

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

Crowne Plaza Hotel - Old Town
Alexandria, Virginia
May 22, 2013

Approved August 6, 2013

TABLE OF CONTENTS

Call to Order1

Approval of Agenda.....1

Approval of Proceedings, February 20, 20131

Public Comment.....1

Episodic Events Set-Aside Proposal by Board Subcommittee4

State Implementation Plans and Amendment 2 Compliance 16

Plan Review Team Report..... 16

Consider Approval of State Implementation Plans 19

Technical Committee Report55

Benchmark Stock Assessment Terms of Reference58

Other Business.....59

Adjournment60

INDEX OF MOTIONS

1. **Approval of Agenda** by consent (Page 1).
2. **Approval of Proceedings of February 20, 2013** by consent (Page 1).
3. **Move to approve the episodic event pilot program for 2013** (Page 8). Motion by Terry Stockwell; second by Peter Himchak.
4. **Move to amend that Massachusetts be included in the episodic event set-aside pilot program for 2013** (Page 10). Motion by David Pierce; second by Peter Himchak. Motion carried (Page 12).
5. **Move to further amend to include PRFC and North Carolina for the episodic event pilot program for 2013** (Page 12). Motion by Adam Nowalsky; second by Kyle Schick.
6. **Move to substitute that only New England, Maine, New Hampshire, Massachusetts, Rhode Island and Connecticut, states may participate in the episodic event pilot program for 2013** (Page 12). Motion by Doug Grout; second by Rick Bellavance.
7. **Move to initiate an addendum to more fully develop the episodic event program for 2014 and beyond** (Page 15). Motion by Adam Nowalsky; second by Pat Augustine.
8. **Motion to postpone the action until October 2013 in Georgia** (Page 15). Motion by Dennis Abbott; second by Terry Stockwell. Motion carried (Page 16).
9. **Move that the board approve the implementation plans for Massachusetts, the Potomac River Fisheries Commission and Florida as meeting the full requirements of Amendment 2** (Page 21). Motion by Pat Augustine; second by Bill Adler. Motion carried (Page 21).
10. **Move that the board not approve the Maryland, Virginia and Potomac River Fisheries Commission requests for bycatch allowance revisions** (Page 27). Motion by David Pierce; second by Ritchie White.
11. **Substitute motion to approve Maryland's proposal as presented** (Page 28). Motion by Pat Augustine; second by Lynn Fegley. Motion carried as the main motion on (Page 33).
12. **Move to amend the motion to include the Potomac River Fisheries Commission, Virginia and the state of North Carolina** (Page 32). Motion by Kyle Schick; second by Bill Cole. Motion was defeated (Page 32).
13. **Move that the Potomac River Fisheries Commission be approved** (Page 33). Motion by Kyle Schick; second by Pat Augustine.
14. **Above motion reworded to allow the Potomac River Fisheries Commission to add a bycatch allowance of 12,000 pounds on one boat with two licensees for pound net fisheries only** (Page 33). Motion by Kyle Schick; second by Ellen Cosby. Motion carried (Page 34).
15. **Move to approve the Virginia plan for 2013** (Page 34). Motion by Pat Augustine; second by Jack Travelstead. Motion carried (Page 43).

INDEX OF MOTIONS (CONTINUED)

16. **Move that North Carolina be approved for a bycatch of 12,000 pounds on one vessel for two licenses each for pound nets only in 2013** (Page 43). Motion by Bill Cole; second by Dennis Abbott. Motion carried (Page 45).
17. **Move that Rhode Island, Massachusetts, New York and Maine be approved for a bycatch of 12,000 pounds on one vessel for two licenses each for multispecies stationary gear only for 2013** (Page 45). Motion by Robert Ballou; second by David Simpson. Motion carried (Page 46).
18. **Move that for 2014 all states will be limited to a 6,000 pound per vessel per trip bycatch limit regardless of the number of permit holders on the vessel with only one landing event per calendar day unless the board approves an addendum to modify Section 4.2.1.7 of Amendment 2 to reflect this** (Page 46). Motion by Douglas Grout; second by Rick Bellavance. Motion carried (Page 48).
19. **Move to approve *de minimis* status for New Hampshire, South Carolina, Georgia and Florida for 2013** (Page 48). Motion by Pat Augustine; second by Bill Adler. Motion carried (Page 48).
20. **Move to approve Rhode Island's Plan as presented** (Page 50). Motion by Pat Augustine; second by David Simpson. Motion carried (Page 50).
21. **Move that the board approve the Connecticut Plan as presented** (Page 50). Motion by Pat Augustine; second by David Simpson. Motion carried (Page 51).
22. **Move to approve New York's plan for 2013** (Page 52). Motion by Pat Augustine; second by Bill Adler. Motion carried (Page 52).
23. **Move to approve New Jersey's plan for 2013** (Page 53). Motion by Peter Himchak; second by Bill Cole. Motion carried (Page 54).
24. **Move to approve North Carolina's plan for 2013** (Page 54). Motion by Bill Cole; second by Bill Adler. Motion carried (Page 55).
25. **Move to approve the plans from Maine, New Hampshire, Delaware, South Carolina and Georgia for 2013** (Page 55). Motion by Pat Augustine; second by Bill Cole. Motion carried (Page 55).
26. **Move that the board accept the terms of reference as presented by the technical committee** (Page 59). Motion by Robert Boyle; second by Pat Augustine. Motion carried (Page 59).
27. **Move to adjourn by consent** (Page 60).

ATTENDANCE

Board Members

Patrick Keliher, ME (AA)	David Saveikis, DE (AA)
Terry Stockwell, ME, Administrative proxy	John Clark, DE, Administrative proxy
Steve Train, ME (GA)	Roy Miller, DE (GA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Bernie Pankowski, DE, proxy for Sen. Venables (LA)
Doug Grout, NH (AA)	Lynn Fegley, MD, proxy for T. O'Connell (AA)
G. Ritchie White, NH (GA)	Bill Goldsborough, MD (GA)
Jocelyn Cary, MA, proxy for Rep. Peake (LA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
David Pierce, MA, proxy for P. Diodati (AA)	Jack Travelstead, VA (AA)
Bill Adler, MA (GA)	Kyle Schick, VA, proxy for Sen. Stuart (LA)
Robert Ballou, RI (AA)	Louis Daniel, NC (AA)
Rick Bellavance, RI, Proxy for Rep. Martin (LA)	Bill Cole, NC (GA)
David Simpson, CT (AA)	Robert Boyles, Jr., SC (AA)
Dr. Lance Stewart, CT (GA)	Malcolm Rhodes, SC (GA)
James Gilmore, NY (AA)	Spud Woodward, GA (AA)
Pat Augustine, NY (GA)	Jim Estes, FL, proxy for J. McCawley (AA)
Peter Himchak, NJ, proxy for D. Chanda (AA)	Kelly Denit, NMFS
Adam Nowalsky, NJ, proxy for Asm. Albano (LA)	Ellen Cosby, PRFC
Tom Fote, NJ (GA)	

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

Ex-Officio Members

Micah Dean, Technical Committee Chair

Staff

Robert Beal
Toni Kerns

Mike Waine

Guests

Charles Lynch, NOAA
Tom McCloy, NJ DFW
Dick Brame, CCA
Bill Archambault, US FWS
Steve Meyers, NMFS
Anthony Rios, Ofc. Sen. Phil Boyle, NY
Jimmy Kellum, Omega Protein
Ken Hinman, NCMC/Wild Oceans
Shaun Gehen, KellyDrye Warren, DC
Greg Nells, PEW

Benson Chiles, Chiles Consulting
Joseph Gordon, PEW
Arnold Leo, East Hampton Baymens Assn.
Raymond Kane, CHOIR
Jim Price, CBEF
Ron Lukens, Omega Protein
Robert Crockett, Advantus Strategies
Jeff Kaelin, Lund's Fisheries

The Atlantic Menhaden Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, May 22, 2013, and was called to order at 8:00 o'clock a.m. by Chairman Louis Daniel.

CALL TO ORDER

CHAIRMAN LOUIS DANIEL: Good morning and welcome to another installment of the Menhaden Board Meeting. I hope everybody is ready to roll and try to get through this on time today. We're going to probably drive the analytics crazy today so be prepared.

APPROVAL OF AGENDA

CHAIRMAN DANIEL: I would like to go ahead and have everyone focus their attention on the agenda. I know there is one item of other business. Jack.

MR. JACK TRAVELSTEAD: Mr. Chairman, I would like to add under other business a very brief discussion of how – I think all of you are aware that Dr. Rob Latour at VIMS is working on a design of a coast-wide aerial survey to develop an adult index of abundance. His work will be done I think next month, and I would like to discuss how we might expedite getting that work peer reviewed and ask that you add that item to the agenda.

CHAIRMAN DANIEL: Without objection. Mr. Gilmore.

MR. JAMES GILMORE: Mr. Chairman, I would like to also add a possible discussion on New York's issue with compliance under Amendment 2. It may get resolved under the discussion under the agenda item, but just a placeholder.

CHAIRMAN DANIEL: That should be handled under Agenda Item Number 5. Does anybody else have any other items at this point? We can later as we go. We have an agenda.

APPROVAL OF PROCEEDINGS

CHAIRMAN DANIEL: We have our February proceedings. If there is no objection or correction to either one, we will move forward with those by consensus. Okay, good, thank you.

PUBLIC COMMENT

CHAIRMAN DANIEL: Next is public comment for items that are not on the agenda. I've got one person signed up and I know that somebody else indicated they had signed up, but they're not signed up so I will provide opportunity for anyone who wants to speak to the board on items again not on the agenda. The first one is Ken Hinman.

MR. KENNETH HINMAN: Thank you, Mr. Chairman. I'm Ken Hinman, NCMC; Wild Oceans. I have been asked to be brief. I know you have got a lot on your agenda today. I did want to diverge just for a moment to talk about a subject I have talked about to you many times in the past but not in the last year or two, and that is the ecological reference points for Atlantic menhaden. I just want to point out a few things. The new reference points that were adopted by the board through Addendum V in 2011 and through Amendment 2 last year are in a sense interim ecological reference points in that the board's stated intent is to use them as targets and limits to increase menhaden abundance and availability as forage.

Nevertheless, we encourage the board to continue your work toward your ultimate objective of adopting reference points that more fully protect menhaden's ecological role long into the future. We do understand that the recently adopted reference points will be applied to the upcoming benchmark stock assessment.

Because the intent of Amendment 2 is to provide and maintain adequate forage for predators, these reference points should be used not just to assess whether overfishing is occurring or the stock is overfished in the

conventional sense, but whether or not we are leaving enough menhaden in the water to serve their vital role in the ecosystem for the most important fish in the sea.

That is what is most important, whether or not we are achieving the target population that we have set as a board as our goal. You have a working group that is looking at ecological reference points to put into place after 2015. I would recommend that rather than starting from scratch, a place to start is to measure the current reference points as to how well they protect the ecological role of Atlantic menhaden and adjust them accordingly.

Going back to the May 2010 motion on looking at what is done for other forage species, I would point out that we submitted a paper four years ago next month on Atlantic menhaden reference points citing the literature up to that point. The recommendations in that paper were corroborated since then by two very high-profile and high-level studies; first of all, a Low Trophic Level Task Force commissioned by the Marine Stewardship Council; and the LENFES Forage Fish Task Force.

Again, it is time to go back and look and see how menhaden's reference points measure up to those reference point standards that have been developed and that emerging consensus. Finally, I wanted to mention I know some of you were in Raleigh last month for the Mid-Atlantic Council's Forage Fish Task Force, and those were really good presentation.

They're available online on the council's website; and if you haven't checked them out, I would recommend that you do. In particular, Dr. Rob Latour from VIMS gave a presentation, and Dr. Latour made it very clear that there is a difference between accounting and managing; that calculating the losses due to predation in the stock assessment side of the equation was only part of it; that there was a management to this as well that makes sure that secondary benefits to predators are accounted for and that management objectives of leaving more fish in the water for other reasons are brought into the reference points.

I think you that as analogy to balancing your checkbook and making sure you have enough money in the bank to pay all your bills are two entirely different things. Finally, I just wanted to urge the board to have an open and transparent process in moving ahead with the development of ecological reference points over the next year or two. I think this is something that a lot of us have a lot to offer, a lot of people have a lot to participate in developing management objectives, and I wanted to encourage that process to move forward and to invite as many stakeholders into that process as possible. Thank you.

CHAIRMAN DANIEL: Shaun indicated in the back that he wanted to speak.

MR. SHAUN M. GEHAN: Good morning, Mr. Chairman and members of the board. I am Shaun Gehan with Kelley, Drye and Warren and representing Omega Protein. One of the issues – I guess that the survey, although the survey design that Jack has asked to be on the agenda before us will be the future annual – hopefully an annual abundance survey.

At the last meeting this board was kind enough to task the technical committee to work with the industry within that design once it was available to do a more limited survey that the industry and academic partners and hopefully any others out there that would like to participate will conduct this summer to try and get information on the distribution, the age/size of the menhaden stock along the coast, trying to get some relative indication of the amount and age of menhaden within the general fishery, 99 percent of which occurs in the Mid-Atlantic.

We're very hopeful and we have been looking into various alternatives and particularly the potential use of drones, which I have been surprised to understand both the U.S. Geological Survey and NOAA have fleets of, which could make it very cost-effective and possible to actually do the

survey more than once over the summer and over the long run may be a good way to actually make an annual survey viable because of the cost-efficiencies.

We're only awaiting the design. I would hope that as they task the technical committee to review the VIMS survey design that they also ask them to meet and work quickly with the industry to get that design going. I think once we have the design, we know we can get started and the industry is willing to do it.

One of the things I would also ask the board to consider that will make it more feasible – you know, right now we have no sense of how much this will cost. It will depend if we can use drones or airplanes, what in-kind resources the industry can contribute – but one of the things that would make it more viable is obviously there will be some sampling component.

Some number of samples will need to be taken throughout the range of the survey. If the board would consider instituting an addendum that allowed those vessels that are participating and doing the biological sampling according to the survey design to be exempt from whatever states' cap would otherwise apply to that vessel, I think it will encourage participation.

I can't imagine that the amount is going to be that great. Certainly, they're not going to put us over where we have been in the past and it will help us collect information that everyone agrees is vital to managing this stock. I would ask the board to consider that. You could initiate it now. I think if people knew it was in the works; that would be helpful. Again, we're going to keep working as hard as we can to get this underway.

We just need a little help from the board and the technical committee. That is really I had to say on that. Just following up on what Ken said, I agree about the ecological approach to management is I think the Management and Science Committee called it yesterday and the idea of taking a broader look at things.

He mentioned the LENFES Report and I think one of the issues that I actually raised with the Management and Science Committee yesterday was the impact the other way. The report focuses on filter feeding forage fish and the impacts that they could have on egg and larvae of ultimately predator species; and in terms of ecosystem impacts it actually suggests that there may be times when you want to pare back a so-called forage fish to help recruitment of the predators.

This is an issue we have raised before. It is a question and we have a lot of questions about ecosystem-based management but, you know, I think by and large the LENFES Report was a broad overview. It had a pretty good look at things; and as we move forward I think you should look at all aspects of these issues if we really want to say we're doing something that looks at ecological impacts. Thanks.

CHAIRMAN DANIEL: Is there anyone else from the audience? I am aware I gave great latitude to the speakers; I am aware of that. I would just respond to the LENFES Report very quickly that ecosystems management and managing for forage is not limited to menhaden and that we need to be thinking about that in all our plans and the implications of many of the species that we manage and the fact that in many times during their life history they provide extraordinarily important forage to other species, particularly in the South Atlantic.

There may be additional discussion about that at the South Atlantic Board tomorrow, maybe, so stay tuned. The next item on our agenda is we – Tom.

MR. THOMAS FOTE: It didn't occur to me after we left the meeting yesterday on eels that we never looked at their forage responsibility to the lakes, the streams and everything they flow out of. We basically start looking at what we harvest as glass eels. We should also look at their contribution to the fish they basically feed

when they're in the lakes and the birds and everything else. It is something we didn't consider yesterday when we were going through this and we probably should since it is a forage species. That is the way we look at it.

**EPISODIC EVENTS SET-ASIDE
PROPOSAL BY BOARD SUBCOMMITTEE
Plan Review Team Report**

CHAIRMAN DANIEL: I agree we need to bring some of our inland partners in. I know they're important to bluegills, for sure. All right, we set up a small group of folks to look at this episodic events program proposal. There is a summary of that proposal in your briefing materials. I'm going to ask Mike to kind of review the work of that group and provide any input to the board.

MR. MICHAEL WAINE: As was mentioned, this is on your supplemental materials and I will walk through the subcommittee's report. Just as an overview of how we got to this point, the board approved a 1 percent tax set-aside for episodic events. Episodic events are times and areas where menhaden occur in higher abundance than they normally occur.

They did that through Amendment 2 in December. When we came back in February, the board discussed that we needed to finalize the implementation details for this program and tasked the subcommittee to do so. That had representation from the New England states, Maine, New Hampshire, Massachusetts, Rhode Island and Connecticut, to further develop this program.

They came up with a twofold approach to address this. The first is the enactment of a pilot program for 2013, and that is what I'm going to step you through this morning. The second is the initiation of an addendum to more fully develop this program for 2014 and thereafter. Moving into the specific pilot program for 2013; first is the eligibility.

To be eligible to participate in the episodic event program a state's bait landings must have been less than 2 percent of the total coast bait

landings from 2009 through 2011. Based on that criteria, Maine, New Hampshire, Rhode Island, Connecticut, New York, Delaware, South Carolina, Georgia and Florida are eligible to participate.

Interested states must implement the following mandatory provisions as part of the eligibility requirements to participate in this program. Those provisions are states must implement daily trip level harvester reporting that is submitted weekly to the ASMFC. This is so that we can track the set-aside as we move through.

The second is that episodic event harvest must be restricted to state waters only; so that means when a state declares an episodic event, they must license their fishermen to harvest off of this set-aside specifically in that state's state waters. The third is that the state must implement a maximum daily trip limit that is no greater than 120,000 pounds per vessel.

The qualification process is that, first, the states must demonstrate through resubmission of their implementation plans by July 1, 2013, that they have implemented those mandatory provisions that I just discussed. Then ASMFC will review the implementation plans that get resubmitted and issue a letter to the board that identifies the states that actually qualify to participate in the program.

This next point is something that has changed since you originally saw this program. It represents the major change in the subcommittee's proposal, and that is that states that qualify will not actually forfeit their allocated state quotas as they're going to use those state quotas to determine whether an episodic event has occurred or not.

Let me explain what that means. The next part is declaring participation in this program is first are you eligible or not, you submit to ASMFC, the PRT determines if you're eligible, and then you're going to

declare participation if an episodic event occurs in your state waters. Episodic event shall be defined as any instances when a qualified state has reached its individual state quota prior to September 1 and has information indicating the presence of unusually large amounts of menhaden in its state waters.

If an episodic event is triggered, the state must declare to ASMFC by September 1 that it plans to begin harvest from the episodic event set-aside. States declaring participation in the program would not be eligible for de minimis status. What that means is that they would collect biological data and age and length information from their fisheries.

I'm going to go over that procedure for unused set-aside. If an episodic event is not triggered by September 1, the set-aside will immediately be rolled into the overall quota and redistributed to the states based on the historical allocation from 2009 through 2011. If an episodic event is triggered – and this is in any state that is eligible and qualifies – any unused set-aside at the end of that calendar year will remain unused and will not be rolled over into the coast-wide quota.

The justification by the subcommittee for this was that Amendment 2 does not currently allow for quota rollovers because Atlantic menhaden is experiencing overfishing. One thing that wasn't in the subcommittee's proposal is a quota payback mechanism, but I have included it here because it is important for accountability of this program.

It is to require that if the set-aside is exceeded, any overages are reduced from next season's episodic event set-aside, so there is a payback mechanism in this program as well. Then program review is that the board can review the performance of the episodic event pilot program or the subcommittee and report back to the board at the fall commission meeting.

The board may change the episodic event program through board action or the adaptive management addendum process. That is a quick overview of this pilot program from the

subcommittee, and I would be happy to take any questions. Thank you.

CHAIRMAN DANIEL: Are there questions for Mike? Jack.

MR. TRAVELSTEAD: The only question I have is in the event that two or more states determine that there is an episodic event in their waters; how is the 1 percent set aside allocated between those two or more states or do they just fish until it is gone?

MR. WAINE: There is actually no specific allocation of the set-aside, so the states are trying to restrict the effort through the mandatory provisions within the program and submitting weekly reports to ASMFC so that we can track the landings, but there is no specific allocation to states that opt into this program. Everybody is fishing from the common pool.

MR. TRAVELSTEAD: So the staff will track it; and when we hit the 1 percent, then it stops everywhere?

MR. WAINE: Correct.

MR. PETER HIMCHAK: I think the subcommittee did an excellent job in defining the episodic event and when this 1 percent would apply. I had one quick question. A state exceeds its original bait allocation and then it declares for an episodic event based on an unusually large presence of menhaden in state waters; who makes that call and how does the state demonstrate it and to whom?

MR. WAINE: The short answer is the state is going to make that call. They're going to be tracking their fisheries in their state waters, and they are the best people to know whether this is occurring or not. I think what you're getting at is – and this came up in the discussion of the subcommittee's deliberations – is if we're declaring episodic events every year and we find out that there aren't actually episodic events, then the program is not working with that criteria that we have set up. That is the whole

purpose of having the review aspect of this pilot program is to see does the mechanism that we have in place to determine whether an episodic event is occurring actually work.

MR. HIMCHAK: So, yes, boy, we'd love to see schools or large, big menhaden up in the Gulf of Maine; and if they're there, then that is good cause to go out and declare an episodic event and them. I just wanted to know the – you know, it seemed like a little gray area as to we've got an episode here and then somebody has to respond and say, yes, you do, go ahead and take advantage of the 1 percent. I just wanted a little discussion on that and that's fine.

CHAIRMAN DANIEL: I believe we're going to run into a lot of gray areas today. Dave Simpson.

MR. DAVID SIMPSON: You seem very specific about the fishery occurring within a state's waters, and I wondered if there was any issue with landing in another state. I think we know Rhode Island and Massachusetts, in particular a lot of the fishery that happens in Rhode Island gets landed in Massachusetts. While none of that fishery would happen in Connecticut, we would be fine with them landing in Connecticut provided they were taken somewhere else. Did the group talk about that; is there any problem with landing in a different state?

MR. WAINE: Sorry I wasn't clear about that. When I say it is restricted to state waters, it would mean that – and, subcommittee, please correct me if I'm wrong – that it would be landed in the state that has declared episodic events; and so even if it is caught in another jurisdiction, it would have to be landed in the state that has an episodic event, and that vessel would have to be permitted through that state to land within it from the set-aside. Does that make sense?

MR. WILLIAM A. ADLER: Mr. Chairman, I think I figured it out, but down under the unused set-aside it says at the end of the calendar year – what you're saying here is that the unused will

not be rolled over into the next year, right; that is the way that works?

MR. WAINE: If an episodic event is declared in any state and they harvest off that set-aside and there is quota that doesn't completely get used from that set-aside, it will remain unused. It won't get rolled over into the same year and it won't get rolled over into the subsequent year. If there is not an episodic event triggered in any state, then it will be immediately rolled over into the same fishing year on September 1 or shortly thereafter.

DR. DAVID PIERCE: The board might have noticed that Massachusetts is not included as one of the states that would qualify for taking advantage of an episodic event. I'm on the subcommittee. I participated in the conference calls; but to be perfectly frank about it, I missed the fact that the 2 percent criteria would prevent us from being eligible.

I have spoken to the other states involved on the subcommittee, Maine, New Hampshire, Rhode Island – not Connecticut – to indicate that because we are making some rather significant changes to the criteria for the episodic event as it currently exists in the amendment – that is the states don't have to give up their initial allocations – that it would make sense for Massachusetts to be included as part of the group of states that would potentially qualify to take advantage of the set-aside.

I mean, after all, episodic events have occurred in Massachusetts waters in the past, Boston Harbor specifically where we have had massive fish kills, so it would be unreasonable to exclude Massachusetts from the research set-aside in 2013 because, once again, it is a pilot program and we're going to learn from this pilot program and then through an addendum make some changes for 2014, potentially.

What I'm informing the board is that the other states have agreed that in this particular case, for this pilot program, that

Massachusetts would also qualify for the research set-aside with an understanding that it is no intent on the part of Massachusetts to get more menhaden quota.

It is to prepare us for the possibility of there being a tremendous amount of menhaden in Boston Harbor with a potential for major fish kills and all the consequences of that. It is a state waters fishery; and because it is a pilot program, we would be included in the – we would have that criteria – the criteria for the 2 percent would also be waived. The other states, again, who put this together also agreed that makes sense. It is a reasonable modification to what you have before, all the elements of that episodic event.

MR. ROBERT BALLOU: Dave Simpson's question and Mike's response got me thinking because I wasn't at first sure that I agreed with Mike's interpretation of Dave's question or his answer to Dave's question. This has to do with Item 2, episodic event harvest must be restricted to state waters only; and Dave asked the question does that mean that they can be landed anywhere, and I think Mike's answer was yes. My first thought was no – I'm sorry, did I mischaracterize the exchange?

My first thought was that is contrary to at least the spirit as I understood it in terms of what we were looking to set up, and my thought was that we should clarify Item 2 to say "episodic event harvest and landings must be restricted to state waters only," but I'm not sure if that is necessarily important.

I want to put it out there as something that I think the board should think about and determine. I guess I can see it going either way, but right now it is one or the other. In other words, either an episodic event is declared, let's say, in Rhode Island waters, in which case harvest must occur in Rhode Island waters under the program and either landings must also occur in Rhode Island or landings could occur in any state.

If it is the latter, it just creates a very different scenario and a different dynamic. I mean we're

not talking about a huge amount of fish, but it does mean a number of out-of-state boats coming in, harvesting in Rhode Island waters and landing elsewhere, say in Massachusetts as an example versus having to harvest and land in the same state. I guess I don't have a strong feeling and I realize now that it is something I don't think we really discussed in detail at the subcommittee level, so I'm open to it going either way, but I just find myself thinking that we should probably clarify that. Thank you.

CHAIRMAN DANIEL: I'm going to ask Mike to respond.

MR. WAINE: I'm just thinking from a staff perspective that it might create challenges in tracking the quota with this set-aside. If it is occurring in the states that are opting in and can participate, those states are submitting to ASMFC on a weekly basis what their harvest is under that set-aside. If you open that up to every other state, then we've got potentially a quota-monitoring issue specific to this set-aside unless those other states still have quota available through their state allocation in Amendment 2.

MR. BALLOU: So if I understood your point just now, you're correcting yourself in terms of your answer to Dave, because I think Dave's question was can you land anywhere, and I think your answer was yes, but now I think I heard you just say that wouldn't make any sense, and I agree. I think if Rhode Island is opting it; I think Rhode Island is responsible for monitoring the harvest and landings under that program; and it wouldn't make sense to have them diffuse out to other states because for the reasons you just stated.

MR. WAINE: Yes, I will just confirm that if you opt into the set-aside, the landings have to occur in that state that opts into the set-aside.

CHAIRMAN DANIEL: Is everybody clear about that? You're not clear?

MR. FOTE: The only thing I'm not clear about because I just listened to that back and forth; if the fish are in Rhode Island's waters and Rhode Island fishermen can land those fish because that is where the landings take place; if Massachusetts as part of the set-aside sees the fish in Rhode Island waters, comes and catches the fish in Rhode Island waters; can they take it back to Massachusetts waters? That would clarify me and that is what I'm not sure you exactly said.

CHAIRMAN DANIEL: My understanding of the discussion is that if you opt in – let's say if Rhode Island opts into an episodic event, then Rhode Island fishermen can catch menhaden in Rhode Island waters and land in Rhode Island, period. If Massachusetts likewise requests an episodic event, then the same holds true.

It is going to be only those folks that apply for and receive an episodic declaration would be able to participate in that fishery, period. Is everybody clear on that and understand that and agree with that? Okay; slippery slope here. I'm just going to throw it out there. This is unusual. We have episodic events in lots of fisheries, so we're likely to see this issue come up again in another species near and dear to your heart. Jack.

MR. TRAVELSTEAD: Another question for Mike; does PRFC fit into this list of eligible jurisdictions since they take less than 2 percent?

MR. WAINE: It is less than 2 percent of the bait landings; and so from my records they are not eligible.

CHAIRMAN DANIEL: Okay, I think we need a motion to adopt this proposal. Terry.

MR. TERRY STOCKWELL: Thank you, Mr. Chair, and thank you for your remand back at the winter meeting that convened the subcommittee. You instructed us to keep it as simple as we can and we have despite the number of questions that have just been raised. **With that in mind; I am going to make a motion to approve the episodic event pilot program for 2013.**

CHAIRMAN DANIEL: Second by Pete Himchak. Is there discussion on the motion? Dr. Pierce.

DR. PIERCE: Just to make sure that the episodic event would also include Massachusetts as a state that would qualify, consistent with the arguments, the logic that I offered up before. Once again, New Hampshire, Maine and Rhode Island have agreed that it is a reasonable thing for us to do since Massachusetts is wedged in between those states to potentially take advantage of the episodic event. You will learn through a review of our compliance plan – of our implementation plan that we have taken the necessary steps to track our landings very carefully on a daily basis and on a weekly basis, so there will be the appropriate monitoring program in place.

CHAIRMAN DANIEL: I heard no objection to including Massachusetts in the program, but I think it does need to be explicit. Doug.

MR. DOUGLAS GROUT: Dr. Pierce, I was on the group and our last conference call, my understanding of this as to whether Massachusetts was going to be a part of the pilot program was that you were not, but that we were going to consider having a management change through an addendum that would allow you in. My question is under the current FMP that we have approved, Massachusetts, as I understand, doesn't qualify because their bait landings are greater than 2 percent.

Wouldn't we need a management action such as an addendum to allow them to be qualified even for a pilot program on this? To be honest with you, this is different from what I understood you had agreed to in the conference call, David, and maybe you have had sidebars with Terry and Bob, but I wasn't aware of this. First of all, Mike, is that something that we would have to change through a management action?

CHAIRMAN DANIEL: I think it is squirrely because the subcommittee did make some modifications to the plan. That is what we have to either agree to on a pilot program, recognizing that there are some nuances that may fall outside a little bit of the plan, but that is what you've got. I think the technical answer is, no, Massachusetts does not qualify; but in the spirit of the pilot program they're asking to be included and that is the question before the board, as I understand it. Mike, are there any clarifying comments that you would make?

MR. WAINE: The only clarification I will make is that in Amendment 2 there is language that the board at the time that we put it to publication didn't have this program set in place, and so that is where the task to the subcommittee came in was to develop it and get it approved by the board. It is right now just a placeholder in the amendment and whatever gets approved or not approved today is what will fall into that spot.

CHAIRMAN DANIEL: Is everybody clear on that? I think that was Mr. Miller's point as well, but, Roy, did you have any further comments on that? Okay, thank you. Jack.

MR. TRAVELSTEAD: How close is Massachusetts to the 2 percent cutoff, and are there other states in similar range?

CHAIRMAN DANIEL: We will get that, Jack. Dr. Pierce.

DR. PIERCE: Relative to Jack's concern, it is a legitimate question to ask and offhand I can't think of the percentage, but, frankly, when we put this episodic event program together and when we discussed this at a previous board meeting and we adopted the amendment, I don't believe we really understood the merits of a 2 percent – the logic of a 2 percent.

As far as I'm concerned for a pilot program, what is most important from Massachusetts perspective is that we be included in it if for some reason this year there appears a tremendous abundance of menhaden in Boston Harbor and there is going to be a major fish kill. If our quota has been taken despite the measures

we have – well, we have slowed the quota – we slowed catch down from the measures we have implemented for this year.

But if our quota is gone, we can't have a situation where all this fish is in Boston Harbor and they're going to die from a fish kill that can't be caught because of the quota being taken, it is a true episodic event. That is what we're focused on this year, just to be prepared in case it happens. I would be surprised if it happens, but I don't want Massachusetts to be put in the position of not being able to deal with a very difficult situation if indeed it does happen.

How this ends up being constructed as part of a proposed addendum to refine this whole approach for episodic event, that all remains to be seen. I apologize, Doug, for the confusion this caused you in the conference call. I didn't think I said that we wouldn't be part of the pilot program. I believe I said that there was a need for us to consider waiving that particular criteria as well else the illogical thing happens,. New Hampshire can take advantage of it, Rhode Island can take advantage of it but Massachusetts cannot. I apologize for the confusion I may have caused.

CHAIRMAN DANIEL: Before I go to Ritchie, I want Mike to answer Jack's question.

MR. WAINE: Besides the states that I said were eligible before that, the close states are the Potomac River Fisheries Commission, North Carolina and Massachusetts is hovering just under 4 percent and the other two were 2 to 3 percent.

CHAIRMAN DANIEL: We've got 2.2 for North Carolina and 2.8 for PRFC and 3.9 for Massachusetts. I think there are a lot of us that are real close just because of the nature of the fishery being primarily in Virginia and New Jersey. Jack.

MR. TRAVELSTEAD: Well, hearing those numbers, why don't we just change the 2

percent criteria to something to capture everybody? That way Massachusetts can do what it needs to do and it captures PRFC and North Carolina who apparently have even smaller levels. I don't understand why it should – I don't disagree that it shouldn't apply to Massachusetts; but it seems given where they are, why wouldn't it apply to North Carolina or PRFC?

CHAIRMAN DANIEL: This is just my opinion, and I believe it is reflective of the discussion that we had at the meeting. We were talking about the northern range more than anything. North Carolina wouldn't have an episodic event. We've always got them. We just never harvested them before.

PRFC I think the same situation; I'm not sure there would be an episodic event in the PRFC that wasn't expected. I believe an episodic event is an unexpected abundance of menhaden outside of its normal range. I'm a little bit uncomfortable making a bunch of changes to the plan and the criteria, but certainly Massachusetts sits in the area where an episodic event would occur.

I think the question is – I mean, if we really want to get wrapped around the axle here, which is where we're headed on this, because there are about five people now that want to speak to this issue, I don't believe it is that big of an issue; I really don't. Now, if others do, then we will go around the table and we'll start talking about it. The question is do we include Massachusetts in the motion or not? I'm hearing concern and I'm hearing yes; so is there anyone that would like to speak in objection to including Massachusetts in the motion? Pat, if you point of order me, I'm going to be really mad.

MR. PATRICK AUGUSTINE: Mr. Chairman, I object only because we set criteria. You went out and you had your conference call and the decision was not to include them. I think Jack is right; you've got four or five in there that are close and so close is okay, but are we going to set a criteria and establish it or are we going to take a contrary position after we get to a point where now it is decision-making time? Based

on that, I find it a offense to believe that we had a subcommittee that reviewed all of this.

We had criteria that were established that I believe all the board members had a chance to look at. It went forward and now we're trying to make a decision and we want to change it. If that is the case, I move to table the whole action we're going to take. I would rather not do that. I'd rather go ahead and let's stick to what the plan was.

Unfortunately, in this case Massachusetts is going to get caught on the short end. I apologize for that, but I really don't because the criteria was set ahead of time. So which way do you want to go, Mr. Chairman; either I'll table the motion and go back and revisit or we drop adding another state to the mix.

CHAIRMAN DANIEL: I've got lots of hands ahead of the folks that have their hands up right now. What do I want to do? I believe it is not explicit that Massachusetts is included in Terry's motion. Does anybody disagree with that statement? Okay, so in order to include Massachusetts in this motion we would need an amendment to the motion to add Massachusetts. Does anyone want to make that amendment? Dr. Pierce.

DR. PIERCE: I would move to amend that Massachusetts be included in the episodic event set-aside pilot program for 2013.

CHAIRMAN DANIEL: Is there a second to that motion? There is a second from Pete.

MR. HIMCHAK: Could I explain why I seconded the motion?

CHAIRMAN DANIEL: If you must.

MR. HIMCHAK: Okay, because we're backsliding here. We're going back to the February meeting where everybody under 2 percent sees an opportunity to expand. In the whole history of the bait landings, going

back to 1985, there has been one episode in the Gulf of Maine, IWPs. I don't even see why including all these other states that are in here – I didn't say it very politely – New York, Delaware, South Carolina, Georgia and Florida; there has been one episodic event in the whole history of the bait landings and we would like to see it again, so let's focus on that. Massachusetts, by their proximity and Boston Harbor, certainly does come into the Gulf of Maine situation, so that is why I seconded the motion, but I'd really to see this episode restricted. Boy, I wish in hindsight we had just restricted it to the Gulf of Maine.

CHAIRMAN DANIEL: All right, is there any other discussion on the motion? Doug.

MR. GROUT: One of the things that we did discuss at our subcommittee meeting was the fact that when the board charged us, this was really charged as a New England Subcommittee and event. We talked potentially making that as a change, that we're only going to have this allow for the six New England states, but we made a very conscious decision to try not change – go beyond the restrictions that we had already gone out for public hearing on this in the plan because we were afraid of changing it too much.

It sounds like now that Massachusetts does want to come in, then probably the best thing we could have done was just to say for this pilot event, yes, we're just going to have the New England states included. As a result, I would love to have this percentage taken out, which I don't think is really in the plan right now. I would support this motion with just Massachusetts being in there, because this is a New England situation that is going to be, as you said, Pete, extremely rare episodic events and not something that is going to be like a loophole that people are going to try and go through. I am going to support this.

MR. G. RITCHIE WHITE: I support the motion. I think we have to remember that this is just a pilot program; and at the end of this pilot program, we're going to have to do an addendum or change things for Massachusetts to

continue. That is why I support it; and as long as that is on the record, something will have to be done if you want to continue after the pilot program.

CHAIRMAN DANIEL: Very good points. Kyle.

MR. KYLE SCHICK: I know that we have been talking about this being a New England situation, but the Potomac River Fisheries Commission is a unique situation. We're a river and these fish do come up there in large numbers periodically. Last year was a good example. They hadn't done it like that for a while.

With the restrictions that we have, it will end up in a large number of fish – especially if we have an oxygen level drop, which happens, and these fish need to be caught or they're going to be dead. I think that if we're going to go beyond the scope, I think we have to consider everybody else that has this type of problem, too. I think the Potomac River Fisheries Commission, since they're lower than Massachusetts, should be included in this or just leave it for the state of Maine and see how it works for the pilot program and then talk about bringing in any other states later.

MR. TRAVELSTEAD: I think Pete Himchak made some good points. When this first came up, it was this strange event that occurred occasionally if not rarely in Maine. You said, Mr. Chairman, that episodic events don't occur in North Carolina and they can occur in the PRFC. If that is the case, I don't understand how they can occur New York or Delaware or South Carolina, Georgia or Florida.

It seems to me we either include everybody or we only include Maine in this thing. I guess that is where I am. I do like the fact that this is a pilot program and perhaps maybe we give this whole concept further discussion down the road. Maybe I can live with it for this one year, but I think we need

to put it back on the agenda and take another look at it.

CHAIRMAN DANIEL: I guess I have one question to the subcommittee. It would be why wouldn't the 6,000 pound bycatch allowance accomplish what you want to accomplish? I mean, are talking about trying to go out there and harvest these things in much higher quantities than that; is that the issue? Okay; just making sure. All right, I'm going to ask for a vote on the amendment to include Massachusetts. I think it needs to be explicit for – it is clear that it is for one year and it is a pilot program. I think everybody has heard the concerns around the table that this needs to be readdressed. Do you need time to caucus? Yes; okay.

(Whereupon, a caucus was held.)

CHAIRMAN DANIEL: All right, I need to add a little caveat to this. In fact, I'm going to let Mike do it so I don't say something wrong. All right, I will do it then. Based on the eligibility criteria in the report from the committee, if this motion passes then that means Maine, New Hampshire, Rhode Island, Connecticut, New York, Delaware, South Carolina, Georgia and Florida and Massachusetts now are all included as eligible candidates for an episodic event. That is what it says. I'm just telling you what the pilot program report says.

Now, if you want to change the pilot report, then change it, but the pilot report says eligibility in number one that under this criteria, Maine, New Hampshire, Rhode Island, Connecticut, New York, Delaware, South Carolina, Georgia and Florida are eligible. What this motion does is it adds Massachusetts to that long list of eligible states. Now, if you disagree with that, you need to raise your hand and explain. You disagree with that, Bill?

MR. WILLIAM GOLDSBOROUGH: I was just going to offer a suggestion, Mr. Chairman. I disagree with the earlier notion that somebody mentioned that we're bound by everything that this proposal states. This is a subcommittee that is offering up a draft for this board's

consideration, and we can make any changes we think are wise. I think given the geographic origins of the concept, that we ought to change that 2 percent criteria to say for this one-year pilot program, the New England Episodic Event Program.

CHAIRMAN DANIEL: And that is a very good point and a very good clarification, but that is not what we're doing right now. If that is what the intent of the board is, you need to change what you're doing right now. If you want to limit to New England, then that's cool, but it is up to the board to make that decision. Adam.

MR. ADAM NOWALSKY: Mr. Chairman, if we don't change it to reflect that this is New England only, it would be my intention to follow up this motion with an amendment also to include PRFC and North Carolina; because when we need to leave the room, we need to be able to justify why we're allowing these states in for the pilot program in 2013. I think if we're using some justification of a percentage number, we need to be consistent up and down the coast for the pilot program.

CHAIRMAN DANIEL: Okay, the motion is on the table and you have caucused and threw a monkey wrench into it and now what do you want to do? All right, all those in favor of the motion say aye; all opposed. **I'm calling it approved.** I thought it would be a little more obvious than it was. All right, all those in favor of the motion raise your hand; opposed same sign; null votes; abstentions, 2 abstentions. **The motion carries, so the main motion now includes Massachusetts in that laundry list of eligible states from the report.** Adam.

MR. NOWALSKY: **Mr. Chairman, I move to further amend to include PRFC and North Carolina for the episodic event pilot program for 2013.**

CHAIRMAN DANIEL: There is a second from Kyle Schick. Is there discussion on that motion? Is there any objection to the

amendment? **Seeing none; the amendment carries. The amended motion now becomes the main motion.** All right, while staff is getting the motion ready on the board –

MR. GROUT: Excuse me; we had a state that was an objection to this motion; the state of New Hampshire.

CHAIRMAN DANIEL: Okay, New Hampshire opposed. Are you raising your hand to speak?

MR. GROUT: We're on the main motion?

CHAIRMAN DANIEL: We're on the main motion. Doug.

MR. GROUT: I am going to make a motion to amend on this because I do think that this was an issue that was brought up to try and address episodic events in New England. **I am going to make a motion to amend that only the New England states will be able to participate in the pilot project.** This is something that we discussed at our – if there is a second to this, I would like to – okay, this is something that we did discuss –

CHAIRMAN DANIEL: He hasn't made the motion yet.

MR. GROUT: Yes, I have.

CHAIRMAN DANIEL: Okay, there was a second from Rick Bellavance.

MR. GROUT: This was something that we discussed in the subcommittee meeting, and the only reason we didn't go with this as a constraint was because we were trying to make things simple. We didn't want to change too much from what we had discussed and gone to public hearing with here.

Clearly, with the previous two amendments that we just passed, we are expanding this much wider than what we had anticipated and I think supporting this motion will support what the original intent of this board was; to have an opportunity for states that very rarely encounter these large abundances of menhaden – in New

Hampshire it has happened only in the early nineties. I think it is important that we do restrict this to just the New England states at least for the pilot program; and then if we feel that we need to address this in an addendum, changes to expand it to everybody or some subset, I think that would be the more appropriate way to go with this.

CHAIRMAN DANIEL: All right, I've got a motion to amend and a second. Is there discussion on that motion? Pat.

MR. AUGUSTINE: Contrary to normal belief, you're not the only states that have that episodic event. In 2009 and 2010, two years in a row we had in excess of a million fish in one location, and that was only those two years. I have been on Long Island since about 1979, and we've probably had fifteen over the years, not quite that big. But, again, to go back and now limit it to New England – I agree with Ritchie White when you suggested, Ritchie, it is a one-year program. I do believe that we should include all at this point in time, Mr. Chairman. Call the question.

MR. GROUT: The reason I thought it was move to amend is because we have a motion up there that now we're approving the episodic event pilot program to include those specific states, and I am amending the states that would be able to participate in this. It is still the same pilot project.

MR. ROY MILLER: Mr. Chairman, I think Joe is right. I think the nature of what we're about to do is a substitute motion. While I have the microphone open, if I may, let me express support for this motion, which I view as a substitute motion. Many of us, our state included, has fish kills, almost annual events, due to menhaden, with millions of menhaden, but I don't think that was the original intent of this program. If so, then I have lost sight of the original intent of this program, so I intend to support the motion to either amend or substitute, whatever we're calling it. Thank you.

CHAIRMAN DANIEL: Well, I don't there is any question that your statement is accurate based on the discussion we had on what was an episodic event and the intent of the program. That is getting lost in this discussion, in my opinion. I'm not sure exactly what to do to correct the substitute versus the amendment.

I have got one that says it is an amendment and I've got one member that says it is a substitute. Does it matter in the grand scheme? It does? It's my call; it is a substitute. We have a substitute motion that would only include the New England states and those are identified here, so make sure if you're if a New England state you're included; Maine, New Hampshire, Massachusetts, Rhode Island and Connecticut. Dave Simpson.

MR. SIMPSON: While I agree that the original intent – and as I said in our last meeting the discussion all along through menhaden, my recollection was only Maine discussing the need. My perception all along has been this was a Maine issue, New Hampshire by its proximity, perhaps Massachusetts north of the Cape; the whole idea being the Gulf of Maine once a while menhaden go up in there and they would like the opportunity.

Maine has the capacity in terms of purse seiners and so forth. I am concerned enough about the record we created and how we go here, that for this pilot program my preference would be to allow all the states listed in the previous amendment and this one year for experience and then fix what we're doing through a more formal process. If we're going to restrict it to the Gulf of Maine, then we do that, but I think we need an addendum to do that.

MR. STOCKWELL: Mr. Chair, I was prepared to support the main motion and I'm also prepared to support the motion to substitute. I do want to remind the board that the additional states do have some significant quota that will accommodate their hopefully catch this coming year. We were talking about an unusual event and a pilot program. I would the board to move this along and let us develop a pilot program and

come back as we committed to for our review at the fall meeting.

CHAIRMAN DANIEL: I would just ask we make a decision. Is there any further discussion on the motion to substitute? Now I don't know what we do after this so somebody will have to help me. Adam.

MR. NOWALSKY: Mr. Chairman, I'm going to oppose this at this time. We've heard comment regarding potential for an event in PRFC, potential for an event in New York. This is a one-year pilot program. I think the next step immediately following this is somebody is going to make the motion to initiate an addendum to create a long-term solution, but for one year a pilot program we should make this as available to the entire coast as we can, which would give us more information as we pursue the addendum process.

CHAIRMAN DANIEL: I am going to say that's it. The motion to substitute is that only New England, Maine, New Hampshire, Massachusetts, Rhode Island and Connecticut, states may participate in the episodic event pilot program for 2013. Motion by Mr. Grout; second by Mr. Bellavance. Do you need time to caucus? Okay.

(Whereupon, a caucus was held.)

CHAIRMAN DANIEL: All those in favor of the motion raise your hand, 8; all opposed same sign, 5; null votes; abstentions, 3. **Okay, the motion carries eight to five with two abstentions. The main motion now is to approve the episodic event pilot program 2013 as substituted today.** Okay, the substitute motion is now the main motion.

The main motion is that only New England, Maine, New Hampshire, Massachusetts, Rhode Island and Connecticut, states may participate in the episodic event pilot program for 2013. Motion by Mr. Grout; seconded by Mr. Bellavance. **All those in**

favor of the motion raise your hand, 13; opposed same sign, 1; null votes; abstentions, 3. Okay, comment.

MR. DENNIS ABBOTT: After all of this, we've finally achieved what you asked us to achieve at the last meeting where you stated that your hope would be that if we could limit it to the New England states and come back with something in May that will avoid us having an episodic event this summer that prevents somebody from being able to take advantage of that, but that was our intent. Those are your words.

CHAIRMAN DANIEL: Thank you, Mr. Abbott. The motion carried 13 to one to three. Bob.

EXECUTIVE DIRECTOR ROBERT E. BEAL: This motion doesn't directly say the episodic event pilot program is approved; so if you're clear and the record is clear that those states that are listed, the New England states, Maine through Connecticut, are included in the episodic event pilot program for 2013 is approved; then it is okay.

If there is some concern about that, you may want to take another motion, but it doesn't directly say it in that motion; but if you feel the dialogue leading up to this point and numerous motions that you have wrestled with cover that, then you're okay. You probably need to state that for the record and make sure there is no objection.

CHAIRMAN DANIEL: Is there any objection to that being the intent of the board in this motion or would you like to do another motion? I don't want to do another motion. Okay, we're good. All right, that took longer than I expected, but it is good, we got it done. I think Adam is going to make a motion for an addendum.

MR. NOWALSKY: I move to initiate an addendum to more fully develop the episodic event program for 2014 and beyond.

CHAIRMAN DANIEL: Motion by Mr. Nowalsky and seconded by Mr. Augustine. Is there objection to the motion? Terry.

MR. STOCKWELL: Mr. Chairman, I don't object to the intent, but I think it is a little bit ahead of its time. The subcommittee intends to come back to the board with a program review at the annual meeting, and I think that would be the time to initiate an addendum with some specific context to it.

CHAIRMAN DANIEL: My only question is that I think there are other issues at least that I heard from the public that we may want to add to an addendum, so I don't know if there are other issues that are going to come up at this meeting. What I would like to do is hold that motion until the end of the meeting. Then if there is an interest and a desire to move forward with an addendum that includes the episodic event program and anything else that comes up today, we could add that; or, if you would like to go ahead and pursue this motion now, we can. It is up to you.

MR. NOWALSKY: Does that require a motion to table this to a time-sensitive or do you wish me to withdraw this motion at this time; what is the will of the Chair at this point?

CHAIRMAN DANIEL: To withdraw it until the end of this meeting today.

MR. NOWALSKY: I will withdraw the motion with the intent to put it back on the table prior to the end of the meeting.

CHAIRMAN DANIEL: Thank you very much.

MR. AUGUSTINE: It is okay with the second, Mr. Chairman.

MR. ABBOTT: Just from the parliamentary sense, the motion belongs to the board and it doesn't belong to Adam anymore; that we really should be tabling it or postponing it to a time certain, which could be the annual

meeting I think Terry indicated. I would prefer a motion to postpone until the annual meeting. **I will make that motion that we postpone this action until the annual meeting in October in Georgia.**

CHAIRMAN DANIEL: Second by Mr. Augustine.

MR. AUGUSTINE: Point of information, Mr. Chairman; it wasn't a second. It was to respond to the discussion as to whether or not we should postpone to the end of the meeting or postpone until a later date. Based on your comments, Mr. Chairman, other issues may come up during this meeting before it is terminated that may warrant being considered as a part of the motion that Mr. Nowalsky made, at which time I would second also. I think to postpone it to the end, we may miss an opportunity of issues that come on the table at this board before this meeting is over. I would go ahead and amend that motion to state time certain before the termination of this meeting on this date.

CHAIRMAN DANIEL: All right, I do have a second and one speaking in opposition to the motion. Terry.

MR. STOCKWELL: Mr. Chair, the reason I support postponing the action is specific to the development of the episodic event program. There may be other action items that are going to come up today that will require another addendum; and I think that if we initiate that addendum, it should be specific to those action items.

MR. NOWALSKY: So at this point the motion is not withdrawn, and I would just offer that with regards to my initial motion the intent of that was not to necessarily have the addendum completed in two meeting cycles as we can typically go to. There would not necessarily be that need to rush to complete this addendum prior to the end of the year. The addendum could go additional meeting cycles, give us more time to develop it and to address your concerns with regards to making sure we get the most information in it that we need to.

CHAIRMAN DANIEL: Is there further discussion on the motion? **The motion is move to postpone this action, which is the addendum, until October 2013 in Georgia. Motion by Mr. Abbott and second by Mr. Stockwell. All those in favor of the motion raise your right hand, 13; all opposed same sign, 2; null votes; abstentions, 2. The motion carries.**

We will address this at the annual meeting when we have the information from the New England states and then any other – it does not preclude us from having a motion to do an addendum at the end of the meeting if there are issues that come up. All right, the cat is flat officially. All right, we're moving into the implementation plans. That is what I thought was going to be the issue today, but I was wrong.

STATE IMPLEMENTATION PLANS AND AMENDMENT 2 COMPLIANCE Plan Review Team Report

MR. WAINE: In December the board approved Amendment 2; and just a quick overview; state implementation plans were on your briefing CD. The plan review team reviewed the implementation plans to see if they met the requirements of Amendment 2, and their report was in the supplemental materials.

Just as a reminder; Amendment 2 will be implemented July 1, 2013, but beginning on January 1, 2013, all landings will count towards the state's quota as quota management was part of Amendment 2. Moving into the PRT's report, I will start with some general recommendations. The first is to approve the implementation plans from Massachusetts, Potomac River Fisheries Commission and the state of Florida as is because their plans fully met the requirements of Amendment 2.

The states of Maine, New Hampshire, New York, New Jersey and Delaware need to clarify when their proposed regulations will be implemented. The states of Maine, New

Hampshire, Delaware and South Carolina should submit rule language to support their submitted plans because it is difficult for the PRT to determine if requirements have been met without a state's regulatory code. We find those plans incomplete until we see that regulatory code.

The states of Delaware, South Carolina and Georgia, the PRT recommends that they implement the bycatch allowance provision in Amendment 2 to prevent directed fisheries from developing. That recommendation was such that states that do not have directed fisheries went ahead and implemented that landing limit to prevent directed fisheries from starting up in their state. The PRT felt it was appropriate for the other states that say they don't have directed fisheries to do the same.

There are some bycatch allowance issues that the PRT have, which was – I'm just going to quickly review the way the bycatch allowance is written in Amendment 2 just to remind everybody. That bycatch allowance mechanism is for non-directed fisheries following the harvest of a state's quota and the closure of their directed fisheries,

The bycatch allowance has the following mandatory provisions as written in Amendment 2. It is 6,000 pound bycatch landing limit per calendar for all non-directed fisheries. It needs to prohibit a vessel from making multiple trips in one day to land more than 6,000 pounds; prohibit the use of multiple carrier vessels per trip to offload bycatch exceeding 6,000 pounds; and it must have a mechanism to require timely reporting of the bycatch allowance landings by non-directed fisheries.

A couple of states submitted some revisions for this bycatch allowance provision. Specifically, the state of Maryland is proposing that a single vessel may land or possess 12,000 pounds per day when there are two individuals physically on board. To further restrain that, they specified that each individual needs to hold a 6,000 pound menhaden bycatch permit; and that additionally the individuals who hold striped bass pound net permits be allowed that same 12,000 pounds

daily limit because they are harvesting larger volumes of striped bass.

The justification there was such that some individuals that hold these permits like to operate from a single vessel for economic reasons, so that was the basis behind their proposal. The second was Virginia requests that the bycatch allowance provision applied to any purse seine licensed individual, meaning it does not prohibit two or more individuals from operating from a single vessel with each landing up to 6,000 pounds of Atlantic menhaden.

Excuse me, let me back up and say that Maryland's request was specific to their pound net fishery. Virginia is such that it is not specific gear; it is for all gear types. The Potomac River Fisheries Commission has interest in allowing multiple individuals to harvest from a single vessel as well if the board is going to consider that for other states.

The PRT had general concerns over the bycatch allowance. The PRT is concerned that it may not prevent fisheries from directing on menhaden. Specifically, there were some states that submitted plans to restrict the bycatch allowance just to non-directed fisheries using a percent rule.

For example, the state of Massachusetts implemented a 5 percent by weight rule, so that the weight of bycatch of Atlantic menhaden cannot exceed 5 percent of the weight of the entire catch being landed, thus restricting the use of bycatch tolerance to non-directed fisheries. That was a concern of the PRT was the bycatch allowance not being misused.

Then the PRT had specific state recommendations to meet the requirements in Amendment 2, and I will just briefly move through those: that Rhode Island prohibit the use of multiple carrier vessels per trip to offload bycatch exceeding 6,000 pounds; that Connecticut prohibit vessels from making multiple trips and prohibit

multiple carrier vessels for the bycatch allowance; that New York require that purse seine vessels to submit trip level reports to ensure purse seiners are reporting timely enough to prevent overages; that New York exclude the menhaden purse seine permit from landing out of the bycatch allowance if they directing on menhaden because the bycatch is supposed to be for non-directed fisheries; that New Jersey prohibit the use of multiple carrier vessels to offload bycatch and that they exclude purse seines and bait nets from landing under the bycatch allowance if they are directing on menhaden because the bycatch allowance is for non-directed fisheries; and that the state of North Carolina collect quantity of gear on trip tickets for pound nets to quantify effort as to meet the requirements of Amendment 2, and consider closing their directed fisheries sooner than 90 percent as proposed because of the one-month lag in reporting that may not be timely enough to limit the chance for quota overages.

To move into timely monitoring, Amendment 2 requires that each state's timely quota monitoring program be approved by the board using the following guidelines. It has to be timely and must be approved by the board. It must require menhaden purse seine and bait seine vessels to submit CDFRs, captain daily fishing reports, or similar trip level reports.

It is recommended to have trip level harvester reporting within seven days of the actual landing date unless a different timeframe is approved. It should have ACCSP data elements. In the state implementation plans, all the states informed us of what their monitoring will be for the quota, and so I have summarized that in a table in the PRT report, and I will briefly move through that now.

You can see the setup here is the first column is what the dealer reporting is. The second column is what the harvester reporting is, and the third is just some notes that were specific to that. For the state of Maine, they have got monthly dealer reporting and monthly harvester reporting with that moving to daily for harvesters that are landing more than 6,000 pounds.

For New Hampshire, they're implementing weekly dealer reporting for their state dealers, and they have got monthly harvester reporting although they were exempt from timely reporting through the approval of Amendment 2 because they essentially have no quota. For the state of Massachusetts, we have got weekly dealer reporting and monthly harvester reporting and moving to daily for those harvesters landing more than 6,000 pounds.

For Rhode Island, their dealers are reporting twice weekly and their harvesters are reporting quarterly with harvesters using purse seines will be reporting daily, so the ones harvesting larger amounts will be reporting more timely. Connecticut has no directed fisheries for Atlantic menhaden so they are maintaining their monthly dealer reporting and monthly harvester reporting.

The state of New York has weekly dealer reporting and monthly/weekly harvester reporting, so they haven't implemented weekly reporting but explained that they have the capability to require it if needed. The state of New Jersey has weekly dealer reporting and monthly harvester reporting and all menhaden sold or bartered must be done through a licensed dealer.

The state of Delaware has monthly/daily harvester reporting and they have set up an interactive voice reporting system to capture those daily landings. The state of Maryland has monthly dealer reporting and weekly harvester reporting, which they will be implementing in 2013. The Potomac River Fisheries Commission has weekly harvester reporting at the trip level. The state of Virginia has weekly harvester which will go daily at 97 percent of their quota.

The southern states, North Carolina, South Carolina and Georgia, all have monthly combined reporting, so they have dealer and harvester reports on the same trip ticket. Florida will be similar system but will actually be implementing weekly reporting

later this year. That is a quick run through of the reporting.

From all of that information, the PRT recommends that the state of North Carolina adopt a more timely reporting system to monitor their quota. The PRT also recommends that states submit total annual landings from harvester reports to account for any fish that are retained for personal use as that may not come through with the dealer reports.

Just to wrap up our report, there were de minimis requests in the implementation plans, which usually would come through in our compliance reports; but because this was specific to implementing Amendment 2, the PRT requested that states notify whether they wanted to be considered or not.

The states of New Hampshire, South Carolina, Georgia and Florida requested de minimis status for 2013 and are eligible based on the criteria in Amendment 2, so the PRT recommends approval of those states for de minimis status. Thank you and I will take any questions.

CHAIRMAN DANIEL: Good job! Are there questions for Mike? Pete.

MR. HIMCHAK: Nice report! You talked about the frequency of the reporting -- the harvesters submitting monthly reports and the dealers' weekly reports, as in our case, but I thought the amendment further required that a monthly report from a harvester should also include a daily take. The report may come in every month, but the actual report will contain daily harvest; the same thing with dealers. I mean, the frequency of the reporting is weekly, but it will break down the entire week on a seven-day basis.

MR. WAINE: Yes, that is the PRT's understanding and that is the trip level reporting.

Consider Approval of State Implementation Plans

CHAIRMAN DANIEL: And just let me say that the PRT did a very good thorough job, and

they were being very conscientious in making certain that all the states are in compliance with this. There have been a lot of questions come up. While we are listening to Dave and Doug, who are the two hands that I have up, I want you to be thinking about how we want to handle this. We can go state by state and probably the quickest way to do it, but be thinking about how you want to handle this. Dave.

MR. SIMPSON: I just have a question about the states or jurisdictions that wanted to sort of stack the 6,000 bycatch. I guess the bottom line of that is does it put us at any greater risk of exceeding our overall quota; does it upset the appletart in terms of allocations? It is not usually what we do and I kind of joked with Jim that I know 15 guys that would like to get on one boat because it is more efficient and then they can land 90,000 pounds. If you could just explain that a little bit and what safeguard there is to keep from exceeding the quota or really changing what we laid out in the amendment, that would be great.

MS. LYNN FEGLEY: I'm assuming that is directed at Maryland, and it sounds like there is a couple of us in that category. But to explain Maryland, sure, when we went out to public hearing with this, what we started to understand fairly quickly was that we have some groups of fishermen -- and they're primarily family groups -- who have pound nets registered to individuals within their family. It is usually a father-and-son situation.

They fish from the same vessel. They service both their nets from the same vessel, and they do that, obviously, because they're saving gas and fuel expenses. We didn't see any reason to disrupt that means of doing business if we could ensure that we were not promoting growth in any way in the fishery.

That was one of our number one objectives and that is what we went out and told our fishermen. There are some safeguards within here. One of the things -- and I

should say that the regulation that we submitted is slightly more restrictive than the one that went to the commission. Each individual who qualified for a menhaden permit, there are eligibility criteria. You must have a registered pound net site within the state of Maryland, and that had to happen by February.

You couldn't register for one after this all started happening, so we set a control date on that. An individual can have a permit if they meet that eligibility criterion. Here is the big one and here is the one – the permits are non-transferable. You have to be in possession of your permit, and you have to be on the boat.

This is pretty controversial. The fishermen are not so happy with this because it means if they're sick they can't just give the permit to somebody else, but it prevents them from passing permits around. There is a very strict limit; there is only two. This is very much intended for these family groups who fish together.

By the way, our law allows them to dedicate their two licenses to a single vessel, so we're supporting something that is set up in statute. The final piece that we have in place as a safeguard as – the tricky part about this is that our menhaden fishery is ongoing, and we don't have the reporting capability now to track that harvest in any kind of real time.

In other words, in order to ensure that we honor our quota, we're going to choose a conservative closure date. It will likely be June 15th, and that is when we met the quota last year. Anecdotal, it seems that the fishery is starting slower, but the point is that beginning June 15th the individuals with these permits will be required to report to us daily, so that we will be able to monitor their harvest.

We can change this bycatch allowance by public notice, which means we can do it quickly. In other words, if we see that we are – you know, we can track our harvest as it is progressing; and if we get to a certain point where we feel like it is growing or it is spinning out of control, we

can ratchet down that dual bycatch allowance back to the 6,000 pounds.

We can further take everybody on a 6,000 pound allowance down to something less than that if we feel that we're going to grossly exceed our quota. Our intent here is not to grossly exceed our quota. Our intent is to let these family groups continue to do business without undue economic harm and also to provide a little bit of window since we're going to do this very conservative closure. At the end of the year our goal is we add together the fish that we harvest under the quota and the fish that we harvest under the bycatch allowance. Obviously, our hope is to be as close to our quota as we can. Thank you.

MR. GROUT: A couple of things, Mr. Chairman. First of all, New Hampshire in de minimis; there were a couple of things. You wanted to have the rules and implementation date. We will be glad to provide that. If we're approved for de minimis, we will send you as an addendum to our plan, the implementation, which would be July 1 I think is what we're looking at, and what our formal rules are for it.

The next thing I wanted to ask the board; we had put in as one of our proposed rule changes was to implement weekly reporting for the very few state dealers we have. Now, this is just going to be a paper thing because we don't have any commercial – three are no landings for commercial purposes in our bycatch fishery.

People go out and are catching this for personal use for bait. We record it as landings. Would the board have any objection to us, since other states are having dealer reports on a monthly basis, that we just do it on a monthly basis as opposed to a weekly – require that they do it on a weekly basis. Again, this is going to be a paper rule.

We don't have a commercial directed fishery for it. I just want to see if there would be any objection to that. If there is, fine, we'll put it in as weekly. I don't really care. The final thing that I wanted to get was there are a couple of other states on this modification to the bycatch allowance to allow a couple individuals to combine their two permits onto one boat and essentially allow six tons allowed to be landed.

I would like to hear what kind of constraints PRFC – and I think Virginia was another state – what kind of constraints they have compared to Maryland – just to keep in mind it was referred to this applying to the quota, but keep in mind, folks, that when we passed that amendment, any bycatch does not apply to the state quotas. That is what we approved, so this is catch above the quota. If I could hear from Virginia and PRFC as to what kind of constraints they have on this, I would appreciate it.

CHAIRMAN DANIEL: We're going to go off in so many directions that this isn't going to work like this, in my opinion, because everybody is going to talk about their individual situations, and that is what we have already started doing. What I would like to do is sort of back up here for just a minute.

One clarifying statement, I think, from what Doug just said in terms of the quota and the bycatch allowance, there has been a lot of confusion and a lot of questions to me and probably to staff in terms of what the quota means and how we're managing the fishery. I think my understanding is that the quotas are set and that we open our fishery and we close in a specific timeframe to make sure we don't go over our specific state quota.

And then once that quota is taken, any additional fish that are taken are held to the 6,000 pound bycatch allowance. The two times 6,000 was never a discussion; completely out of the realm of what we discussed in December, but there are a lot of questions and issues about that. There are questions about the reporting. There are questions about the way we're going to – there are many questions that I have based on the report.

One very specific question that I think that I want the technical committee to be thinking about is how getting the number of pound nets gives us any kind of meaningful information. My understanding is that folks go out and they fish several pound nets and they combine the fish into one boat and they come back and they offload their fish.

If they caught 6,000 pounds of menhaden in eight pound nets; is that 6,000 divided by eight; is that a meaningful CPUE? No; so how are you going to determine how many menhaden are in each individual pound? You can't do it; not unless you have observers or you have the fishermen keep their fish contained from each separate pound.

In North Carolina, at least, you might have one pound net out of eight have menhaden in it; so I think your pound net CPUE information is worthless, in my opinion. We're going to need to have some discussion on that as we get down in here. The reporting issues, changing the reporting strategy for a fish that makes up less than one-tenth of 1 percent of the value of the fishery, the cost associated with that needs to be considered and discussed.

There is a lot we need to discuss. What I would like to do, though, is go through the brief summary document here of the state implementation plans and go through first – take them one at a time. Please don't bring up any issues; don't raise your hand to speak about any issues other than what we're talking at the moment. Then if we get towards the end and there is something that we haven't covered, we will take those then, all right, so nobody is going to be constrained to speak.

I'm going to try not to cut off debate on any issues and ideas that folks may have on how to do this. The only way I know to move through this logically is to take it through these steps. The very first issue that I would like to address is the first bullet under general recommendations, and that is

approval of implementation plans for Massachusetts, the PRFC and Florida because they fully meet the requirements of Amendment 2. If we can deal with that issue first, then we will move on. Pat.

MR. AUGUSTINE: Mr. Chairman, I move that the board approve the implementation plans for Massachusetts, the Potomac River Fisheries Commission and Florida as meeting the full requirements of Amendment 2.

CHAIRMAN DANIEL: Thank you, Mr. Augustine; seconded by Mr. Adler. Is there discussion on that motion? **Is there any objection to that motion? Seeing none; that motion carries.** The next two bullets are just sort of get-it-together type comments. I don't know that we need to take any formal action, but the states of Maine, New Hampshire, New York, New Jersey and Delaware need to clarify when their proposed regulations will be implemented. If you can just have that information to the staff within the next 30 days, then I think we're cool. Does anybody have a problem with that? Jim has a problem with that.

MR. GILMLRE: The issue with New York is essentially our reporting, and right now our quota, if we live under the amendment, I am going to close my fishery the day after July 1st. I can send anything in that you, but I'm still not going to resolve my problem. I have to come up with some option of how we're going to deal with the fact that our data is not correct in terms of what the quota was set.

CHAIRMAN DANIEL: Okay, we will deal with that as we move through, so we will deal with that issue here in just a few minutes. The next bullet is the states of Maine, New Hampshire, Delaware and South Carolina submit rule language to support submitted implementation plans because it is difficult for the PRT to determine if the requirements have been met without evaluating a state's regulatory code. Can everybody have that information to staff within 30 days? I don't know; you answer it. Robert.

MR. ROBERT H. BOYLES, JR.: It relates to the following bullet. I'll go out on a limb; we have got a non-existing fishery with prohibited gears. I don't know what the PRT wants us to do.

MR. WAINE: The recommendation here was just a precautionary one, which is there are other states that have non-directed fisheries. I understand the state of South Carolina doesn't have a documented fishery, and so the precaution here was just to keep status quo as no fishery, implement this bycatch allowance landing limit just to ensure that there are no fisheries that start up in your states.

MR. A.G. "SPUD" WOODWARD: We're in the same situation with South Carolina. If we do this, it is going to require legislative action to create regulations on menhaden where we simply have none. The only bycatch of menhaden that we're generating is in the penaeid shrimp trawl fishery and it is not landed. It is unquantified, not landed; and to do this is going to be a major effort on the part of Georgia just to stop something that will probably never ever happen.

CHAIRMAN DANIEL: Well, these are recommendations from the PRT so we can take or leave them, and there may be some that – I understand those constraints and those issues from Georgia and South Carolina. I don't know important it is to have that rule language of support in – I would just ask for – I mean, here is one way to handle it. If you can do it, do it for the statutory rule language. The bycatch allowance provision, which is the next bullet, the precautionary implementation of the 6,000 pound trip limit, that is what I think you're talking about, Spud.

MR. WOODWARD: Right.

CHAIRMAN DANIEL: Those are from the states of Delaware, South Carolina and Georgia, asking that they implement those 6,000 pound bycatch allowances. I think where you can – I mean, if Georgia all of a

sudden starts out and a bunch of fish is landed in Georgia, you might need to deal with it; South Carolina, the same way. I don't know about Delaware; so if we could hear from Delaware on that issue as to whether that is an issue for you to implement that 6,000 bycatch allowance or not, that would be helpful.

MR. JOHN CLARK: What we're planning to do is put forth a regulation where all menhaden landed would be reported in our interactive voice response system. Once we hit our total allowable catch, we will be reporting that as bycatch from our fishery. We do not have any fisheries that have the capability to grow into directed fisheries on menhaden. Our state law bans trawling and purse seining in Delaware waters. We have a small gill net fishery and they will be taking menhaden, but that will be reported as bycatch. Thank you.

CHAIRMAN DANIEL: So is everybody comfortable with moving along with these two items? Is there any objection to moving on and letting those states deal with those issues as they deem appropriate; understanding if there are problems, we can fix them? Okay, the next bullet is multiple items. There are three open bullets and one closed bullet, and I'm not sure what the difference is. Oh, it is a general summary of the three bullets below.

It says, "The board consider the following state-specific bycatch allowance revisions," and in there the PRT has raised concerns about Maryland allowing up to 12,000 pounds as a daily limit. Virginia requests that the bycatch allowance provision apply to any non purse seine licensed individual, meaning it does not prohibit two or more individuals from operating from a single vessel with each landing up to 6,000 pounds of Atlantic menhaden as bycatch per day.

And a similar situation in the Potomac River and they expressed interest in allowing multiple individuals to operate from a single vessel with each landing up to 6,000 pounds. There are three jurisdictions that are interested in having more than the 6,000 pound bycatch allowance, and that would be based on numbers of

individuals. It doesn't seem like – it seems like they would all be limited to no more two, maybe not, but the question, which is the solid bullet on the next page is for the board to clearly define the non-directed fisheries and what we meant by the 6,000 pound bycatch allowance and is there the intent of the board to allow multiple 6,000 pound bycatch allowances in any one trip or day. It is, obviously, the intent of three jurisdictions to do that, so we need to address – I think we need to nip that issue in the bud. I am going to start with Tom.

MR. FOTE: I have a real concern about allowing more than two permits allowed to land on one boat for the fact that I went to my legislature, because they were calling me on this question, and they basically asked did I have concerns? I says, no, because nobody is going to go out and bycatch on a non-directed fishery to basically only land something that is only worth \$540.

I mean, it takes too much gas to do that. And because the environmental groups were basically calling and complaining, I says, no, this is not going to happen. It is one guy coming in because we did not put on this requirement as we do in all the other requirements where there is a bycatch fishery, that you have to land some other fish.

I mean, that is how you justify a bycatch fishery. This one is not really done that way so it is really outside the ballgame. It looks like a loophole. Now when you start adding multiple permits to that, it really looks like a loophole. I know it is small amount of fish, but again the integrity of the program was we were going allow one 6,000 pounds to go.

That is what I told my legislature, which is working on a bill right now to get through. It just got through the Senate on Monday; a committee; and it has got to get it for a full Senate vote. It makes what I was saying disingenuous to my legislature if we're

going to start now going with multiple permits.

We have the same thing with pound nets in our state and are we going to look to basically allow those to basically do two things? We were saying, no, you basically come in with one load. This really creates something that we were not expecting. It was not what we had put forward for. Again, because it does not count against the quota, it even looks worse.

The perception out there is really bad if we start doing something like this. It was directed to allow for a bycatch; bycatch without other fish being on board; and that is the way it basically does it. Again, if you allow it in the ocean, it even looks worse than that. That is my concern here and I can't support it.

MR. GROUT: Thank you, Mr. Chairman, I was hoping you would start at the other end, but that's fine. I think that's wonderful that you came to me first. Just to clarify with you and the plan review team; you made a statement earlier that this 6,000 pound – these fisheries that have a bycatch are going to count towards the quota up until the time the quota has been attained, and at that point you're allowed to land 6,000 pounds per trip and only one trip in a single day.

I'm getting some heads shaking. I certainly appreciate the issues that these three jurisdictions are trying to address here because it sounds like these are family – they're working together and we want them to be more efficient with their operations here, but keep in mind that this is a bycatch allowance. It is not a directed fishery. We're trying to allow for small amounts so that we're not going to have these discards that we were concerned might occur to be landed.

I get a little bit uncomfortable with allowing now six tons to be landed as a bycatch. This to me – and I was going to ask, well, how many pounds of striped bass are they landing? Maybe that should be in their report. I'm sure they're not landing six tons of striped bass. This really to me, if they're trying to go out and land this much menhaden and need to have this six tons, this isn't a bycatch. This is a multispecies

fishery, a multispecies directed fishery. I'm very uncomfortable with expanding this beyond what we had originally intended here.

CHAIRMAN DANIEL: I appreciate those comments. I do feel like I should caution the board again about doing things in this plan that may be seen as inconsistent with other plans. That is where I'm seeing us head in several ways with this plan. I do feel it is important to point that out. Now, every one of you may disagree with me; and if you do, that's fine.

The first thing that comes to my mind is the hundred pound bycatch allowance on weakfish. We would sure love to have multiple opportunities to have multiple hundred pound trips. Just be wary of what might come around from another plan on a consistency basis on any of this stuff, reporting, anything. Jack.

MR. TRAVELSTEAD: A couple of general comments and then some specific to Virginia. You will recall the meeting back in December when we adopted the amendment, there was a fair amount of discussion on the bycatch issue, but we didn't spend a whole lot of time on it. There were a number of comments that this is the best we could do and we're going to have to pay close attention to how this proceeds over the next year and perhaps reevaluate at the end of the calendar year. I think that is where we are.

Part of Virginia's problem is we did not have the benefit of the staff document that describes how the entire plan should be implemented. That came out in late February; and by that time our General Assembly had completed all of its work and gone home. We did get brief guidance from Bob and Mike on how to proceed with our legislature in implementing the plan.

We're in a position now where the General Assembly won't be back in session until next January. Nevertheless, I think what

Virginia has in place is pretty good. We don't license the vessel in Virginia. We license the gear; so in the case of the pound net fishery, the pound nets are licensed.

A pound netter could carry five vessels to his pound net if he wanted to; but under our law he is still restricted to the 6,000 pound limit per day. I don't see a problem there. I suppose two individuals who are licensed for pound nets under Virginia law could get aboard the same vessel and go to their respective pound nets and each bring back 6,000 pounds, but I don't see that happening. That is not standard practice in Virginia.

They're different fishing operations and they fish independently of one another. I suppose there could be some family situation where what you see happening in Maryland could also happen in Virginia. I mean Virginia has no opportunity to change what is on the books now until next January.

I think we're going to have to watch it and see what happens; and if things get out of hand, the numbers come back not looking the way we thought they would look, then we will make changes at that point in time. Between now and then I'm sort of stuck with what I've got.

MR. STEPHEN R. TRAIN: Mr. Chairman, I don't have a problem with stacking permits on a boat if the gear is licensed to not the boat. To me it appears wasteful to use two boats or three boats or four boats and waste the fuel and everything else to catch the same amount of fish. I have a concern as that is done that this becomes not a bycatch but a targeted fishery.

I understand the allowance is for 6,000 pounds and that this fish could be caught. Dead fish thrown overboard is very wasteful, and I have a problem with that, also. I think we need to keep a good eye on whether this is becoming a targeted fishery and stacking the permits is what allows it to happen.

But to not allow it just so four boats and five boats burn more fuel to catch and kill the same amount of fish, I have a problem with that, too.

If I look confused on it and I'm talking both ways, we have got an issue here that is hard to understand. Some places license boats and some places license people.

MS. FEGLEY: This is an issue because the end result I think is states are working on different playing fields which is going to make this difficult, I just want to clarify that back at the meeting in December, having put forward the motion for the 6,000 pound bycatch allowance, that number, as I was working from our knowledge of our fishery, was there is a fair percentage of our trips in those reference years – it is about an average of 60 percent of our pound net menhaden trips are catches over 6,000 pounds.

At that point it struck me as – on the fly – a midpoint and below the midpoint and it would be limiting. What I certainly, in that meeting, hadn't considered was that when watermen report, they're reporting as individuals. We just weren't considering this sort of family operation. I just felt the need to clarify that.

Also to the point of the directed fishery, I had thought in our conversation in December that this was specifically directed toward stationary non-targeted gear as a pound net. One can argue whether it targets menhaden or not because when a school of menhaden swims through a pound net, that is what you have got.

You are going to have other fish species in there, but you're pretty much going to be dominated by menhaden at that point. One of the reasons why these nets that these individuals are fishing are registered sites that in many cases have been registered with the department for over a decade, so they're not just running out and placing these things in the water.

Certainly, they need to have that site registered well before this started. All that being said, it may be time that given the logistics of changing things as they're written now, midpoint through the fishery, I

don't if there is an approach we can take forward. We were very clear with our stakeholders that the plan that we proposed was for 2013 only.

We had no idea whether it would be approved, and we were very clear that it would have to go back and reevaluated in 2014. This is a learning year and I just wonder given the different playing fields that we're on if there is some, if you will, blanket action we can take that allows us to evaluate how these small artisanal gears, these non purse seine gears perform in 2013 relative to the purse seine sector; and if we can evaluate that at the end of the year and if the board needs to take action at that point to change things, maybe we should. Thank you, Mr. Chairman.

MR. WHITE: Mr. Chairman, a couple of issues. I agree with you about the slippery slope. Our Atlantic herring fishing fleet out of New Hampshire that is subject to a 2,000 pound a day would love to be able to pack up two or three permits on the boat and come in with 6,000, for sure. There are other species that I think we get into dangerous waters here if we open this up.

Secondly, I was opposed to the 6,000 pounds because I felt that was too high, but states that have a reasonable amount of quota, I view this as a quota management issue. These states are talking about catching their quota and then needing this bycatch after their quota is filled. I think that those states need to look at maybe having quotas divided up into quarters of the seasons so there is some left towards the end of the season for these bycatch fisheries. I would like to see these states kind of work within their existing quotas a little harder to try to address these issues and really have this as a last resort and not kind of let's catch our quota and then we have this as a backup. Thank you.

MR. SCHICK: I kind of disagree a little bit with this situation. When we're talking about a fixed gear like a pound net, this is not a quota management issue. This is an issue where we don't want dead fish thrown overboard and wasted. You can't manage unless you're telling a pound netter, okay, look, you know, we've

caught our quota and you've got to pull up your pound net and you can't fish for rockfish now or you can't fish for anything else because we've caught menhaden to our quota.

This is a different type of situation. This is not a directed fishery. I don't think the intent here was to stop people from fishing for other fish because we've got this quota limit on menhaden, which is not the money fish that these gears are going for. I think this is a situation that we have to look at. We do have people in the Potomac River who do group together for efficiency and fish these fixed gears.

CHAIRMAN DANIEL: Thank you, Kyle, good points and that was part of the discussion was trying to make certain that we didn't have the situation arise as you explained it where you would have to take gear out of the water to avoid menhaden. That was sort of the intent as I recall the 6,000 pounds. There was concern that was too high at the time of discussion, and it is a sizable bycatch allowance, 6,000 pounds. Dave.

DR. PIERCE: Are you looking for a motion, Mr. Chairman, relative to these specific requests?

CHAIRMAN DANIEL: Yes, at this point with no other hands up, this would be the opportune time for a motion.

DR. PIERCE: All right, I have listened to all of the specific requests and, of course, the concerns raised by a number of individuals regarding whether or not these particular bycatch allowance revisions will actually create more opportunity for directed fishing. I don't pretend to thoroughly understand each state's particular perspective because each state does have some rather unique issues to deal with.

I do agree with Ritchie that it is a quota management situation, large quotas for individual states or moderate-sized quotas

that should be properly managed and not allow additional opportunities for directed fishing under the guise of bycatch. **I would move that the board not approve the Maryland, Virginia and Potomac River Fisheries Commission requests for bycatch allowance revisions.**

CHAIRMAN DANIEL: Is there a second to that motion? Seconded by Ritchie White. Is there discussion? Dave Simpson.

MR. SIMPSON: Yes, I sort of raised the first I guess, but at the same time I think I felt going into this that this was sufficiently different fishery from the others we deal with that we were going to require a little bit of learning and a little bit experience this year. The fixed gears were one of the things that is different than some of these other fisheries.

Especially after hearing Lynn describe how the statistics came in and how the 6,000 pounds, which came up on the fly, at the meeting was arrived at, I'm certainly willing to give them the latitude this year for fixed gears, for fixed gears only; unless I hear differently; that we give them a little latitude this year what they have implemented and what they have discussed and we take a look at it at the end of the year and make revisions if we need to.

MR. RUSSELL DIZE: I don't think that you actually realize how the pound net fishery has operated in Maryland. In Maryland each net is licensed. For instance, Lynn was talking about family. One family that I know on Tillman; one guy has three pound nets, but each pound net is licensed under someone different – it is not in his name – and there is a reason for that, and that is rockfish allocation.

What Lynn was suggesting I believe would actually save fish because they're going to fish those nets and catch 6,000 per each license. They're going to be fished with a separate license. Where the 12,000 may induce them not – because of the fuel consumption and the labor, they may not. You're going to catch 18,000 pounds with three nets the way it is now because each one of them is licensed separately.

Where you may get the guy to fish for 12,000 pounds on one vessel, but they will fish the net because the individual – each net is individually licensed under a different name. We have three, five, seven, nine, twelve nets in my area. They're all licensed differently. They all have a different license on them.

If one man has three nets, it is licensed under three different people. I believe that if you would allow the 12,000, it would not only save money through fuel and labor but it may save you 6,000 pounds in that scenario. Thank you.

MR. GROUT: My comment was mostly a clarification on this motion. It is a negative motion and wouldn't it be more appropriate to approve their plans with the exception of the 12,000 bycatch provision? I believe also that we already approved PRFC's plan and it did not have this provision in it. Would that require a substitute motion or a friendly clarification? It all depends – you know, we were discussing this. It is just a different way of writing it; approve their plans with the exception of the 12,000 pound bycatch provision.

CHAIRMAN DANIEL: Well, I think PRFC just expressed interest in doing that, so they haven't formally submitted that in their plan. That is the reason we went ahead and approved PRFC's. Again, I've got several other folks; and I'm trying to be really careful here, but I do feel that we are moving in a very difficult direction here. It is going to put me in a position where I'm going to have to step down as the Chair so whoever is the vice-chairman needs to be ready. Pete.

MR. HIMCHAK: Mr. Chairman, I don't support the motion. I think I'd go back to the December meeting when this was discussed. I think this Year One; I think the states are going to have to do a – we're going to have to allow a little bit of latitude here because we didn't know exactly what we were getting into.

There is a lot of small operations that land bait that are now coming under monitoring requirements in state cast netters, for example. I think in Year One we address our quotas and stay as close to them as possible and then recognizing that if there – and these pound nets; I am sure that in Maryland’s situation a lot of them had to have been quoting their historical landings for their bait landings.

I think after Year One we’re going to have to look at landings that may exceed an individual state’s TAC, and how they got to that point, the magnitude of the landings, and then start making modifications. Whether it be in the number of pounds allowed bycatch, whether it is linking it to a percentage of some other catch, or limiting it to a boat or a person, I think after Year One we’re going to have to start doing some trimming as we learn more about each state’s individual bait fisheries.

MR. WHITE: Maybe I don’t have a good understanding of the fisheries in Maryland and Virginia. I had assumed that there was a purse seine and/or gill net fishery beyond the pound net, so that was my thought in quota management is that some of these other gear types may have to be limited some to allow enough quota for the pound nets to have the necessary amount that they need. I guess I would like clarification if that is the case. If it is just the pound net fishery and there is no other fisheries, then I might feel differently.

CHAIRMAN DANIEL: I think there are certainly multiple fisheries. There are active fisheries and there are passive fisheries. What we are talking about right now are pound nets. The beauty of a pound net is that those fish can be released alive in many instances, some instances; whereas, in some fisheries – at least in North Carolina and I don’t know about the Maryland fisheries and the Virginia pound net fisheries, they may not, because I think they are a lot larger pound nets than what we typically use, but I don’t know that.

I am concerned about the discussion, though, because we were very serious and we were very – you know, back in December we all came

together and we’ve put in some measures, the intent of which was to meet this new 30 percent target, and we put some substantive measures in on Omega Protein, the purse seine fishery.

The intent was to reduce harvest and to rebuild the stock. What I’m hearing around the table from a lot of folks is basically trying to do everything we can to maintain status quo and make sure that those fisheries are not impacted. I think one of the words that came up many times yesterday – and I think you could probably run around the room and find it on multiple sticky notes – was “fair”. This ain’t fair.

I don’t know any other way to put it. The concern that I have is how do the other states – I think if this motion passes, I think what I would like to see us do is postpone any further discussion on this and let everybody go back home and revise their plan. I don’t know about the other states, but I would assume everybody would like to have as many trip limits as they can. For those of us that home with only one trip limit for only our fishermen are going to go home to a hornet’s nest. That would be my suggestion for consideration would be to simply postpone any further action until we all have a chance to go back and get ourselves on the same playing field and be fair. Pat.

MR. AUGUSTINE: Mr. Chairman, I don’t support the motion. I think we’re going backwards. I’m not sure that the three states that presented their case as to what they wanted to do in this particular case to again reduce waste, et cetera, et cetera, et cetera, all belong in the same motion. I would move to substitute this motion and divide; so if I substitute, I won’t have to divide.

I would like to address the Maryland proposal directly, so the substitute would be to, one, approve Maryland’s proposal as presented. **If I get a second to that, I’d go back and ask for a second motion for Virginia’s request as a separate issue and**

then a third motion for Potomac River consideration, Mr. Chairman. I think Ms. Fegley has put her hand up for a second.

CHAIRMAN DANIEL: One motion at a time; that's fine. There is a second by Lynn.

MR. AUGUSTINE: To the conversation that has been held so far, I thought Ms. Fegley did a very admirable description of what is going on there and what the intent was; that they were dealing strictly with a pound net situation. It clearly, in my opinion, turns out to be a state issue on how you manage your fishermen and your permits.

If each one is to have in this case a 6,000 pound allowance and two of them are in the same family and in the same vessel, I don't see the problem with it. If it is within the confines or sideboards, if you will, of your quota, it is incumbent upon your state to manage it appropriately.

It appears that you have set up some sideboards to do that. In order not to support this, I think we would be remiss not to recognize what your issue is and what you're trying to accomplish. We support the motion.

MR. FOTE: I think Pat is a little wrong here. The 6,000 pounds comes in after the quota is met, so this is not to stay within your quota. This is what happens after a quota is filled. That is what we need to be clarified over.

MR. CLARK: I agreed with the point you brought up about the weakfish plan, Dr. Daniel, that we've already got a plan in place where it specifically prohibits having multiple quotas on the same boat. Then I just had a question for Maryland as to whether in the pound net fishery menhaden can be released alive from these pounds? Thank you.

MR. WHITE: I guess I would ask Maryland if it would be possible for them to retain some quota from their purse seine fishery to be used in the pound net fishery to solve this problem. I guess I would ask that question; is that feasible, can they do that?

CHAIRMAN DANIEL: I'm going to go to Adam and then I'm going to go to Lynn to answer all the questions to her.

MR. NOWALSKY: Mr. Chairman, what we have before us is I don't know if having the debate about the Maryland Proposal is efficient at this time because we're really talking about substituting the motion right now, and that is really probably where our debate is probably best centered. Mr. Augustine focused on then taking up each individual issue.

We heard earlier that the initial motion was really a negative motion and something that we don't typically do. There was never a motion to move forward; so to that end, I would move we limit debate on this topic, get this substitute motion voted on, and then we could proceed with addressing these individual topics.

CHAIRMAN DANIEL: Now I know why I don't do substitute motions.

MR. AUGUSTINE: Call the question.

CHAIRMAN DANIEL: I have no idea what to do at this point. Okay, I'm going to continue to take debate; sorry, Adam. Lynn. MS. FEGLEY: I guess the first thing that I want to do is I feel compelled to go on record to say that it is not the state of Maryland's intention here to maintain status quo. It is our goal to come as close to our TAC as we possibly can even under the bycatch allowance as proposed. That being said, to the question of reallocating gear quotas, there is no purse seine fishery in Maryland. It is prohibited.

The pound net fishery accounts for 92 percent or more of our annual harvest. It is a multispecies fishery. In terms of releasing fish alive, that very much depends on what you're fishing for. In most cases it is very difficult because if you have rockfish in your net, these things are hauled up by hydraulics, dropped on the deck. The target

fish are culled and then you have to release menhaden that you've had to get out of the way to get to your target fish, and the end result would be a whole lot of floating dead fish.

Our proposal is geared toward the multispecies stationary gears. In terms of the quota management point, to that point I entirely agree there are definitely some moves that we could make even with our pound nets to better control our fishery. It is a little challenging when you're trying to do that when the fishery has already been running for five months.

The majority of our menhaden harvest does happen earlier in the year. A lot of what we have talked about are changing seasons around with the watermen so they could harvest the menhaden really during the height of the crab season to maintain that bait supply. We could truncate either end, but this whole thing happened as the fishery was starting, so we have lost a good portion of our year to do these quota management maneuvers, which is why in our plan we specifically state that this a 2013 and only a 2013 plan. Thank you.

MR. SCHICK: I would like to speak to the substitute motion. The Chesapeake Bay, we all fish the same. Our non purse seine fishery in Virginia mirrors the Potomac River and Maryland. We have the same – the majority of our fish that are caught – not purse seine – you know, are caught by pound nets, the same as in Maryland. I think this is one region, the same type of fishery, same type of rules, it is all driven by rockfish quota. It is not driven by trying to increase menhaden catch.

I think it should be all talked about together and I think the substitute motion is not valid in this case. I think actually a substitute motion to the substitute motion, which I don't want to do; but I think we're right, I think we've got to go back and get rid of this negative motion and start from scratch here and make a motion that applies to all three areas since we all are in the same boat in the Chesapeake Bay Region.

MR. TRAVELSTEAD: This really is not about trying to jigger the system to catch more

menhaden in the bay jurisdictions. It truly is about just trying to prevent dead fish from being wasted. We don't want a lot of dead fish floating in the water that are not being used. We all agree to the 6,000 pound bycatch limit. We knew it was going to apply to pound nets.

A pound net is not a directed fishery; it is a stationary gear that sits in the water and from day to day you don't know what is going to be in that net when you get there. If a couple of guys want to get together for efficiency purposes to save money and fish their respective nets from the same boat, it is not going to increase the amount of menhaden that are coming out of the water.

If they fished separately, they would still be able to bring the 6,000 pounds in. I don't see where any of these proposals are in any way going to result in more fish coming out of the water. We need to look at this entire situation at the end of the year and determine if the 6,000 pound number is the right number, and it may not be.

We need to look at how quickly the states catch their allotted quotas before the bycatch kicks in; where does that happen in the year? At the end of the year we reevaluate that and perhaps we require the states to implement other trip limits while the quota is still in effect to spread that quota throughout the year and delay implementation of the 6,000 bycatch. I think these are the kinds of things we will need to look into at the end of the year once we have a year's worth of experience behind us.

MR. ADLER: On this particular substitute motion, you had mentioned that this is for one year only; is that what this plan is, it is for one year and then reevaluate whether something went wrong? Would that have to be in the motion or is that already implied there?

MR. AUGUSTINE: We will just amend the motion to add that; for one year; for the period of 2013.

CHAIRMAN DANIEL: Well, I don't know if that was the intent of Maryland.

MS. FEGLEY: In our plan it is stated right up front I think in the first couple of sentences that it is a 2013 plan. It is in our plan; but if the board is more comfortable putting that explicitly in the motion, then that is fine with me.

CHAIRMAN DANIEL: I think if I can amending a substitute, I would like to do that. It is fine in the plan. Is there any other discussion on the motion? Dennis.

MR. ABBOTT: I don't know if I want to speak now, but I would say I have been initially opposed to allowing this to occur. It seems as though if we gathered enough data this year that shows that the pound net fishery is catching too much fish, then it would require an adjustment in how the individual states allocate their quota and would have implement things to ensure that they stayed under their quota number. Maybe we could probably live with this for a year, if that makes any sense.

MR. RICK BELLAVANCE: Mr. Chairman, I guess from a fisherman's perspective I'm just trying to think of what I'd rather prefer; a plan that allowed me to overfish and then I had to change my plan or we harvested more fish than we were supposed to and had to cut back the next year; or a plan that showed that we needed to adjust it to account for a larger fishery and make the following year an increase as opposed to a decrease. I'm thinking I would like the latter if I was a fisherman, anyway.

CHAIRMAN DANIEL: All right, we're going to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN DANIEL: All right, we're going to do a roll call vote on this one.

MR. WAINE: Maine.
MAINE: Null.

MR. WAINE: New Hampshire.

NEW HAMPSHIRE: No.

MR. WAINE: Commonwealth of Massachusetts.

MASSACHUSETTS: Yes.

MR. WAINE: Rhode Island.

RHODE ISLAND: No.

MR. WAINE: Connecticut.

CONNECTICUT: Yes.

MR. WAINE: New York.

NEW YORK: Yes.

MR. WAINE: New Jersey.

NEW JERSEY: Yes.

MR. WAINE: Delaware.

DELAWARE: Yes.

MR. WAINE: Maryland.

MARYLAND: Yes.

MR. WAINE: Potomac River Fisheries Commission.

POTOMAC RIVER FISHERIES COMMISSION: Yes.

MR. WAINE: Commonwealth of Virginia.

VIRGINIA: Yes.

MR. WAINE: North Carolina.

NORTH CAROLINA: Yes.

MR. WAINE: South Carolina.

SOUTH CAROLINA: Yes.

MR. WAINE: Georgia.

GEORGIA: Yes.

MR. WAINE: Florida.

FLORIDA: Yes.

MR. WAINE: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: Yes.

MR. WAINE: U.S. Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: Yes.

CHAIRMAN DANIEL: Clarify North Carolina's vote as a null, please.

MR. WAINE: To clarify, both North Carolina and Maine were null votes.

CHAIRMAN DANIEL: **All right, we have got 13 in favor, 2 no, and 2 null; so the motion carries.** Kyle.

MR. SCHICK: **I would like to amend this motion to include the Potomac River Fisheries Commission, Virginia and the state of North Carolina.**

MR. BILL COLE: Second.

MR. AUGUSTINE: Point of information, Mr. Chairman. Where did North Carolina show up on the report under the state implementation plans for Amendment 2? I saw Maryland, Virginia and the Potomac River Commission, but I did not see a request by or anything different from North Carolina. Was it submitted, Mr. Chairman, and we didn't get a copy of it?

CHAIRMAN DANIEL: I think our second expressed an interest. That is what the PRFC Proposal did.

MR. AUGUSTINE: Okay, again, the reason for my dividing the question was because if we ended up with a complicated motion like the first one, be it in a favorable vein or a negative

vein, typically, though, states around the table that will vote again one of those and blow the whole thing out of the water.

If you're going to move forward with that, Mr. Chairman, I would move to divide the question again. Your choice; I would rather take them one at a time or two at a time and be done with it as opposed to going a merry go around again like we usually do two hours at a time, spin our wheels and accomplish nothing and table it until the next meeting. Your choice.

EXECUTIVE DIRECTOR: I think if you want to keep these separate, vote against the motion to amend. I don't think we want to get another layer of motions in this thing. We've got too much going on.

Where we are is the motion that was just carried by the board on that roll call vote is now the main motion, which is approving Maryland's Proposal as presented. The amendment would add some other states to that. If you want to just take them one at a time, vote against this motion to amend. If you want to lump them all together, vote in favor of it and you've got one motion including the four jurisdictions.

CHAIRMAN DANIEL: Okay, it can't be any clearer than that, so we're going to vote on that and **we're going to vote on whether or not to amend to include three additional states to the motion. All those in favor of the motion to amend raise your right hand; all those opposed. Three to ten so the motion fails, so we will deal with them individually.** We need to vote on Maryland's main motion at this point, and I don't think there needs to be any further discussion.

MR. AUGUSTINE: Call the question.

CHAIRMAN DANIEL: Call the question; I never have understood that either because everybody keeps talking. All right, all those in favor of the Maryland motion raise your right hand; opposed, 3; null votes, 1;

abstentions. **Okay, the motion carries.** Next; Kyle, do you want to do the Potomac River?

MR. SCHICK: **Yes, I would move that the Potomac River Fisheries Commission be approved.**

CHAIRMAN DANIEL: Second by Pat Augustine. Is there any discussion? Ritchie.

MR. WHITE: I would ask the same question that I asked of Maryland. Are there other fisheries other than pound net that could be restrained to allow enough quota for the pound net fisheries so that these fish are counted within our quota and not after the quota is filled?

MS. ELLEN COSBY: The pound net fishery in the Potomac takes 99 percent of the menhaden. It has historically been 98 and 99 percent, so we are basically a pound net bycatch fishery for the menhaden.

MR. BELLAVANCE: Under the Potomac River Fisheries Commission Proposal, would it be possible to have more than two 6,000 pound limits on one boat; would it be possible to have three or four or five? It says multiple individuals, but I don't know if that is constrained.

MS. COSBY: The Potomac River Fisheries Commission passed an order. In that order we specifically said that it is no more than 6,000 pounds of Atlantic menhaden for a single vessel per day, which must be harvested by the pound net licensee from his own pound net or nets. The interest we had was from one father and son team that work together, that each have a couple of nets in their names, and they would be fishing their own nets if they were allowed to fish together.

As the order stands right now they are only allowed the 6,000 pound bycatch per day on their vessel even if they are together. Our interest was if Maryland was allowed to go with their family-type team with two people on the vessel, we were hoping that we would be able to allow this team to do the same. We don't ever

have more than two licenses on a vessel that I'm aware of.

MR. GROUT: The wording of this particular motion is very, very, very confusing because we already approved PRFC's Proposal as presented. Clearly, PRFC is asking for something different than what is in that motion there. I would hope that you rule this out of order because we've already approved this or something or have PRFC or some other member of this board make a motion that specifically states what they want.

CHAIRMAN DANIEL: Yes, this motion is out of order; and if you would withdraw it, I will speak to that.

MR. SCHICK: I can withdraw that.

CHAIRMAN DANIEL: I haven't had a chance to go back and look at the plan, and I'm assuming that the 6,000 pounds, it was silent on the number of trips, I guess. It's not? So more than one allowed the trip seems to be inconsistent with plan; but if we're going to go ahead and start approving all of these – we're going to start making all these motions and we're going to start approving all these new plans for multi-trips, what about if we just went ahead and just said everybody can have two trips; two permits? Why? That would be easier; that would be the fair thing to do, right? So that is not a good idea. All right, Kyle, go ahead.

MR. SCHICK: Actually, I feel that my motion wasn't out of order, but I will clarify it however we need because in our proposal we've stated that we wanted to have two licensees on one boat, 12,000 pounds, if Maryland was going to get approved. That was in our proposal from the Potomac River Fisheries Commission, **but I will move to allow the Potomac River Fisheries Commission to add a bycatch allowance of 12,000 pounds on one boat with two licensees for pound net fisheries only.**

CHAIRMAN DANIEL: Is there a second to that motion? Seconded from Ellen. Bill.

MR. ADLER: Is this for one year just like Maryland?

MS. COSBY: That is correct.

CHAIRMAN DANIEL: Bob, was your issue resolved? Thank you. Bob Ballou.

MR. BALLOU: Mr. Chairman, I plan to oppose this motion for the same reason I opposed the Maryland Proposal. While I am very sympathetic to the basis for proposal, it is the slippery slope issue that concerns me, because we are now slip-sliding away. I plan to slide right in with a motion to request that Rhode Island be granted the same accommodation because we have a fishery that is identical to the ones that have been characterized earlier, primarily a pound net fishery.

From a fairness perspective, now that we have headed down this slope or we're in the process of heading down this slope, it compels me to try to get Rhode Island into the same status. I don't think that is consistent with the spirit nor intent of the amendment, so that is why I plan to vote no; but if the motion carries and if the Virginia motion carries and if North Carolina jumps in, rest assured Rhode Island will as well. Thank you.

CHAIRMAN DANIEL: Thank you, Bob. Is there any further discussion on the motion for the Potomac River Fisheries Commission? I guess to be consistent we should do roll call votes on these or should we? I mean, they're all pretty clear in favor. If somebody wants a roll call vote, all you have to do is ask. Otherwise, all those in favor raise your right hand; opposed same sign, 4 opposed; null votes; abstentions. **The motion carries 13 to 4.** All right, next.

MR. AUGUSTINE: **Mr. Chairman, I move that the board approve Virginia's request of a bycatch allowance for 2013 as recommended by the plan review team. Do I have to say 6,000 pounds; I don't think so.**

CHAIRMAN DANIEL: Clarification; it was not recommended by the PRT.

MR. AUGUSTINE: And then a follow-on question – well, I wanted to get a second. Jack, are you seconding that?

MR. TRAVELSTEAD: We didn't really submit a bycatch allowance request. I think the motion should be to approve Virginia's plan.

MR. AUGUSTINE: Was that embedded in your plan, Mr. Travelstead?

MR. TRAVELSTEAD: Well, the bycatch allowance is part of Virginia's plan but we need approval – we obviously need approval for the other parts of the plan, including the bycatch provision.

MR. AUGUSTINE: It is your preference, Mr. Chairman, how you want to clarify it.

CHAIRMAN DANIEL: I believe Virginia's plan was approved by the PRT with the only exception being the question regarding the double trips. I think the motion would then take Virginia – if approved would take Virginia off the table; you would be approved; you would be done. You could go home. That is the way I understand the motion and that would be the intent. That would be outcome of the motion.

MR. AUGUSTINE: That's good; thank you, but I have one question for that state. It says two or more individuals operating from a single vessel, and I understand that. The other states have clarified two. I think the PRFC said they were talking about two. I think Maryland was talking about two. Yours leaves it open-ended. Typically would it be more than two, Jack – could you help us with that – or are talking about father/son or family related or are we talking about maybe a hundred foot vessel with six permittees on it. It is too open-ended. Could you give us some help on that?

MR. TRAVELSTEAD: First of all, I will second the motion, Mr. Chairman, for the record.

CHAIRMAN DANIEL: Thank you; seconded by Jack Travelstead.

MR. TRAVELSTEAD: Typically it is one person; it is one licensee going to his nets and bringing in the catch. There may be cases, as in Maryland, where family members might be fishing from the same boat. I don't know of any case where it would be more than two. I just don't have any knowledge that would ever occur. The way our law was written it limits a licensee to 6,000 pounds per day. Regardless of how many nets he has, he can bring in 6,000 pounds.

MR. AUGUSTINE: Mr. Chairman, it doesn't sound like it is going to be a problem. This is a provisional for one year, anyway; so long as you add 2013 to that, I think we're all set.

CHAIRMAN DANIEL: All right, can we get that clarification up there; move to approve the Virginia plan for 2013. Motion by Mr. Augustine; second by Mr. Travelstead. Is there any further discussion on the motion? Tom.

MR. FOTE: Can I ask Virginia two questions through the Chair? What percentage did you allocate outside of your purse seine fishery for the pound nets and for gill nets? I know we did 5 percent in New Jersey.

Did you do the same thing in Virginia to basically – because I'm just looking at it, too, we designed it into the thing so that the quota wouldn't be overtaken, and so I wanted to just know if there was a percentage. That is one question; and, again, this is only for the pound net fishery; this is not for the purse seine fishery or any other gear?

MR. TRAVELSTEAD: No, it is not for purse seine because purse seine is a directed fishery, but it does apply to all the other gears that are not directed on menhaden. It applies to gill gets. It applies to a cast net, for that matter, if you have a commercial hook-and-line license.

MR. FOTE: So I'd just like to know how much percentage you did because I what we did in New Jersey, but I'm not sure what you did in Virginia.

MR. TRAVELSTEAD: I don't know the percentages off the top of my head, but the pound net quota is I believe about 3.5 million pounds; the gill net quota was a million and a half; and then it is substantially less than that for the gears.

MR. SIMPSON: The issue here to me is that happens after in this particular case Virginia catches its state allocation, its state annual quota; what happens after that for pound nets in particular or other gears, for that matter. I'm not clear now what your law allows in terms of multipliers of 6,000 pounds per vessel. Would your law allow the same sort of thing that we have given Maryland and PRFC the latitude to do? I need to understand it a little bit better.

MR. TRAVELSTEAD: Yes, it would, yes.

MR. SIMPSON: So I would be concerned about that in Virginia's case because they do have substantial landings from other fisheries besides pound nets. To my mind, I approved PRFC and Maryland because we have potentially a discard mortality issue that we wanted to address, a passive gear fishery that may encounter more menhaden, and we don't want to produce dead discards there or make a fishery inefficient. I think Virginia has the latitude to manage within its state its total landings so that it can accommodate whatever pound net landings occur and count it within their directed fishery.

MR. TRAVELSTEAD: I don't have any latitude to change anything at this point; but, yes, you're right, if we see problems this year, we can go to the legislature and change it. Right now I'm in a situation where we have what we have. There will be cases, once the gill net quota is taken at some time this year, where a gill netter would have a bycatch of 6,000 pounds.

MR. SIMPSON: So just to follow up; I think a gill net is the traditional fishery where it is actively fished. There is one boat that takes on that catch, lands it. With other fisheries, I assume the same thing happens. With pound nets, I'm still not clear if in Virginia's case if one vessel can come in with more than 6,000 pounds.

MR. TRAVELSTEAD: They could if they're multiple licensees on that vessel. If a father and son fish multiple pound nets and they're each licensed, then they could come in with 12,000 pounds under the Virginia law.

MR. ADLER: Jack, if this didn't get approved; would the plan that your legislature has approved already that you have to stick with for a year; what does that include already? Does it include what we were discussing about two or more – is that already in your approved thing in the state?

MR. TRAVELSTEAD: The legislation was approved back in January/February, and it simply contains a provision that any licensee in any non-directed fishery is entitled to a 6,000 pound bycatch after that gear's quota is caught. That is what it says. It doesn't go any further than that.

MR. ADLER: Okay, so if this isn't approved; would they still be able to put several people on the boat and get their six?

MR. TRAVELSTEAD: Yes.

MR. ADLER: Right now; I mean because –

MR. TRAVELSTEAD: Yes.

MR. ADLER: – it has been passed in your legislature and you can't change it?

MR. TRAVELSTEAD: That's right.

MR. GROUT: Mr. Chairman, I appreciate the issues that the Chesapeake Bay states have brought on this. I just want to make sure that we're doing this correctly in our process. As I recall, in the plan we were talking a 6,000 pound

bycatch limit per vessel per day. If there is a need for that to be changed it is my opinion – and I'm going to ask the executive director his opinion on this – that this needs to be done through a management action.

I'm just afraid that we're going to end up with a section here that has a very specific – in our management plan it has very specific regulation requirements, and then we're going to approve a series of plans that are a direct conflict with that. Now, there are a couple of ways that it could happen.

We either could change it by addendum or there could be a conservation equivalency proposal. That is clearly within our process here. I would like to ask Bob Beal directly, Mr. Chairman, are we doing something here that is in direct opposition to what we put in the fishery's management plan, and do we need to take a management action to allow these situations to occur?

EXECUTIVE DIRECTOR BEAL: Well, first of all, the plan in Section 4.2.1.7 is where all this is handled. To your last point of conservation equivalency; that is not available for this. It specifically states are not eligible to submit alternative state management regimes in lieu of bycatch allowance as written, so that one is pretty clear.

Then it gets less easy. The plan states that an incidental bycatch allowance of up 6,000 pounds of Atlantic menhaden per trip for non-directed fisheries shall be in place during a season closure. That sets the trip limit at 6,000 pounds per trip, but I guess the question there is what is a trip? If Doug and I are both on a boat; is my trip and his trip and we're each limited to 6,000?

That is probably some interpretation by the board. Then the next sentence goes on to say the amount of Atlantic menhaden landed by one vessel in a day as a bycatch allowance shall not exceed 6,000 pounds. This prohibits a vessel from making multiple

trips in one day to land more than one bycatch allowance.

The wording there indicates that a vessel can't land more than 6,000, but the clarification part is that sentence was included to prevent a vessel from going out multiple times and landing 6,000 pounds each trip during that day. The question there is where does the board feel that leaves them? I don't know if I can give them yes or no on that one. There is a little room for interpretation there, but clearly the more 6,000 pounds of fish you put on the boat, the less restrictive all of these measures are.

CHAIRMAN DANIEL: Again, that translates over into many, many, many other plans; an inconsistent definition of a trip or if we're going to start trying to redefine a trip in this plan. I think that would have bearing on other plans. I think there is some confusion. We have a directed fishery with a quota, and those quotas are fairly small for the majority of us, I think. My understanding of the way the program works is, for example, in North Carolina there is a directed trawl fishery for menhaden in the winter, January and February.

I doubt we will see much because of Oregon Inlet in 2013, but there is a directed fishery that has landed as much as 3 million pounds in a year. We're constrained to a 1.5 million pound quota. My understanding of the plan – and I thought I had a pretty good understanding of it, but my understanding of the plan was that when we go back and do our state plans, we manage our directed fishery with the quota; and once that quota is achieved or we approach it, we close the fishery.

Then any subsequent landings after that fall under the 6,000 pound bycatch allowance. For us at least that is a pound net fishery, and so the assumption was is that anything over 6,000 pounds would have to go back overboard, and you would be able to retain 6,000 pounds. That is not the interpretation of the board, clearly, so there is a disconnect right now between the board's interpretation of the plan and the plan is what it sounds like to me.

Now, Bob says there room for some interpretation here. I'm having a hard time finding it, and it is an uncomfortable position to be in the Chair and be in such a minority on the intent here. Clearly, the intent of the board is far different than the intent of the plan, and I don't know how to fix that. We have already gone through and we have approved Maryland and we have approved Potomac River Fisheries Commission.

We're now starting to have some angst about Virginia. North Carolina and Rhode Island haven't submitted a formal request but have clearly declared an interest in moving forward. It is the same thing. What we're doing I think is promoting the development of a bait fishery in our various states to provide us with those opportunities and provide our fishermen with those opportunities, and that was never a discussion that I recall during the board deliberations.

Despite all the craziness that went on, I do remember the general sense, so I have got a real problem with this disconnect that I'm hearing and seeing, especially at 13 to 2 disconnect is extraordinarily concerning to me, and I don't know how to fix that. I need some help; I need some guidance on how to proceed.

We either need to continue moving forward and simply remove the discussion on the merits of the proposals to increase the bycatch allowance and just allow it – if a state requests it, allow it. Now that seems to be the general sense of the board, because all these questions about how the fishery operates or what, this, that and the other thing really doesn't have any bearing.

We're plowing new ground right now. I hate to move forward and do Virginia; then if North Carolina moves forward; if Rhode Island; whoever else wants to move forward and continue to have this discussion, because we're now 15 minutes and we haven't even – you know, this is the big

issue, but we've got a long way to go before we're done. I would like to have some discussion on that specific point right now as to how you want to proceed because I feel like I'm going in a different direction than the majority. Doug.

MR. GROUT: Given where we are at this point, I know we're over, Mr. Chairman, but it really might be valuable for us to take like a five- or ten-minute break to take a breath, maybe have a few conversations about how we're going to address this and limit it very strictly to ten minutes, but I think it might be appropriate right now for us to just take breath here.

CHAIRMAN DANIEL: All right, I'm going to do the countdown with ten seconds to go.

(Whereupon, a recess was taken.)

CHAIRMAN DANIEL: We're ready to go. All right, Doug.

MR. GROUT: Some of the conversations I have heard, and clearly some of the votes that we have taken here from my standpoint are in conflict with what is the wording in the plan. Now, the commissioner from Maryland indicated to me that when she made the motion to allow a 6,000 pound bycatch, it wasn't her intent that it be a per vessel per trip bycatch.

Looking at some of the votes here right now, I'm beginning to wonder whether that was the intent of the rest of the board here. From my standpoint if we continue to approve these 12,000 pound bycatch allotments for each state, then I'm going to ask at the end of this meeting that we start an addendum to clarify that this is something that the board intended because it is not what is in our plan right now.

I'm very, very concerned that we're approving plans that have measures that are in conflict with what is in the fishery's management plan; the wording of the fishery's management plan. That is the way I'm going to come at this is that if the board continues to approve this, I am going to ask that section be changed through an

addendum process to reflect the will of the board here.

EXECUTIVE DIRECTOR BEAL: I think we're in a spot where when this amendment was developed, it was the December member, it needed to be turned around very quickly. The wording of the motion and some of the discussions at the December meeting may have left some room for interpretation and it put the PDT in a spot where they had to go home and interpret what they thought they heard from the board.

I think they did a good job of that. I think they're in a tough spot. A lot of times with something as complicated as this amendment, we would have taken the wording back to the board and said is this what you guys really meant? The PDT would have done their best job and interpret it and we would taken that extra step to go back to the board and said is this really what you guys envisioned at your December meeting?

Well, given the timeframe and the board's desire to affect the 2013 fishery, we didn't have that sort of luxury to go back and do that. I think the board is in a spot right now where they're trying to work through the details and work through the PDT's interpretation, which I think is very reasonable. The board has got to give itself a little flexibility here and figure it out.

I think things such as the resolution of the data is going to be really important; so, in other words, if these are approved – and I'm pushing for them to be approved or not – I think the resolution of the data from the states will need to be at level where they can tell how many trips were landed above this 6,000 pound one permit on the boat level and up to the 12,000 pounds.

The board is going to be able to look at that data and say, there were X number of trips or X thousands pounds of fish landed in the provisions that were provided to each of

these states to allow two licenses on a boat. If the board wants to do this, I think there needs to be a very strong sort of post mortem evaluation of how big a deal this really was. I think everybody around the table is speculating that and it may or may not be a big deal, but maybe you have to run the experiment and then evaluate how big of an impact it was to the fishery.

CHAIRMAN DANIEL: Thank you, both. Dave.

MR. SIMPSON: So just one comment to make the distinction that the two plans we have approved are from jurisdictions that are overwhelmingly a passive gear fishery that doesn't have a lot of latitude. I think the board's choice was either when you reach your quota, you pull stakes, literally, you know, that gear comes out of the water; or, we give them some latitude because we're learning things about that fishery that are different than the ones that certainly I'm accustomed to that are active pursuit fisheries, targeted fisheries.

In the case of Virginia, I do intend to vote no because they have directed fisheries that they can adjust so that their pound net catches count in their quota, and that is we're asking them to do. After that, then a landing to my view should only be up to 6,000 pounds considered as bycatch and not counted against the directed quota. These other jurisdictions don't have that latitude, but with the one we're up on now, Virginia does, so I intend to vote no on this one.

CHAIRMAN DANIEL: Well, I think just for clarification I don't believe that – I believe you either misspoke or misstated the issue with any of these fisheries to close and have to pull stakes. I don't think that would be what happens. I think the intent of the bycatch allowance, whatever it was, was to prevent that from happening.

If Maryland caught their quota by whatever means, then they would be allowed to continue pound net fishing for the remainder of the year and any bycatch of menhaden would be accounted for in the 6,000 pound bycatch

allowance. Where there seems to be a bit discrepancy is the intent of the board in that motion, as Bob suggested.

It was my thought and why I'm so confused is I thought it was very clear that it was 6,000 pounds per trip; and it didn't matter how many people were on the boat or anything; it is just 6,000 pounds per trip. So now we have run into this confusion, and that is what we need to fix. I think the characterization of the issue by Doug and Bob are good.

I think the break was good, but we need to decide how we're going to move forward with these. We've already moved forward on Maryland and PRFC, so we have approved those. I don't know if we want to go back and disapprove those or whether we just want to continue down the road of allowing this.

But, again, I would bring up the potential – and I know there was some angst – but to provide the states the latitude to have up to two bycatch allowances per trip if they so desire instead of taking it state by state by state by state; with the understanding that it is a 2013 provision that we can review and deal with in an addendum that I think it is very appropriate for us to move forward with to clarify our intent and clarify the impacts of what this is. But right now we have got to get through this issue and several other issues before we're done here today; so with that in mind, can we go ahead and vote on the Virginia motion is there further discussion on that motion?

MR. SCHICK: Since this is only for a year, Virginia doesn't have the flexibility of changing around quotas to allow for any kind of change, and we are in the same boat as everybody else with our pound netters. The issue here is fairness to the pound netters. In Virginia two licensees go out on one boat. It doesn't matter whether they're fishing for rockfish or whatever gear it is, when they come back and report, that is two trips.

I know that might be different in other states. I was very fortunate that I had 103 degree fever so I couldn't go to December's meeting; but when I read the minutes, it was my impression that it was each licensee had a 6,000 pound bycatch because that is a trip. When a person goes out to fish and comes back with his license and his quota; that is a trip.

Obviously that communication issue isn't a hundred percent and we do need to discuss that in the future. Virginia is in the same position as Potomac River Fisheries Commission and Maryland land we have got pound netters and we don't want them to be put into the situation where they've got, you know, two people going out and having to throw fish overboard because they're trying to economize in a family fishing situation.

MR. MILLER: Just a quick clarification, Mr. Chairman. If this motion is approved – let me put it this way; if this motion is not approved; what are the implications for what Virginia can do in 2013? Do they have to resubmit their entire proposal? Are we only voting on the bycatch provisions of their proposal?

CHAIRMAN DANIEL: My understanding is the Virginia Proposal met with the approval of the PRT with the exception of clarifying the bycatch allowance; so that by approving this plan, Virginia's plan is done and approved. Now, if we vote this down, I guess Virginia is out of compliance and that will be an issue that we will have to address and deal with; because if we don't approve their plan and that is all they can implement, then that brings up a whole different can of worms issue that I'm not quite sure we're ready to skin right now. Jack.

MR. TRAVELSTEAD: The board put Virginia in a position of having to draft legislation during the period of December 14th to January 9th when the deadline for submission of legislation to the General Assembly ends. We did everything that we thought was right. We had a number of discussions with Bob Beal on exactly what Virginia needed to include in that legislation.

We did not have the guidance document. It didn't come out until February 26th. We did what we thought was the right thing in conformance with the guidance that we got from staff and that is where we are. The General Assembly will meet again next January; and if there are changes that need to be made, we can make them.

I agree with the previous speaker that I think we're going to need an addendum on this entire subject. There are too many questions being asked and too many concerns expressed. I think in many ways we're making a mountain out of a molehill here. Virginia's plan divides our non-directed bait quota by gear type, and those fishermen and those individual fisheries will fish under that quota until it runs out.

I can't tell you when that is going to run out. It may run out in October, it may run out in June. Whenever it runs out, that is when the 6,000 pound bycatch kicks in. Whenever it runs out, I think the amount of fish that are going to be landed under that 6,000 pound bycatch provision is going to be so small compared to the total amount fish that are going to be removed from the fishery, that it is virtually insignificant. Nonetheless, it should be subject to an addendum at end of this year and let's get it right for next year.

MR. WHITE: Mr. Chairman, I guess going forward when will we have the reporting information on this year's season and what will our timing be for states such as Virginia to be able to react to that? Is the timing going to be such that we're going to know what happened this season and still be able to change it? If it turns out that it is not small and it is something that we have to react to, will Virginia be able to react to that or are we really locking in two years?

MR. WAINE: Just to clarify, that would come through with the compliance reports, and those would be due April 1st of 2014. Often the data that gets presented in those in terms of landings is preliminary at that time.

MR. WHITE: So in essence this is not one year; this is two years, then, on that basis, minimum?

EXECUTIVE DIRECTOR BEAL: We don't necessarily have to wait until the April 1st deadline for compliance reports. If the states have the data available or if this board wants to make a provision of approving these that those approved states are asked to supply data by a certain date, I think the board can ask that as well. I don't think we have to wait for that one date.

CHAIRMAN DANIEL: Well, the problem is from North Carolina's perspective, we have good landings' information through the clearing house and quality controls around that time, maybe a little later. I don't know if other states can go quicker, but we would have a hard time getting anything any sooner than April 1st. That is a tough nut for us. Other states are probably different; but just as an example.

MR. TRAIN: Mr. Chairman, I'm going to speak in favor of the motion. It seems to be – well, Virginia is the 300-pound menhaden gorilla in the room. They've got most of the quota and for some reason people might think about treating them differently. The fishermen fishing the pound nets are no different than the fishermen fishing the pound nets in any other river. Not voting in favor of this will not save a fish. It will just punish some fishermen.

MR. TRAVELSTEAD: I think there will be data that the states will have this fall that will be valuable in allowing us to make some changes that could be implemented in time for next year. If, for instance, Virginia's pound net quota is taken in May or June, we're going to know that real quick, and so we're going to know that Virginia needs to do something next year to force that quota to last longer in the calendar year than it did this year. That is before the 6,000 pound bycatch kicks in, so I think there is going to be a lot of information we will have. It may be preliminary but I think it will be good enough that we can react to.

CHAIRMAN DANIEL: Yes, I think we can definitely put some of that information together.

It is just the final landings' information may be difficult, but certainly getting some indication as to how the fishery is prosecuted and if there have been changes in the fishery because of the allowance. A lot of times what we find is when we put a limit on something, people go after it. Now whether they do that for menhaden or not is tough to say. Dennis.

MR. ABBOTT: Mr. Chairman, a question directed towards Jack; even if we were provided with some information this fall, would the General Assembly in the Commonwealth of Virginia – my guess would be they wouldn't act unless there was some management plan change so we're still back – whether we get the information next April or some preliminary information in the fall, we're still looking at an additional year before any action, if necessary, would be taken. Is that not true, Jack?

MR. TRAVELSTEAD: I would say the motion is asking you to approve Virginia's plan for 2013. If at the end of this year you don't want us to continue that, then you tell us the same plan is not approved for next year, and we modify the law for 2014. I think that can happen. If you want to give us further guidance for next year, we're ready to hear it.

MR. STEVE MEYERS: Mr. Chairman, we voted for Maryland and Potomac River because we saw it as a small fishery with fixed gear, limited timeframe, a learning experience. We're going to abstain on this vote for Virginia. We see this as getting into the realm where we really need to have a new addendum to fine tune this. This is kind of spiraling and that is not our intent when we support Maryland and Potomac River. Thank you.

MS. FEGLEY: Mr. Chairman, I just want to speak to the spiraling issue. One of the things that I think is very important here; you know, when we went forward, one of our goals was to absolutely avoid any growth in this fixed gear fishery that we

have, so we have very strict eligibility criteria for who can qualify for this.

There are control dates, there are eligibility criteria, there are non-transferability provisions. We have built a lot of things in there to really support these family operations but prevent any growth and expansion of this thing to your point about when you have a limit you go after it. I guess I'm just putting out those eligibility criteria in relation to this spiraling situation; that I think that has to be, as we travel through this, a consideration.

MR. FOTE: I'm trying to think of how to deal with Virginia's problem. The only way I can see us dealing with that and maybe understanding it if it was said that this would be only 2013. You plan to go to your legislature for 2014 and they just come along with everybody else in this unless at that time you can prove to the board to do that. I'm looking at a sunset part of this legislation because I know you passed the legislation.

I don't want to vote you out of compliance. This is not going to go to the secretary to basically say, you know, that you're going to hurt the stock and we understand that. I'm looking for a way of getting around that and the only way I see, since it is already done by legislation, is to go and say you will put legislation in 2014 that will try to rectify this situation.

Now, at a later date if you can prove that it is not a problem and everything is going on, we can amend that, but I think this is with the understanding. Basically I don't want to see this drag out another year without a determination. If you can come back with all the information in, say, October and say here is where we are and we're not going to have a problem here and basically put it in force, then we might think differently. I don't know if that is an acceptable way to go on that.

MR. TRAVELSTEAD: Can I respond to that, Mr. Chairman? The motion only approves Virginia's plan for 2013. I am certainly willing to take any guidance from this management board back to the Virginia General Assembly to

change it in any way. I have no problem with limiting a boat to the 6,000 pounds at all. Unfortunately, our law wasn't written in a way to prevent that; but if that is the ultimate desire of the board to allow only one trip of 6,000 pounds, that is fine with me. I don't have a bit of problem with it, but I can't do it until 2014.

CHAIRMAN DANIEL: The last hand is Pete and then we're going to vote.

MR. PETER HIMCHAK: Mr. Chairman, I would just like to speak as the second largest gorilla in the room. We haven't gotten to New Jersey yet. I support the Virginia Proposal with the recognition that we realize that we may have to make adjustments as we learn in 2013; and if this issue is rectified in 2014 – I'm reading our legislation. We're in the same position.

We had to have – you know, it is ready for the governor's signature so we're not pulling anything back here. We can adopt regulations later in the year, which we intend to do, and then we can move things much quicker. Fortunately for us, we don't have the problem with pound nets and gill nets and other issues that you have, but we could have been in your position and be in the same position.

So, for 2013 I am at least voting in favor of this Virginia Proposal, recognizing that you've got 82 percent of the TAC and it is like, you know, what does gray area amount to in the whole scheme of things? We will determine what it is after executing these plans, and then we will make adjustments if it is bigger than 1 percent or 2 percent. We don't know.

CHAIRMAN DANIEL: Okay, that's it, time to caucus.

(Whereupon a caucus was held.)

CHAIRMAN DANIEL: Okay, there has been a roll call vote request.

MR. WAINE: Maine.

MAINE: Yes.

MR. WAINE: New Hampshire.

NEW HAMPSHIRE: No.

MR. WAINE: Commonwealth of Massachusetts.

MASSACHUSETTS: No.

MR. WAINE: Rhode Island.

RHODE ISLAND: No.

MR. WAINE: Connecticut.

CONNECTICUT: No.

MR. WAINE: New York.

NEW YORK: Yes.

MR. WAINE: New Jersey.

NEW JERSEY: Yes.

MR. WAINE: Delaware.

DELAWARE: Yes.

MR. WAINE: Maryland.

MARYLAND: Yes.

MR. WAINE: Potomac River Fisheries Commission.

POTOMAC RIVER FISHERIES COMMISSION: Yes.

MR. WAINE: Commonwealth of Virginia.

VIRGINIA: Yes.

MR. WAINE: North Carolina.

NORTH CAROLINA: No.

MR. WAINE: South Carolina.

SOUTH CAROLINA: Yes.

MR. WAINE: Georgia.

GEORGIA: Yes.

MR. WAINE: Florida.

FLORIDA: Yes.

MR. WAINE: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: Abstain.

MR. WAINE: U.S. Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: Abstain.

CHAIRMAN DANIEL: The motion carries ten in favor; five opposed; two abstentions; no null votes. All right, next. Bill.

MR. COLE: Well, we're next down the line, so I'm going to move that North Carolina be approved for a bycatch of 12,000 pounds on one vessel with two licenses each for pound nets only in 2013.

MR. BALLOU: Point of order.

MR. COLE: This is the same motion as was approved for the Potomac River Commission.

CHAIRMAN DANIEL: All right, I've got a motion, a second and a point of order. Motion by Mr. Cole; second by Mr. Abbott. Point of order by Mr. Ballou.

MR. BALLOU: I'm just curious; given the sequence you're going through with regard to the implementation plans, we are to take up North Carolina's implementation plan at some point. Are we just moving that up

now and taking up the entire North Carolina plan, including the deficiencies noted by the PRT or are we dealing with this as a separate issue and then we will later get to the North Carolina plan in its entirety? It relates to how Rhode Island is going to position itself. Thank you.

CHAIRMAN DANIEL: Yes, I would like to get this issue done with so we're not dealing with it in every plan, so I would like to go ahead and get these issues done, notwithstanding it is from North Carolina, it doesn't matter. Any other state that wants this as a separate issue for their plan, this would not approve it. Unlike Virginia – now we have approved Virginia's plan; they're done. That would not be the case for North Carolina or Rhode Island if they wanted to follow suit with a request similar to the one just made by North Carolina,. Is everybody comfortable with that approach? Adam.

MR. NOWALSKY: For the states of Maryland, Virginia and PRFC, we were acting on recommendations from the PRT. Do we have any recommendations on this matter? Has this matter been discussed for North Carolina by the PRT that we would have any guidance to go on?

CHAIRMAN DANIEL: The PRT did not recommend the others, so there was not a recommendation from the PRT to support the Maryland, Virginia and – if you want to go with the PRT's recommendation, you would not have approved it.

MR. NOWALSKY: I will clarify that in saying that the PRT recommended the board consider those; so did the PRT recommend the board consider a proposal from North Carolina and did the PRT have a proposal to review from North Carolina?

CHAIRMAN DANIEL: This was not in North Carolina's plan, no. Jim.

MR. GILMORE: I have been trying to stay out of this, but let me just throw a couple of thoughts out. From my perspective and I think everybody needs to recognize we have rammed this thing through really fast because of

deadlines that had to be met based upon legislation, whatever. Now, the states that came to the table with a plan that went to the PRT and essentially came up with a recognized issue, I have sympathy for that because we all need to recognize we're going to have to adjust this thing because hopefully some time before midnight we're going to get to New York's problem, whatever, because we need some adjustment also.

I was okay with approving and supporting the other ones mainly because of that because this is tweaking that we're trying to fix in the first year of something we probably should have taken two years to do in the first place. But now if we're going into other states who are just jumping on the bandwagon, I'm not going to put in that I want to double my trip limit because I don't really see a need for that right now, and I didn't submit that. I think any of the states that are going to put up a motion that says, well, I want the same thing, I would oppose because they haven't really demonstrated that is a need that they have. This is more a reaction to what is going on today. Thank you.

CHAIRMAN DANIEL: Are there any further comments about that? Would you like for me to address that or would you like me to step down as the Chair to address that? Address it? We submitted the 6,000 pounds because that is what we thought the limit was. We didn't realize that there was going to be an opportunity to expand that.

We have the same problem in North Carolina. We will have the same problem in North Carolina that Maryland and Potomac River and Virginia have in terms of having discard mortality above and beyond 6,000 pounds. I see no difference in our request than the other three in terms of the justification.

I don't know if that justification was presented to the PRT other than what was presented here to the board, but we have the

exact same situation where we're going to have pound nets with eight or ten thousand pounds in there and we're going to have to discard half of them. That is why I think limiting it to the pound net fishery, that would be the only really that we would have that problem with, so that is why it is limited. But, anyway, just to try to answer the question without speaking in favor or opposed to it, it is just the factual clarification, I hope. Bill Cole.

MR. COLE: Mr. Chairman, you beat me to it because I was going to try to answer Jim. North Carolina has got a long history of pound nets in our inland waters. We can have – I'm not saying we have it every day or every month, but we can – depending upon how the winds blow, we can have major problems and we will have floating fish regardless of what we do. When the wind blows right, they will all be in those nets and there is nothing we can do about it. We're asking for a little leeway here; that's all.

CHAIRMAN DANIEL: Is there any further discussion on the motion? Ritchie.

MR. WHITE: I'm going to support the motion. I have opposed all the motions previously and now we're into an area of fairness. It is not fair to North Carolina that has the same kind of problems when a number of states are now allowed to do 12,000 pounds and North Carolina not. I think we were wrong in doing what we have done and now that is water over the dam, and now it is time to fair.

MR. FOTE: It just reminds me we have to be really carefully when we make motions. I made a motion one time for a hundred pound bycatch that wound up into a thousand pound bycatch. It just brings us back to this haunting memory that we make motions at one place and all of a sudden a couple of months later we change it and now we go to people that have respected what we did and we turn it completely around and it makes a bad, bad feeling among a lot of people that supported it.

MR. ABBOTT: Mr. Chairman, in your review of the plan, did you make a different interpretation than the states of Virginia and

Maryland did in making your conclusions regarding bycatch?

CHAIRMAN DANIEL: Yes, sir. Is there any further discussion on the motion? If not, I will read the motion. Move that North Carolina be approved for a bycatch of 12,000 pounds on one vessel for two licenses each for pound nets only for 2013. Motion by Mr. Cole; second by Mr. Abbott. Roll call or regular?

(Responses of "regular")

CHAIRMAN DANIEL: All right, all those in favor raise your right hand, 15 in favor; opposed, no opposition; null votes; abstentions, two. All right, thank you very much. Bob.

MR. BALLOU: Mr. Chairman, I would like to make a motion that Rhode Island be approved for a bycatch of 12,000 pounds on one vessel for two licenses each for fish traps only for 2013. If there is a second, I will just add a quick clarifying comment. Thank you.

CHAIRMAN DANIEL: Second by Dave Simpson. Bob.

MR. BALLOU: Just for the board's edification, there are a total of seven licensed fish trap operators in Rhode Island fishing twenty traps. We have a 75,000 pound quota. That quota is based entirely on our non-directed fixed gear fishery, so we are in an identical situation to the other states that have already put this issue forward. Thank you.

CHAIRMAN DANIEL: Are there any questions for Rhode Island? Jim.

MR. GILMORE: Mr. Chairman, your suggestion a while ago about just adding all the states into one motion might be a lot more efficient than doing this, instead of us going through each one of the states. I don't want to do this, but I'm looking at the issue now if I walk back to New York and I've

got nine states got 12,000 pound limits and I don't, I'm going to get killed at the border. **I would like to maybe suggest that we add more states onto it and add New York onto this motion.** Thank you.

CHAIRMAN DANIEL: For traps?

MR. GILMORE: Pound net, yes.

MR. STOCKWELL: You might as well add Maine, too.

CHAIRMAN DANIEL: All right, can we say stationary gear; would that cover the disparity between the traps and the pound nets and those types of things? If you wanted to modify the motion for stationary gear and add the states that want it; I think we can do that as friendly amendments to the motion. So far I've heard Rhode Island, Massachusetts, New York, Maine. Is there anyone else? This is just for 2013; stationary gears. Lynn.

MS. FEGLEY: Mr. Chairman, I was also going to suggest that in addition to "stationary" there would be the word "multispecies", because these are not supposed to be targeted.

CHAIRMAN DANIEL: As long as there is no objection from the maker and the seconder of the motion, we can add – Dave.

MR. SIMPSON: And just to be clear – I don't know that it matters – we're not talking about anchored gill nets or any other silly thing. It is pound nets, trap nets, fyke nets, things like that.

CHAIRMAN DANIEL: Correct; that was my understanding. Is everybody good with the perfection? Okay, move that Rhode Island, Massachusetts, New York and Maine be approved for a bycatch of 12,000 pounds on one vessel for two licenses each for multispecies stationary gear only for 2013. Motion by Mr. Ballou; second by Mr. Simpson. Do you need to caucus? **All right, those in favor raise your right hand; all those opposed same sign, no opposition; no null votes; abstentions, two.** It passes unanimously. Doug.

MR. GROUT: One more motion on this issue, and this motion is to attempt to get around the disconnect with next year's plans with what is stated in the plan. **I am going to move that for 2014 all states will be limited to a 6,000 pound per vessel per trip bycatch limit with only one landing event per calendar day unless the board approves an addendum to modify Section 4.2.1.7 of Amendment 2 to reflect this.**

CHAIRMAN DANIEL: Motion by Mr. Grout; second by Mr. Bellavance. Very helpful for clarification. Roy.

MR. MILLER: Mr. Chairman, I have no objection to the intent of the motion; however, I think the reason that we specified 2013 in all the previous motions was so we would have a learning event. I think it is premature to specify what we're going to do in 2014 at this point in time until we have had the benefit of learning from 2013. Thank you.

MR. TRAVELSTEAD: Just a question; if I own two vessels, can I go to my pound net and put 6,000 pounds into each vessel?

CHAIRMAN DANIEL: In this motion?

MR. TRAVELSTEAD: Yes; 6,000 pounds per vessel or does the per trip – I think it gets a little confusing.

CHAIRMAN DANIEL: I think that is something that we – I will let Doug speak to it as well, but I think that is question that we need to answer. That is the confusion that is generated around the table, which is in the definition of a trip or a person or a limit or a license, whatever. I have never heard us have these discussions before when it comes to these types of issues.

Now they have become an issue and so we need to fix that. My hope is that by pursuing an addendum to identify those characteristics of the fishery are important so that we can answer those questions more definitively. Doug.

MR. GROUT: And just to clarify it and, hopefully this will clarify your issue, I would like to put in after “bycatch limit”, “regardless of the number of permit holders on the vessel”. Again, it is only to provide the opportunity to get this board to clarify what they intended with this particular section in the plan. From my perspective, what we have approved today in clear contradiction of what is in – is not what it allowed under the current writing of Section 4.2.1.7. If the board wants to allow this, we need to put that in a management action.

MR. SIMPSON: I agree with – I think it was Roy that said it. I appreciate what you’re trying to do, but I think it might be a little bit early. My preference would be for the states that have pound net fisheries to get together and talk about what a trip means and how are we going to deal with this issue of that passive gear that is going to be taking fish even after their quota is filled because they’re targeting other species.

I would like to hear back from them on how do we deal with this and maybe they could report back to us in August and we take it up there at that time. I see the boats go out and there is a big boat that is towing three or four little boats, and so does each of them gets – it gets silly so people who are familiar with the fishery need to talk about this and come back to us with a clearer idea of what a trip is for a pound net.

MR. FOTE: I think the reason we haven’t had this discussion of other classes where we allowed bycatch is because it was strictly bycatch. You had to bring in a certain amount of other fish to basically qualify for the bycatch. When you aggregated that rule out, when you put that rule out that you didn’t have to have pounds of other fish to bring those fish in, then you created a whole new sector, which is really not bycatch when we should be calling it a different name.

Really, it is directed allowing for a certain amount of fish to be landed when there is no other fish on board, because bycatch means there are other fish on board is the definition I’ve seen for years. This is a new definition of what we’re doing, so we need to clarify that. I

think Doug’s motion is in order because until we clarify that, we have got to follow the management plan.

We’re letting it slide this year because of legislative things. We do that occasionally when we put things in that can’t be done in the same year, but is to make sure in 2014 it is done according to the plan if we don’t otherwise state that it will have exceptions. This moves us along in the right path and puts us on a timeline to get things done right.

MR. WHITE: Mr. Chairman, I think this motion accomplishes what Dave wants. This allows for the states to see later into the fall if there is a problem with this to start an addendum to address it. Short of that, if there is no problem seen, then we’re going to live with the language that is in the amendment now. I think this clearly – it doesn’t say start an addendum now; start an addendum when we see the need.

MR. STOCKWELL: Mr. Chairman, my initial thought was that this motion was premature, but I concur with Ritchie that it provides us incentive to deal with it so we’re ready for the 2014 season.

MR. GOLDSBOROUGH: Mr. Chairman, like a lot of people, I think, have had concerns from a conservation standpoint about the way we spiraled here. I don’t think anybody saw that coming or intended that. Having said that, I think we all also realize that this is the first year of trying to apply a quota system to a fishery that has never been limited before, and in the case of these fixed gears are multispecies fisheries and present lots of challenges and not mention in addition that we’re midway through the season.

My view of it is that it is acceptable within the bounds of responsible management to take the first year with a little bit of latitude and try and sort out all these issues as long as we do plan to learn from this first year’s experience and respond to that learning for

the second and subsequent years. I'm not sure if this allows us to do that. I think we're confused on what the letter of the FMP actually is. We've already spoken to that so how can we say that is what this would hold us to?

I just hope we can have a place a process for learning from this year and then responding to that. From a process standpoint, how long does it take us to implement an addendum? We were going to go until, when, our annual meeting and then decide to do an addendum or not, and how does that solve Jack's problem coming back with his General Assembly in January and February and making changes for next year. I'm not sure where that leaves us, Mr. Chairman.

CHAIRMAN DANIEL: I'm not completely sure either. Bill Cole.

MR. COLE: Mr. Chairman, I've got some problems with this; because in North Carolina we monitor we trip. We license the individual, but we regulate the trip, in other words, per vessel per trip.

Then we come back and we put additional restrictions to only one landing event per calendar day. What this would do is if I've got two fellows that are working a pound net and they both are properly licensed and permitted by the state; that they're only allowed half of what they would be allowed if they had taken two boats out to empty the pound net, and I'm not sure that is fair.

CHAIRMAN DANIEL: Well, I think we will have ample time to work through the specifics of this as we move forward. The point is made and taken. Jack.

MR. TRAVELSTEAD: This motion does help Virginia. It allows me to start working on legislation for next year so that we can fix Virginia's problem; and then if an addendum is done, that's fine, too, but this motion does help us.

CHAIRMAN DANIEL: All right, is there any objection to the motion? The motion is move that for 2014 all states will be limited to

a 6,000 pound per vessel per trip bycatch limit regardless of the number of permit holders on the vessel with only one landing event per calendar day unless the board approves an addendum to modify Section 4.2.1.7 of Amendment 2 to reflect this. Is there any objection to the motion? Seeing none; the motion carries.

All right, we have dealt with that, so the next issue is we're going to go through the state-specific recommendations to meet Amendment 2 requirements. It is my hope that we can get through all of this and have a blanket motion to approve the plans that are not de minimis – well, actually, no, let's do this first.

There is a recommendation from the PRT to approve de minimis status for New Hampshire, South Carolina, Georgia and Florida for 2013. Can I have a motion in that regard from Mr. Augustine.

MR. AUGUSTINE: Mr. Chairman, move to approve de minimis status for New Hampshire, South Carolina, Georgia and Florida for 2013.

CHAIRMAN DANIEL: Motion by Mr. Augustine; second by Mr. Adler. Is there discussion on that motion? Is there any objection to that motion? Seeing none; that motion carries. All right, Rhode Island, you have an issue in 4.2.1.7, prohibit the use of multiple carrier vessels per trip to offload bycatch exceeding 6,000 pounds. I don't know if that is even an issue at this point now.

MR. BALLOU: Well, to the extent that needs to be added to Rhode Island regulations, we're perfectly prepared to do that. If that is all the PRT is looking for is a commitment to add that in, I think it was inadvertently left out and we will add that in. I assume it would be, though, 12,000 pounds now instead of six.

I do have one question, though, in terms of the timing here, and I think this really is a

broad question, but I think it is a perfect time to ask it, but I'll let you be the judge of that. We are in the process today of approving implementation plans that go into effect July 1. However, quota monitoring and quota management began January 1 as I understand it; so it is incumbent upon all the states as of today to be monitoring their quotas under Amendment 2 and to be prepared to take action to close their fisheries as soon as they have reached their quota whether or not that is before or after July 1; am I correct in that interpretation?

CHAIRMAN DANIEL: I think you would be smart in interpreting it that way. If you know that you're over the quota before July 1st, it would behoove you to close it because you would have to pay back.

MR. BALLOU: Thank you for that. A second question; Rhode Island's quota is 75,000 pounds. We have a purse seine fishery that operates in Narragansett Bay that lands in Massachusetts under their quota. If Rhode Island reaches its 75,000 pound quota because of the fish traps – that would be the reason why we would reach that irrespective of the purse seine operations – as I understand it we would not be obligated to close Rhode Island waters to commercial menhaden fishing.

Rather we would be obligated to close Rhode Island to the landing of menhaden; therefore, Rhode Island could remain open for menhaden fishing even though our quota will have been reached as long as those fish are landed in another state under their quota. Is that a correct interpretation?

CHAIRMAN DANIEL: I think that is a correct interpretation, but my understanding would be that if you catch your 75,000 pounds of quota in Rhode Island, you shut down your directed fishery and then you operate on up to 12,000 pound bycatch allowance; so you wouldn't have to close Rhode Island.

MR. BALLOU: Again, I'm trying to differentiate between our fixed gear fishery, which lands in Rhode Island, and, you're right, would now transition into a bycatch fishery, a

12,000 pound limit, landing in Rhode Island, but meanwhile we would have potentially an ongoing purse seine fishery in Rhode Island waters but with the landings in any other state potentially, but Massachusetts being the most likely under their quota, but I just wanted to make sure that is clear. I don't think it was clear in our plan or proposed regulation. As I read through them now, I just want to make sure in the interest of full transparency that is our interpretation of how we're going to be managing our fishery this year, and I just want to make sure the board concurs with that interpretation. Thank you.

DR. PIERCE: Just a clarification; in light of the decision that we made a little while ago about the 12,000 pounds which was for stationary gear, this is prohibit the use of multiple carrier vessels per trip to offload bycatch exceeding 6,000 pounds, the question arises multiple carrier vessels for what gear type?

In other words, are they carrier vessels being used for purse seines because that would then not be 12,000 pounds, so we need to be careful about that., This multiple carrier vessel per trip to offload bycatch would be specific to carrier vessels associated with stationary gear and not other types of gear.

CHAIRMAN DANIEL: Thank you for that clarification; good point. Bob.

EXECUTIVE DIRECTOR BEAL: The plan clearly says you can't use multiple carrier vessels once you have landed your state quota, so you can use carrier vessels until your quota is landed; but once that is landed, you're in this 6,000 pound bycatch mode or 12,000 pounds with two permit holders. Then you're no longer allowed to use carrier vessels at all. You can use them before you close but not after.

CHAIRMAN DANIEL: Correct. Okay, is everybody good with Rhode Island? Let's go ahead and do them as we go, so a motion

to approve Rhode Island's plan by Mr. Augustine.

MR. AUGUSTINE: Move to approve Rhode Island's Plan as presented with the change of poundage of 12,000. Do we need to say that?

CHAIRMAN DANIEL: No; just to approve their plan and a second by Mr. Simpson. Is there any discussion on the motion? Is there any objection to the motion? Seeing none; that motion carries. Connecticut, would you like to address the issues?

MR. SIMPSON: Yes, it was an oversight when I wrote the regulation because carrier vessels and things like that just don't apply to us. I did overlook the multiple trips per day. The regulations we have in place now last for 120 days; so I would just ask, to avoid paperwork, if upon renewal I address that. That would be my intention to clarify that it is one trip per day. Our fishery is the gill nets, cast nets, snagging, stuff like that.

CHAIRMAN DANIEL: Is everybody comfortable with Connecticut taking care of that issue in their iteration of their rules? If so, I would accept a motion to approve Connecticut's plan from Mr. Augustine.

MR. AUGUSTINE: Mr. Chairman, move that the board accept the Connecticut Plan as presented.

CHAIRMAN DANIEL: Second by Mr. Himchak. You're not going to second it? All right, second by Mr. Simpson. Discussion from Pete.

MR. HIMCHAK: Yes, as we go through these state approvals, there is an overarching issue with cast netting. Look at the bullet at the top of the page. I mean, it is singled out specifically under New Jersey under bait nets, but I'm sure other states – and Jack has his cast nets included with gear other than purse seines. How are states accounting for cast nets taking menhaden and selling that; how are they monitoring these things?

CHAIRMAN DANIEL: It sounds like an issue for the addendum because I have no idea. Dave.

MR. SIMPSON: If it is sold, it is commercial and it should be accounted for. And just to add to that, cast nets is our big controversial fishery in Connecticut. There are people taking menhaden with cast nets in Connecticut. We have addressed that. We now have a 50-fish limit to conserve menhaden in Connecticut. If you have more than that, you're going to have to have a commercial license.

CHAIRMAN DANIEL: But I think it is a good question, and I would agree. If they're sold, in many states there is a trip ticket for them. The question is in the bait market but also in the live fish market.

MR. SIMPSON: Yes, I was having a little fun with it, but our issue really was that we believe there was commercial activity going on under a recreational license, and so the 50 fish was chosen – or five gallons I think is how it reads – was chosen to define what commercial fishing is and what would require a license.

CHAIRMAN DANIEL: We have a motion; is there any further discussion on the motion to approve the Connecticut's Plan? Doug.

MR. GROUT: Just a clarification; with all of these that we're addressing here under state-specific recommendations, if we could add to the motion to move the so and so plan, including the recommendations made on Page 2 of the state-specific recommendations; just so that we're clear that those things need to be implemented.

CHAIRMAN DANIEL: Okay, we have made some motions; can we make that clear on the record? Is that clear enough on the record because that –

MR. GROUT: Yes, as long as it clear on the record as we're making motions.

CHAIRMAN DANIEL: Everybody understands that? Okay, thank you, Doug. **Okay, move to approve Connecticut's Plan. Motion by Mr. Augustine; seconded by Mr. Simpson. Is there any objection to the motion? Seeing none; the motion carries.** New York.

MR. GILMORE: This ought to be quick. The problem that we have in New York – and is in your briefing CD, the supplemental information that goes into detail so I will try to just summarize it pretty quickly – the problem we have is really with the data. When the amendment was passed in December and up until that point we were always pretty much a – we always figured we were going to be a de minimis fishery because we have 0.06 percent of the landings.

We have had reporting from our fishermen; however, since it was such a small fishery and because of staff resources we had to do some triage, so I have lots of boxes of VTRs in the basement right now that haven't been entered into anything. Unfortunately, when we decided to have a quota on a de minimis state or close to a de minimis state, essentially that took the data we had and completely underestimated our harvest; so right now with that 0.06 percent, I get about 250,000 pounds or less. The reality is based upon some pretty quick estimates on our landings and some meetings with our fishermen, we're probably somewhere between one and two million pounds.

The dilemma we face is that if we go according to the amendment right now and under the quota for 2013, I'm not going to get past July before I'll exceed my harvest and have to shut the fishery down. Now, unfortunately I also have a significant cast net fishery; so unless someone wants to tell me that is a non-directed fishery, we might be able to get out of this.

Right now I don't think I'm going to – well, if somebody wants to do that, that is great. We need some sort of a – again, I said before some kind of tweaking right now. What we're planning on doing is implementing all the requirements under the amendment. We're

putting in complete tracking of all our landings, including the cast net.

We're going to have reporting, we're going to have everything that is required to get the data that we need to manage this fishery under what the amendment says. Unfortunately, we're not going to have that data until at the earliest our best guess to the end of the year. I have put in that we needed something of an extension for one to two years.

I don't know really how to proceed on fixing this other than I can't live under a 250,000 pound quota for this year. I need some relief from that. Once we get some valid numbers, we clearly will abide by whatever our landings have been based upon history. I won't put up a motion yet. I wanted to get some maybe discussion going and some solutions for this before we go further.

MR. GROUT: Just for clarification, Jim, these were landings that were reported but not entered into the database by any New York DEC staff because of time limitations and that is going to affect what you believe your quota should be and we may have to have a changing of the quota allocations?

MR. GILMORE: Well, let me fall on my sword a bit here. It is not only DEC; there was a combination of we have been collecting data on most of the commercial guys. We did find out the for-hire sector had not been reporting, and we have already informed them that they have to start reporting now on their VTRs.

There was a significant number of the bait fishermen that weren't reporting, so we have a combination of that we were not thinking this was the most important thing we needed to enter in terms of the data we had, but there was quite a bit of data that was missing from the fishermen. We had a meeting with them and a lot of them showed up with piles of records now that they wanted entered. I think we can capture the data pretty effectively. It is just the timing of it right

now is that we – so to answer your question, yes, we're going to have to adjust the quota, but obviously I can't even suggest what that would be right now other than a best guess.

MR. GROUT: This is to Mike. There is some opportunity for allowance of transfer of quota between states; isn't there? There is also an option in there to revisit the quota allocation scheme in three years, is it? That is the clear way that we could address this for this year, and the plan as written is to try and find a state that would be willing to transfer quota to the state of New York. It sounds like in the big scheme of things it is a relatively small amount.

If I had more than 200 pounds, I would be glad to give you some of mine, but I'm not going to. Then obviously in three years from now when you've tightened up your data collection, then we could potentially revisit. This is the type of thing that when we put this provision in that I think we were envisioning that we might need to revisit this.

MR. SIMPSON: I just say the problem is mitigated substantially by what we just did this morning because now any of your fixed gears can take 12,000 pounds and it doesn't – you know, even after your quota has been reached and any of your other, you know, cast nets and those sorts of things, you get 6,000 pounds a day, so it would only affect presumably purse seine vessels. Everyone else would be business as usual.

MR. GILMORE: I appreciate that, Doug, and I think that is probably a good solution although I would like to hear from one of the two gorillas in the room. With having zero, I think that is a great offer, but I don't think you're going to be throwing much in. If I could get some sense that the other states with more quota would be willing to do something like that, I think that would be great. Thank you.

CHAIRMAN DANIEL: They're not running to your aid, Buddy. Is there anything else from New York?

MR. GILMORE: No, other than I think I have somewhat of a comfort level, so we'll hopefully – again, we have such small landings, I'm thinking with the transfer option we should be able to rely on our friends to get through this year and something more intelligent next year.

CHAIRMAN DANIEL: We will do our best to help you. With that, I think Jim addressed the issues from the PRT. Is there a sense to approve New York's plan from Mr. Augustine with a second by Mr. Adler. Just add for 2013, to be consistent. **All right, move to approve New York's plan for 2013. Motion by Mr. Augustine; second by Mr. Adler. Is there any further discussion on the motion? Is there any objection to the motion? Seeing none; that motion carries. New Jersey.**

MR. HIMCHAK: Mr. Chairman, like Virginia, as soon as the holidays were over, we sat down with industry, our Marine Fisheries Council, and we have a bill. We hope that it overcomes its final hurdle May 30th and goes to the governor's desk May 30th. We are preparing to develop all the application forms. Every person that lands over a hundred pounds of menhaden must qualify and secure a landing license.

You have to qualify during a three-period, the same three years that were used to develop the TAC. If you're a pound netter, a gill netter, a cast netter or a trawler, you have to have threshold landings during that three-year period. You have to report electronically and we have a licensed dealer system. You have to sell to a licensed dealer.

Dealers can be bait and tackle shops or major fishing docks. If they're dealing in menhaden, they better have records. There are stiff penalties; license revocations for non-compliance. Our 42.188 million pounds, 95 percent of it is given to the purse seine fishery. We already have a limited entry program in state waters for the purse seine fishery. There are like 23 vessels in it,

I think. When the purse seine quota is projected to be taken, that fishery will close for the year. We did not put in a prohibition on 6,000 pounds per multiple carrier vessels because in our case what is used as a carry vessel in state waters is like 60 or 70 feet long. They are not going to leave the dock for \$540, which is the value of 6,000 pounds.

So even if you've got ten carry vessels to go out, you're not going to set the net unless you're going to come back with 180 or 200,000 pounds in a day. The magnitude of this fishery is not small scale. Any carry vessel that is going out beyond three miles is probably over a hundred feet. They're not going to go out for \$540. They're not going to leave the dock.

That is the reason that we did not put a specific mention in the bill that says there will be no purse seine fishery after the season closed. That addresses one of the concerns of the PDT. I hope it addressed it adequately. We did interpret the 6,000 pound bycatch where a pound net or a gill net or a trawl, it is per vessel, and the license is issued to the vessel. There are no multiple landings of 6,000 pounds. The only other issue that the PDT brought up is cast netting.

Now, how many states have cast netting operations and are they directed fisheries? The language is if they are directing on menhaden – well, when they leave the dock, how do I know they're going to be directing on mullet for all I know. So, again, I think we all have cast netting operations.

Now, the beauty of our system is that you have to have a landing license to be a cast netter, so we will know at the end of the first year – once the 5 percent of our quota is given to all other gear types; so when we close the other gear type season and cast netters go out and get 5,000 pounds, they have to be in possession of a landing license.

They have to qualify for and have a landing license and sell to a dealer. So at the end of Year One, we would know exactly – well, pretty close – how many pounds cast netters took once the season closed. In the grand scheme of

things, how does that measure up to 41.185 million pounds?

If adjustments are needed in the second year, the 5 percent for all other gear types or the 6,000 pound trip limit, we will have regulations adopted later this year to supplant the legislation and then we can go in and do like a notice of administrative change and make a quick change on 6,000 pounds should 4,000 or it should be two. That's all I have to say. I'm waiting for a motion on approving New Jersey's plan. We're waiting for the governor to sign this thing and we're locked in for what is already written and that is what is written, essentially.

CHAIRMAN DANIEL: Are there any concerns or any motions? You can make your own motion.

MR. HIMCHAK: I move to approve New Jersey's plan for 2013.

CHAIRMAN DANIEL: Second by Bill Cole. Motion to approve New Jersey's plan for 2013. Motion by Mr. Himchak; second by Mr. Cole. Is there any objection? Doug.

MR. GROUT: Well, just to clarify, Pete, so your intention, just for the record, is that if we approve this plan, that there will be legislation for 2014 that will address these two issues that are not in compliance with the plan? You're just saying it has already gone through?

MR. HIMCHAK: Well, the multiple carrier boats in the purse seine fishery; I mean, I don't think that is an issue economically, but we could put it in the regulations that are going to follow. It seems unnecessary but we could do that.

MR. GROUT: Sort of like it is unnecessary for us to have weekly reporting in a bycatch – weekly dealer reporting in a bycatch fishery. I'm just going to put that in as wording.

CHAIRMAN DANIEL: Is there anything else on New Jersey's proposal? Is there any objection to New Jersey's proposal? Seeing none; their proposal carries. North Carolina is next. I wanted to clarify one thing in our report. We can do real-time electronic reporting. The majority of all of our dealers that handle menhaden are very large dealers that are set up in our electronic reporting system.

We don't have mom-and-pop operations dealing with menhaden, so we can get 95 plus percent of the landings through electronic reporting, and that is what we intend to do. If there is a comfort level at a lower level of closure, then we have no problem closing it at 80 percent, 75 percent, whatever the board feels comfortable with.

My big question is to the technical committee on the utility of the pound net CPUE. Our trip tickets; we try to avoid adding anymore requests for information on our trip tickets. We could do that, but I'm very concerned about the utility of that information based on my comments earlier on how do you know what the CPUE is from an individual pound net when the individual pound net catches are not separated and monitored individually?

MR. MICAH DEAN: We have already reviewed several states' pound net and other fixed gear datasets, and that is a common element to almost all states that they don't report the catch and effort for a specific pound net.

Oft times it is for a trip where multiple pound nets are attended in that day and that to this point hasn't been ruled out as a deal breaker for the utility of those data. We're moving forward with several of those datasets that have that element to it, so I don't think that we're throwing it out because of that. We haven't gotten the point where we can find out exactly what we can do with those data yet. Does that address your question?

CHAIRMAN DANIEL: It does, and I was concerned that might be the answer because I just don't know if when we end up with the assessment if that is going to be something that is acceptable. I'm sure there are multiple pound

nets in a stand. Now, that is set different. Maybe they're so big in Maryland that they only have like one set, but I've got guys in North Carolina, for example, that have eight pound nets.

So when they go to the nets, they put everything in the boat and then they come in and land, and so you don't know what was in any specific net. Normally, these are flounder pound nets, so the majority of the fish are flounders. There may be one net full of menhaden and the rest are empty of menhaden and there may be equal distribution of menhaden, but that is rare, I think.

It just concerns me I guess – and then I'll shut up, but it just concerns me about the utility of that information, so I will be curious to see how you use that information. I can try and do my best to get the number of pounds in a particular stand fished that day on the trip ticket program. It doesn't require any legislative changes. It is a fairly easy fix, but I told my staff not to include it until I got an answer to the utility of the data. I'm still not convinced that there is utility, but we will add that if that makes everybody happy. Bill.

MR. COLE: Mr. Chairman, I already said that we roll stuff up monthly; but when we get close to the quota, we go real quick to weekly, daily and hourly monitoring of that. I don't think the table in the PRT report adequately reflects North Carolina's intensity of monitoring. I dare any other state to have more quota fisheries than North Carolina. **I would move that North Carolina's plan be approved.**

CHAIRMAN DANIEL: Second by Mr. Adler. Are there any other questions? Yes.

MR. AUGUSTINE: Mr. Chairman, a question for the technical committee; how much of a negative impact will it have if North Carolina doesn't present on a seven-day basis? That is what you were recommending, but I looked at the chart and

it appears that North Carolina, South Carolina, Georgia and Florida, they're exempt from or in the case of North Carolina they use a single trip ticket with dealer and harvester information.

Again, based on their quota, is it really essential that they go to this seven-day reporting thing or continue what they're doing? I think that is the issue, Mr. Chairman. At least that is how I perceive it. Your explanation was that it seems like it is extra work to really isn't needed and won't accomplish much more or add much more to the data; is that correct?

CHAIRMAN DANIEL: My comment was what I plan to do is add menhaden to our electronic dealer reporting form. That way about 85 percent of our dealers are included in that, and that would include probably 99 percent of the folks that handle menhaden. We would be able to get daily reporting.

The trip ticket program is a monthly program for submittal, but we can do it much more timely than that and I can manage millions of pound quotas to 10,000 pounds. I don't have a concern about being able to monitor the quota and close it when we need to. Are there any further questions on the North Carolina proposal.

The motion is move to approve North Carolina's plan for 2013. Motion by Mr. Cole; second by Mr. Adler. Is there any objection to that plan? Seeing none; that motion carries. All right, the remaining states that just need to clarify some language that we talked about earlier in Bullet Number 2 and 3; there are really no other substantive issues associated with the plans from Maine, New Hampshire, Delaware, South Carolina and Georgia, but I would give those states the opportunity to raise any questions or any clarifications or the board to ask them any questions about their specific plans if you have them. I'm unaware of any issues associated with those plans at this time. Could we have a blanket motion to approve those five? Mr. Augustine.

MR. AUGUSTINE: Mr. Chairman, I move that we approve accepting Maine, New

Hampshire, Delaware, South Carolina and Georgia.

MR. COLE: Second.

CHAIRMAN DANIEL: Motion by Mr. Augustine; second by Bill Cole. Are there any questions of the specific states? The motion is move to approve the plans from Maine, New Hampshire, Delaware, South Carolina and Georgia for 2013. Motion by Mr. Augustine; second by Mr. Cole. Is there any further discussion? Is there any objection to the motion? Seeing none; the motion carries. All right, that takes us through the implementation plans. Thank you for your indulgence. We will now turn it over to Micah.

TECHNICAL COMMITTEE REPORT

MR. DEAN: Mr. Chairman, I will try to be as quick as I can here. As you know, there were some significant issues with the last assessment update in 2012, including a strong retrospective pattern and poor fit to each of our two abundance indices. This led to uncertainty in the current stock assessment.

Because of this, the technical committee recommended pursuing an expedited benchmark assessment ahead of the previously scheduled 2015 slot. We were successful at getting a spot on the SEDAR Schedule for the end of 2014. Recognizing this is a lot of work to do to address all the issues that were brought up in the previous assessment, we've already begun work.

We have conducted five meetings to date. Most of these are focused on exploring new data sources, but we've also had some preliminary discussions on alternative model structures. We have also developed a work plan to ensure that the assessment is complete in time for the December 2014 peer review.

We began actually last December with a brainstorming meeting. We discussed

alternative models that could potentially address the seasonal migration and fishery selectivity concerns that may be at the root of the problems with the current assessment model. We came up with a list of potential new sources of data or old sources of data that were previously overlooked and made plans to follow up on those and for further review.

We reconvened a month later. One of the first datasets that we picked up was this historical tagging project from the late sixties and early seventies. This was identified as a key source of information for any spatially structured model that we may pursue. Unfortunately, the raw data from this project currently only exists in paper form, but we have fortunately been successful obtaining funding to resurrect this dataset and make it accessible and ready for analysis.

We also discussed sources of data that were available to create a coast-wide adult abundance index from fishery-dependent fixed gear data. We assigned people to gather more information to bring it back for further review. We discussed sampling targets for each state to ensure that we collect enough age samples to inform the assessment.

We met again a month later and continued the discussions of alternative models and data sources. We also initiated the work on the MS-VPA Model, which is what we've used in the past to estimate time and age-varying natural mortality on menhaden just to get that ball rolling to make sure that is functioning in time for the benchmark.

We also discussed the two indices included in the last assessment, the Potomac River Pound Net Index and the Juvenile Abundance Index, and tried to see if there were potential new treatments to those data. We met in person in April in Maryland and came up with a list of criteria for what constituted a suitable data source for inclusion in the benchmark assessment.

Representatives from each state that had a fixed gear fishery came prepared with descriptions of those datasets. We reviewed each and we

narrowed that down to six potential leads to be pursued further. Those included the pound net fisheries in Massachusetts, Rhode Island, Maryland, Virginia and North Carolina, as well as the gill net fishery in New Jersey.

Another outcome of that review of the fishery-dependent data was a set of desired data elements going forward that would really benefit the creation of future CPUE indices. We also reviewed some additional details from that historical tagging dataset that Joe Smith was able to pull together from the paper records that are in his office in Beaufort.

Just a couple of weeks ago we had another conference call, and we invited Kristen Anstead from Old Dominion University to share with us some of the work that she is doing on menhaden otolith microchemistry and the ability to assign or identify juvenile source areas. This looks to be a pretty promising technique and she may have some data to share with us this summer to use in the assessment.

We drafted and improved the terms of references, which I can share right after this. We have reviewed additional details and preliminary analysis of these selected fixed gear datasets; that six that we narrowed the list down to; and we assigned a subcommittee to further develop and analyze these data to be presented at the data workshop.

We came up with a plan of attack to make sure that the assessment is complete in time for the peer review. Very briefly, this is the timeline for that. We already have meetings scheduled for June and September to dive into fishery-independent and live history data as we have done to date for fishery-dependent data.

All those will be developed and analyzed to be presented at the data workshop in January of 2014, followed by an assessment workshop in June, obviously with several

conference calls and subcommittee meetings in between to do things like select a preferred model, write the assessment document; all to be done by peer review in December of 2014. Are there any questions on the work that we have done to date or the plan going forward?

MR. TRAVELSTEAD: I just want to thank the technical committee for their very thorough update. It is exactly what I had in mind when I asked the board to require this type of report at each of our meetings. I think it is very thorough. It hits all the points that I hoped it would, and I appreciate it very much.

Having said that, I am still concerned about the timeline for the assessment. Maybe I have been correct all along, but for more than a year I thought we had talked about having this assessment done in 2014 so that based upon that we could proceed with another amendment or addendum, whatever would be appropriate, in time to make changes in the 2015 fishing year.

In other words, the current amendment would be good for two years and then ultimately replaced by something else in 2015. Now it appears that I guess the peer review will not be conducted until December of 2014, which means we would probably go through an addendum of amendment process in 2015 and you would not actually implement new rules and regulations until 2016, which is a year beyond where I thought we would be. I guess it is what it is. I would just ask why does it take sort of six-month periods between each of those steps that are listed on the end of your report? Can that be accelerated in any way? I need a little bit more information to understand why the timeframe is the way it is so that I can let the folks back home know that they're basically under Amendment 2 for three years and not two years as we originally thought.

MR. DEAN: Well, for one, the peer review is fixed. That is the spot that we were able to get on the schedule, but I think there is that amount of work that needs to be done. There were problems with the previous assessment, so this isn't just something that we kind of update what was done very simply in the past.

We're really trying to leave no stone unturned for possible new data sources. As you probably know, we have relied on just this Potomac River Pound Net Index for the adult abundance of the entire stock in the past, and we're really trying our hardest to come up with something more broad scale and encompassing to help represent and understand the dynamics of the stock.

Similarly, the model, we're looking into alternative model structures, and so there is going to be competing model types out there that each need to be developed and worked and then brought together at these workshops. I think that those six months separating those workshops is necessary and they will be chuck full of work.

DR. PIERCE: Micah, thanks to you and your colleagues who have done a real good job putting together a timeline that is reasonable and it seems to be quite comprehensive covering all the bases that need to be covered. My question is where in the timeline will there be an opportunity for the industry to sit down and discuss data and to interact with you and your colleagues to give them an opportunity to weigh in early on in this process before we get too far down the line.

I know the industry on a number of other federal assessments have had opportunities to talk about data at workshops. I guess that is my focus; will industry members be invited to the data workshop so that we don't end up after the fact finding out that industry has some other data source that needed to be looked at but wasn't looked at. We need to avoid that, so what is the plan with regards to industry?

MR. DEAN: Well, we have very healthy industry representation. They show up at most of our meetings and sit in on our conference calls, and we provide opportunity for their input at each one of those times. As far as I know, they will be involved in the workshops as well.

MS. TONI KERNS: We're going to follow the process that we approved in the new guidelines where we send out a press release indicating when the workshops will be, giving dates of when data needs to be submitted to the commission to be considered by the group for data workshops, assessment workshops, et cetera; just as we would all of our assessments going forward.

CHAIRMAN DANIEL: Is there anything else for Micah? Excellent report; very well done; thank you so much. Are you going to do the TORs?

BENCHMARK STOCK ASSESSMENT TERMS OF REFERENCE

MR. DEAN: The technical committee just approved these a couple of weeks ago. They're based off of the generic ASMFC terms of reference, so some elements of these may seem familiar. We did make some tweaks here and there for particular relevance to menhaden. There are nine of them here; so bear with me and I will try to go through as quick as possible.

1. Review and vet all available data sources and if possible identify and prepare new data sources that would be used to inform the assessment of mortality and migration rates, commercial selectivity and a coast-wide adult or spawning stock trends.
2. Characterize the precision and accuracy of all data sources; provide descriptions of each; discuss strengths and weaknesses and their potential effects on the assessment; describe calculation of potential standardization of abundance indices; discuss trends and magnitude of uncertainty estimates.
3. Develop population assessment models that are available data to be used to estimate population parameters; explain the strengths and limitations of these models; justify the choices of CVs, effective sample sizes and likelihood

weighting schemes; describe the stability of the model; perform sensitivity analyses and conduct other model diagnostics; describe the history of the model's usage; and if it is a new model, test with simulated data; state assumptions made for all models and the likely effects of violations of these assumptions on model outputs. If multiple models were considered, justify the choice; explain differences in results.

4. Characterize the uncertainty of model estimates and reference points.
5. Perform retrospective analyses; assess the magnitude and direction of any patterns; discuss the implications for the population parameters reference points and management measures.
6. Recommend stock status as related to the current reference points; recommend alternative reference points if appropriate.
7. Identify potential ecological reference points that account for Atlantic menhaden's role as a forage fish; provide proposed methodology model development plan and example results using preliminary model configurations if time allows. This one was put in there recognizing that we would not have ecosystem reference points fully developed and ready for 2015, but we are making progress working with the other committees and moving forward, and we would like to get peer review panel feedback on the work done to date at the peer review time. We put this in there to try to harvest that input from them to see where we are in the process.

8. Develop a detailed short- and long-term list of research recommendations, data collection assessment methodology; recommend improvements to be made by the next benchmark; and finally
9. Recommend the timing of the next benchmark and any intermediate updates if necessary.

Are there any questions for the terms of reference that the technical committee has put forward?

CHAIRMAN DANIEL: Very thorough terms of reference. I would accept a motion. Robert.

MR. BOYLES: Mr. Chairman, I move that the board accept the terms of reference as presented by the technical committee.

CHAIRMAN DANIEL: Motion by Mr. Boyles; seconded by Mr. Augustine to accept the terms of reference as presented by the technical committee. Is there any discussion on the motion or questions for the technical committee chairman? Lynn.

MS. FEGLEY: One of the things that we've talked a lot about even at the last meeting was the use of the selectivity curves. There is so much in these terms of reference and they're so complete, but I wonder if we should have something in there more specific to selectivity. Maybe it would fall under some place like 3B where there is a term of reference to justify the use of X, Y, and Z, and we could add justify commercial selectivity to the end of that list; just a thought.

CHAIRMAN DANIEL: Without objection, that will be added. I think that is a good point. It is a big issue. Are there any further comments or questions on the technical committee report and the terms of reference? Seeing none; is there any further discussion on the motion? Seeing none; is there any objection to the motion? Seeing none; that motion carries. I've got two folks with other business. I don't know how critical that is at this point for Mr. Gilmore.

OTHER BUSINESS

MR. GILMORE: None, Mr. Chairman.

MR. TRAVELSTEAD: My item won't take five minutes. For as long as I can recall, the technical committee has always recommended as the priority research item was the development of a coast-wide index of abundance for Atlantic menhaden. About a year ago Virginia asked Dr. Rob Latour at VIMS to design such a survey, and we paid for his work to get done.

It is just about completed; I think it will be completed next month. I believe he has kept the technical committee informed of his work, and he has used some experts out on the west coast who have developed similar aerial surveys for fisheries out there. I think the work is very promising. Of course, the big question will be funding.

Once we have that in hand, I would like to start sort of marketing that plan up and down the Atlantic Coast, to the Virginia General Assembly and others to see if we can't find a way to fund that, but I don't want to start that until his work is peer reviewed. I think that is going to be a critical part of it.

I guess my purpose in adding this to today's agenda was to ask the board to either direct the staff or technical committee to expedite a peer review of Dr. Latour's work so that we know it is good and can proceed along the funding lines that I mentioned. I had mentioned this to Bob Beal and he thought staff might be able to come up with some way of getting that peer reviewed fairly quickly.

The other thing that is going on with this is – I mean, obviously, the long-term desire is to have this coast-wide survey. In the meantime, in the short term industry in Virginia is interested in seeing at least a portion of that survey in the New England area started as early as this fishing season to begin to collect those kinds of unknown data that we don't have for the New England

area. That is another reason to get it peer reviewed as quickly as possible so that the industry is desirous they can proceed with implementing at least a portion of that coast-wide survey.

EXECUTIVE DIRECTOR BEAL: Mr. Chairman, I think we need to talk to Dr. Latour a little bit. He may have a specific peer review venue that he had in mind which may or may not be quick, and we need to figure out what his thoughts are. Peer-reviewed journals and those sorts of things, obviously those take some time. I don't know if that is where he was going. Our technical committee, using the Assessment Science Committee and those groups really aren't set up to be peer review groups, so we may have to think creatively here.

I would suggest that staff reach out to Dr. Latour and come up with some options and bring that back to the chairman and the board and we can decide what the best way to proceed is. We will try to get those done in the next couple of weeks or so, come up with some options and see what they are and what the timelines associated with those options are and get back to you and the board.

CHAIRMAN DANIEL: That sounds good. Jack and I will work together on that. Is that satisfactory, Jack?

MR. TRAVELSTEAD: Yes, I think so; it is just time is of the essence because I know industry is perhaps interested in funding some part of the survey. The sooner it is approved we can get started.

CHAIRMAN DANIEL: All right, does anybody else have anything else? I have one thing, though, that I want to say. I have been doing this almost twenty years now, which is hard for me to believe, but this has been one of the most controversial, complicated fishery management plans that I've ever dealt with. The implementation plans, I wanted to get us through the implementation plans, and I think we have done that.

ADJOURNMENT

The work that you, Mike, have put into this has been unbelievable, and I mean everybody needs to recognize the amount of work, with all of the input and all of the herding of cats that he had to do, my hat is off to you. Thank you and good job. (Applause) Very well-deserved applause and thank you very much; you did a great job. We are adjourned.

(Whereupon, the meeting was adjourned at 1:15 o'clock p.m., May 22, 2013.)