

**PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
AMERICAN EEL MANAGEMENT BOARD**

**The Westin Alexandria  
Alexandria, Virginia  
August 2, 2017**

**Approved October 17, 2017**

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1. **Approval of Agenda by Consent** (Page 1).
2. **Approval of Proceedings of January, 2017** by Consent (Page 1).
3. **Motion to approve the revised North Carolina Aquaculture Plan as submitted on July 25, 2017** (Page 9). Motion by Michelle Duval; second by James Gilmore. Motion carried (Page 13).
4. **Motion to approve the 2016 FMP review of the 2015 fishing year and approve de minimis requests for New Hampshire, Massachusetts, Pennsylvania, District of Columbia, South Carolina and Georgia for yellow eel** (Page 19). Motion by Cheri Patterson; second by Emerson Hasbrouck. Motion carried (Page 20).
5. **Move to adjourn** by consent (Page 20).

**ATTENDANCE**

**Board Members**

Pat Keliher, ME (AA)	Craig Pugh, DE, proxy for Rep. Carson (LA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Roy Miller, DE (GA)
Cheri Patterson, NH, proxy for D. Grout (AA)	Rachel Dean, MD (GA)
G. Ritchie White, NH (GA)	Ed O'Brien, MD, proxy for Del. Stein (LA)
Sarah Ferrara, MA, proxy for Rep. Peake (LA)	Lynn Fegley, MD, proxy for D. Blazer (AA)
Dan McKiernan, MA, proxy for D. Pierce (AA)	Rob O'Reilly, VA, proxy for J. Bull (AA)
Raymond Kane, MA (GA)	Cathy Davenport, VA (GA)
Robert Ballou, RI, proxy for J. Coit (AA)	David Bush, NC, proxy for Rep. Steinburg (LA)
David Borden, RI (GA)	Michelle Duval, NC, proxy for B. Davis (AA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Ross Self, SC, proxy for R. Boyles (AA)
Colleen Giannini, CT, proxy for M. Alexander (AA)	Malcolm Rhodes, SC (GA)
Sen. Craig Miner, CT (LA)	Sen. Ronnie Cromer, SC (LA)
Jim Gilmore, NY (AA)	Pat Geer, GA, proxy for Rep. Nimmer (LA)
Emerson Hasbrouck, NY (GA)	Spud Woodward, GA (AA)
John McMurray, NY, proxy for Sen. Boyle (LA)	Rep. Thad Altman, FL (LA)
Adam Nowalsky, NJ, proxy for Asm. Andrzejczak (LA)	Jim Estes, FL, proxy for J. McCawley (AA)
Russ Allen, NJ, proxy for L. Herrighty (AA)	Sherry White, USFWS
Loren Lustig, PA (GA)	Derek Orner, NMFS
Andrew Shiels, PA, proxy for J. Arway (AA)	Martin Gary, PRFC
John Clark, DE, proxy for D. Saveikis (AA)	

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

**Ex-Officio Members**

Jordan Zimmerman, Technical Committee Vice-Chair

**Staff**

Bob Beal	Kirby Rootes-Murdy
Toni Kerns	Mark Robson

**Guests**

Purcie Bennett-Nickerson, PEW	Deb Hahn, AFWA, DC
Kelly Cates, NOAA	Marin Hawk, MSC
Brad Chase, MA DMF	Arnold Leo, E. Hampton, NY
Kevin Chu, NMFS	Jeffrey Pierce, MEFA
Heather Corbett, NJ DFW	Jon Siemien, USFWS
Justin Davis, CT DEEP	Mike Thalhauser, MCCF
Jeff Deem, VMRC	Darrel Young, MEFA
Shaun Gehen, Omega Protein	Angela Young, MEFA
Jennifer Goebel, NOAA	

The American Eel Management Board of the Atlantic States Marine Fisheries Commission convened in the Edison Ballroom of the Westin Hotel, Alexandria, Virginia, August 2, 2017, and was called to order at 9:22 o'clock a.m. by Chairman John Clark.

**CALL TO ORDER**

CHAIRMAN JOHN CLARK: Good morning and welcome to the Eel Board meeting for the summer meeting. The agenda for the Eel meeting, everybody has that.

**APPROVAL OF AGENDA**

CHAIRMAN CLARK: Are there any changes to the agenda? Seeing none; the agenda is approved.

**APPROVAL OF PROCEEDINGS**

CHAIRMAN CLARK: Everybody has the chance to look at the proceedings from the January, 2017 meeting. Are there any changes to that? Seeing none; the proceedings are approved.

**PUBLIC COMMENT**

CHAIRMAN CLARK: Now we move on to Item 3; Public Comment. We have one person who has signed up; Jeff Pierce.

MR. JEFFREY PIERCE: Good morning again, Chairman Clark and distinguished members of the American Eel Board. My name is Jeffrey Pierce. I am here on behalf of the Maine Elver Fishermen's Association; and thank you for allowing me to make public comment. First I would like to comment on the positive things that have been going on in the state of Maine's glass eel fishery.

As many of you know, in 2011 and '12, Maine's glass eel fishery had a serious problem with poaching. Maine Department of Marine Resources, in conjunction with the Maine Marine Patrol, Maine Warden Service and the Maine State Police, Sherriff and elver

fishermen, worked diligently to correct and stamp out poaching; with the aid and issuance of the first ever swipe card system, which was able to account for every eel harvested.

This was instrumental in compiling harvester data. The following season, because of the new quota implemented, Maine went to an individual quota system; again the first on the eastern seaboard. With the swipe card and the IQS, every harvester was able to manage their quota to ensure compliance with the new quota imposed by this Board.

To commit to the best management of the glass eel fishery, the Maine Department of Marine Resources, the Maine Elver Fishermen Association worked with the state legislature to enact an export license to close the loop on poaching. Now every glass eel in Maine is tracked from harvester to dealer to exporter to its final destination.

Maine, like many states, has been working on habitat restoration, fish passage, and in some cases dam removal. For example, Maine has removed several large dams in recent years; resulting in the opening of over thousands of acres of habitat. Maine glass eel fishery starts March 22. Most fishermen start catching elvers by the first week in April. Even last year's harsh winter in the last two years, 80 percent of Maine's glass eel quota has been caught by the first week in May. The season ends June 7. The yellow eel fishery south of Maine has been doing extremely well; with a number of states exceeding their quota allocated by Addendum IV. These are just a few reasons why we hope this Board would consider new quota allocations on an addendum if needed, for the yellow and glass eel fishery for the upcoming season. Thank you and I would happily answer any questions.

CHAIRMAN CLARK: Thank you, Jeff. Pat Keliher.

MR. PATRICK C. KELIHER: Not to this point, but there was another individual from Maine who was supposed to be here; and since we started early she may just be running late. Her intent was under public comment to talk about possible glass eel quota for aquaculture in the state of Maine. I just wanted to preserve her ability to speak later in the meeting if she does come.

CHAIRMAN CLARK: Got it. Maybe we could put her down under Other Business toward the end of the meeting.

**CONSIDER NORTH CAROLINA GLASS EEL  
AQUACULTURE PLAN FOR 2018**

CHAIRMAN CLARK: Okay, we're going to move on to Item Number 4; and that is Consider the North Carolina Glass Eel Aquaculture Plan for 2018. This is an action item. I'm going to turn it over to Kirby; and we'll have reports from the Technical Committee and the Law Enforcement Committee.

MR. KIRBY ROOTES-MURDY: I'm going to walk you all through the aquaculture plan that North Carolina has submitted; and specifically the revised plan. There were two versions of it; one that was submitted in June, and one that was submitted last week. I'm going to try to make note of where those changes are.

I've also asked Dr. Duval to be ready to answer any additional questions if I'm not able to answer them; regarding the plan. Just in terms of an outline. I'm going to give you all a little bit of background on the plan process; how it's worked in recent years, the 2017 season results, the proposed plan for 2018 and beyond, highlight these changes as I said, and try to answer your questions.

North Carolina aquaculture plans for the American eel farm have been submitted in 2015 and 2016 previously. Both were reviewed by the Technical Committee; as you are all aware, with recommended changes, and both were

approved by the Board. North Carolina submitted a new plan this year for 2018 and beyond on June 1.

In July of this year the Technical Committee reviewed that plan; as well as the 2017 results; and made recommendations to North Carolina in turn, then submitted a revised version of the plan that was seeking to address some of those recommended changes. That revised plan was submitted on the same day that the Law Enforcement Committee reviewed the plan.

I tried to provide that information to the LEC members. Dr. Duval was also on that call as well; to help highlight any changes that there was any confusion on. In terms of this year's season results, 12 out of 17 week's fyke nets were deployed. Fyke nets were fished 44 out of 85 available days. There was no fishing on Saturday or Sundays.

A majority of the fishing effort took place in the White Oak River. In total 775 glass eels; which is approximately a quarter of a pound, were harvested. Fifty-one glass eels were released alive, and 23 elvers were captured and released. In turn there is approximately 199.74 pounds left of the quota that North Carolina has under the Aquaculture Plan. Also to note were some violations that occurred through the efforts to capture glass eels. I'm going to lay out two different sets of citations; and I will just preface it by saying that hearings have not occurred for any of the above violations, so the legal outcome is still unknown. But the first was on January 21. There was a citation for using a stationary net to block more than two-thirds of the waterway; that's a rule violation.

In March and April there was a citation for violating the conditions of the Aquaculture Plan for not fishing gear within the approved timeframe. As you may remember there was a specification in the Aquaculture Plan for fishing two hours after sunrise, they were supposed to have a rigid devise in there to keep the net

open. It was placed without that device in there.

Then there were citations issued by the North Carolina Wildlife Resources Commission. All three of those occurred in March. The first was operating a motor vehicle without a proper navigation light; that's a rule violation. There was operating the motor vessel with invalid registration number, and then the last was being charged with taking eels by a method other than hook and line from inland waters of North Carolina; rule and permit violation.

That last one, just to note that was regards to where that fishing was occurring relative to the approved site. I'm going to go through the proposed changes for 2018 and beyond. It's a pretty comprehensive table, so please bear with me. I will point out that this table was included in materials that were submitted to the Board for review; specifically there in the memo.

It's dated July 3, from Todd Mathis to the ASMFC America Eel TC. In going through this, the change in the plan is as follows. The dates of harvest, comparing 2016 to 2017 the new plan extends the season by one month. The duration of the plan, comparing 2016 to 2017 was extended from one year to two years.

Regarding the method of harvest, they've requested to add an additional piece of equipment, an Irish eel ladder in, in addition to the fyke and dip nets that they used in 2016. There is also a requested change in the location of the harvest. In 2016 there were 11 primary sites that were largely in creeks and rivers within the White Oak River; as well as part of the North River.

In 2017 those creeks and rivers have been replaced with sounds and associated tributaries; and those sounds are the Albemarle Sound, the Pamlico Sound, the Newport River, and the North River. In terms of monitoring program changes, the plan this year is requesting to increase the number of harvesters

from one to three, in turn also having two mates for each of those harvesters; so that increases it times three, essentially from what the plan had in place in 2016.

Regarding the pieces of equipment, it increases it from 15 pieces to 30; that is mostly to align with the increase in the number of harvesters. Regarding the time of year harvest specifications, the previous plan had laid out that in 2017 they had to harvest between January 1 and February 28. This extends in the plan they submitted this year, they extend that period by an additional three months.

Getting down to the actual harvest specifications, there were previously a number of requirements regarding when nets could be set, how often they could be fished. In 2016 fyke nets needed to be fished once every 24 hours. Between March 1 through April 30, fyke and dip nets may only be fished and cod ends closed from two hours before sunset to two hours after sunrise; and the tamper evident tags needed to be used to secure the cod ends of the gear, both when it was being used and fished, and also when it was being stored. The 2017 plan, the one that North Carolina submitted this year for 2018 and beyond, removes those requirements. The requirement is removed for fishing it once every 24 hours.

They also have changed so they no longer require removing the nets from the water during weekend periods; and the tamper evident tags have been removed as a requirement as well. In terms of some of the specifications during harvest or before harvest, those have also been changed. There was the previous specification they had to provide the GPS coordinates once the nets were set; that now would be reported after harvest took place, and only once nets have been removed and/or moved to another site.

Daily reporting of individuals involved, and the info on the number of boats and registration, and number of vehicles and license plates,

instead of that information being provided before every time they went out and tried to set the nets, that is being provided at the beginning of the season. It's only one time at the beginning of the season that they have to report this information.

During harvest some of the changes are they had to record weight of elvers captured by each piece of equipment. They are moving to wave that requirement in the plan moving forward. Initially there was a request to take out the CPUE data collection that was a component of the plan. The revised version that we received on July 25, added that back in, so there is no change there.

This is the last table; in terms of changes to the plan. For after harvest, previously they required to call into North Carolina DMF of the total harvest. Prior to leaving the last harvest site and report the estimated time of arrival when they were going to get back to the landing site. Once all gear was fished they must travel like directly to the landing site.

Once at the landing site all eels must be offloaded and transported directly to the America Eel Farm facility. Those requirements have been waved in this new version of the plan, in part because of the increase in the area that they are seeking to fish. They pointed out that the time to drive from setting the nets, harvest, and getting back to the facility would be too far of a distance to travel; and that's why they are seeking to wave that.

The last change is requiring them to report by noon of the following day after they have completed harvest. That has been shifted up from noon to five o'clock p.m. the following day. I went through that pretty quickly, but I'm happy to go back through and answer any questions folks have; or revisit any of those changes. I'm happy to take any questions about the plan now; and then we can get into the Technical Committee report.

CHAIRMAN CLARK: Okay, do we have questions for Kirby, and again just questions. We're not going to discussion right yet. Dan McKiernan.

MR. DAN MCKIERNAN: Two questions, Kirby. The three violations, were those all from one incident?

MR. ROOTES-MURDY: Are you referring to the one from North Carolina Wildlife Resources Commission?

MR. MCKIERNAN: That's right.

MR. ROOTES-MURDY: Yes, I believe that was all in one day, one instance in March, 2017. But Michelle can correct me if I've got it wrong.

MR. MCKIERNAN: All right my second question is what is the rationale for not revealing the information of the net site until after harvest?

MR. ROOTES-MURDY: That's a good question. I can't answer that. Michelle, could you possibly answer that?

DR. MICHELLE DUVAL: Yes, Kirby. I think it really had more to do with the requirement previously that those locations were having to be provided every single time the individual called in; as opposed to being provided once. There might be a little bit of misunderstanding or mischaracterization there.

CHAIRMAN CLARK: Jim Gilmore.

MR. JAMES J. GILMORE, JR.: You may have said it, Kirby, but were all the violations from American Eel Farm or was that other violations? Secondly, just a curiosity question; what the hell is an Irish fish ladder?

MR. ROOTES-MURDY: For the first question. My understanding is they were all the permit holder, so it was I believe Mr. Allen, who the citations were charged to. But Michelle can correct me if I'm wrong there. Then the second question regarding the addition of the new



gear. Irish eel ladders are usually used at bottleneck points or approximately where dams are to help transport eels, or use them to collect eels for biological sampling; such as young-of-year surveys.

CHAIRMAN CLARK: Roy Miller.

MR. ROY W. MILLER: I had a question concerning the extension of the fishing season. My recollection is that in our neck of the woods at least, the glass eel run is pretty much over by the end of April. I wanted to maybe direct that to Jordy Zimmerman next to you, Kirby. If that's true, under the assumption that towards the end of the fishing season you get more pigmented eels or elvers, then I'm wondering why they need to extend into the end of May. Jordy, am I right in that?

MR. JORDAN ZIMMERMAN: You're correct in Delaware's young-of-the-year harvest; and when we see the peak of ingress of glass eels. Theoretically North Carolina should occur a little earlier. I don't recall if we discussed that in detail. I would assume that change is just to provide maybe some wiggle room; in case we have a particularly cold winter that extends into the spring season. But maybe Dr. Duval could correct me on that.

CHAIRMAN CLARK: Dr. Duval.

DR. DUVAL: Just a few things. Yes that extra month I think was based on conversations that the applicant had had with folks in Virginia; that indicated that there were certainly some years or seasons in which the run extended later into the year. I did just want to mention, in reference to Jim's question about the violations. Those were against the American Eel Farm, so you know the Eel Farm is the permit holder. Then one thing, you know when Kirby was going through the table that noted the changes; and noting the change in the harvest season. I think it's a little bit inaccurate to say that it was an extension of three months.

I think it's the way the gear was required to be operated changed. During January and February it was required to be operated one way; and then during March and April, as Kirby indicated, the gear was required to be removed on the weekends, and fished a different way. It's just for this plan the gear would be allowed to be fished the same way consistently throughout the entire January through May timeframe.

CHAIRMAN CLARK: Okay, Ritchie White.

MR. G. RITCHIE WHITE: A question for Michelle. What permits and licenses does the farm need, and did the violations put any of those in jeopardy?

DR. DUVAL: The farm requires an aquaculture operation permit, which they do already have, and then an aquaculture collection permit, which has not been issued this plan, when we need to be approved prior to issuance of the aquaculture collection permit, and then also a commercial fishing license is required to harvest as well as a dealer's license to report that harvest.

CHAIRMAN CLARK: Dr. Rhodes.

DR. MALCOLM RHODES: Along that line, with the small volume harvested this year, did they go ahead and put those into tanks to kind of proof the system; or what happened to the quarter pound harvest this year, or did they buy glass eels to start the grow out?

DR. DUVAL: I would have to go back and check with staff; in terms of whether additional glass eel purchases was made from either South Carolina or from Maine. But your question is specifically to the eels that were harvested. I don't believe they survived, actually is my understanding. Any harvest that occurs, any mortality also counts against that 200 pound allowance.

CHAIRMAN CLARK: Cheri.

MS. CHERI PATTERSON: I have a question in regards to the permit violations; and I know that these have not gone to court yet. In the event of a conviction, is there in your rules the removal of the permit option? Even though we approve this option, may it not occur because of violation?

DR. DUVAL: There is within our rules that if there are a certain number of convictions that occur, then just by rule, and this would be for any permit, a permit would not be allowed to be renewed; or issued in that case.

#### **TECHNICAL COMMITTEE REPORT**

CHAIRMAN CLARK: Okay, seeing no more questions, we'll move on to the Technical Committee Review of this proposal; and that will be taken by Jordy Zimmerman, thanks Jordy.

MR. ZIMMERMAN: The American Eel Technical Committee met via conference call on July 6. There were a couple of agenda items. The first thing we discussed, well we received an update on the Crassus, the nematode research from Zoemma Warshafsky; who is a grad student at VIMS, doing some very interesting work there.

The North Carolina DMF staff presented the initial North Carolina Aquaculture Plan; as Kirby differentiated, the initial plan and then the follow up to that to some of the TC concerns. I'm only going to comment on the initial plan; as that's all that has been discussed by the TC as a whole. There was a progress report on the stock assessment update given by Kristen.

Kristen also covered American eel aging project. We briefly discussed preliminary 2016 yellow eel landings; and also briefly discussed the North Carolina Senate Bill 410. For the purpose of today, most of our discussion centered around the Aquaculture Plan and that is primarily what this presentation will be regarding.

As Kirby stated, this is the third year reviewing the North Carolina aquaculture proposals. If you all recall, the initial year was approved by the Board too late to be applied for the eel farm to actually start fishing. The second year proceeded under that initial plan proposal that was approved. The TC had a few concerns with this year's proposal, some of which were alleviated through the follow up.

The removal of the monitoring requirements was a big issue for the TC, and Kirby laid that out in the table all the changes. There were some statements in the proposal on the justification and the minimal contribution of 200 pounds of glass eels in North Carolina to the coastwide stock. Some members of the TC thought this was a little bit misleading; without any information to say one way or the other if that was or was not the case.

The expansion of the fishing area from 11 small creeks to larger estuaries, there were a few statements made about the impact this could have on adult eel recruitment from removal of glass eels in those estuaries. Additional gear types, the Irish eel ramp mainly, we thought that was a little bit odd to include that in the proposal; because it's really not conducive that type of gear, to harvest in coastal waters.

In summary, the TC did not support the initial plan as laid out to us in that call. We did produce some recommendations. We felt that the Aquaculture Plan should be for one year only, especially with a lot of unknowns still kind of occurring. We thought once the eel farm comes onboard and starts having a little bit of success, then maybe in future years there would be the potential to allow for multiple years; so this doesn't come before the Board every year.

It was requested by several TC members to remove the language, on the abundance statement for the reasons I mentioned earlier. It was somewhat misleading in the eyes of the TC. We also wanted to see the continuance of

the requirement for net ID numbers, and reporting of the gear specifications.

That was simply from a standpoint of if we were going to eventually use this data for an index of glass eel recruitment in North Carolina, we would need to standardize that by gear, et cetera. The TC also felt that the fyke nets should be fished at least once every 24 hours. This would alleviate the potential unwanted mortality of the target species, glass eels and also any associated bycatch. North Carolina's TC representative stated that they had some issues this year with inclement weather; and that fact could make this requirement difficult for that reason. We also were pretty adamant about requiring the catch-per-unit-effort data collection. When we approved the initial plan, or when it went through TC review that was one of the bright spots we saw in it, from a scientific standpoint is that we would now have more data from the state of North Carolina on young-of-the-year recruitment.

It was also stated the TC fully recognizes that the 200 pounds was granted by the Board. We feel that the expansion of the area and the gear types, within reason, may be needed; especially in light of the results from this past year. As Kirby mentioned, there was a revised plan submitted on July 26, so just a week ago.

It included collection of CPUE data, the gear would continue to be marked with unique ID numbers, and the requested timeframe was reduced from three years to two years. We have not met again as a Technical Committee to review this. There was one TC member that had responded via e-mail, and they were satisfied with the changes. With that I'll open it up to any questions.

CHAIRMAN CLARK: Thanks, J.Z. Are there any questions for the Technical Committee? Pat Keliher.

MR. KELIHER: In one of the sections you talked about the need for hauling and checking the

nets within once every 24 hour period; you referenced bycatch. Do the fyke nets, are they required to have excluder panels to avoid bycatch?

MR. ZIMMERMAN: Not that I am aware of.

MR. KELIHER: It's part of Maine regulations to ensure that fyke nets have excluder panels to help avoid bycatch. It doesn't affect the catchability of the net, but it's going to keep a lot of unwanted species out; so it may be something that should be required.

CHAIRMAN CLARK: Any other questions for Jordy? Okay seeing none; we'll move on to the Law Enforcement Committee's report. What's that? Oh, I'm sorry, Dr. Duval.

DR. DUVAL: Just in reference to Pat's question. The nets do have excluder panels, so I just wanted to confirm that.

#### **LAW ENFORCEMENT COMMITTEE REPORT**

CHAIRMAN CLARK: All right, thank you. Now we'll move on to the Law Enforcement Committee report, Mark.

MR. MARK ROBSON: The Law Enforcement Committee was asked to review the initial plan, and we were updated on the revised plan during our teleconference call of July 25. On that call we also were able to have the input and expertise of North Carolina management; as well as additional law enforcement staff to answer questions that the Law Enforcement Committee had.

After hearing the changes in the plan from previous iterations, there were some reservations expressed about the changes; particularly with regard to both the combination of well, because of the combination of adding additional, very extensive areas over narrow channel waterways, in addition to that the reduction in the amount of real-time reporting of netting

activity and transportation activity. But because of the input from the staff from North Carolina, the members of the LEC really deferred to the expertise and the explanations of the North Carolina staff.

In this particular case they were going to be able to have the resources and particularly the enforcement staff on the waters, to be able to adequately monitor this program; and that they were comfortable that North Carolina has a very cooperative relationship with the facility, and is knowledgeable about the harvesters and their activities.

Nonetheless, and I also failed to mention we have provided you a written memo, trying to summarize the LEC comments; and that has been provided to you. You can refer to that for more details. Given those reservations, because of the confidence that North Carolina can manage this particular permit, they cautiously accepted that proposal with the revisions that Kirby provided to us on the day of our conference call.

I think the concerns and reservations would extend to the point where if this were to be a template, for example for a typical aquaculture program coastwide or in other states, and I think the Law Enforcement Committee would have much more serious concerns about the provisions; particularly where there is a need for more real-time reporting, and monitoring of netting activities for this permit.

That reservation and concern, again in no way reflects on North Carolina's abilities, or on the vendor the facilities abilities to conduct their activities adequately in this permit. But we have a number of states where any harvest of glass eels is illegal. There is a fairly good history, as we all know in the last few years, of substantial illegal activity in certain areas.

I think members were concerned that if this was to become a template for potential aquaculture operations in other states, that we would have

to be much more careful about real-time monitoring of activity. In light of that and again I would refer you back to our memo. I've tried to capture the sense of the LEC that it really wasn't a consensus recommendation; other than an acceptance that North Carolina can deal with this permit adequately, with their resources.

CHAIRMAN CLARK: Are there any questions for Mark? Loren.

MR. LOREN W. LUSTIG: Sir, you just used the term adequately, and I appreciate that. Regarding the ways to extract pain for the people who are violating the law, we've spoken of two different things. One would be to simply pull their permits, so they're out of business the next year. Secondly, I would assume citations result in fines. Can you comment about the Law Enforcement Committee's expectation that the penalties are severe enough that it would cause an inclination to abide by the law in the future?

MR. ROBSON: We didn't discuss specifically the violations in North Carolina, and how those fines or penalties were imposed. Typically the Law Enforcement Committee would, I think, be very supportive. When you have a permit, permits are a very powerful enforcement tool; because you can provide very specific conditions and requirements in those permits, including provisions for strict enforcement of any violations, and the potential of losing that permit with either one or more violations. I am afraid I can't answer your question directly. There were some questions asked about those violations that occurred; but again, it was felt that in part it reflected the ability of the North Carolina Law Enforcement staff to monitor activity and to make those cases, and that that would continue in the future.

CHAIRMAN CLARK: Do we have any other questions for Mark? Seeing none; at this point I would like to recognize Dr. Duval to state North Carolina's position on this proposal, and make a motion to proceed.

DR. DUVAL: **I provided Kirby with a draft motion, if I might, which would be to approve the revised North Carolina Aquaculture Plan as submitted on July 25, 2017.** If I could get a second, I would like to go ahead and provide some discussion to address some of the concerns that were brought up by the Technical Committee, and by the Law Enforcement Committee.

CHAIRMAN CLARK: Second by Jim Gilmore.

DR. DUVAL: First of all, I just want to thank both the Technical Committee and the Law Enforcement Committee for reviewing this plan. Once again it is the third go around, and I certainly appreciate their diligence and patience; and certainly understand the caution, given that this is the first Aquaculture Plan under Addendum IV that is being considered.

In regards to some of the Technical Committee concerns, with regard to the recommendation that this be potentially approved for only one, versus two or three years. Certainly, and I think the justification given the Technical Committee memo was that this would ensure that no one individual or operation would be harvesting the entire 200 pound quota.

I definitely appreciate that the TC is looking out for potential future applicants to ensure some equity in distribution; but I would just note that I think that is more of a management concern, and more of a North Carolina concern. When I visited the facility and discussed that should there be future applicants with the American Eel Farm staff, you know they understood that decisions would need to be made on resource sharing, and acknowledged this.

I think the other thing I would note is, and I mentioned this earlier when a couple questions came up is that any permit that we issue by rule, has to be renewed on an annual basis. The permit that was issued for harvest this year only applied January through the end of April. A

permit that would be issued for this plan would only be issued for January through May of 2018; and then would have to be reviewed and renewed for 2019, you know subject to the rules that we have on the books with regard to any convictions and future issuance of permits.

I just wanted to make sure the Board knew that. Then certainly understand the Technical Committee's concern about the request to remove the statement in regards to, I think it was the contribution, I guess. I would just note that the applicant did not want to remove that statement. It could be argued that the harvest of 200 pounds of glass eels is limited enough to have a minimal impact on a spawning stock of American eel.

I think that was in reference to the high natural mortality of this life stage. That is actually followed by a sentence that says natural mortality is thought to be very high during the early life stages, leptocephalus, glass eel and elver; due to the high fecundity of American eel. That is why the applicant elected to keep that statement in there. With regard to the Irish eel ramp, as Jordy noted, based on our staff's review of the areas where the applicant would like to set, there are no places within joint and coastal waters, which are the only waters where this activity would be allowed; that are suitable for an Irish eel ramp. My understanding from the applicant is that they agreed they had not scouted for any locations for this gear; but felt that they wanted to be able to have the option to use the gear, should there be suitable locations.

I would just note that one of the conditions is that construction and siting of one of these Irish eel ramps would have to be approved prior to the ramp actually being put in the water. In terms of the requirement that fyke nets be fished every 24 hours, you know I certainly understand that there are concerns about mortality.

As I've noted, there are excluder panels in the throat of the nets. I don't know; my sense is that there are not requirements to fish nets once every 24 hours, in the jurisdictions where there are commercial glass eel fisheries. I understand South Carolina might be considering something like that in the future, and understand that that was meant to ensure that there would not be additional mortality of glass eels.

I guess I would just note that the applicant was only able to harvest a quarter pound of eels this year, with the efforts that went on. Given that the applicant is looking to set nets that are 3.5 hours away from the facility. You know we certainly have concerns regarding inclement weather that would not allow for harvesters to meet this requirement; just given the distance from the facility.

As Jordy noted, this was brought up during the Technical Committee call, and that inclement weather certainly was a challenge. I guess I would also note that it is in the applicant's best interest to ensure that once the run begins and harvest begins that they harvest any available glass eels as quickly as possible; and get all those eels back to the facility as quickly as possible, particularly since any glass eels that are harvested, if there is any mortality of those eels once harvested, that counts against the 200 pound quota.

Once the run starts I doubt they'll be leaving the site until they've harvested all the eels that they can. Then in terms of providing data and information to calculate the catch-per-unit effort, we've explained the importance of this information. This information is important, not only for future information on glass eel abundance in North Carolina, but we also tried to explain the importance of this to the applicant; in terms of being able to locate sites that are productive.

Then just to address a few of the Law Enforcement Committee concerns. First of all I

wanted to give a huge shout out to both Mark and Kirby for getting the Law Enforcement Committee together on such short notice. You know that was very much appreciated; and for the Law Enforcement Committee's thoughtful discussion, and for their deference to the acknowledgement of our enforcement staff's assessment of their ability to enforce the conditions of the Plan.

I think in terms of concerns, with regard to removal of oversight conditions. I think as with any new endeavor there is, whether it's research or otherwise, there is always something of a shakedown period in your initial season. After reviewing the implementation of this year's plan, you know we agreed with the applicant that some of these conditions were duplicative; requiring the applicant to provide description and registration of the boat, and description and registration and license plate of the vehicle, and the names of the individuals that would be involved daily, rather than once prior to the season, doesn't really provide marine patrol with any additional enforcement capability. If any of those items change, and they are not reported that's a permit violation.

Additionally, if Marine Patrol goes to a site and the license plate of the vehicle does not match the information that was provided previously, then that is a permit violation. Additionally requiring the applicant to call in the total harvest of eels prior to leaving the last harvest site, and then also requiring the applicant to again report that information to the eel biologist the next day, I think is also duplicative.

You know the applicant is still required to call in daily with the landing site, the site from which they will be leaving and returning to. You know the total number of pieces of gear that would be used, and so failure to return to that site or to report a change in site is a permit violation. They are still required to provide GPS coordinates for all the gear, and any failure to report changes in the locations of that gear is a permit violation.

I guess in regards to the expansion of effort. You know the applicant is still bound by the 200 pound limit, with regard to harvest. Certainly the applicant encountered some challenges with equipment damage this year. Having the permit apply or allowing for up to three harvesters on the permit, also would allow them to continue to operate; even if one set of equipment was damaged.

Their boat and trailer was actually run into earlier this year, so they were unable to operate for some period of time. I think I've already noted, just in terms of the length of time that the gear is in the water and the changes, with regard to how the gear would be fished. I've addressed that earlier.

I guess I would just emphasize that our Marine Patrol staff has no concerns about their ability to meticulously enforce the permit conditions, as well as all existing rules that apply to the applicant. Their concern is really about individuals who are not permitted, and who might be engaged in illegal activities.

I think many of the requirements that we're placing on this applicant, are not necessarily requirements for commercial harvesters of glass eels in other locations. I think we need to be very aware what is being asked of this applicant; versus the requirements of permitted harvesters in other states.

I think the other thing; you know I certainly appreciate the concern that this Board, that the Technical Committee and the Law Enforcement Committee have expressed, and understandably so, given that this is the first proposal. My sense is that as Mr. Keliher mentioned, there is likely to be interested parties from other jurisdictions that may come forward.

I think we need to be really attentive to what is being required of this applicant and future applicants; and just take great care in ensuring

that we're consistent in how we consider those proposals. I thank you, Mr. Chairman for your indulgence in allowing me to go on like this.

CHAIRMAN CLARK: Thank you, Dr. Duval. Before I open it up, could you just elaborate a little bit more? Addendum IV of course states that the state can objectively show the harvest will occur from a watershed that minimally contributes to the spawning stock of American eel. Of course this is not defined in the Addendum.

I'm sure by expanding the area where the farm can harvest their glass eels; they are going to be hitting a lot more watersheds. Is the position more that the 200 pounds is a minimal effect on eels in North Carolina, given the huge expanse that he is now going to be fishing from, or is he going to be limited in all those different watersheds to certain bodies or certain parts of the watershed?

DR. DUVAL: More the former, Mr. Chairman. Given the fact that 200 pounds is an overall limit, and given the fact that the glass eel population is a panmictic population that I don't believe there is information at this time indicating that as eels migrate into fresh water, as the glass eels migrate into fresh water that there is any preference for any one location versus another up and down the coast.

CHAIRMAN CLARK: Further discussion on this matter? Jim Gilmore.

MR. GILMORE: Michelle, just in relation to the violations. I guess the concern that maybe I have, and some other people have is that when you're starting out a pilot program, you know we kind of sit down with applicants in similar things and explain to them how they have to be squeaky clean.

Seeing the number of violations maybe in the first year, now understanding growing pains, but still it raises a concern. I support this, however I think what would be helpful, maybe

following along with Maine's two-strike rule is that if we could maybe after, it's a multi-year plan, so maybe after the first year sort of have an update on how well the applicant is doing in the second year. Maybe this was just growing pains, and not somebody who is not doing everything he needs to make sure he's not violating the permit.

CHAIRMAN LUISI: Dr. Duval.

DR. DUVAL: Jim, I think we would be happy to provide an update after seeing how things go in the 2018 season, similar to what was provided to the Technical Committee; in terms of how harvest went, how any violations are going. I will note that the applicant is not a commercial fisherman by training by any means. Certainly growing pains have played into this.

CHAIRMAN CLARK: Dan McKiernan.

MR. MCKIERNAN: I am going to channel my inner Tom Fote, and recall that four years ago, I recall the debate when we established this section of the management plan, and I recall Louis Daniel making a very impassioned plea about glass eels and being eaten by bluegills, and there were some watersheds that clearly you could just clean them out and you weren't going to do any damage to the overall stock.

I am concerned that if this is the first one we're going to do successfully, but we're losing sort of the criteria of assessing that the watersheds are minimally contributing. The sense I got was that there was going to be a qualifying criteria saying, we're not going to take them from the productive watersheds. But you can take them from the unproductive watersheds; and I think we've lost that if this is how I understand it.

hCHAIRMAN CLARK: Ritchie White.

CHAIRMAN CLARK: Ritchie White.

MR. WHITE: I think North Carolina has done a great job getting their arms around this issue, and having it go smoothly as it can, so that they need to be applauded for that. I guess where

they are permitting annually, and where this is new and changing for the Commission, and where there were violations last year. I guess I would like to see us go to one year, as opposed to two years. Other than that I certainly can support this. But I would like to see that change.

CHAIRMAN CLARK: Further comments. Would you like to amend the motion, Ritchie? I'm sorry, Eric.

MR. ERIC REID: That's okay, Mr. Chairman. I think we should go with the two-year timeframe, only because I think North Carolina has got a pretty good handle on it. Since they only issue their own permit for a year, the eel farm has got a lot at stake. I really don't want to have this conversation next year; and I think the state of North Carolina is more than capable of deciding whether or not it's going to be a year or two years. I think we should go for the two-year program.

CHAIRMAN CLARK: Further discussion. Jim Gilmore.

MR. GILMORE: Yes, I'm in favor of the two years also. Just let me clarify something. My suggestion to bring this up after the first year before the Board again, we would have the opportunity if it turns out they were having more violations; that we could reconsider the terms at that point, I'm assuming. Is that everybody's understanding?

CHAIRMAN CLARK: Pat Keliher.

MR. KELIHER: Just to echo Eric and Jim's comments. I think two years is adequate. I would think though a very quick check in after the first year would be advisable, not to the extent that we've just gone through here, and the last time that this was debated here at this Board. I also, I personally think the issues ttle bit. We often are subjected in the states to s individual really become a state issue.



I understand that this is an issue associated with an experiment, if you will, associated with the harvest of 200 pounds of elvers. But after talking with Dr. Duval, it's obvious by the amount of enforcement activity associated with this individual that they're keeping a real close eye on him. I'm perfectly comfortable with North Carolina taking the appropriate action if we see continued violations.

CHAIRMAN CLARK: Ritchie.

MR. WHITE: I've been convinced from the other commissioners input that two years does work. But I would like to hear that Jim's comment is doable; that if there were issues that we do have the ability to reconsider if we issue a two-year.

CHAIRMAN CLARK: Kirby, do you want to address that? Could the Board reconsider this is a year if there were problems?

MR. ROOTES-MURDY: Yes. It poses a question in terms of the motion on the Board now. I mean you're approving right now the plan as submitted, so the plan is submitted as for a two-year period. I'm not sure of how that would work next year, if the Board opted to decide to not allow it moving forward. But maybe Bob or Toni could provide clarity.

CHAIRMAN CLARK: Bob.

EXECUTIVE DIRECTOR ROBERT E. BEAL: The FMP is silent on that level of detail. I think if the discussion around the table is that this is a two-year approval, however there is going to be a quick review, as Pat Keliher put it, after the first year; and then the Board can decide to revoke this.

The Board would need to take action to revoke the second year. If the Board takes no action the second year occurs. If everyone around the table is comfortable with that approach and there is no objection to that approach, that is what the record will show, and I think that is in

bounds and definitely within the purview of the Board.

CHAIRMAN CLARK: Dr. Duval, would you like to comment on that also?

DR. DUVAL: Yes, just one quick follow up that as I noted, permits are issued only for a year. This permit would only be issued effective January through May, the harvest period. By rule, if convictions occur that met the penalty schedule within our rules, then we would not be allowed to reissue a permit.

CHAIRMAN CLARK: Any further discussion? Seeing none; I'll read the motion into the record. **Move to approve the revised North Carolina Aquaculture Plan as submitted on July 25, 2017; motion by Dr. Duval, seconded by Mr. Gilmore. Is there any objection to this motion? Seeing no objections; the motion is approved by unanimous consent.**

#### **CONSIDER 2016 YELLOW EEL LANDINGS OVERAGE AND THE COASTWIDE CAP**

CHAIRMAN CLARK: That settles Agenda Item Number 4, now we're going to move on to Agenda Item 5, which Kirby is going to address the 2016 Yellow Eel Landings Overage and the Coastwide Cap. This is something that affects all our states.

MR. ROOTES-MURDY: All right, so I'm going to walk through pretty much the memo that I sent to the Board, or included in the meeting materials, excuse me, laying out Addendum IV provisions; the Preliminary 2016 Yellow Eel Landings next steps, and I'll take any questions that Board members have. Addendum IV established a coastwide cap of 907,671 pounds coastwide. Based on average landings from 1998 to 2010, that is what the full coast is evaluated against.

The Addendum lay out that if that cap was exceeded, the accountability measure works in that there are two possible management

triggers. If the coastwide cap is exceeded by more than 10 percent in a given year, so approximately 998,000 pounds, then state-by-state quotas will be triggered. The other management trigger would be if the coastwide cap is exceeded for two consecutive years, regardless of whether it's a pound or 700 pounds or 1,000 pounds then state-by-state quotas are implemented. Under the state-by-state quota system, the new coastwide quota would be 907,669 pounds, and the way it would work with state-by-state quotas is that if there was a state quota overage in a given year, the following year there would be a pound for pound payback. It should be also noted that under this provision in the addendum quota transfers are allowed; but they must be submitted to the Commission Executive Director and staff.

I've got up here on the board now what the state-by-state quotas would be; and these were laid out in Addendum IV. They are included in the back part of the Addendum, and there are a number of columns next to it that lay out how those quotas were derived. I can try to answer those if people have questions, but as many of you probably remember, it was a number of averaging across years, and redistribution of quota; depending upon how states had performed during those periods.

In the memo that I included in meeting materials, I laid out what the coastwide total was; but I didn't include information on the state-by-state landings for 2016. On the screen now I have what the state-by-state landings are; and I just want to reiterate again that these are preliminary landings. What that means is that they're subject to change; they may go up, they may go down from here. But it is important to know that they're not going to likely stay these numbers.

ACCSP staff is here at the meeting today; and happy to answer further questions people have about the timing of when data will be available later this year. But generally speaking, this

information is fluid until it's final. Later this year it will become final. In terms of next steps, as I said, 2016 landings will be finalized later this fall.

In terms of looking towards next year, we've got one year right now, based on preliminary data that indicates that we're at kind of 1A of a two-part management trigger. If 2017 landings, which would be reported out next spring, indicate that the coastwide cap has been exceeded again, whether by a pound or more.

Then state-by-state quotas would be implemented, or at least triggered by the Addendum IV provisions. It's important to know that determination of whether state-by-state quotas are to be implemented would be done at that time, so we would be waiting until some point in the spring for that determination; it wouldn't be something we would know on January 1, of 2018.

Again, those numbers would still be preliminary. In terms of those numbers possibly changing, like we're in the situation right now, we might not know for sure whether the overage, depending on if there was one, the extent of it. We wouldn't know until the fall of 2018. With that I'll take any questions that folks have regarding preliminary data for 2016 and the Addendums provisions.

CHAIRMAN CLARK: Do we have any questions for Kirby on this issue? Rob O'Reilly.

MR. O'REILLY: Thank you, Kirby. Just a great reluctance on this preliminary data, I know in Virginia there have been some occasions. I think it's improved where we've had some double counting. I can see where depending on how narrow an overage would be, and the way you expressed it in the document, or the way it was expressed in the document and the way you expressed it was just one pound would do it. We're sitting here in August, and we don't have final data; but in May of 2018 we'll have preliminary data.

Do we have any idea as to what the process would be if we had some sort of lag built in to this; when we really had final data, and could then take the next step forward? That's a question I guess maybe you've thought about, but I'm kind of curious as to the answer, especially given all the states that don't have the ability to enact regulations quickly. That could be something that even in May that certainly would allow time there; but not if it's just preliminary data.

MR. ROOTES-MURDY: It's a good question, and definitely one that I have thought about, and struggled with. But basically this Board can decide if they want to deviate from the Addendum IV provisions, and try to build in some kind of delay in implementation of state-by-state quotas. That is a possibility, but that would require Board action. I believe it would require an addendum.

CHAIRMAN CLARK: Pat and then Lynn.

MR. KELIHER: We're in this; I think Rob O'Reilly has kind of brought up the crux of this problem. We're trying to determine how or when this is all going to happen. The timing of the implementation of rules associated with implementation of possible state-by-state quotas. Under Other Business I was going to bring forward the issue of Maine's elver quota as well.

We've just completed the three-year-quota allocation for the state of Maine regarding glass eels. We would like to see a review of that. I am wondering, Mr. Chairman, if it may be a better option to formalize a subcommittee for eels to look at both yellow eel and glass eels; to make a recommendation to this Board at a future meeting on really what the best path forward would be, including deviation from this addendum and the beginning of a new addendum.

CHAIRMAN CLARK: I think that's an excellent idea, Pat. I think at this point though, why don't we save that for Other Business, because I agree with you that first of all we will have to address Maine's glass eel quota for 2018 under Other Business, because the Addendum only goes through 2017. The Addendum does state that the Board can approve Maine getting the same quota for 2018; but for any change in your quota, we would have to go to Addendum.

There is one impetus for a new addendum, and of course this yellow eel cap; which I will go out on a limb and say no state is looking forward to putting yellow eel quotas into place. I think we've got those to look at. As far as a possible action on this, I guess we were thinking in terms of, I know Lynn you had some ideas on that.

MS. LYNN FEGLEY: I completely agree with Mr. Keliher and the issues that we have with the timing of this harvest. If we're in May of 2018, and we are under the cap, what happens if five pounds come in July? Does that mean that we're going to have to go back and implement? The idea of implementing a state-by-state quota in the middle of a fishing season, not every state can do it and it causes chaos on the ground.

I had intended to make a motion to delay implementation until January 1, 2019; if we find ourselves over for 2017. But it sounds like there may be a more comprehensive way to look at this, and maybe look at what we can do through a subcommittee to deal with the state-by-state quota issues; so I'll defer until we get to that conversation.

CHAIRMAN CLARK: Roy.

MR. MILLER: I just wanted to note for the record that Delaware lacks the regulatory authority to impose a quota. If a quota becomes necessary, if the trigger is pulled, then that would require enabling legislation; and we all know that that can be an uncertain process.

CHAIRMAN CLARK: Roy, I need to correct you there. The legislation that brought us back into compliance actually the legislature left it up to themselves to determine how we would meet our eel quota, how that would be divided up. That would be an interesting process, I agree, but it was addressed when we came back into compliance.

MR. MILLER: Thank you for that correction.

CHAIRMAN CLARK: I think at this time, oh Jim Gilmore.

MR. GILMORE: Yes, I just wanted to add to Pat's suggestion on that subcommittee or whatever. I think it would be also important to have a discussion about, we're going to be doing transfers, if we go to that how that would all work; because it is a little unclear to me.

Again, if we get into the situation the other quota transfer places, we get to sort of, for lack of a better term, a derby to get to the state that has the most. I think some suggestions about having maybe the Commission mediate that might be a good idea. But anyway, just a little bit more discussion about how that would occur if we did get into the quota management would be helpful.

CHAIRMAN CLARK: It sounds like there is a lot of interest in the Board. Before Addendum IV, the Board put together a working group to develop Addendum IV, which was there to develop the glass eel, the yellow eel quotas, the aquaculture plans et cetera. Perhaps this would be the time for a motion for the Board to put together another working group. Okay, Toni, would you like to address?

MS. TONI KERNS: John, I don't think you need a motion to put together the working group. I think it's clear around the table that that is the interest of this Board. What we can do is have the working group first talk about if there are ways, possibly outside of an addendum process to address the immediate need of dealing with

the quotas, if we do go over in 2017 to trigger the state-by-state quotas.

We can do that hopefully before the annual meeting. Then the second thing that working group would be charged to do, which we have promised we would do after the results of the assessment came back is to relook at the state-by-state quotas for yellow eel; as well as Kirby mentioning before, or maybe it was Pat or you that we are obligated to look at the Maine elver quota, because that runs out for next year. We will need to do that.

CHAIRMAN CLARK: Right, but that will require an addendum at that point.

MS. KERNS: We'll look into seeing what we are required to do for Maine.

CHAIRMAN CLARK: Well, it says in this Addendum that if we're to change the Maine glass eel quota, we need a new addendum. We would need to go to an addendum at that point.

MS. KERNS: Most likely.

CHAIRMAN CLARK: Lynn.

MS. FEGLEY: I just want to make sure that I'm clear on the process. Right now under Addendum IV, if we exceed in 2017, I think what the Addendum says is we go to automatic state-by-state quotas. I'm not sure what automatic means; if that means in the same year or if that could mean 2019.

If we need an addendum to change that and we put together a working group to develop a strategy, an addendum, and that working group comes back at the annual meeting. Can we finalize an addendum to get us out of state-by-state quota implementation in 2018 in time; if that makes sense?

MS. KERNS: Lynn, I think what we would do is explore all of our options; and what is the fastest way to get to a solution. I need to read

up on the exact provisions of what types of emergency actions we could take; potentially if any of the inabilities of states to be able to responds fast enough, could be justified as an emergency action or not.

Also look at sort of how we went through and implemented the addendum, to see if for example, your idea of doing a motion to delay that until later is something that we could do within the rules of the charter and the plan. We just want to be able to look into what all of our options are, and then bring that back to the Board.

We could fast track an addendum where we would meet via conference call, to get something done so it would be done before the end of the year. It would probably mean limited public hearings. It would only be out for 30 days; that type of methodology to do the addendum. But we would just want to look at what all of our options are, and bring that back to the Board at the annual meeting.

CHAIRMAN CLARK: Toni, we don't need a motion; but at this point is it the Board's desire to reconstitute a working group on eels, to explore possibilities for addressing the coastwide cap, addressing the glass eel quota, addressing aquaculture, all these items? Is there any objection to doing so?

Seeing none; let's form another working group then to address these issues. As long as we're discussing these issues, Pat, would you like to make a motion about Maine's glass eel quota for 2018, under Addendum IV? Maine can request to have the same quota for 2018 as they had for these past three years.

MR. KELIHER: Mr. Chairman, I was prepared to do that; but based on Toni's comments and the potential for fast tracking an addendum in the future. I'm wondering if we shouldn't hold off on that motion until the annual meeting.

CHAIRMAN CLARK: That's fine. As long as that should still give Maine time to, well you would have the same quota in effect for 2018.

MR. KELIHER: Even with changes under the emergency authority bestowed on Maine by the Legislature of the state of Maine, I could implement.

#### **CONSIDER THE 2016 AMERICAN EEL FMP REVIEW AND STATE COMPLIANCE**

CHAIRMAN CLARK: Excellent, thanks, Pat. Do we have any further discussion of this coastwide cap and overage? Okay seeing none; let's move on to Agenda Item 6, which is Consider the 2016 American Eel FMP Review and State Compliance, and Kirby will take that.

MR. ROOTES-MURDY: I'm going to go through status of the fishery commercial. As you are all aware there are recreational measures in place, but not much of a recreational fishery. The stock status state compliance for the FMP highlights any changes from 2014 to 2015; and go through the Plan Review Team's recommendations.

State reported landings of yellow and silver eels were 1,052,514 pounds in 2014 and 865,070 pounds in 2015; that amounts to an 18 percent decrease from 2014 to 2015. Maryland and Virginia account for 66 percent of that coastwide harvest. Landings of glass eel were reported for Maine and South Carolina.

In 2014 they were over 12,000 pounds. In 2015 they were down to 5,442 pounds. Regarding the recreational fishery, as of 2009 recreational data is no longer provided for American eel in the compliance reports. This is a result of the unreliable design of MRIP to focus on active fishing sites along the coast and estuarine areas; and the high associated proportion standard error associated with those estimates.

As you're all aware, we had a stock assessment completed in 2012. There is no change to that

as of yet. The stock status remains depleted. We've in turn had two addenda that came out of that stock assessment; or in response to it, Addendum III and Addendum IV, and as you all are aware we will be getting an assessment update presented to the Board, and it will be completed later this fall.

Regarding the plans requirements, glass eel fishery regulations all states must implement a young-of-year survey and all states must maintain regulations. Those were set in place in 2000; and the maximum amount of pigmented eels is 25 per pound of glass eel, using a one-eighth mesh to grade eels. Maine self-imposed an involuntary quota in 2014 of 11,479 pounds that was further adjusted through Addendum IV.

Regarding those measures that are in place, harvest of glass eels, as this Board is probably aware, took place in Florida in 2013 and 2014; and following that reporting out the Board exempted implementation of regulations until Florida demonstrated a fishery existed. In turn Florida in 2015 moved to close that loophole and eliminate glass eel harvest by implementing a 9-inch minimum size.

Regarding the yellow eel regulations for both commercial and recreational, it was an increase to a minimum size of 9 inches, and gear specifications were half inch by half inch mesh size for yellow eel pots, and an allowance of a four by four inch escape panel on the mesh. Recreational bag limit is 25 eels per bag, per day, per angler.

Crew and captains are allowed 50 fish possession limit. Regarding those; Connecticut implemented the escape panels as a component of those regulations, and that was done in October of 2015. Regarding silver eel regulations, there is a seasonal closure from September 1 through December 31. There is no take except for baited pots and traps and spears. There was a one-year exemption for the weirs fishery in Delaware River and its

tributaries in New York. In terms of the PRTs review of those regulations, Florida does not prohibit pound nets from September 1 through December 31, but has no active fishery for silver eels over the last 10 to 15 years.

Other measures, there are requirement to have trip-level reporting by both harvester and dealers at least monthly. New Hampshire and New Jersey do not have dealer reporting for eels, but harvesters report some of the information on dealers. Delaware, Potomac River Fisheries Commission, and Florida do not have dealer reporting for eels.

Then regarding de minimis request, the FMP stipulates that states may apply for de minimis for each of the life stages, if for the proceeding two years the average commercial landings constituted less than 1 percent of the coastwide commercial landings for that life stage. New Hampshire, Massachusetts, Pennsylvania, District of Colombia, South Carolina, Georgia all requested de minimis status for their yellow eel fishery.

All those states that applied for yellow eel meet the de minimis status requirement; in that they were less than 1 percent of the previous year's landings. South Carolina put in a request for de minimis status for their glass eel fishery, but does not meet that less than 1 percent of coastwide landings criterion.

Last, the Plan Review Team recommendations, the Plan Review Team considered state compliance and mentioned the following. They wanted to see more highlighted trends in the state compliance reports; and for states to provide estimates of harvest regarding those that are going to food and to bait.

Some states do it better than others; and also asked for states to provide more information regarding law enforcement agencies efforts to collect information on illegal or undocumented fisheries for eel in their states. Then for states

to collect harvest data from those that are harvesting eels primarily for personal use.

The Plan Review Team recommends that the Board approve de minimis status requests for New Hampshire, Massachusetts, Pennsylvania, District of Columbia, South Carolina, and Georgia for their yellow eel fisheries. I'll take any questions if Commissioners have it.

CHAIRMAN CLARK: Are there any questions for Kirby on this? Rob O'Reilly.

MR. O'REILLY: Do you have a table of the state-specific landings and even relative to the looming quotas the state-specific quotas that may come to bear fruit soon?

MR. ROOTES-MURDY: Yes. You're asking about a comparison of state landings in 2015, relative to state potential quotas, or 2016 landings relative to potential state quotas?

MR. O'REILLY: Well both would be good, but the reason I brought it up, I want to make sure that folks aren't going to line up for transfers when we get to that system of quotas; because you have Maryland and Virginia at 56 percent of the total. It's been a long time since Virginia has had a fishery like that; and by the time there is a quota, which I've expressed a little concern before, instead of about 98,000 pounds by the third iteration of the Working Group, just bringing it up, we're down to 78,000 pounds. Virginia has been relatively small; you know maybe 9 percent or something like that.

With the 78,000 it will be about 8 percent, a little over 8 percent. It just might be good at some point, since there will be a Working Group. Unless the rules change a little bit, you know we should look forward to a quota at some time. When we do, I think everyone should kind of get an idea of where the fishery is on a state-specific basis.

CHAIRMAN CLARK: Dr. Duval.

DR. DUVAL: Just in regards to the FMP review; under Section 4, the Status of Research and Monitoring. There is a statement there that says that Pennsylvania, D.C., North Carolina and Georgia do not have young-of-the-year surveys; but instead have yellow eel surveys; and we do not have a yellow eel survey in North Carolina. We do have a young-of-the-year survey; it's the Beaufort Bridgenet Survey. I believe the Board approved the use of that as our young-of-the-year survey back in 2009, so that is provided. I just wanted to make that correction.

CHAIRMAN CLARK: Are there any other questions? Seeing none; can we get a motion to approve the FMP review and state compliance reports? The motion is coming. Emerson Hasbrouck has seconded this motion. Is there any discussion of the motion? Cheri.

MS. PATTERSON: I believe I have to read it, in order to have it a clear motion. **Move to approve the 2016 Fishery Management Plan Review of the 2015 fishing year and approve de minimis requests for New Hampshire, Massachusetts, Pennsylvania, District of Columbia, and Georgia for yellow eel.**

CHAIRMAN CLARK: Dr. Rhodes.

DR. RHODES: **I believe South Carolina was in the yellow eel de minimis also.** Will you accept that addition?

MS. PATTERSON: Yes, I'll accept that addition. Thank you.

CHAIRMAN CLARK: Was South Carolina also in there for glass eel? Okay they didn't meet that. **The revised motion is Move to approve the 2016 FMP Review of the 2015 fishing year and approve de minimis requests for New Hampshire, Massachusetts, Pennsylvania, District of Columbia, South Carolina and Georgia for yellow eel. Are there any objections to this motion? Seeing none it is approved.**

**AMERICAN EEL PLAN  
REVIEW TEAM MEMBERSHIP**

CHAIRMAN CLARK: I just want to turn it over to Kirby about the Plan Review Team.

MR. ROOTES-MURDY: We've been moving through this Board so quickly this morning and well that I forgot to note that we have a pretty small Plan Review Team right now; which is comprised of basically me and one or two other staffers. It would be great if the states could submit nominations, or at least somebody to take part in that Plan Review Team as well. You know reviewing these compliance reports annually is a little bit of a lift, so we would appreciate the states putting forward somebody; and that can just be done through e-mail, sending that to me afterwards would be great.

CHAIRMAN CLARK: I'm sure he will be flooded with volunteers. Do you have a question, Roy? Okay that should do it for that agenda item.

**OTHER BUSINESS**

CHAIRMAN CLARK: We have several other business items. Let me go back to Public Comment. Pat, is your aquaculture person here?

MR. KELIHER: No.

CHAIRMAN CLARK: Okay well, we can put that on hold. Let's see, what else did we have here? Oh, well I guess not all that much, really. We did have an interest from, I've been told the Minister of Canada's Department of Fisheries and Oceans or the Minister rather of the Canadian Department of Fisheries and Oceans would like to address the Eel Board at the annual meeting in Norfolk.

They are very interested in further cooperation on eel issues, and in particular Canada is moving ahead with some fairly large scale efforts in eel aquaculture; and I believe he would like to talk about that. A former member of this Board,

Mitch Feigenbaum is heavily involved in the Canadian aquaculture effort.

I guess that is more of just an information item there. Is the Board amendable to inviting the Canadian Minister of the Department of Fisheries and Oceans to our annual meeting; should he be able to make it? Seeing no objections; I'll take that as a yes. Is there any other business to come before the Board? Roy.

MR. MILLER: Regarding an issue I brought up earlier with regard to Delaware's quota system. I would like to read directly from Chapter 18 of 7 Delaware Code. It says; any such quota management system required by the Atlantic States Marine Fishery Commission shall be implemented through legislative action. Thank you.

**ADJOURNMENT**

CHAIRMAN CLARK: I stand corrected then; anything else? Seeing no other items; we are adjourned.

(Whereupon, the meeting was adjourned at 10:54 o'clock a.m., August 2, 2017.)