

**PROCEEDINGS OF THE**  
**ATLANTIC STATES MARINE FISHERIES COMMISSION**  
**ATLANTIC MENHADEN MANAGEMENT BOARD**

**The Westin Alexandria**  
Alexandria, Virginia  
**August 5, 2015**

Approved November 3, 2015

**Proceedings of the Atlantic Menhaden Management Board Meeting August 2015**

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1. **Approval of Agenda by Consent** (Page 1).
2. **Approval of Proceedings of May, 2015 by Consent** (Page 1).
3. **Motion: Move to defer action on quota rollover until the adoption of Amendment 3** (page 13).  
Motion by Louis Daniel; second by Jim Gilmore. Motion carried (page 15).
4. **Motion to adjourn by Consent** (Page 15).

### ATTENDANCE

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### Board Members

Terry Stockwell, ME, proxy for P. Keliher (AA)	Roy Miller, DE (GA)
Rep. Walter Kumiega, ME, proxy for B. Langley (LA)	Craig Pugh, DE, proxy for W. Carson (LA)
Doug Grout, NH (AA)	Lynn Fegley, MD, proxy for D. Goshorn (AA)
G. Ritchie White, NH (GA)	Bill Goldsborough, MD (GA)
Dennis Abbott, NH, proxy for D. Watters (LA)	Dave Sikorski, MD, Proxy for D. Stein (LA)
Jocelyn Cary, MA, proxy for S. Peake (LA)	Rob O'Reilly, VA, proxy for J. Bull (AA)
David Pierce, MA (AA)	Kyle Schick, VA, proxy for R. Stuart (LA)
Bill Adler, MA (GA)	Catherine Davenport, VA (GA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Louis Daniel, NC (AA)
Robert Ballou, RI (AA)	Bob Steinburg, NC (LA)
David Simpson, CT (AA)	Robert Boyles, Jr., SC (AA)
James Gilmore, NY (AA)	Ross Self, SC, proxy for R. Cromer (LA)
Emerson Hasbrouck, NY (GA)	Tom Fote, GA (GA)
Katherine Heinlein, NY, proxy for P. Boyle (LA)	Patrick Geer, GA, proxy for Rep. Burns (LA)
Tom Fote, NJ (GA)	Jim Estes, FL, proxy for J. McCawley (AA)
Russ Allen, NJ, proxy for D. Chanda (AA)	Thad Altman, FL (LA)
Adam Nowalsky, NJ, proxy for R. Andrzejczak (LA)	Martin Gary, PRFC
Loren Lustig, PA, (GA)	Derek Orner, NMFS
Tom Moore, proxy for M. Vereb (LA)	Wilson Laney, USFWS
John Clark, DE, proxy for D. Saveikis (AA)	

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

### Ex-Officio Members

Lloyd Ingerson, Law Enforcement Representative  
Jason McNamee, Technical Committee Chair  
Jeff Kaelin, Advisory Panel Chair

### Staff

Shanna Madsen  
Bob Beal  
Toni Kerns  
Mike Waive

## Proceedings of the Atlantic Menhaden Management Board Meeting August 2015

The Atlantic Menhaden Management Board of the Atlantic States Marine Fisheries Commission convened in the Edison Ballroom of The Westin Alexandria, Alexandria, Virginia, August 5, 2015, and was called to order at 2:55 o'clock p.m. by Chairman Robert H. Boyles, Jr.

### CALL TO ORDER

CHAIRMAN ROBERT H. BOYLES, JR.: Good afternoon, everybody. My name is Robert Boyles. I have the privilege as serving as the Chair of the Atlantic Menhaden Board. We'd like to call the Menhaden Board Meeting to order.

### APPROVAL OF AGENDA

CHAIRMAN ROBERT H. BOYLES, JR.: The first item on the agenda I'm seeking is your consent for the approval of the agenda, which was submitted to as part of the briefing package. Are there any additions to the agenda; any changes to the agenda? I see none, so the agenda will stand adopted as presented.

### APPROVAL OF PROCEEDINGS

CHAIRMAN ROBERT H. BOYLES, JR.: The next item is the approval of proceedings from our last meeting in May of 2015. Again, those proceedings were included in the briefing package. Any additions or edits to those proceedings? Seeing none, I'm seeking consent to approve those proceedings as presented. Those proceedings are approved as submitted.

### PUBLIC COMMENT

CHAIRMAN ROBERT H. BOYLES, JR.: Next on the agenda is time for public comment. This is the time for members of the public who may wish to address the board for items that are not on the agenda. I've got no one who has requested time to make comments to the Menhaden Board; but I'll ask one more time just to make sure. I see no requests for public comments; so we will roll on right to the Update on Draft Amendment 3 and turn it over to Mike Waine.

### UPDATE ON DRAFT AMENDMENT 3 DEVELOPMENT

MR. MIKE WAINE: I'm going to take a few moments here and walk everybody through sort of where we're at with Amendment 3 to the Fishery Management Plan for Atlantic Menhaden. A quick overview; in May – this was our last meeting – the board initiated Amendment 3. In this presentation I'll review the development and timeline.

That will include two major issues that have initially been scoped in this amendment, which are ecosystem-based reference points and a revisiting of allocation. I'll talk about a socioeconomic analysis. I will also talk about the process that is involved in the completion of Amendment 3. Starting with ecosystem reference points, the process that is currently occurring is the initial phase of scoping to draft the amendment.

As I talked about earlier at the Tautog Board, we've got two different rounds of public input that happens during an amendment process. The first is a public information document and the second is the actual amendment. All of the things that I'm about to talk to are things that are happening prior to us actually drafting the PID.

I'll get into that a little bit later, but I'm starting with ecosystem reference points. This is really the first step. We're going to establish a range of management objectives; and to do that the board established a working group, which has got representation from the management board, representation from the advisory panel and representation from our technical folks, including the Ecological Reference Point Working Group that has been essentially working on ecosystem reference points for quite some time.

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### UPDATE ON ECOSYSTEM MANAGEMENT OBJECTIVES WORKSHOP

MR. MIKE WAINE: We've got this multi-representative panel that's going to have a workshop at the end of this month for two days. That workshop is going to be facilitated by Dr. Mike Jones. He was the SEDAR 40 Peer Review Chair that we just had for the benchmark stock assessment in 2015. Ultimately the intent of this workshop is to refine a consensus list of objectives for the board to review during their annual meeting.

What I mean when I say that is we anticipate that this panel of multiple different representatives will come up with up with a list of potential ecosystem management objectives that the full board can review in November. The workshop process is the step that we're going through to create that list. Ultimately from that the board would then task the development of ERPs that are based on that final list of potential objectives.

What ultimately we expect to happen is there is going to be a quantitative component to this as well; so matching up with whatever the management objectives end up being, there will be quantitative modeling that goes along with producing ERPs. There is some work that will need to be done after the board sort of reviews that initial cut of what potential management objectives there could be. That is essentially the process. It is slightly new for the commission so I spent a little more time on it.

Prior to that workshop we're going to have a webinar for this panel. On that webinar we're going to review the topics to be covered, expectations and anticipated outcomes of this workshop. Mike Jones, the facilitator, will be going through a case study that will be applicable to sort where we're at with menhaden management.

He is going to pull from the Great Lakes Region to give that panel some idea of how the workshop will occur and what we're looking to be the products coming out from that. Also this webinar that is going to occur in a couple of weeks will also allow that larger workgroup to provide feedback and ask questions on the process.

### REVIEW OF FISHERY ALLOCATION DEVELOPMENT

MR. MIKE WAINE: The next big topic that is being scoped through Amendment 3 is the revisiting of allocation. I just wanted to take a moment to remind the board of where we're at with this and how we got to this point. In Amendment 2, which is currently the amendment the fishery is operating under, there is a provision in there that the board will revisit allocation in 2016.

That was three years after the implementation date of Amendment 2, which was January 1, 2013. Right now we have a total allowable catch – for the coast it is allocated by states, and that allocation is based on the average landings from the years 2009 through 2011. State-by-state allocation; currently we have this revisit provision that has included this allocation topic to be scoped in Amendment 3.

Where are we at with this process? This same board sub-group that I mentioned for the Ecosystem Management Objective Workshop is also working on this revisiting allocation. Initially they're exploring a full range of allocation options. They're considering old and new concepts; so concepts that we had initially scoped through Amendment 2, when we first were considering allocation in this fishery.

Really, their intent here was to start broad and then focus on the specifics. This board sub-group came up with the draft goal of fair and equitable distribution of the coast-wide total

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allowable catch among states and jurisdictions, regions and fishery interests. Over the next couple of slide I'm going to walk through basically a comprehensive list that this board's working group put together.

It represents basically where we're at in the process of them developing the initial ideas about what revisiting allocation would look like. The allocation options to be considered in this – and this is essentially the list that came out of some working meetings from this group – are coast-wide quota, regional quotas, state-by-state quotas which we currently use, seasonal quotas, separate quotas for bait and reduction fisheries – those are the end users – the disposition of the catch, separate quotas for different fleets or small, medium and large-scale fisheries within the larger menhaden fishery.

That is a gear type/harvest capacity allocation idea. There is a couple of others that were a little bit different, which had more of the set-aside small capacity and allocation that would be used by a very small-capacity fleet; so that fluctuations in the fisheries can be monitored. Ultimately these are just ideas that this working group was putting in front of the board to give them a sense for what they were thinking about with allocation.

Another one that made the list was minimum fixed-quota levels. That is something that we've also seen in the eel plan. Some of the potential factors that coincided with that initial brainstorm of potential allocation options were on the list that you see here. Ultimately what I'm running through is the summary that we provided on the board materials; and so if you don't catch all of this, it is in that document as well.

Some of the potential factors were historical catch or landings; so considering the time frame and the data availability. As you remember, some of the discussions we've had from the performance on Amendment 2 is the data

availability over the time frame that we allocated and also making sure that the landings are up to date and which time frame to use; obviously a big factor to consider for allocation.

What the commercial capacity and interests are; so not just the harvester side of things but also the processing. We've heard some of that input along the way from our advisory panel as well. Availability and distribution of the resource; remember menhaden is not ubiquitous across it is range and so movement patterns and availability through time.

Biological and ecological principles; needs and interests of small-scale, fixed gear versus large-scale mobile gear; and, of course, the bycatch allowance topic that we've talking about through the review of the performance of Amendment 2; and also the transfer of quotas. Moving on to some other continued factors; we're talking about credit for biological monitoring that guides against local depletion.

The example that came up here was the biological monitoring program that the state of Rhode Island uses in Narragansett Bay. There was also credit for data collection programs and improved water quality, incentives for sound ecological and biological use of the resource, incentives for reduced discard mortality, management and operational efficiencies, consideration of a research set-aside and ongoing provisions for revisiting allocation.

This is basically supposed to put in front of the board an initial check-in on how the working group is proceeding on this topic. Remember the working group is not making any decisions on this. They're simply creating and brainstorming a list and then we'll start working on individual allocation scenarios to give more understanding and perspective for what those would look like for the menhaden fishery.

A couple of things to note before we move on from this topic; there is concern about the

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incomplete landings' data. I have mentioned that. Of course, we want to encourage states to identify data gaps to staff. I have been working with the states to pull together the most up-to-date landings' history records by state for the menhaden fishery; and so ensuring that I fully characterize any data gaps within that spreadsheet will be important moving forward so that we can include those caveats for anything that gets developed.

Then the Board Working Group will bring things back for November once they have an opportunity to work through the specifics of some of these options. Ultimately the full board will review where we're at with that at the November meeting. Moving into the socioeconomic analysis, basically through the amendment process we're looking to do a social and economic analysis. The goal of this is to analyze the Atlantic Menhaden Fishery socially and economically.

Some work has been done previously. Jim Kirkley, a professor from VIMS, had done some work on the reduction fishery. There also is some data gaps on exactly characterizing these components of the fishery and what it means across the coast. We have this Committee for Social and Economic Sciences that is going to define specific project objective and a request for proposal in which ultimately the way this would work is researchers would submit proposals to this and the CESS would act as the review panel for selecting a researcher to tackle this task.

A potential example of objectives that would come out of this would be identify and describe the participants, develop the importance of Atlantic menhaden to fishing communities and really get into the economic value of bait and reduction fisheries. The intent in doing this is to evaluate the tradeoff of basically the allocation scenarios that we've just talked about, which we're scoping through Amendment 3.

I did want to note that the analysis time frame for this will likely be through 2016; so noting that it will take some time to get this RFP out, get some people interested in going after this work and selecting somebody that can produce deliverable results on that time frame. At this point in the presentation, I'm going to move into how does all of this sort of fit into our development of Amendment 3.

### REVIEW OF DRAFT AMENDMENT 3 TIMELINE

MR. MIKE WAINE: As I mentioned when we started, the amendment process has two rounds of public input. The first round is a public information document which will end up scoping the management issues. The examples that I laid out are the ecological reference points and the allocation, but this document is not limited to those two topics.

It just happens to be the ones we're currently focusing on in this precursor stage to the development of the public information document. The second part of that process will be actually drafting the amendment; so putting in specific options for management and developing what this plan will look like; in essence, the compliance and implementation of whatever measures come out of the process. I'm going to walk through basically the quickest timeline that this amendment could take from this point.

Pending review of the topics that we just reviewed at the November meeting, the board could task the development of options in the PID. The plan development team would then work between the November and the February meeting to develop a public information document that further scopes and prepares these issues and topics for public input.

Hypothetically bringing that back to board consideration in February, this board would decide whether to send that PID out for public comment. If that was the case, hearings would be held in the spring, and we would bring back



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public input on that public information document for the May 2016 board meeting.

After the board reviewed that level of input, they would then task the plan development team to develop specific options that came out of that scoping process into what will be Draft Amendment 3. Picking up from that May meeting, the PDT would then develop the specific options over the summer, bring back a document and draft amendment for board consideration at the August meeting. There the board would consider approving that document for public comment.

We would hold a second round of public hearings on this amendment and bring back the input there at the October meeting – that would be the annual meeting next year – where the board would ultimately select final options and compliance criteria for Amendment 3. With that timeline, the intent would be for implementation to occur for the 2017 fishing season if the board felt comfortable basically implementing the document on that timeline given that it would at our annual meeting next year before they finalized something.

Now, I wanted to take a moment to just talk about a few of the Amendment 3 timeline considerations that I've basically discussed through my presentation. I wanted to summarize a few things. Remember that we're working on developing ecological reference points; and that process is involving this Ecosystem Management Workshop.

It is involving the board essentially deciding on management objectives that incorporate the ecosystem; and then it also relies on technical analysis and modeling to produce ERPs that could be included in the amendment. I just wanted to mention that is going to take some time; and it would be important to consider the timeline in which those get developed and when you think about at what point is the board going

to be able to include some of this information into, for example, the public information document versus the actual draft amendment.

The other thing that I talked about pretty extensively today was the social and economic analysis. Because of that process and the way we're working with the CESS as more of a review panel than them actually doing the work and the amount of time that it will take to conduct that, that will likely occur through 2016; and so the board should consider at what point that would be available for inclusion into a document that actually makes it out to comment for the public. There is the possibility that the Amendment 3 timeline that I just walked everybody through would need to be adjusted if the board wants to include these components at the various stages of the development of this document. I just have this caveat in there that if the timeline gets adjusted, implementation is more likely suited for 2018 than it is for 2017. With that, Mr. Chairman, I'll take some questions and definitely some topics to consider moving forward.

CHAIRMAN BOYLES: Mike, thank you for that very comprehensive and thorough review. Before we ask for questions, I'd like to beg your indulgence. Clearly, there is a lot of interest around the table; clearly, there is a lot of interest in this fishery and in this resource; and, clearly, there are a lot of us, both at the table as well as in the room, who are very, very interested and want to participate in these deliberations.

A number of you I know are disappointed that you're not a formal member of the working group; but I think what you see in terms of what Mike has just presented in terms of what came up just from the allocation deliberations so far; these were things that came from six individuals who we've asked to be kind of spearheading this on behalf of the board.

I'll again ask your indulgence and bear with us as we work through these complicated and multi-

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variate issues. The other thing that I'd like to say to the members of the working group; there is a lot of work yet to be done. Mike has presented to you what is the best possible time frame and any hiccup in our deliberations, any hiccups in our discussions, any additional analyses or things that we need to think about will certainly add to that.

We'd ask Mike to just make sure that we're all on the same page with respect to potential timing. There is a lot to consider. I certainly appreciate the support and the interest that we receive not only from the board but from the members of the public, from our advisors, from our technical advisors, et cetera. This is a set of big issues and I appreciate your forbearance with us. Mike, thank you for the excellent summary of where we are right now. With that, are there questions for Mike on what he has presented? Wilson.

DR. WILSON LANEY: Mike, with regard to the allocation options to be considered – it may be the question I'm going to ask is being considered more under the ecological reference points; but I know that other prey-based fisheries or fisheries that are promulgated on species that are mostly serving a prey function include allocations for species other than those that are targeted by commercial or recreational fisheries like marine mammals and certainly a lot of different bird species in this case for menhaden.

Is that something that the workgroup is thinking about? Does that fall under the ecological reference point's discussion or is that something that should be included under the allocation options, which I guess in other fisheries has been called a forage allocation for lack of a better term?

MR. WAINE: Yes; it is a good question, Wilson. I anticipate that is going to be addressed in the more ecosystem component of this work. The board subgroup that is working on the allocation scenarios is specifically focusing on the fishery.

In terms of allocation to the ecosystem, that process is basically going to be addressed in the Ecosystem Management Workshop and then whatever ERPs are developed from that process.

Remember that involves technical committee input, the modeling, the datasets that we've been working with, the ERP Report that was included in the 2015 benchmark assessment that broke all the different models that the BERP Working Group considered when trying to think about how many different approaches could be used for the ERPs; and then the next step of that being defining specific objectives so we can start matching up what the objectives are with the modeling approaches that will get us ERPs from that process.

DR. WILSON: I'll follow up on the socioeconomic aspects of it. It seems to me that given that ASMFC is managing the menhaden stock in a healthy and sustainable manner and given that it is such an important prey item for a lot of other species that are targeted by ecotourism in particular – I'm thinking pelagic sea birding trips here and whale watching trips.

It seems to me that somehow ASMFC's management ought to get some consideration for the socioeconomic benefits of those other types of activities that are not directly related to menhaden but are certainly indirectly subsidized by ASMFC's management, if you will. Maybe that is something we could do as the CESS about and see if they could at least put that in their thinking for some consideration for some kind of assessment.

MR. WAINE: Wilson, it is a great suggestion. It is something that came up on our CESS call when we had this discussion about essentially what could we do the funding that is allocated for this process and within the timeline that we're operating on. In its simplest form we thought about this as two separate steps; the first being understanding the social and economic analysis

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of the fishery; and then the second step being understanding how that relates the ecosystem and the importance of menhaden's role as a forage.

It is something that definitely got considered, but at this stage it would be extremely challenging to accomplish both if those within the scope of the budget and the time that we have, but it was brought up by the CESS.

MR. DAVID SIMPSON: Pretty comprehensive list all around. One that occurred to me especially over the last couple of years, since quota management, that may be on there but I didn't see it on the list is some consideration in the allocation and even ecological reference point development is the change in spatial distribution of menhaden with the changes broadening of the age structure.

It has been apparent to me in the last two years that I have just not in my life seen as many large menhaden or menhaden, period, up our way since quota management. It is kind of an interesting thing. It has come up for other species and so I think it is worth thinking about here.

The other under economic evaluation would be to make sure that we think about alternatives for the bait versus reduction fishery alternative species sort of source raw material that is out there and has important economic implications. Those are my two thoughts of the long list.

MS. LYNN FEGLEY: Mr. Chairman, I was wondering if we could get some clarity on the timeline for the results of the Ecosystem Workgroup. It looked, Mike, like what you said was that this workgroup is going to meet and come up with objectives and then was it at the fall meeting the full board will decide on a list of objectives and task the BERP Group to develop reference points at the fall meeting. I guess my question is when does that pairing of ecosystem

objectives and model development actually occur? Are we going at that as early as November; is that what we're aiming for?

MR. WAINE: The short answer would be yes. The long answer involves a laundry list of models and management objectives that we haven't developed yet or the board has to sign on. I think that ideally the hypothetical situation would be that the full board reviews management objectives that come out of the workshop at the annual meeting.

If the board can decide on some objectives that make sense to move forward with; they would be paired up with the ERPs that would basically be a part of that objective. Then that would bring us into the technical phase of that process. At the same time I think we would start developing the public information document.

To be completely honest with the board, I'm thinking out loud right now. We would develop some of those objectives to be included into a public information document. They may not have ERPs at that point. The board may want to try to wait for some ERPs. I think that is my best shot at giving you where I think this is headed and that obviously has some unknowns.

MS. FEGLEY: Thank you for that clarification. I think that is fair enough and that was really my ultimate question was whether it was the intent ultimately to have that pairing of objectives and associated ERPs in the PID. It sounds that's what we want to aim for, but it we would have to take it as it comes.

MR. WAINE: Yes, correct, but remember that it will take quite a bit of work. If we go that route, yes, it is going to take quite a bit of work to get to that point to have ERPs match with objectives all in a PID ready to go in February. I would be impressed if we were at that point; but like I said, there are some unknowns here because we're so early in the process.

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MR. WILLIAM J. GOLDSBOROUGH: Mr. Chairman, just an observation to piggyback on Dave Simpson's first comment, which essentially noted that we've had range constriction in this stock and that at least in Southern New England by observations they're starting to see some relief there; and that is certainly good news.

Noting that from some colleagues further north, maybe we're not there yet; that we still have a lack of menhaden farther northern parts of its former range; and so we have a ways to go yet to regrow the stock to fill out that range perhaps even before we are able afford to provide them to the ecosystem. That's worth keeping in mind.

MR. ROB O'REILLY: Mr. Chairman, this isn't exactly a question about the information or what has occurred so far; but I don't mind saying that on the first working group conference call I had reservations that I expressed that we have to be very cautious that the management board itself approves of the type of direction that the working group takes up. I still feel that way and I think that our second call there was more of a direction towards something that the board would approve moving forward.

Mike Waine has presented some of that outcome. I do have sort of a perplexed thought about this process going forward, because I know I think it was 2011 the board was determined that really what should happen – when MSP was the biological reference points, what the board wanted to know was, well, how about these ecological referent points or ecosystem-based reference points; how long would that take to develop? I think Dr. Latour at the time as chair of the technical committee said, well, it may be about three years.

We've surpassed that so we know it is a pretty difficult challenge; but I keep thinking that if one of the big situations we're facing is forage; that it just seems incongruous to work on allocation as more than a guideline of template for what

happens in the future once we know what is available forage, what is available for fisheries.

I that is something I tried to express on the first call, and several others did as well; that, if anything, we should have something that can be enacted once we know more and once we have these reference points. I don't think there is any harm in moving forward with the working group and refining the elements that we're ready to bring to the board; but is certainly going to take the board's input because Amendment 2 was a process that was very detailed and discussed to the enth degree it ended up in an allocation system.

You have to ask what has really changed in the minds of the board since no one has said clearly what that is since 2012 as to what this revisiting is all about. It is in Amendment 2 to revisit; but I just want to make sure that the working group gets enough feedback to know what other states have in mind in terms of allocation. I guess it is early in the process based on the timeline that Mike Waine proposed; and so I think there will be an opportunity for the board to provide that guidance to the working group; but I thought it was important to stress that today.

DR. LOUIS B. DANIEL, III: To go back a little further in history, when we did Amendment 2 we had a stock assessment that said we were in a scrape. Then we got a stock assessment that said we weren't; and now we're going to be moving forward with a pretty massive effort in Amendment 3 and our assessment is going to be how old?

The uncertainty that still weighs over this whole process and the quick action that we took to go ahead and harvest more fish at the last meeting has me very concerned. I think you're going to run into numerous problems with the ecological reference points. I think that it is going to delay it further than '18 personally because I don't

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think you're going to come up with a suitable management approach using that.

The thing that confounds me about the whole issue is that we're looking at a stock that we're right now managing at about 60 percent SPR, which is right in line with the various Lenfest Reports for forage fish; but yet we're going to go through all these gyrations and try to come up with something better than 60 percent. That seems like a monumental waste of our efforts with the uncertainty associated with that.

I want to bring that up as a point. I'm not on the workgroup; but I'm very concerned about the product that we will end with. I think if you look at your timeline you indicate that 2016 would be definitely included in the CESS analysis. That automatically makes a 2017 implementation date impossible or at least right after the annual meeting.

I think we've got to have that socioeconomic information incorporated into this amendment; and so I think we need to go ahead and set our sights on '18; but I think that would only be if the ecological reference points are toned down significantly from the direction that I think we're headed.

CHAIRMAN BOYLES: Further comments from the board? Seeing none; the board has heard where we are and where we intend to go. We have a lot of work to do. To reiterate both what Louis has just said in terms of the complexity as well as Rob's admonition that we stay closely engaged with this; the Allocation Workgroup is six board members. The board members who are members of the Ecological Reference Points are the same six.

Clearly, there are a lot more than six ideas and six interests represented around this table; so please, please, please stay engaged through this process. We will report back to you we hope with a lot of fruit at the annual meeting and

certainly look forward to seeing a number of you at the end of the month in Baltimore. We will move on from that. The next item on the agenda is to discuss quota rollover provisions of Amendment 2. I think Mike is going to set this up.

### BOARD DISCUSSION OF QUOTA ROLLOVER PROVISION OF AMENDMENT 2

MR. WAINE: A little bit of background to remind the board about the provision in Amendment 2 on quota rollovers; it specifies that the board may annually define a percent of unused quota to be rolled over for use in the subsequent fishing year if the stock status is not overfished and overfishing is not occurring.

Up to this point because we were operating with the stock status from the 2012 assessment, we did not have quota rollovers in this fishery. Based on the new stock status that came out of the 2015 benchmark assessment, the menhaden resource is not overfished and overfishing is not occurring; and so the board at this point can consider through board action quota rollovers for unused quota.

Note that would not be for the 2014 fishing year, but it would be for the current fishing year that we're in, which is 2015, and so any decision made by this board on this topic would apply to any unused quota at the end of this calendar year. I also just threw in this slide that shows what the states' total 2014 quota was, what their 2014 landings were and the underage.

If you see a minus sign, that is an underage; and the positive numbers indicate an overage. I didn't include the transfers that occurred in 2014. I just wanted to throw up this table to give the board a sense for the magnitude of underages that occurred in 2014 even though any quota rollover decisions would not be for this data that you're seeing. It would be for '15. Just to summarize, the board has the ability to

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consider quota rollovers through board action at this point. Thank you, Mr. Chairman.

CHAIRMAN BOYLES: Mike, thanks. John.

MR. JOHN CLARK: Mr. Chairman, I just had a question. Mike, this is just what was reported as landings; this doesn't include bycatch? How would bycatch play into the quota rollover; because I know just in our state we had quite a bit of – considering how low our quota was, we did have quite a bit of bycatch also.

MR. WAINE: Yes; because of the way we're treating bycatch landings in Amendment 2, those are not counting towards the quota as specified in Amendment 2. At this point the table that is shown on the screen does not include the bycatch landings because they're not being considered part of the quota. I will say that at the time – you know, this is something that the board could consider during this discussion, but that's currently how the bycatch landings are being treated in Amendment 2.

MR. ROY MILLER: Mike, if I may, I think it would be good to show the bycatch landings along with the quota and the landings. It gives us a better perspective on the actual picture. Thank you.

CHAIRMAN BOYLES: Roy, we can tell you; we can't show you. It is a technological issue we've got. Hang on a minute. We will see if we can get that information for you. Further questions on rollover? Bob.

MR. ROBERT BALLOU: So if I'm no mistaken, Mike, what you're teeing up here is a teaser, indeed, but the rubber really wouldn't hit the road until after the calendar year changes and we're into 2016 at which time we could look back on our 2015 landings and our 2015 bycatch and potentially at our – I'm just throwing out a suggestion – at our winter meeting make a decision as to whether or not the board wanted to consider enacting the rollover provision for

2016. There would no way of doing anything earlier; am I correct in that characterization?

MR. WAINE: If I heard you correctly, we wouldn't get a vision of what 2015 landings are until after '15 ends. At our annual meeting – I think that's the one you were referencing, the next meeting or the fall?

MR. BALLOU: Winter.

MR. WAINE: February, yes, so at the February meeting – usually we do FMP review at the April meeting – excuse me, at the May meeting because compliance reports are due in April. At that point you would have the 2016 FMP Review which detailed the performance in 2015 and would show you what the overages and underages were for the '15 fishing year. It wouldn't be until May that you would actually see those numbers and they would be preliminary at that point. I can try to pull '14 right now so that you can see the performance of '14 for this topic; but, yes, you'd have to wait until May of '16 to see performance in '15.

DR. DAVID PIERCE: I haven't got it in front of me, but I suspect that our discussion and then our decision about what to roll over in terms of a percentage might be impacted by where we are right now relative to the degree to which we are not overfished and the degree to which we are not overfishing. I can't recall where we stand. I

s there a figure that could show how close we are to being overfished and overfishing; because if we're close to that boundary, then that would argue for a very small amount of percent rollover? If it is different, if there is a big gap between where we are and where we thought we need to be, then maybe a higher percentage could be considered.

MS. FEGLEY: Mike, while you're looking, I have a question. A rollover mechanically; I'm just curious how do we think something like that would work? Would it be a state that didn't

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achieve its quota would get a rollover for that state or would it be the coast as a whole doesn't achieve the quota so the coast gets a rollover that is allocated? Do we know how that would work?

MR. WAINE: Ultimately it would be up to the board to decide that. I believe, though, that the language as written in Amendment 2 it is state-specific because we had state-specific allocation. I can double-check the wording, but I believe it is rollover of unused quota within a state to the subsequent fishing year; but let me just double-check that, Lynn.

MR. GOLDSBOROUGH: Mr. Chairman, one comment. I think we need to keep in mind when considering rollovers at this time and for the near future when we are still lacking ecological reference points and we're considering these underages in a scenario where we are dealing with single-species references and have yet to actually figure out how we're going to account for ecosystem needs.

Under that scenario I think we have to keep in mind the flipside and not just this current year but what the year receiving a rollover would look like; and that would be perhaps a significant increase in the total catch at a time when we're attempting to come to grips with dealing with multiple management objectives, allocating to both the fishery and to the ecosystem.

We don't know yet how much the ecosystem needs. We do know that both sectors have needs now. We know the ecosystem is suffering as well as, of course, the fishery could always use more catch. But at time like that when we don't yet have guidelines for much we want to allocate to the ecosystem, it seems to me to be unwise to be thinking about a rollover and what implications that might have.

CHAIRMAN BOYLES: Further comments or discussion? Let's see if we can get some

information to help better inform the deliberations.

MR. WAINE: I think what the board is looking for is a table that totals both directed and bycatch landings together. I don't have that readily available. We could try to match up the underage from the table that I've showed with the bycatch landings that are currently being shown here.

I think the point that was being made is that even though some states are underperforming on their quotas, they are harvesting fish under the bycatch allowance, which is making up that difference basically. We just weren't including it in that table because Amendment 2 doesn't treat it as part of the quota. I will put together a table that we're looking for, but I don't have it readily available.

CHAIRMAN BOYLES: Okay, what is the pleasure of the board? I think the question of where we are is the amendment allows for the conditions to allow for a quota rollover appear to be having been met. We're not overfished and overfishing is not occurring. However, we don't have, of course, complete landings for 2015; and so deliberating what to do with unused quota at the end of this fishing year, the board could choose to do nothing. The board I suppose could revisit this at a later meeting once we've got more complete information.

MR. DENNIS ABBOTT: If we could go back to the graph that shows the catch and underages, I'll start off by saying I think everyone saw that New Hampshire had a quota of 113 pounds, which we didn't utilize. My comments are a bit tongue in cheek but also very serious. We didn't catch our 113 pounds; was it because we didn't have enough capacity in the state? Was there no market? Was it a lack of fish or was it weather-related?

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I'm very much concerned about rolling over because the more likely thing in the state of New Hampshire was actually the fact that we don't see any menhaden. They're just not extending into the range. I think that throughout the range everybody has had opportunities to catch the fish. If you looked at Virginia, they were 409,000 pounds under; but I think in my quick math, that is like 0.001 percent of their quota, so it is a very significant number.

My final comment is I don't think we should do anything because it was just stated the bycatch is probably a greater number than the addition of all the underages that we see at this point in time. Thank you, Mr. Chairman.

REPRESENTATIVE CRAIG A. MINER: Mr. Chairman, if we scroll that up, at the bottom is there a total on the underage? No, okay. I think to Representative Abbott's point, just a quick math, it just seems to me that this number, when you add up all the negatives, will be eclipsed by the other numbers quite easily.

CHAIRMAN BOYLES: I think where we are is the amendment allows for this; and I just wanted to make sure the board was aware that we had a discussion about this. Given the fact that we don't have complete information on 2015, this is certainly something that a member can bring back up at the annual meeting. Mike, let me ask you could it be brought forward as late as the spring meeting after compliance for 2015 or is this a decision that has to be made before the end of the calendar year?

MR. WAINE: In Amendment 2 it doesn't specify a specific time that the board has to make this decision. I also checked on Lynn's question about whether it specifies by state; and that is not specific in the rollover provision in the plan. I almost feel like it might be a good idea – well, if the board chose to address this at another meeting, I could be more prepared for the discussion, but it is up to them.

REPRESENTATIVE WALTER KUMIEGA, III: Mr. Chair, this isn't the only species that we do a rollover for. How is it handled? Would we be rolling 2014 overage into 2016 or trying to roll it over into 2015?

MR. WAINE: It is really up to the board, because once again it is not explicit in the plan about how this supposed to occur. Because we've already completed the 2014 fishing year and we already did an FMP review of that fishing year back in May, it was staff's interpretation that this quota rollover provision would apply to 2015 if the board decided to move forward with it.

That is also backed by the fact that the 2015 benchmark assessment is what allowed us to meet the conditions of the plan which requires that we have not overfished and overfishing is not occurring stock status. That came out of the '15 assessment, which was approved for management use in February of '15.

Based on those things, my interpretation was that any board decision would be for 2015 unused quota that is on the table at the end of the 2015 season. That leaves meetings up until the annual meeting to review this topic again if the board would like to. Like I said, the plan doesn't specify that you have to do it this year. You could do it next year and have it apply to 2015, because we'll still have satisfied that stock status.

CHAIRMAN BOYLES: Let me suggest this to the board because I sense there is a lot of confusion; and, Mike, check me on this. Compliance reports are due April 1<sup>st</sup> the following year; so our 2015 compliance reports will be due April 1, 2016.

May I suggest that if there is interest in the board on allowing a quota rollover on a state-by-state basis; that this be brought to the board for their consideration by May 2016, at the time that we complete the 2015 FMP review. In other words, we will have more complete information at the



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spring 2016 meeting on any underages and the board can have a discussion at that time on how to deal with them, if at all. Is that reasonable? Toni.

MS. TONI KERNS: Bob and I were just talking and what if a state were to make a request to utilize their underage in their compliance reports. They're turning in their compliance report; they are telling us what their landings are; and then that way they can let the board know their indication of that.

One of the measures or options that the board to decide on within Amendment 2 is the percentage of the quota that can be rolled over; and it is zero to a hundred percent. That may be something that the board would want to decide prior to the compliance reports being turned in, so sometime between and the February meeting, so that then states could make that request.

CHAIRMAN BOYLES: That makes sense to me. Dr. Pierce had a question.

DR. PIERCE: I wanted to make a point; and that point is that I'm not prepared to take any action right now, especially since the 2014 data are misleading for Massachusetts. At the end of July we actually had to announce to the industry that we were reducing our trip limit down to 25,000 pounds.

We took 75 percent of our overall allocation. I have every reason to believe that by the time we're through we'll have very little overage, in part underage, because of the nature in which we are managing and regulating this fishery. It is rather tightly controlled with stepwise reductions in the limit. I'm not prepared today to take any action.

DR. DANIEL: Correct me if I'm wrong and stop me quick if I am; but Amendment 2, when we had passed Amendment 2 the concept of this was very foreign to this board. We thought we

were in a deep hole; and now we find ourselves in a rollover situation, which none of us expected or anticipated.

It just seems to me that we need to move carefully based on this drastic change in the stock assessment. I'm not saying it is not overfished and overfishing is not occurring; but I'd like to feel a little more comfortable. After the increased the quota at the last meeting and we're moving along here and we're talking about adding fish on the next year's catch and we don't know what the percentage is, there are so many inconsistencies in how we handle this as a commission.

With 10 percent of dogfish; why not a hundred percent of dogfish? They probably eat menhaden if you go into the ecosystem approach. There is such an inconsistency there; I would just suggest that we defer taking any action on this issue and deal with it and clarify these points in Amendment 3.

CHAIRMAN BOYLES: Louis, is that motion?

DR. DANIEL: Yes.

CHAIRMAN BOYLES: **Motion to defer action on quota rollover and consider it as part of Amendment 3 by Dr. Daniel; second by Jim Gilmore.** Discussion on the motion? Dr. Pierce.

DR. PIERCE: Just a question of timing; does this mean therefore if we incorporate into the amendment; that there would not be any potential for a rollover until 2018 or so? It is not going to be next year or the year after; it could be way down the road. It is not that I'm against the rollover or in favor of the rollover. I also suggested a cautionary approach on this. It is just that by including it in the amendment it seems to push quite deep into the future, especially since your suggestions or your words of caution, Mr. Chairman – or maybe it was Mike – that this could take a lot longer than we think.

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CHAIRMAN BOYLES: Dr. Pierce, what I heard in the motion was defer action until Amendment 3; so that was until time certain. The way I interpret that – and I'll look to Dr. Daniel and Mr. Gilmore for affirmation – is that this would in essence put the rollover provision to bed until we adopt Amendment 3. Louis, is that how you –

DR. DANIEL: That was my intent. That way my belief would be with the development of Amendment 3 we would know what ecosystems' approaches we're going to take. We're going to know what the absolute quota amounts are; and we're not going to find ourselves in a situation where we're rolling over fish and causing harm to the stock while we're trying to come up with a long-term management strategy. Waiting until then, recognizing then we can set the percentages and then everybody will know; and so if you're tracking your quota appropriately and you know you've got a rollover provision, then you can utilize that like we do with other fisheries.

MR. WILLIAM A. ADLER: Until Amendment 3; until Amendment 3 is proposed or finished or what? I don't think I want until 2018 or whatever before we say, oh, maybe we could have rolled over. I'm okay with not taking action on it now; but I want to leave the door open here that if things settle out by next year, even, that we could do a rollover. Does this motion kill that idea?

CHAIRMAN BOYLES: As the way the maker of the motion just explained it; yes, it does.

MR. ADLER: It does kill it until Amendment 3?

CHAIRMAN BOYLES: Until the adoption of Amendment 3.

MR. ADLER: Adoption of Amendment 3; I can't support this.

MR. THOMAS FOTE: I'm trying to think of what species we allow rollovers. Dogfish might be the only one if it is true on dogfish; and I am not sure it is true. Over the years when we had great striped bass stocks and way over, when we tried to do rollovers, we got creamed from left and right to not do rollovers.

It has been the policy over the years not to do rollovers. I'm just asking what species we do rollovers with – besides if we do it on dogfish, which I'm not sure, what species do we actually do rollovers with right now according to a commission plan. We haven't done them on all the species I know.

MS. KERNS: The other species that we do rollovers is spiny dogfish and it is up to 5 percent.

MR. ERIC REID: There is a rollover in the scallop fishery as well, but that's a whole 'nother thing. If I did the math right, I think if you add bycatch, we're over by 2 million pounds, a thousand tons. I think there is a tremendous amount of work ahead of this group to worry about rollover. I could believe at our May meeting we said we're going to set specifications for two years, which means at our May meeting in 2017 we're going to have to relook at specifications; is that correct?

If this motion would say we would revisit this issue at our spring meeting in 2017, it would be a little shorter timeline than this, and I think that would be a better time to address this; but right now I think we're wasting a lot of energy for nothing.

CHAIRMAN BOYLES: Further discussion? Okay, seeing none, let me remind us where we are. Amendment 2 allows for, when certain conditions are met, when overfishing is not occurring and the stock is not overfished, the board may consider quota rollover. If I remember the timing, this board did not formally

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adopt the stock assessment until the May meeting, just this past meeting.

This is the first time these conditions have presented themselves; and so the discussion for the board has been is this something that we want to consider; certainly dealing with imperfect information on the basis of where we are in 2015. I hear some concern about we don't have good information. We've got some concerns about bycatch. We've got some concerns about the net total on where we stand.

Now we have a motion on the floor that we defer the rollover until the adoption of Amendment 3. Now, Louis and Jim, maybe I have misunderstood and maybe I have misinterpreted. From my seat I see what that means is the motion intends that we don't deal with this given the uncertainty, given the amount of work that we have got to do; and so it is why I responded to Mr. Adler that what I interpret this to be is the board won't discuss this beyond today if this motion carries, until we adopt Amendment 3. Dr. Daniel.

DR. DANIEL: I'm sorry if that was the confusion. I was saying that we deal with it in Amendment 3; so we would address these issues of percentages and rollover so that by the time we adopt Amendment 3 we'll have the provisions for rollover or no rollover in adopting that with Amendment 3.

Tom is right; in terms of the quota rollovers, we've talked about this many, many times for striped bass, for flounder, for species where sometimes we'll say, well, if the stock is not overfished and overfishing is not occurring, we're going to allow some rollovers or we're going to wait until we're no longer overfished or fishing and then we'll allow rollovers; and we never do. That is what I intended to interpret as far as having that inconsistency there; but my hope was to have the rollover issue in Amendment 3 and address it there.

CHAIRMAN BOYLES: Thank you, Louis; I apologize for my misinterpretation. Mr. Adler, you've got my misunderstanding. This would be dealt with in Amendment 3. I'll remind the board this is not a final action and won't require a two-thirds vote to reverse should a state wish to deal with quota rollover at some point in the future. The question on the floor then is to defer rollover until the adoption of Amendment 3.

**That motion is by Dr. Daniel and seconded by Mr. Gilmore. Is there a need to caucus? All those in favor of the motion signify by raising your right hand; all those opposed please raise your right hand; abstentions; null votes. That motion carries by a vote of seventeen in favor, zero opposed; no nulls and no abstentions.** Thank you for correcting me and your forbearance with me in my understanding of this.

### ADJOURNMENT

CHAIRMAN BOYLES: At this time is there any other business to come before the Menhaden Board? Seeing none; we will stand adjourned.

(Whereupon, the meeting was adjourned at 4:10 o'clock p.m., August 5, 2015.)