRMAN STEWART: Okay. All those in favor of the motion -- I'll read it again to make sure it's correct: Move that the Board approve the following states and jurisdictional implementation plans as presented from Maine, New Hampshire, Massachusetts, Rhode Island,

Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, D.C., Potomac River Fisheries Commission, Virginia and North Carolina.

All those in favor, signify aye; those opposed; any abstentions; nulls. It passes unanimously. Mr. Adler.

MR. ADLER: Can I make a motion that this Board relieve those two states of the 2000 young-of-the-year index thing that we just talked about for 15 minutes?

CHAIRMAN STEWART: Do we need that? Certainly, you can make the motion. Do we need it? All right.

MR. ADLER: Okay, if we don't need it, we don't need it, that's fine. I was just trying to move it along here.

CHAIRMAN STEWART: Yes, okay, that's what I thought.

MR. NELSON: I do think we need to have some discussion on whether we need to have that exemption.

CHAIRMAN STEWART: In the record?

MR. NELSON: Yes. The Technical Committee did not vote on that, and I think the Board does need to vote one it.

CHAIRMAN STEWART: All right.

MR. ADLER: Well, then, I'm back in?

CHAIRMAN STEWART: Evidently.

MR. FREEMAN: Second.

MR. ADLER: All right, the motion has been seconded.

CHAIRMAN STEWART: All right, the motion is moved that the Eel Board relieve New Hampshire and Georgia of the year 2000 Young-of-the-Year Survey, made by Mr. Adler, seconded by Mr. Freeman. Discussion? Mr. Carpenter and then Mr. Palmer.

MR. CARPENTER: I noticed that the District of Columbia, in their submittal, said that they would have a Young-of-the-Year Eel Survey starting in 2001, not 2000. Should that be included in this motion? I don't know why the Technical Committee didn't pick that up.

CHAIRMAN STEWART: As I see the sentiment of the motion, it probably should be. I'll get a response from the Technical Committee.

MS. STIRRATT: A.C., I think that's appropriate. It was an oversight.

CHAIRMAN STEWART: Oversight, so that should be included. Should we put them there? Yes, Mr. Palmer.

MR. PALMER: Yes, we are in that same situation. Our report, I think, pretty clearly says that we're going to scout -- we're going to be scouting this last spring for sites, and that we were going to begin deployment in October.

CHAIRMAN STEWART: Okay, it's understandably a sequencing problem here, so just for the legalities. Yes.

MS. STIRRATT: Actually, Bob, to your concern, you will have done some sampling in the year 2000 if you start in October, so that's not necessary to add you in.

MR. PALMER: All right.

CHAIRMAN STEWART: That's a good point. The run happens there much sooner. Yes, Mr. Pope.

MR. POPE: Thank you, Mr. Chairman. So, A.C., in other words, it's too late for them as well. There's no way they can do it.

MR. CARPENTER: We've finished ours a month ago.

CHAIRMAN STEWART: All right, at this point, is there any further discussion on the motion? I think we'll call the vote. All those in favor, signify by aye; opposed; abstentions; nulls, Maine abstains, one abstention. The motion passes. Yes, Mr. Adler.

MR. ADLER: Can I make a motion that we accept the remaining states that had applied for de minimis status? We haven't done that? Is that in order? All right, New Hampshire, who else?

CHAIRMAN STEWART: New Hampshire, Pennsylvania, South Carolina, Georgia and the District of Columbia.

MR. ADLER: We already did it for South Carolina, Georgia and Florida, right?

MS. STIRRATT: Correct, it should be New Hampshire, Pennsylvania and the District of Columbia.

MR. ADLER: All right, I so move that they be allowed for the de minimis status.

CHAIRMAN STEWART: Seconded by Mr. Freeman. Any more discussion? Yes, Mr. Flagg.

MR. FLAGG: Does this mean that they will not have to have recreational fishery regulations? There's no 50-fish creel limit or minimum size?

CHAIRMAN STEWART: Yes, Heather.

MS. STIRRATT: That is correct. They would be exempt from the requirement to institute those regulations. However, I should mention that the Technical Committee did consider that when they reviewed these de minimis requests. They just simply couldn't advise the board in this respect.

CHAIRMAN STEWART: Mr. Nelson.

MR. NELSON: Just to inform the board, we already had on our regulations years ago 6-inch minimum size. Actually, we had 4 inch, and then a couple years ago we changed it to 6.

So, we already have it in place, and the 50-fish creel limit, you know, is too much anyways. But, nevertheless, we had regulations going in for that. So, I mean, we're already going to have those in. I'm not even sure what I get out of with de minimis, but, boy, I want to make sure I don't have do --

CHAIRMAN STEWART: You're declaring it.

MR. NELSON: I'm doing everything else in that plan that it calls for, but I'd like to have de minimis.

CHAIRMAN STEWART: A.C.

MR. CARPENTER: In reviewing those three states, it looked to me like they already had everything else.

MS. STIRRATT: Yes, they did. And to review my earlier statement with D.C. and Pennsylvania, they

have no commercial fishery. So, it might be difficult to argue that they don't meet de minimis.

CHAIRMAN STEWART: Mr. Augustine.

MR. AUGUSTINE: Call the question, Mr. Chairman.

CHAIRMAN STEWART: All right, the motion is to accept the states of New Hampshire, Pennsylvania, and D.C. as de minimis states. All those in favor, say aye; opposed; nulls; abstentions. One null. Okay, the motion passes. Lew, for the record, please comment on --

MR. FLAGG: Again, I'm just concerned about the fact that there's no requirement now for recreational regulations. I mean, states can do it if they so choose, but they're not required to do it.

And I'm concerned about that because we're mandated in Maine to have the recreational creel limits, and we have border waters with New Hampshire, and they're not compelled to do that. We're concerned about the inequities imposed by absolving states of recreational requirements.

CHAIRMAN STEWART: All right, understood. Mr. Nelson.

MR. NELSON: But in good faith, we have those on the books, and so we welcome Maine's coming in compliance with us.

CHAIRMAN STEWART: Any further comment, rebuttals, denials? All right, at this point, Heather, is there anything further?

MS. STIRRATT: Yes, I just had one additional item to bring up before the Board today, and that was a CITES update. Again, I apologize on behalf of Marie Maltese. She was planning on being here this weekend, and simply could not make it up.

In your CD ROM materials, you should have received a copy of a letter that was dated April 13, 2000. And this is basically just to bring the Management Board up do date in the implementation of the recommendations that were suggested in the Fishery Management Plan on behalf of the U.S. Fish and Wildlife Service.

According to Marie, they are planning on getting out a draft first version of the proposed rule on the listing of American Eel on Appendix 3 of CITES, and that should be going forward, hopefully, she said some time this week.

Her name and her number are listed in the memo that you received in the CD ROM briefing materials. If you need further information, feel free to call her. Otherwise, we do have U.S. Fish and Wildlife Service Representatives here that you could certainly contact, or discuss this matter with further.

CHAIRMAN STEWART: Okay, Mr. Fote.

MR. FOTE: In reading over the CD ROM and looking at it, I went over the CITES listing about five times looking for eels to be listed. It should have been a clear heading, because after I read it the fifth time, it says turtles and everything else, and I couldn't see eels. This was a little confusing, and I guess that's not the listing.

MS. STIRRATT: No. Actually Tom, that was submitted to give everyone an example of what the proposed rule would look like when it would be put into the Federal Register. I wish I could apologize for how the way it was presented.

MR. FOTE: I think if we're going to use Acrobat, if we're going to go through it like that, we have to have a clear listing, or maybe a little listing on the thing because you've just got me confused, and I'm sitting here reading, reading, and reading. It was just a little difficult.

CHAIRMAN STEWART: Okay. Any other comments or any other business before the Eel Board? Okay, seeing no other hands or subjects to be addressed by the Eel Board, can we have a motion to adjourn.

Okay, motion to adjourn. All those in favor? The meeting of the American Eel Board is adjourned.

(Whereupon the meeting was adjourned at
11:30 o'clock a.m., June 8, 2000.
