

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

**Crowne Plaza Hotel Old Town  
Alexandria, Virginia  
August 15, 2007**

**Approved October 31, 2007**

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## INDEX OF MOTIONS

Motion to grant de minimis status to Delaware and North Carolina for the fishing year 2008 (Page 2). Motion by Pat Augustine, Second by Eric Smith. Motion carried on Page 2.

Motion to approve the FMP Review (Page 2). Motion by Pat Augustine; Second by Eric Smith. Motion passed unanimously on Page 2.

Motion that Option 2 be selected as the option of Addendum V; states may implement restrictions in the recreational and/or commercial fisheries to achieve the F equals 0.20. Motion by Pat Augustine; Second by Mark Gibson (Page 13). Motion carried on Page 14.

Motion that all state proposals that used the standards in Addendum V to meet the requirements be approved. Motion by Pat Augustine; Second by Eric Smith (Page 19). Motion carried on Page 19.

Motion to approve the Massachusetts/Rhode Island request to take a 12 percent reduction in the 2008 harvest (Page 20). Motion by David Pierce; Second by Gil Pope. Motion to postpone until annual meeting carried on Page 23.

Motion to leave North Carolina in the management unit for tautog and request de minimis status for 2008. Motion by Pat Augustine; Second by Eric Smith (Page 23). Motion carried on Page 23.

Page 34: Move to approve Addendum V with the options that the board selected. Motion by Pat Augustine; Second by Bill Adler (Page 24 ). Motion carried on Page 24.

**ATTENDANCE****Board Members**

David Pierce, MA, chair/proxy for Diodati, (AA)  
 William Adler, MA (GA)  
 Vito Calomo, MA, proxy for Rep. Verga (LA)  
 Mark Gibson, RI DFW (AA), Vice Chair  
 Gil Pope, RI, proxy for Rep. Naughton (LA)  
 Eric Smith, CT (AA)  
 Dr. Lance Stewart, CT (GA)  
 Karen Chytalo, NY, proxy for Gerald Barnhart (AA)  
 Pat Augustine, NY (GA)  
 Brian Culhane, NY, proxy for Sen. Johnson (LA)  
 Peter Himchak, NJ DFW, proxy for Chanda (AA)  
 Erling Berg, NJ (GA)  
 Dick Herb, NJ, proxy for Asm. Fisher (LA)

Roy Miller, DE, proxy for Emory , (AC)  
 Jeff Tinsman, DE, proxy for Timothy Targett (GA)  
 Bernie Pankowski, DE proxy for Sen. Venables, (LA)  
 Howard King, MD DNR (AA)  
 Bruno Vasta, MD (GA)  
 Russell Dize, MD, proxy for Sen. Colburn (LA)  
 Jack Travelstead, VA, proxy for Steve Bowman (AC)  
 Catherine Davenport, VA (GA)  
 Kelly Place, VA, proxy for Sen. Chichester (LA)  
 Red Munden, NC, proxy for Louis Daniel (AC)  
 Bob Ross, NMFS  
 David Perkins, USFWS

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

**Ex-Officio Members**

Jason McNamee, RI DEM

**Staff**

Vince O'Shea  
 Robert Beal  
 Chris Vonderweidt

Brad Spear  
 Mike Howard

**Guests**

Harold Mears, NMFS  
 Charles Lynch, NOAA  
 Bruce Freeman, JCAA  
 Tom McCloy, NJ DFW  
 Gregory DiDomenico, GSSA

Karin Limburg, SUNY  
 Stephen Heins, NYS DEC  
 Arnold Leo

The Tautog Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, August 15, 2007, and was called to order at 8:00 o'clock a.m. by Chairman David Pierce.

### **CALL TO ORDER**

**CHAIRMAN DAVID PIERCE:** Good morning, everyone. I call to order the morning's meeting of the Tautog Management Board. As always, material for today's meeting was mailed to everyone, and there are hard copies on the table in the back. In addition to those hard copies in the back, it should be on your disk.

There is a single sheet in front of all of your places, a memo from Paul Diodati and Mark Gibson regarding the bi-state request for the lower percent reduction of 12 percent. We will get into that a little later on in the agenda. Once we get to that item on the agenda, I likely will step down from the Chair in order to address those particular issues. Bob will sit in my place to run the meeting while I am away from the Chair.

### **APPROVAL OF AGENDA**

All right, you have the agenda before. Any changes to the agenda? I don't see any request for changes; therefore, I would appreciate a motion to approve this morning's agenda. The motion has been made by Bill Adler; seconded by Pat Augustine. If there is no objection, the agenda will stand approved.

### **APPROVAL OF PROCEEDINGS**

We have the proceedings from our May 8 meeting. I assume that most of you had a chance to peruse those minutes. I see a motion from Pat Augustine to approve those minutes; a second from Bill Adler. All in favor of approving the minutes, please raise your hand. The motion is approved.

### **PUBLIC COMMENT**

As always with our board meetings, there is an opportunity for public comment to address issues that are not on today's agenda. Therefore, if there is any member of the public who would care to take advantage of that opportunity, please raise your hand and I will recognize you, and you can speak to those issues. I see no interest at this time. Obviously, there will be an opportunity during the course of this

morning's meeting to speak to motions made by the board.

All right, with that said, we will go on to the next agenda item, and this would be the 2006 FMP Review. Chris, if you would, provide us with that review.

### **2006 FMP REVIEW**

**MR. CHRISTOPHER VONDERWEIDT:** Thank you, Mr. Chairman. The 2006 Fishery Management Plan Review for tautog is pretty straightforward, pretty simple. We have a long meeting so I'll try and keep it short. The status of the fishery management plan, basically the reason that we're here today is because of Addendum V. Addendum IV is new and states will be required to implement its provisions January 1<sup>st</sup>, 2007.

It says you need to reduce your exploitation rate by 25.6 percent, and you can only do so in the recreational fishery. Addendum V, which we are going to discuss later, is proposing to remove North Carolina from the management unit and also to allow commercial reductions to achieve the exploitation rates stipulated in Addendum IV.

As far as the status of the stocks, this is the 2004 VPA. Biomass is way down. We did establish a threshold and target biomass rates at levels with part of Addendum IV. So, as you can see in relation to the target and threshold, we've got a lot of work to do. As far as status of the fishery, it is primarily a recreational fishery. The recreational landings totaled 4 million pounds; commercial landings were 334,000 pounds. This is preliminary data from the state compliance reports.

As far as 2006 state compliance, there were no significant changes in any state's tautog regulations. All states have implemented the 14 inch or larger minimum size limit. Massachusetts and Rhode Island are at 16 inches. All monitoring requirements are fulfilled. This is the 200 tautog that need to be collected for non-de minimis states. Age-and-length samples need to be taken. All states did that.

All states are compliant with all aspects of the fishery management plan for tautog.

### **REVIEW OF DE MINIMIS STATUS FOR DELAWARE AND NORTH CAROLINA**

As far as de minimis, Delaware landed 410 pounds, which is 0.12 percent of the fishery. North Carolina

landed 47 pounds. That is 0.1 percent of the fishery. The standards for de minimis are less than 1 percent of the commercial catch or less than 10,000 pounds, so both these states far exceed those. The plan review team recommends granting both states de minimis status. That's it.

CHAIRMAN PIERCE: All right, thank you, Chris. I need a motion regarding de minimis status for Delaware and North Carolina. Pat.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. I move that Delaware and North Carolina be granted de minimis status for the fishing year 2008.

CHAIRMAN PIERCE: A motion has been made by Pat and seconded by Eric Smith. Is there any debate on this motion? I see none. From the audience, is there any desire to address this motion? I see no desire. Is there a need to caucus? There is no need to caucus, I suspect. All those in favor, please raise your hand; any objection; any abstentions. All right, unanimous.

There is a need for an additional board action with regard to this FMP review, and that is the need for us to approve it. Do I see a motion to approve the review? Pat Augustine has made that motion; Eric Smith has seconded that motion. Any debate on the motion? I don't suspect there is a need for any caucus. All those in favor, please raise your hand; those opposed; any abstentions. Unanimous; therefore, the FMP Review is approved.

By the way, I also would like to express my appreciation to the ASMFC staff, Chris in particular, for the way in which the meeting overview is provided. We obviously have benefited from those overviews with other board meetings, and this is just another example of how it is an excellent way of helping us move our way quickly through our meeting agenda.

### **LEC RESPONSE TO V-NOTCHING OR LIVE WELL PROHIBITION**

Next on the agenda is the live market update. We did ask the Law Enforcement Committee at our last meeting, I believe, to provide us with its opinion regarding a recreational v-notch requirement and the live well prohibition on recreational tautog vessels. That is a request that we made at our spring '07 meeting. Therefore, if you would, Mike, please provide us with that Law Enforcement Committee response.

MR. MICHAEL HOWARD: Thank you, Mr. Chairman. The live market has been of interest to the Law Enforcement Committee for at least four years now that I am aware of. I know go it goes back some time in New Jersey where they have done special operations for charter and headboats, whose customers were observed taking live fish back to metropolitan areas in New Jersey and New York and selling those without commercial license.

Several operations were done at that time, and those specific areas seemed to have been under control. Since then, there has been great concern over tautog law enforcement, and so the Law Enforcement Committee, approaching two years now, has conducted a review of its enforcement efforts to ensure that they are doing the job that needs to be done in the law enforcement area to look at different areas that possibly could improve the regulatory enforcement.

We also reviewed proposals and made some recommendations. The first thing that they identified was that they had to take a look at the precepts of effective law enforcement; and to have effective law enforcement, the rules need to be easily understood, easily enforced. There had to good public education, and the perception of the public that the rules were there for a reason needed to be understood by the public.

There needs to be penalties sufficient to deter violations; enforcement through high visibility and inspections at all levels of the catching and sale and possession; and then convert monitoring to validate compliance with those unscrupulous people who would work hard to violate the law.

The geographic areas of concern for a tautog review; the primary areas were New Jersey, New York, Connecticut, Massachusetts, and Rhode Island. Minor areas were Delaware, Maryland and Virginia. Other areas were any areas outside of these producer states that may be retailing catches. Some examples would be Pennsylvania, the District, and any state west that has no rules on tautog or any state south of Virginia.

As of 2006 and 2007, there has been an increased emphasis on tautog law enforcement by all states. Every state reports back, I guess almost quarterly, to me on their efforts and disseminating that information and how important it is to this body that we improve our law enforcement efforts on tautog.

Interstate cooperation on dealer monitoring is occurring, and recently there has been a large case in May made right here in Arlington, Virginia; a fish that originated out of the primary area of concern. I will go into it in a minute. I am going to go by state by state. Rhode Island has reported no serious problems with tautog enforcement for 2006 and 2007, but has increased awareness to field officers for potential problems.

Massachusetts has reported no commercial violations and only a few recreational size violations. Now, keep in mind that the peak of tautog season is coming up September through November, but I am also accounting for 2006 and to date in 2007. Connecticut has noted only a handful of infractions for undersized tautog thus far this year, all in the recreational sector.

New York has developed a very aggressive and intense enforcement effort to curb illegal catching, possessing and sale at all levels of the fishery. As of Monday, just to give you an example – now last year they seized hundreds of tautog in markets in Chinatown, on 8<sup>th</sup> Avenue and in Manhattan. This year, as of last week, they did a thorough inspection of those same three areas and found no violations of undersized tautog or tautog being delivered without a license.

They have made several felony cases in the illegal tautog fishery, primarily with fishermen who would normally be recreational who are selling their catch. I don't want to get into a play on words, but unlicensed commercial fishermen. They have also found in New York that scup is more of a bait fish than tautog.

We did have a problem with undersized tautog – and it has been mentioned here at the board – being used as bait for striped bass. Officers have been asked to make a particular inspection for live fish being used for strippers or other fish that may include undersized tautog. In New York, to date, in the last six months, that has not been a significant issue.

New Jersey reports that violations are about the same as last year. Most of those violations occur in the recreational and recreational charter area. One major interstate case has been made on a dealer that I referred to earlier. A request for a major fine increase has been proposed. The current fine structure is \$30.00, and it has been proposed and they don't see any roadblocks for it going to a hundred dollars a fish.

This, again, will provide a significant deterrent for those who would choose to violate the law. Also, a cooperative program with the New Jersey Anglers Association and RFA to educate fishermen on the importance of adhering to the size and creel limits and seasons has been undertaken.

In Delaware, Maryland and Virginia, all report they have reassessed the tautog fisheries in their areas and found no significant fishery or problems with enforcement or compliance. All report occasional size violations, again, primarily in the recreational sector and occasional minor violations in the commercial sector.

Regulatory proposals that we were asked to review are restricting the possession of live fish. The LEC has repeatedly entertained this idea and looked at it from several angles. We do not believe it is necessary or an effective tool at this time, especially if it applies to only one sector of the fishery, such as the recreational sector.

To prohibit live tautog, legal on a recreational boat, will not enhance our law enforcement effort. V-notching or other markings of recreational fish, either alive or dead, the LEC does not believe this is an effective tool for increasing compliance in this fishery. We did look at other ways; that if the board feels necessary to restrict harvest or reduce violations, would be to expand closed seasons, very easily enforced and easily understood; adjustment of size and creel limits, very easily enforced and easily understood.

In conclusion, I think the law enforcement efforts are reducing violations in the areas concerned. Overall, on a coast-wide basis, there is not a significant law enforcement concern from the officers in the field that have been talked to, their supervisors, or their administrators over compliance in the recreational and commercial or the live and dead markets.

Regulatory proposals to provide live tautog possession will not significantly assist law enforcement efforts. Should additional restrictions on harvest be necessary, the LEC recommends further restricting the sizes, seasons or creel limits. If you have any questions, please ask.

CHAIRMAN PIERCE: Thank you, Mike. Any questions? Pat.

MR. AUGUSTINE: Thank you, Mike, a good presentation. We appreciate your efforts in New York. They are noticeable. Either folks are being more cautious now so they don't get caught or they

are selling to local restaurants and markets that really haven't been targeted by law enforcement yet.

The point you have up there about a regulatory proposal to prohibit live tautog possession will not significantly assist law enforcement, maybe law enforcement looked at it just from that point of view. I know in New York we've had a couple of discussions at our Marine Resource Advisory Council, and the suggestion that has been coming up regularly, and I believe the group would like to see that anyone who has tautog recreationally have a dead fish.

Therefore, the possibility of selling it live is gone. We wondered if any consideration was given to that; other than the fact it wouldn't help law enforcement, but it seems to me it would because it would reduce the number of opportunities that recreational fish would be sold to the live market.

MR. HOWARD: Pat, that was significantly discussed. Captain Thumm weighed in heavily on that issue. Because there is a modest percentage of recreational fishermen checked on any given day and that a lot of the concern is unlicensed fish dealers; and looking at all those aspects, her conclusion – and she drew in most of the other committee – was that prohibiting just recreational fishermen to get a dead fish would encourage more people to become licensed commercial fishermen or they would look at ways to just dump fish on arrival.

And since they're not getting checked everyday, anyway, this would not prove a significant factor in law enforcement. If the drastic measure had to be taken and you provided live fish of tautog possession, period – and that is drastic and we're not encouraging that – that would be more of an assistance to law enforcement.

MS. KAREN CHYTALO: One of the other issues that was brought up by our Marine Resource Advisory Committee was also tagging of live fish that are caught for commercial purposes and sold, and that there is like a bill of lading or something from wherever that fish goes to and it gets into the market, that it has that paper trail with it. What are your thoughts on that type of a process, onerous or okay, good?

MR. HOWARD: Yes, that was also discussed. The tagging and paperwork similar to the striped bass fishery is cumbersome for all levels of government. Certainly, it would have an impact with the dealers in following the paper flow. It is cumbersome. It

would be an asset to law enforcement, but the Law Enforcement Committee again, after reviewing that proposal, felt that they were making significant headway in compliance for that fishery.

Whether that can be maintained with a redirection of resources to that fishery, I don't know, but they were still not at the point that they said they need to take further action, such as tagging. Tagging and paperwork trails would be cumbersome for law enforcement all the way through the dealers and the catchers, but also would be effective.

CHAIRMAN PIERCE: Any further questions for Mike? Eric.

MR. ERIC SMITH: Mike, that was a great report, and I wonder if you're going to write it up as a text report as opposed to the presentation. I can think of a couple of folks in Connecticut that don't normally come to these meetings, but they have been agitating for one thing or another through more law enforcement coverage coastwide. I think it would benefit them greatly to see what the analysis of the committee was in dealing with things like the tagging or the paperwork trails and those kind of things and what you folks feel are an effective way of dealing with this.

MR. HOWARD: Yes, Eric, May 22<sup>nd</sup> we gave a letter in response to proposals that we were asked to review, and this report I will formalize. Instead of this type of report, it will include the May 22<sup>nd</sup> review of yours and our recommendations.

CHAIRMAN PIERCE: Thank you, Any further questions for Mike? I see two hands in the audience. Yes, sir.

MR. ARNOLD LEO: Arnold Leo, town of East Hampton. Thank you very much for that report. I happen to have been a member of – it sounds fairly esoteric – the Tautog Subcommittee of the New York Marine Resources Advisory Council, but it was a very important subcommittee. Live tautog, for the commercial fishermen, is one of the increasingly few way in which they are able to make a few dollars.

It has become very important to the commercial fishermen, so naturally we wanted to explore every possible way to end the illegal live tautog market. Some of these suggestions, the v-notching and the tagging, were straws we held out in the wind. But, frankly, your report is very encouraging, because it is our belief that the fish markets and restaurants, where the live fish end up, are not that many in number, that

they cannot be effectively monitored by serious enforcement efforts. We very much support increasing the enforcement staff or the budget to continue that kind of work. I am glad to hear that it seems to be having the kind of effect we hoped it would. Thanks.

MR. GREGORY DiDOMENICO: Thank you, Mr. Chairman, Greg DiDomenico, Garden State Seafood Association. Just a few brief questions. From the state of New Jersey, where this has become an extremely hot topic, to say the least, it is causing many hard feelings amongst different sectors. I would like to learn a little bit more about the violations that occur in New Jersey. You have recreational/charter/headboat. Can you tell me a little bit more about the violations that are occurring there? Are they over the bag limit or are they fish just under the – you know, the people adhering to the bag limit and selling fish.

MR. HOWARD: Yes, sir, I have a list here, but right directly behind you is the commander from New Jersey. I would rather defer to him, if it would be all right with the chairman, to give just a brief overview, two or three minutes.

MR. DEMENICO: That would be great.

CHAIRMAN PIERCE: Yes, that is fine.

MR. DiDOMENICO: And will that report also be available to the public, because there are several elected officials in the state of New Jersey that might benefit from this as well.

MR. HOWARD: I am sure he will share any enforcement data that he has; it is all public. I will share it with you or he will. Captain Meyer.

CAPTAIN JOE MEYER: For the record, the majority of the violations that we are seeing in New Jersey is in the recreational fishery of both the size limit and the bag limit – it would include both of those – a few closed season violations, but for the most part it is recreational unlicensed fishermen. We're not seeing the same problems as New York with the sale as far as the live market.

The majority of the violations that we have been involved with is strictly the recreational fisherman who is fishing either in a vessel or on the jetty or in the canals. It is not the same issue as New York, but we are addressing it with the same types of inspections and increased enforcement.

MR. HOWARD: And, Joe, if could just bring up some totals to support that, since May of '07, in New Jersey, there has been three significant cases; one involving two party boats in possession of 65 illegal tautog – if I am wrong, please correct me on this – another involving three recreational fishermen who had 36 sub-legal tautog and many over a current one-fish bag limit.

The third involved a commercial fisherman landing and selling fish to dealers, one in Jersey and one in Virginia. The fisherman submitted false reports. It didn't show his landings; he didn't file any report at all. They are all under investigation. I believe that involved a couple hundred fish, I think.

CAPTAIN MEYER: You have it exactly correct. And, again, the busy season for us, where we see the majority of our violations, is upcoming. Last fall the violation rate, compared to inspections, was somewhere in the neighborhood of 40 percent, which I find very disturbing. When you have 40 percent -- of the inspections that you do, 40 percent of those people are in violation, which means every hundred people you check, 40 of them either have short fish or over the bag limit.

I find it very difficult to believe that any plan that anyone puts forward can succeed with that type of violation rate. That is what we're trying to address by increasing our penalties and contacting more people and working with the various fishing groups to start an education program to explain to people the importance of abiding by the size and bag limits set.

CHAIRMAN PIERCE: Thank you. Does anyone have any questions for Captain Meyer, or either one? Okay, Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. One of the things the board asked the law enforcement group to look at, also, was the live well prohibition. That is a hot button and I am not sure you had time to address it in your meeting, does either one of you want to make a report on that, if you did?

MR. HOWARD: Well, I didn't and that is why I left it out, but we discussed it in excess of an hour. We looked at it initially as "you've got to be kidding". But, we took a realistic look at the various ways to do it, and then we dropped back to what were you really trying to do. A live well addresses a lot of things more than possession of a live tautog on a recreational vessel. We looked at the definition, and simply the term "live well" is not an appropriate way

to address this issue in any way, shape or form that we could find.

MR. AUGUSTINE: Thank you for that clarification.

CHAIRMAN PIERCE: Any further questions or comments from the board? Would this board care to take any specific action relative to this issue? If not, then we will on to the next item on the agenda that relates to the potential magnitude of the illegal harvest. Jason is going to provide that presentation, but before he does so, I would like to thank Mike and Captain Meyer for their attention to this matter.

Obviously, it is of great importance to this board, and it seems that the Law Enforcement Committee, these two particular individuals in particular, have done us a great service by delving into the issue to the extent that they have. Our appreciation is given to the Mike, especially. I suspect this issue will return to this board for further discussions in the future if, indeed, we get reports that prompt additional action by this board. Jason, if you will, you have that report to provide.

### **POTENTIAL MAGNITUDE OF ILLEGAL HARVEST**

MR. JASON McNAMEE: Thank you, Mr. Chairman. I have a brief presentation here, and basically it is a little more rigorous than a back-of-the-envelope calculation. But, nonetheless, it is a calculation to try to get at a number that we can kind of tack onto this illegal harvest. This stems from – as this live market and illegal tautog harvest issue has come up over the past couple of board meetings, the board posed this question and asked if there was a way we could take a look at this and attach a number to it.

I just want to caution the board this number is not the number, this is not the level of tautog illegal harvest. What it is, is an analysis that tries to look at what would that number need to be to sort of keep biomass levels down and keep fishing mortality inflated to the point that it would hold the biomass down and not allow us to rebuild the stock.

So, with that, I will move forward with the presentation. Just to reiterate, during the Addendum IV public process, concerns were raised by the public regarding illegal harvest and markets for tautog. Then the board, after hearing the public concerns and the last enforcement report, asked if there was a mechanism for estimating the magnitude of this illegal harvest.

During the Addendum IV development, the technical committee calculated a target fishing mortality rate of 0.15 to rebuild the SSB, the spawning stock biomass, back up to historically healthy levels. What the board decided to do, at that point, was to adopt a higher target F of 0.2. One reasons the board gave for not going with the 0.15 but going with the 0.2 was this idea of illegal harvest; and if we could tackle this from that angle as well as reduce some of the fishing mortality on the stock, the legal fishing mortality that is taking place, we could achieve our goal. So, that is the basic assumption that we were working under with this calculation. What that leaves us with is given that the recommended target F was 0.15, this implicitly assumes that the legal F is at least 0.5 to compensate up to the 0.2. Here is the calculation to estimate the illegal catch. Given instantaneous mortality rates, the Baranov Equation was used, and that is the equation there.

What this is, is it sort of teases out F into the two realms of F that we're thinking about here; F legal and F illegal. That gives you a number for that. So, F illegal, again, we're looking at a number around 0.5. F legal is where we want to be, 0.15. M is 0.15, and that is the number that is assumed in the VPA analysis that we used for the coast-wide analysis.

Z, which is the total fishing mortality, now has the two different types of F parsed out, so you have got F legal, F illegal and natural mortality. Then N is the total estimated abundance in 2003. That number was used when this work was done. The VPA had been updated through 2003, so we used that N, that number that came out of the VPA for 2003.

So, the conclusion of this analysis, F illegal is approximately 137,103 fish. That is a lot of fish. This equates roughly to 227 metric tons or almost 1.5 times the 2003 commercial catch, which was 155 metric tons. And, again, these numbers are all based on the VPA just to have a starting point for the analysis.

But, again, those are very large numbers, and I imagine it would take huge infrastructure to move that amount of fish around. And, based on the enforcement report we just heard, that may or not be the case. A violation rate of 40 percent is pretty high. That is the analysis that we have for you, and I will take any questions that you have.

MR. HOWARD: On this 40 percent violation rate, as I understand it – and I stand to be corrected, but we talked about this in the Law Enforcement Committee.

These are recreational fishermen with dead fish. I wanted to make that point for clarity.

CHAIRMAN PIERCE: All right, thank you, Michael. Questions for Jason? Eric.

MR. SMITH: Jason, when I look at that evaluation and I try and think of the places where it is sensitive to kind of a sensitivity analysis of the assumptions used, the one that sticks in my mind is presuming F illegal, if you will, is 0.05 because we wanted to achieve F equals 0.2, and the board – I'm sorry, wanted to achieve F equals 0.15, and board chose 0.2, just by subtraction you get 0.05.

Are there other things that could account for the different components of the fishing mortality rate so that 0.05 isn't actually the magnitude of F illegal? Because, by subtraction, you get to 0.05; by mathematics you get to 137,000 fish, and I have to keep telling myself that is based on presumptions of what the management board did versus what the technical committee thought we ought to do, and all three of those things are suspect when you look at it that way.

MR. McNAMEE: Yes, I a hundred percent agree with you. Honestly, it was just a place to start, a place to come up with a number. To do a real rigorous analysis, I believe you would have to do some sort of analysis and looking at the enforcement reports and developing some sort of analysis based on that, like the violation rates, something along those lines.

Again, this was just to sort of give an idea of the level of illegal fishing that would be necessary to hold down the spawning stock biomass, so that was where we started, that was the question posed by the board at that time, and is sort of how we tackled this analysis.

MR. SMITH: A followup. Now, I appreciate what you did and why. So, if the illegal harvest isn't that magnitude, then we're probably not impairing stock rebuilding. I am trying to draw a conclusion based on what you just said. You were charged with find the number that would impair stock recovery, and you did it by using the various components of fishing mortality.

You came up with 137,000 fish, so am I correct in assuming that is a very large number. It is more than the whole legal commercial catch. So, if the number really isn't that size, then stock rebuilding isn't being impaired for this reason; is that a fair conclusion?

MR. McNAMEE: That could be a conclusion, and I don't know if that number is accurate or not. Yes, I guess that sort of was the idea in developing this idea of, okay, here is what the technical committee had proposed, here is what the board went with, thinking that the legal harvest was – we aren't at F of 0.15 either, so there are some reductions that need to be taken.

But this magnitude of legal harvest, whether it has the potential to really dampen down any sort of rebuilding, you're looking at a large number, and it may be the case that that number is accurate. I think this whole discussion is great because it raises awareness. In Rhode Island we hear a lot of there is more awareness. Our enforcement agency is out really going after and looking for illegal tautog harvest, and that is great. It is a problem regardless of whether it is this massive or not, so I don't want to belittle that.

CHAIRMAN PIERCE: Just a clarification, Dr. Genevieve Nesslage has prepared the analysis. The analysis was reviewed by the technical committee, and the technical committee has agreed that this analysis is appropriate. We have gotten your presentation that essentially is one from the technical committee based her analyses. We at least need to know that it has gotten the technical committee approval. Mark.

DR. MARK GIBSON: Thank you, Mr. Chairman. My simple understanding of this is that's the amount of fish that would have to be caught illegally to generate a 0.05 F? That is what it is, right?

MR. McNAMEE: Yes, exactly.

DR. GIBSON: Okay. I mean, I don't know that that answers – I understand that and I think the board understands that that is not an estimate of the actual illegal catch. It is what would be taken to generate that differential F between what the technical committee recommended and what we adopted.

I don't know if that answers the question of would that inhibit biomass recovery. The suggestion I have – let me back up. First, missing catch generally distorts VPA models in some detectable way. If it is substantial, it generates retrospective patterns; it causes discrepancies between tag-based estimates of fishing mortality in the VPA.

I haven't personally looked at the diagnostics of the coast-wide VPA, but it may be possible to just to do

trial runs by perturbing the catch stream in different directions, plus or minus certain percentages, to see what it does to the diagnostics; that is, the reconstructed, you know, populations as compared to abundance indices and see if there is a level of catch perturbation that improves the diagnostics in a material way, and that might be a better way to estimate what the potential illegal catch would be.

I think this sort of exercise has been done with summer flounder before to try to explain how big it would have to be to get rid of the retrospective pattern and so on. And with that, you may be able to do projections off of that and see whether or not the stock grows or doesn't grow, that kind of thing. That's just a suggestion I have. I don't know much time the technical committee has to look at this and what the board's priorities are, but that's my thoughts on it.

CHAIRMAN PIERCE: All right, thank you, Mark. Are you making a request of the technical committee for further analyses?

DR. GIBSON: Well, I think it is up to the board and how strongly they feel about this matter of potential illegal harvest and how big it is and how much of a risk it is to the rebuilding program.

MR. AUGUSTINE: Thank you, Mr. Chairman. I really think the board should consider what Mark Gibson has put as a possible way to go, if in fact we have the wherewithal to do that, either through the technical committee or if it is going to take some money to do that. There is no question the illegal market is still alive and well, and enforcement is doing a fabulous job with the limited number of folks they have in New York.

There is no question the few hits that have been made, that were pretty significant – one guy had live 167 fish; and I heard from a direct quote that this guy made to another guy he had some 600 offshore in another pot, so, hell, it was the cost of doing business. He is not the only one. I also have direct reports from folks that have listened to charterboat guys that have gone out.

They will get a crew of four or six who pitch in to pay the fuel, and then go out and hit all the big reefs. They will go 30, 40, 50 miles off – not reefs, but all the big wrecks – 30, 40, 50 miles off and load up. I shared this with our enforcement folks. So, anything that we can come up with that would justify or substantiate us in the state of New York being more

aggressive with the illegal harvest of fish – and I am not pointing fingers at the lobster folks.

The lobster folks typically are the commercial sector. They have been reduced from 50 to 100 fish over the years down to 25, and they have been locked into a total harvest level of 25 per day if they have got any lobster product on their vessel, and they know they're watched pretty close. So, I think the emphasis in our state has got to be continued; and any help through this kind of analysis that may be of help to us to point the finger at a particular sector, it would help us increase whatever it is we're doing.

We're talking basically of no live fish for recreational on your vessels. You get stopped and you have live fish on your vessel, you know, you're docked. That is all there is to it. So, we're thinking we may have to take that measure. That is not final, but we'd like to think along those lines so we have some backing to do that. It's still there even though our enforcement folks are doing the best they can.

You are right, Mike, in an earlier comment you made. A lot of our folks have switched off of tautog for live bait, and now they are using legal and sub-legal size scup. As a matter of fact, if you go to the local fisherman's magazine, the captains that are using scup brag about how they're using legal size scup to catch these 30, 40, and 50 pound bass on a regular basis.

So, I think it is the tip of the iceberg. I think there is still an issue here we have got to deal with; and I think if we can get some teeth into what we want to do or a background through the technical committee that says, "Hey, it is this big." And maybe Mark is right, maybe the analysis has to be done on a state-by-state basis. Again, Mr. Chairman, I don't know what that's going to cost. I don't know if it's in the purview of our budget to look at that, and I would hope that some members of the board would take this up and move forward with it. Thank you.

MR. PETER HIMCHAK: Thank you, Mr. Chairman. I would request that the technical committee stay vigilant on this task of the illegal component of the harvest as far as interfering with the rebuilding of the spawning stock biomass. I know when I argued for the status quo back a couple of board meetings ago, it was that – I mean, we're looking at a potential 25.6 percent reduction in fishing mortality for the legal fisheries at this point in time.

Given the fact that we have the increased enforcement and education efforts at this time, perhaps the spawning stock biomass can respond at a more accelerated rate, and we may see better or more liberalized management measures in the future. Thank you.

CHAIRMAN PIERCE: Okay, Peter, are you making a specific request of the technical committee? Would you repeat that again concisely? I didn't quite capture it.

MR. HIMCHAK: Well, I guess my concern is the level of the illegal fishing and how it may or may not show up in the VPA and how the projections for recovery of spawning stock biomass may be impacted by this lack of recorded harvest. So, the magnitude of the illegal fishery should be factored into the VPA for tracking the recovery of the spawning stock biomass.

CHAIRMAN PIERCE: So it sounds to me that you're echoing, to some extent, the comment made by Mark Gibson?

MR. HIMCHAK: Yes, I am.

CHAIRMAN PIERCE: Okay. All right, if there is no objection from the board – Eric.

MR. SMITH: Yes, I actually do. You know, when we think about all the kinds of effort we could put into dealing with this problem, we're going to be most effective with the increased law enforcement coverage that the states have already undertaken. And, with making sure 100 percent reporting of legal commercial catches and good marine recreational fishery catch statistics, however we get those, either with the new system or with MRFSS, I am not sure if we charge the technical committee with doing a lot more analysis, although it would be an interesting result to see, that's not going to change our view that we need really good enforcement coverage to catch the bad guys.

So, if the technical committee is in a dry spot now and they have time to do this, it would be enlightening, but I don't think it's necessary. That's just a different point of view.

CHAIRMAN PIERCE: All right, Eric does not support the technical committee moving forward – okay.

MR. SMITH: I support it if they have the time, but I almost feel like we ought to leave it up to them. I

mean, I don't know what their workload is. I know my staff member has plenty to do in other things. If this board feels that it is really necessary to get that information and that is the will of the board, that's fine.

It doesn't really bother me one way or another, but these folks all have busy lives with all the other things their bosses have them doing. When we get their report back three months or six months from now and it is a more refined estimate, I just sit here and say, okay, what am I going to do with that?

I'm still going to want very effective law enforcement coverage. I am still going to want 100 percent commercial landings coverage, and I am going to want better recreational statistics. So, the improved VPA number isn't going to do me any good because I already know what we need to get a handle and control on this illegal harvest thing. I don't want to make work for them even though I would be interested in the numbers just like everybody else would be.

CHAIRMAN PIERCE: All right, Jason, you have heard what Pete and what Mark have requested, and you have heard the concerns expressed by Eric. Is this something that you feel the technical committee could pursue if, indeed, it has the time?

MR. McNAMEE: I think I took kind of two different things out of the discussion. Mr. Himchak, I think, was saying if we could develop some sort of estimate to actually incorporate into the VPA, and that could be something we could tackle as we go back through the VPA. I believe it is actually coming up pretty soon, a year or two. We could tackle that during that process.

All the technical members are pretty busy. We all have other species and stuff that we deal with. I am not going to speak for them. I don't know how busy or how willing they would be to jump back into this right away.

CHAIRMAN PIERCE: Let's assume, therefore, that the technical committee will address the issue if, indeed, they have the time. I don't see any specific motion from a board member that would charge them to absolutely do it. With that understood, I suspect the best course of action for this board to take is to take heed of the recommendations made by the Law Enforcement Committee that are shown in the May 22<sup>nd</sup> letter from Mike to Chris.

Those are the recommendations that relate to issues already raised by Eric Smith regarding the increased law enforcement, of existing rules and regulations, seek support for increased penalties for the existing types of violations, publicize the enforcement efforts and rationale to increase public support for the existing rules and regulations, and then monitor enforcement in their effort to measure the violation trends.

Those are the recommendations made by the Law Enforcement Committee. I assume that each state will embrace those recommendations and do with them what they can, and that this board is not going to take any action today on Items 1, 2 or 3 regarding the v-notching, the live wells, and the other items that have already been commented on extensively by Mike, and they essentially said don't move forward with those particular issues.

So, that will be our understanding as a board unless someone has objections to that. All right, thank you, Mike, and thank you, Jason, for your reports. We now go on to – we're a little bit behind on the agenda, so I have to move us forward, except for the benefit of the audience and any raised hands that there may be.

**PUBLIC COMMENT, TECHNICAL  
COMMITTEE & AP  
RECOMMENDATIONS, DRAFT  
ADDENDUM V**

The next item on the agenda is for us to review public comment, to get technical review and advisory panel recommendations for Draft Addendum V. Chris, if you would, please, provide us with a summary of the public comment received at the hearings that we have held along the coast on that addendum.

MR. VONDERWEIDT: Thank you, Mr. Chairman. I am just going to briefly go through the written comment, the public hearing, advisory panel, and technical committee recommendations in the summary. Just for review, the management measures contained within Addendum V, Option 1 would be for status quo for the reductions of 25.6 percent in exploitation rate. That would mean that states can only reduce in the recreational fishery.

Option 2 is that states may implement restrictions and get credit for them in the recreational and/or commercial fisheries. It says F equals 0.20; that is the same as 25.6 percent reduction in exploitation

rate. That is just the metrics that the technical committee uses, so that is why it is in there like that.

It also proposes to remove North Carolina from the management plan just based on the fact that they have been de minimis since the beginning of tautog management – I think it was in 1992 – and if it is burdensome or not for them.

The public hearings – Connecticut ran their own public hearing on July 11<sup>th</sup>, 2007. All participants were in favor of commercial reduction credits. All participants were in favor of removing North Carolina from the management unit, pretty straightforward, unanimous.

New Jersey, July 12<sup>th</sup>, 2007, it was part of the New Jersey Marine Fisheries Council meeting. There were no comments that pertained specifically to tautog. Nobody felt strongly either way. Moving on to New York, July 24<sup>th</sup>, 2007, this is pretty much the one state that was strongly opposed to allowing commercial reductions.

All participants were in favor of the status quo. They do not want to allow commercial reduction credit. They stated that at the very least just give Massachusetts an exemption, if necessary. They were well aware that this was kind of brought about by the Massachusetts commercial/recreational harvest split.

They would like to see North Carolina kept as a part of the management unit, and that is simply because they felt that enforcement loophole could happen in North Carolina, meaning that if North Carolina is removed, they no longer have a 14-inch minimum size limit. The fishermen could catch tautog in either North Carolina or Virginia and land them in North Carolina where it would be legal because there is no 14-inch minimum size limit.

They also stated that the fish are there in North Carolina. It is just nobody is fishing for them because the other fisheries are so good and the fish are so abundant, so it is possible that the fishery could explode in North Carolina if the fishermen get on to it. This is, again, what they said at the public hearings.

Virginia, July 26<sup>th</sup>, 2007, both participants were in favor of the commercial reduction credit. They also felt that it was important to keep North Carolina as part of the management unit because of the enforcement loophole that would be created if they no longer had a 14-inch minimum size limit, and you

could land undersized fish in North Carolina. They thought as a bare minimum keep the 14-inch minimum size limit in North Carolina, and then they can alleviate the other management requirements.

Moving forward to written comments, should we allow commercial credit? There was one comment that was in favor of the status quo; do not allow commercial credit. The majority were in favor of allowing commercial reductions.

Remove North Carolina, there was one comment opposed to removing North Carolina; three comments not opposed to removing North Carolina. It was written as not opposed because I think that they were written as why not, you know, what is the big deal, but not maybe thoroughly analyzed. The main thing that they were concerned with was the commercial and recreational reduction.

As far as the advisory panel's recommendation on Addendum V, we had a conference call and unfortunately we only had one participant. What I did was I talked to that person, and then I called all the other participants back; and whoever called me back, I would get their opinion, but we didn't achieve sitting around on a conference call and kind of debating back and forth, so there was no consensus that could happen.

It is unfortunate, but maybe it shows the level of interest that they had in this particular subject. So, what the three participants said about allowing commercial reductions; New Jersey, no; Connecticut, yes; Virginia, yes. Remove North Carolina; New Jersey, yes, but keep monitoring the fishery in case we need to do something about it. Connecticut said okay to remove North Carolina; and Virginia said no because of the enforcement problem that could jump up by removing the 14-inch North Carolina requirement.

The technical committee, we talked about this, and, yes, allow commercial reductions. They just felt the flexibility for individual states was the most appropriate, however the states want to do it. Remove North Carolina, no, they felt that the compliance report is not burdensome for the de minimis states. They felt they can do it in a matter of minutes.

There is no monitoring requirement for de minimis states, so the 200-fish collection doesn't apply. They were worried that undersized fish could be landed in North Carolina legally if there is no minimum 14-inch size limit. In summary, the bulk of input

supports allowing the commercial reduction credit. And then pertaining to North Carolina, there is a concern that the minimum size limit will create loopholes for undersized landing of tautog through North Carolina. Thank you.

CHAIRMAN PIERCE: All right, thank you, Jason. Any questions of Jason on the public comments received at the hearings? Pete.

MR. HIMCHAK: Mr. Chairman, I have to make one comment about the New Jersey quasi-public hearing. After the Marine Fisheries Council, we did not elect to have a public hearing on Addendum V. We discussed at our Marine Fisheries Council. At that particular council, we were totally exhausted beating each other up over artificial reef issues, horseshoe crab issues, and conflict-of-interest issues related to horseshoe crab compensation.

So, at that point no one even cared about tautog by the end of the meeting. We had a rather extensive meeting in Toms River on Addendum IV, which is why we did not have a specific public hearing on Addendum V. Thank you.

CHAIRMAN PIERCE: All right, thank you, Pete. Eric, did you have your hand up?

MR. SMITH: Question on de minimis. I know it varies sometimes from plan to plan, and I know the policy board is going to talk about this subject. My understanding of it was always that the basic management measures like length limits remain, but de minimis grants you exemption from the complicated things like quota management, quota monitoring, all of the things that are so – I know when we've asked for de minimis from the staff, we haven't suspended size limit rules.

What we have gotten de minimis for was so that we didn't have to, for example, do commercial quota monitoring and management system where we monitor for a very insignificant species and then close the fishery when the trigger is hit when 237 pounds of your 312-pound quota is caught. I mean, that's a lot of effort for no good reason, but we always the size limit in place.

I looked through the addendum and I see – and I don't know if it was just words that kind of could have been different, but it says North Carolina wants exemption from all burdens of management. Have they specifically said they want to be exempted from the size limit or do they want to be exempted from a 25.6 percent reduction in mortality and the burden

that goes with figuring out whether you have actually done that?

CHAIRMAN PIERCE: Bob, do you have an answer to that question?

MR. ROBERT BEAL: I'll give it a shot, Mr. Chairman. Actually, the notion of removing North Carolina from the management unit began before Addendum IV was even started. They were attending a number of tautog meetings even before the idea that additional cuts needed to be taken in the fishery.

So, this request by North Carolina is not associated with the 25.6 percent or anything associated with Addendum IV or V. They were just recognizing that they have a very insignificant amount of landings, and they felt that their participation on this board wasn't effective or didn't have a significant impact on the conservation of the stock.

And with respect to de minimis, as Eric mentioned, we are going to talk about that at the policy board later today. The standards vary by FMP, really, and I will give a real quick presentation this afternoon. But, the qualification standards vary, the measures that the state is exempted varies from plan to plan, the sectors of the fishery that can be exempted varies. Some are recreational only, some are commercial only, some are total fishery, eel is life state.

So, it completely varies by plan. To my memory, anyway, tautog does not – if a state is de minimis for tautog, I don't think they do have to maintain the minimum size limit the way the plan is currently written. That is something to thank about.

CHAIRMAN PIERCE: All right, thank you, Bob. Eric, just to the specific questions, I believe the technical committee has some recommendations regarding North Carolina. When we hear their report, I think we all be enlightened regarding the technical committee's suggestions as to how we should proceed to handle North Carolina's request and specifically this provision in the addendum. Karen.

MS. CHYTALO: I just have a note from staff that participated on the conference call, and one of the issues was about relieving North Carolina the burden of collecting the 200 age-and-samples. That was something that they wanted to not have continue doing. A lot of the members on the technical committee, though, just still felt that they wanted to maintain the minimum size and there would be some required monitoring of the stock and things like that

and a compliance report that would still come out from the state. So they didn't want to totally ignore or drop everything. Is that your recollection, too, Chris?

MR. VONDERWEIDT: Well, basically, North Carolina just wanted to be removed from the management plan, so they wouldn't have to write the compliance reports anymore, so they wouldn't have to think about tautog. And as Bob said before, it dates back a number of years before Addendum IV.

De minimis statues for North Carolina, they still have to keep their 14-inch minimum size limit. It removes them from the burden of collecting 200 fish and taking the age-and-length samples, which they do not have to collect if they are de minimis. So, basically, the headache that North Carolina is facing right now is whether or not to turn in a compliance report. They still have to monitor their landings. That is what we really are debating here.

CHAIRMAN PIERCE: All right, why don't we get into the technical committee report? That will help us focus our attention on what we think we should do with North Carolina through this addendum, especially because Karen prefaced some of remarks that are going to be made by Jason. So, with no objection, let's do that. Jason, would you please provide the report of the technical committee regarding this addendum.

MR. McNAMEE: Actually, in the presentation I really didn't put anything about North Carolina in there. But, you all have it exactly right, the feeling of the technical committee was that's fine, they barely catch 200 fish in a year, so how can you hold them to collect samples that would double their commercial catch, I think.

So, as far as the sampling, we don't want them to be burdened by that. We just had this exercise where Pennsylvania developed a minimum size for tautog to sort of close that loophole of illegal fish coming in through that area. We just don't want to create another one with North Carolina, so we would like them to maintain their minimum size and some residual amount of landings, which they have to do, anyway.

I am sure MRFSS will capture tautog landings and they have to report commercial catch. We just want that reported just so we can keep an eye on it, and we haven't opened a loophole for illegal landings, and we can make sure tautog don't shift their population

south and spike landings in North Carolina. That was it.

CHAIRMAN PIERCE: All right, thank you, Jason. Those are the views of the technical committee regarding North Carolina. All right, George.

MR. GEORGE D. LAPOINTE: I am not a member of the Tautog Board, but it strikes me that it's worth looking at the issue of North Carolina in the context of what it really means. I recall that in the late eighties or early nineties all the northern states were asked for red drum size limits because the catch could have been shifted to the north.

And, remember, there was this boat called the "White Dove" and there was concern it was going to catch a half million pounds and bring it up to Portland, Maine. I think that could happen and the catch could spike in North Carolina, but we also have to look at the burden on the states and say what is the probability it is going to happen; and if it does happen, can the commission shift back in time rather than putting a burden on the state? I think it is worth thinking about how our states would react if we were in that position when we think of the North Carolina request.

CHAIRMAN PIERCE: All right, thank you, George. I believe the rest of the technical committee report relates specifically to the state proposals to achieve the F target. If I am correct, then we go on to the next item on the agenda, which are the advisory panel's recommendations for Draft Addendum V. Before I do that, however, there are a couple of hands up. Bob, you have one.

MR. BEAL: Just really quickly, I looked back in the FMP, and I misspoke earlier. If a state is de minimis, they are required to maintain the 14-inch minimum size.

CHAIRMAN PIERCE: Thank you, Bob. Pat.

MR. AUGUSTINE: To that point, Mr. Chairman, we've had anecdotal comments from charterboat captains in Long Island that in recent years they make it a point to move their vessels down to North Carolina or to fish down there, and the black market – I'm sorry, but it is black market – in the tautog fishery down there is developing rather quickly.

Their concern in our meeting was do we really want to get them out of the plan because if that thing explodes – again, this in regard to what Mr. LaPointe said – so there is no way that New York would

support them coming out of the plan, but to remain as de minimis, and that would be the way to control it.

MR. HIMCHAK: Mr. Chairman, I had a question for the North Carolina delegation, but I don't see anyone here to answer it. My concern was that when they went through their self-financed extraordinary Wave 1 sampling to complement MRFSS, they did discover that they had some extraordinary striped bass landings in Wave 1.

I was wondering, I mean, that the landings as reported in the stock assessment as the MRFSS landings for Waves 2 through 6, and I wanted to know if in addition to discovering this rather extraordinary striped bass harvest in Wave 1, that they had, indeed, encountered tautog. I am totally in favor of their maintaining de minimis status, being relieved of the 200 age samples, keeping the 14-inch size limit. But, I would really like to know what they uncovered under Wave 1 as far as landings of tautog when they were doing striped bass intercepts. Thank you.

CHAIRMAN PIERCE: All right, thank you, Peter. There no one here to address that concern, but I'm sure we can pass that question on to the North Carolina representatives when we see them. All right, we've already had some discussion about the North Carolina issue as it relates to the addendum. Let's go on to that item on the agenda now, which is to review the draft addendum and then consider final approval. Chris, did you have a further presentation to provide the addendum?

MR. VONDERWEIDT: No, that was the advisory panel and the technical committee written comment and public hearing summary, all in one.

CHAIRMAN PIERCE: Okay, so we've already covered the advisory panel's comments. Sure, if you have a motion to make, go ahead, Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. I move that Option 2 be selected as the option of Addendum V; states may implement restrictions in the recreational and/or commercial fisheries to achieve the F equals 0.20.

CHAIRMAN PIERCE: All right, so that is your motion specific –

MR. AUGUSTINE: That is the motion.

CHAIRMAN PIERCE: -- to Issue 1. That is 3.1 in the addendum. Is there a second to the motion?

Mark Gibson has seconded the motion. Any debate? All right, I see no debate. Is there a need for a caucus. All right, there is a need for a caucus.

(Whereupon, a caucus was held.)

CHAIRMAN PIERCE: All right, ladies and gentlemen, I assume that the caucusing has concluded. Pat.

MR. AUGUSTINE: Point of order, Mr. Chairman. I think we wanted to address North Carolina in the same motion, so we could do it all at one time?

CHAIRMAN PIERCE: Well, we just caucused so why don't we act on this, and then I will entertain a motion regarding North Carolina. All those in favor of the motion, please signify by raising your hand; any opposed; any null votes; abstentions, 2. All right, the motion passes. Pat.

MR. AUGUSTINE: Thank you. Relative to Section 3.2, North Carolina remain a part of the management plan, move Option 2, status quo, Section 3.2, North Carolina remain as part of the management plan and remains de minimis status. Put it all in one time; does that make sense?

MR. BEAL: Well, we're trying to find a representative from North Carolina right now to talk about maintaining the minimum size limit and those sorts of things. So, since the board has passed the previous motion which indicates the reductions to achieve the Addendum V standards can come out of the commercial and recreational fishery, the board set a course to deal with the proposals.

So maybe we can deal with the state proposals and then find a North Carolina representative and then handle this motion later with the final approval of the addendum. This may be one way to deal with it and have more information in front of the board.

CHAIRMAN PIERCE: I suppose that is provided you can ferret out a North Carolina representative.

MR. BEAL: We'll try.

CHAIRMAN PIERCE: Do you think you can do so? All right, very good, if the board has no objection, we will do that to give them an opportunity to appear before us and plead their case. With that said, we will hold off on that particular action and then consideration of final approval of the addendum.

## **REVIEW STATE PROPOSALS TO**

## **ACHIEVE F=20**

In the meantime, we will go on to review the state proposals to achieve the F target. As I indicated earlier on when we began this meeting, there was a specific proposal to be made by the states of Rhode Island and Massachusetts, so it would seem appropriate for me to move away from the microphone for now and turn it over to Bob, and we will then get into that item on the agenda. Are you okay, Pat? No, no, you sit there. It would be unfair to do that to you. I have already discussed it with Bob, if you have no objection.

MR. AUGUSTINE: If you want me to do battle with you on your proposals, I'll sit here, then. Thank you very much. Up there, you would have had complete control, but I am going to sit here.

CHAIRMAN PIERCE: Hold on one second, the vice-chair would like to take over; therefore, since he is here, and he would like, I have no objection, certainly. Come forward, Mr. Vice-Chairman.

MR. AUGUSTINE: I would, but I would like to refuse the opportunity to sit up there in view of the fact that I have some comments to make about your proposal and it would be unfair to be put in that position, so I decline. Thank you, sir.

CHAIRMAN PIERCE: Okay, if you would, Bob.

MR. BEAL: Well, based on that discussion, the ISFMP Charter does allow that if the chair wants to step down and the vice-chair wants to participate in the discussion, the ISFMP Director can step in to chair a board meeting, so that's where we are. With that, we will go ahead and ask Jason to give the technical committee presentation, and we will move into the proposals.

## **MASSACHUSETTS & RHODE ISLAND REGION-SPECIFIC VPA PROPOSAL**

MR. McNAMEE: Okay, thank you, Mr. Chairman. The following is a report on the – as you recall from the last board meeting this idea of Addendum V came up, so as the technical committee and the representative states we could get our stuff together and hold a conference call rather than getting together for a meeting to go over the different plans.. This is our presentation on that conference call. We met and the agenda topics were to review the state reduction plans, and then to, again, to review state/region-specific stock assessments. There were, well, three of those actually. There was

Massachusetts- Rhode Island VPA. Then two different analyses came out of New Jersey. New Jersey put together a VPA, and then they also put together what they call the TBAM model, which you saw at the last board meeting. It was updated with some new information.

So, the methodology for the state reductions, the states brought forth proposals for reductions based on Addendum V on the off chance that it might be approved. Reductions were calculated from U rather than F, so it is exploitation rather than F, because the reductions were calculated in exploitation.

And then due to variability in the MRFSS data in the output year of the coast-wide VPA terminal estimate, a three-year landings average – that was 2003 through 2005 was used rather than the original 2005 data only. Nothing different, actually, came out of the conference call. Everybody put forward reduction plans based on the tables in Addendum V. There was some discussion about possibly increasing a minimum size or any other analysis like that, but nobody chose to do that.

So, all states were based on the tables that were in the addendum. Some states gave additional proposals based on other possible board outcomes. So, just sort of thinking ahead, they put together analyses and reasons for why their analyses should be approved. That would be the state and regional-specific assessments.

States gave scenarios, some with recreational reductions only and some with combinations of commercial and recreational reductions as provided for in Addendum V. All the state reduction proposals based on Addendum IV and Addendum V were approved by the TC. Everybody basically put together a bunch of options just to kind of maintain some level of flexibility, but they all met at least the reduction that was required by the addendum. All states were compliant with that.

Okay, and then on to the state or region-specific assessments, three assessment were brought forward. There was a joint Massachusetts/Rhode Island VPA. There was a New Jersey VPA and a New Jersey TBAM. I can't remember what TBAM stands for right now, actually. I think it's in the report that you all have.

The first one was the aggregate Massachusetts/Rhode Island VPA. Rhode Island had done a separate state-specific VPA originally, and the technical committee rejected. It wasn't precise enough. It didn't reach

the level of precision that the coast-wide VPA had, so the technical committee asked that they go back to this idea of Massachusetts/Rhode Island region-specific VPA, and the board concurred. So that is what was brought forward.

It basically added in some age zero indices that the Rhode Island one had that the Massachusetts one did not, and updated data to the most recent available data. The technical committee deemed it to be comparable to the coast-wide VPA as far as precision. The terminal year F was below the Addendum IV and Addendum V target of 0.2.

The New Jersey VPA, again, this is a state-specific VPA; and, for the same reasons that the Rhode Island one was rejected originally, the technical committee rejected the New Jersey VPA because it was not at the same level of precision as the coast-wide assessment. It had a really high MSR calculation, and the F through time had really, really large unreasonable swings in F through time, although the terminal year F estimate was basically at the target.

New Jersey then went back and redid their TBAM analysis which was actually presented at the last board meeting. What they did was they answered some of the concerns brought up the technical committee. One thing was they removed all the fish not exploited by the fishery. There was the inclusion of undersized fish in the original analysis, so they went in and pulled those fish out of the analysis because that was one of the points that was criticized by the technical committee.

They also ran several new precision analyses because it was difficult to tell at the time whether – they were very different models so it was difficult to say this one is as precise as the coastwide, so they went back and did a few more precision analyses. The technical committee agreed that the methodology was technically sound and was indicating a good level of precision.

The results in the terminal year of this analysis, New Jersey was at the target F, and therefore did not need to take further reductions based on this analysis. However, the TC still voiced concerns over this model. First, as I've stated already, the VPA and the TBAM analyses, they are very different analyses, and it was very hard to draw comparisons between the two.

Then the second one was concern about the basic assumptions that went into the model; namely, that the coast-wide F estimate; that is, the coast-wide

VPA F estimate is a good proxy for New Jersey F estimates, and, conversely, that relationship ends after I believe it's 2003, and those are the two main assumptions that go into the TBAM model.

Then the technical committee wanted to make these same – we made these the last time, but we wanted to reiterate the concerns of this sort of duality that we have here with tautog, and they wanted to reiterate these to the board. That is by allowing state-specific assessments, states not performing one should have to reduce more than 28.6 percent or 0.5 percent for exploitation to compensate for states who aren't reducing to that level.

If this compensation is not undertaken, achieving the reduction in F will not happen. And, again, that's directed specifically towards the analysis. If you take some of the information that's in that coast-wide assessment, pull it out, and let them go off on their own, it affects the outcome of the rest of the analysis. And if these ones who have removed themselves, say, were lower, then you would have to increase the remaining states.

And if the state-specific assessments are accepted, those using them should be required to abide by their assessment for a number of years. Basically, we don't want people to kind of take a look and say, "Oh, you know what, the coastwide is better for me this time, so we're going to kind of jump back over here." We just don't want that temptation to be available. I believe that is it.

MR. BEAL: All right, thank you. Before I get the questions of the technical committee report, Red Munden is here now the North Carolina. Red, are you on a travel constraint? We had a question about exempting or removing North Carolina from the management unit for tautog. The board had a couple of questions of what North Carolina intended to do if they were removed. We deferred that until the end of the meeting, if that is okay with you, but if you have a tight travel schedule, then we can slip some of those questions in now.

MR. RED MUNDEN: I will be here until this board meeting is over, no problem.

MR. BEAL: Great, thank you, Red. Okay, with that, questions of Jason on his technical committee report for the proposals. Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. A question on this TBAM, it is the first time we have heard it used in this context and used as the basis for

coming up with an approach to solving a problem. Has that been peer reviewed at any time, and is it an acceptable model that our technical committee believes is one that other states could use if they so desired?

MR. McNAMEE: It is not peer reviewed. It was reviewed by the technical committee, which I guess we are peers, but in a technical sense, no. This is the funny thing with this analysis. And, by the way, it is Trawl-Based Assessment Method. That is what it stands for. That is actually the point, it uses the New Jersey Trawl Data; so if you don't have trawl data, that would be problematic for another state trying to do this analysis.

The whole assumption behind the analysis and what New Jersey found was they correlate really with the F in the coast-wide assessment, and then that correlation sort of ends at 2003. So if that relationship doesn't exist for another state, then they would not be able to perform this analysis.

MS. CHYTALO: I just have a question. What is the level of degree that goes into the evaluation of a general stock assessment versus a typical stock assessment done for the whole coastwide versus these individual state plans? Was the same level of review offered or prepared on those?

MR. McNAMEE: No, the coast-wide assessment is reviewed by a panel of appointed experts, so it goes through a peer-review process. The wording in this FMP is that it has to meet the level of precision of the coast-wide assessment. I guess the thought is if the technical committee compares the two versions, the two different models, or two analyses, rather, and they can say that they're as precise or comparable, I guess the idea is that the coastwide was peer reviewed; therefore, if this other analysis is as precise, it, too, can be considered to the level of the coastwide, but it is not peer reviewed.

DR. PIERCE: Jason, I am pleased to see that the outcome of the review of this joint effort by Rhode Island and Massachusetts was so favorable. It was favorably reviewed; we have the same level of precision as the coast-wide VPA. You did indicate, I think, in your presentation that the most recent F is below 0.2 or below 0.20, but you didn't say specifically what it is. Do you have that number handy to indicate the extent to which mortality has been reduced locally off of Massachusetts and Rhode Island?

MR. McNAMEE: Yes, the number in the terminal year is 0.11.

DR. PIERCE: So that is certainly good news from our perspective. We're quite a bit below the target that we're supposed to achieve region-wide, 0.11 as opposed to 0.20. Thank you.

MR. BEAL: Other questions of Jason on the technical committee report? Eric Smith.

MR. SMITH: I just tried to search for Addendum IV and it is somewhat related to the last interchange. But, I thought Addendum IV said if states want to do a regional or a state-specific VPA to see how they compare and whether they could get relief compared to the coast-wide one, that would be considered by the board.

I don't think Addendum IV contemplated that a state would come up with an entirely new mode and then present it to the board saying the precision of this one is equal to the precision of that one. That is just too much of a mix and match for me to buy in it. I guess it goes back to am I correct, Addendum IV was intended to be a comparison of a local VPA to a regional VPA, so at least you were comparing the same tool.

MR. BEAL: So, your question, Eric, is there language in Addendum IV that limits state-specific analysis to VPAs?

MR. SMITH: Or was it the intent of Addendum IV? I'm asking for the board's recollection now because at the last board meetings I had a proxy in, so I don't remember all those details.

MR. BEAL: My recollection of the language, as Jason mentioned, which is the state-specific analysis – and I don't think it specifically says what type of analysis it has to be – needs to meet the same level of rigor essentially as the coast-wide assessment. Again, that language is fairly general. I have got Jack Travelstead and then Mark Gibson.

MR. JACK TRAVELSTEAD: Just to Eric's point, I think your recollection is correct, Bob. I mean, recall Virginia for a number of years utilized catch curve analysis as an alternative to the coast-wide VPA. I mean, there is a history of other models being accepted by the management board, and not just localized VPAs, for what it's worth.

DR. GIBSON: I guess I lean more towards Eric's – I'm assuming that's what his interpretation is, that we were expected to use the same VPA model that has

been peer reviewed and put local information into it, and then compare those to the coastwide estimates. Jack is right, though, that there has been a history of other models, but I would point out that those have not been, at least in the case of Rhode Island, have not been allowed into the management arena.

I generated biomass dynamic models. They went before a peer review, and there were significant concerns expressed by peer reviewers and so on, so we stopped working with those and fell back on the VPA analysis, the standard one that had been peer reviewed, and it is just a matter of dumping a different dataset into it and leaving the configurations basically the same.

So, I don't know that Addendum IV specifically requires that, but that was at least our interpretation in moving forward, given the past practice of other models falling by the wayside when we attempted to bring them forward.

MR. HIMCHAK: I would be of a difference of opinion, going through the exercise of Addendum III where other models were used rather than strictly a VPA being compared to the coastal VPA. We did try both methodologies, the VPA and then this TBAM model, which the technical committee considered technically sound and exercising a better level of precision on current fishing mortality rates. We tried both methods.

MR. BEAL: Okay, thanks, Pete. Any other questions before we go into the proposals? Okay, seeing, it appears that there are five states, Connecticut, New York, Delaware, Maryland and Virginia, that submitted proposals that used the tables that are included in Addendum V and achieved the necessary reductions.

Those states appear to be a little bit more straightforward than the Massachusetts/Rhode Island VPA and then New Jersey with the two different models. So, if there is a motion to approve the proposals from those five states, it might be a way to get this started? Mr. Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. I move that the five states, New York, Connecticut, Delaware, Maryland and Virginia, be approved for 2008.

MR. BEAL: Well, these proposals are essentially indefinite. In other words, they're not just for the year 2008. They are ongoing to achieve the target of the plan.

MR. AUGUSTINE: Maybe we want to change them next year. Okay, then take out 2008, please.

MR. BEAL: Is there a second to that motion? Eric Smith. Discussion on the motion? Pete Himchak.

MR. HIMCHAK: Mr. Chairman, I was under the impression that all eight states had submitted proposals to meet the reductions regardless of how they faired with their own separate analysis. I mean, our proposal for the required reduction is the same as any other state using the same methodologies, so I don't know why we are limiting our approval at this time to five states.

MR. BEAL: I was just going to take the states that did submit a separate analysis through a separate motion. It seemed to be, in my opinion, anyway, a little bit more complicated. Eric Smith.

MR. SMITH: I see Pete's point, though. All eight states submitted state-specific plans according to the basic addendum, and the technical committee thought they were all technically sufficient. So, if we vote for all eight, and either of the two states or New Jersey, if their separate plans failed, they still have the underlying state-specific plan under the coast-wide VPA that has been approved.

MR. BEAL: The point is the remaining states, Massachusetts, Rhode Island, and New Jersey, have submitted separate proposals under the standards of Addendum V. It is up to the will of the board if they want to approve those standards plans and then later in this meeting consider their individuals plans or you can do through this motion. It is up to the pleasure of the board. We do have this motion that is up there. Pat Augustine.

MR. AUGUSTINE: Thank you, clarification, Mr. Chairman. Then, I guess I would ask the states who submitted other plans if they are going to select their other option; in other words, if we approve their state-specific, do they have to come back to the board if they decide – or we hopefully are going to decide today if their alternate plan is going to be acceptable.

In view of that, I think Mr. Smith is right, all of the basic plans have been accepted by the technical committee, so could we include those other states in this, that they met the requirement of Addendum V and then treat – does that make sense?

MR. BEAL: Yes, it does, but let me get another comment and then we will decide. Mark.

DR. GIBSON: Yes, I agree with Pete, we obviously need a fallback. We're expecting a fair review and discussion of the bi-state proposal as well as the New Jersey one. Should those fail, we need a fallback, though, so I have no objection to being included in this package.

MR. AUGUSTINE: Fine, so, Mr. Chairman, can we make that change, please, to approve –

MR. BEAL: Yes, my attempt to simplify has complicated.

MR. AUGUSTINE: Move that all state reduction plans be approved and meet the requirements of Addendum V.

MR. BEAL: Well, I don't think we want to say all state – I'd say all state proposal that use the standards in Addendum V to achieve the necessary reductions.

MR. AUGUSTINE: Okay, I stand corrected. If Joe could type that in, I would appreciate it. Thank you.

MR. BEAL: Mr. Smith, do you want maintain your second on the highly modified motion? Any other discussion this motion? Harry Mears.

MR. HARRY MEARS: Thank you, Mr. Chairman. I have some degree of discomfort with this proposal, especially the comment that these are not annual plans, essentially. They are voted upon as meeting the requirements for the rebuilding of tautog. The reason I say that is because I'm still trying to summarize what I heard earlier in the meeting, that we have a target of F equals 0.2 that incorporated some degree of illegal harvest from a fishery that has not really been documented to be of the extent that was originally estimated.

Essentially, the whole premise of rebuilding tautog is expressed by Addendum V is based on the assumption that illegal harvest is greater than the entire legal catch in 2003. What I heard today from the Law Enforcement Committee and also from the technical committee does not support that assumption.

So, again, my discomfort now is that without further discussion and taking votes on whether or not individual state plans or even the plan itself is in fact rebuilding the resource, I have a sense that it is not. I hope at some point this can get further discussion, but I don't think we've resolved where we are right now on the disconnect between the originally

recommended F equals 0.15 and F equals 0.2. So, again, I am going to abstain from any votes in terms of meeting the rebuilding targets of Addendum V because I am not completely comfortable we in fact are doing that. Thank you.

DR. PIERCE: I support the motion. In regard to the point made by Harry, I think the point is that we have some question as to what the overall commercial landings may be, illegal versus legal. We have a number to use that was given to us by Jason regarding beyond which we might have problem, but that relates to commercial harvest and not to recreational harvest.

Since the recreational harvest still dominates most of the tautog that are landed coastwide for the recreational fishery, I suspect that we really don't have a problem with our fishing mortality rate target, of achieving it and rebuilding as we have scheduled, that doesn't set aside our concern about what is going on with illegal harvest of tautog. I am comforted by the fact that at this time and I suspect as we move forward into the future the commercial landings are still going to be a small percentage of the overall take.

MR BEAL: Any other comments on the motion before the board caucuses? All right, seeing none, we will have a caucus and then we will vote. All right, seeing no other need for further caucus, I will read the motion in and then we will have a board vote. Move that all state proposals that used the standards in Addendum V to meet the requirements be approved. Motion by Mr. Augustine; second by Mr. Smith.

All those in favor of this motion, please raise your right hand; those opposed, like sign; any abstentions, I abstention; any null votes. Seeing none, the motion passes 10 votes in favor, none in opposition, 1 abstention, and zero null votes. Okay, let's move into the Massachusetts and Rhode Island region-specific VPA. Dr. Pierce, I believe you said you had comments on this.

DR. PIERCE: Yes, I do. First of all, I am very sensitive to the fact that every state around this table is concerned that if the Massachusetts and Rhode Island proposal is approved, they might have to take an additional cut in landings for 2008. That is not the case. All of the reasons why we have made our recommendation, why we are seeking the 12 percent reduction in the 2008 harvest, are described in that one page memo provided to you this morning.

I apologize for not getting it you earlier, but it required a bit of time to assemble. It has been run by and, frankly, approved by our technical committee member, Paul Caruso. And, by the way, Paul Caruso does not take orders from me specifically. I don't say, "Help me make this case, Paul." That is not the way we do business.

He is certainly a very independent technical member who helped me and helped Mark understand what can be done and what our limitations are. Fortunately, from our perspective, he feels, and he has also discussed this with other technical committee members, that the arguments that we made, that the basis for our seeking the 12 percent reduction as opposed to the 20-some-odd percent, 25 percent, is very appropriate and defensible.

Earlier on I asked the question of Jason regarding the mortality rate in our waters right now and that we share with Rhode Island. It's basically the same fishery in the same area, the same group of tautog that we fish on. The mortality is 0.11 as opposed to 0.20, so we are well below the target. We are not seeking to increase our level of landings of tautog. We're actually going to be decreasing our level of landings of tautog in 2008.

We're just hoping that the board will support less reduction than the 25-some-odd percent. I am not going to go through all of the items in this memo. It's all self-evident. I will only highlight number nine and number ten, and say that strictly from a technical standpoint, on paper other states would need to take a moderate additional reduction in harvest to account for Massachusetts and Rhode Island taking a lower reduction.

However, that is not going to happen; that should not happen on account of three specific things, and those are listed in number nine. No additional reduction really is required at this time. There will be no need for any member of the board to entertain further reduction. As a matter of fact, the lowered F in our waters that we share with Rhode Island, the 0.11 – that is the measured locally of F — that should bring down the coast-wide fishing mortality rate.

Therefore, that helps compensate for other states. That provides the justification for other states not having to take an additional reduction in landings for 2008. Furthermore, while the technical staff assumed harvest reductions will equate to the F reductions, the other major determinant is stock level.

Fortunately, as judged from the VPA, stock levels in our region, the Rhode Island/Massachusetts region, are increasing. Therefore, when the coast-wide VPA is done again, that will definitely benefit the coast-wide stock and contribute towards there being no additional need for other states to take a reduction.

In a sense, the states up and down the coast do get benefit from what has happened in Massachusetts and Rhode Island in terms of the conservation measures we have taken now and, of course, in the future. I will stop there. That is the rationale as to why we believe it's very justifiable for us to take this reduction and take the lower amount of reduction in our harvest for 2008. There is no price to be paid by other states.

Consequently, our arguments continue to be why would other states object to our having less of a cut in our harvest. So, with that said, Mr. Chairman, perhaps Mark would care to add to the arguments that we're making here this morning.

MR. BEAL: That would be great, and then if one of the two of you would be willing to make a motion, we can focus the discussion on that. Mark.

DR. GIBSON: Thank you, Bob. I think the arguments are well articulated, and I would just add that I think the reason the regional VPA has performed as well as it has is because of the strength of the data that goes into it, as well as the similarities in the biology and fishery in Massachusetts and Rhode Island.

So, it wasn't surprising to me that combining those two together produced a similar level of precision and produced an estimate of reduced fishing mortality rates below the target. That is directly attributable to the long history of tautog management and aggressive tautog management in the two regions.

I strongly support the notion of regional management. You will remember that I advanced that argument during development of Addendum IV, and it was retained in the document. We have availed ourselves of it and I think met all the tests. Thank you.

MR. BEAL: Is there a motion on that? Dr. Pierce.

DR. PIERCE: Yes, I would make a motion and I would move that the board approve the Massachusetts/Rhode Island request to take a 12 percent reduction in the 2008 harvest.

MR. BEAL: Is there a second to the motion? Gil Pope. David, in the proposal that the two states have submitted, there are specific management measures proposed to achieve the 12 percent, or do those still need to be developed?

DR. PIERCE: I believe that those have been developed. Those were provided by Paul Caruso in a memo, I believe, to the technical committee, the alternatives for the sorts of measures that would be required for us to take with the 25.6 percent or the 12 percent.

MR. BEAL: Okay, so the specific management measures are inherently part of this motion to achieve the 12 percent reduction?

DR. PIERCE: Yes.

MR. BEAL: Great. Eric Smith.

MR. SMITH: I'm looking at the time, realizing that we're going to run out of it very quickly, so I'll be very brief. I support this for three reasons. It is a VPA-to-VPA comparison, and I think there is enough uncertainty in this, that if nothing else, we want the measurement device to be the same.

Very critical, the terminal F and the amount of the fishing mortality reduction versus where they are now, their current F is actually below the target, about half of the target. So, a reduction of 12 percent is in the context of if they really wanted to make the case, which they wouldn't succeed at, but they could argue that the landings could go up.

So, there is a buffer in there that makes me more comfortable approving this. And the key provision of because they're so much under the target F in their current fishing mortality rate, and stock size apparently is increasing, the thing that is very compelling to me is the other states don't have to increase the magnitude of their cut in order to accommodate this. Because, if I have to go up on a larger percentage of cut in Connecticut, I am not voting for any other states that has a separate proposal. So I support it.

MR. BEAL: Other comments? Pete Himchak.

MR. HIMCHAK: Mr. Chairman, I think we're going to support the proposal. At first I had initial concern over 9A and how this differed from the Addendum IV/Addendum V, if you let the commercial fishery not experience any reductions, then more would be experienced on the recreational fishery, and the fact

that their VPA-generated F is significantly less than the target.

MR. BEAL: Thanks, Pete. Jeff Tinsman.

MR. JEFF TINSMAN: I have a question for Jason regarding the argument that no additional reductions are going to be necessary for other states. I guess it was the technical committee's position originally that reduced – or reduction by some states would require more reduction by other states. I just wonder whether you're accepting the arguments presented today or does the technical committee have any reaction or view on the arguments no additional reductions will be necessary by other states.

MR. McNAMEE: I believe the technical committee would stand by its statement that – and, again, I tried to make this point during the presentation. It's based on that analysis, so if you remove a part from that analysis, the remaining section is going to remain the same. However, the arguments made in the memo, which were not reviewed by the technical committee, they make a compelling argument.

That, unfortunately, is going to have to be left to the board to decide. The technical committee has not made any comment on those arguments. And, just one other point in the memo is were that to be the case, if the board chose to accept this, and make the other states increase, the actual increase is relatively small. That point is made in the memo, but the technical committee did not see the arguments made in the memo, and therefore I would be uncomfortable speaking for them on that.

MR. BEAL: Thank you, Jason. Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. I think all the things that both Massachusetts and Rhode Island are doing and have done are very, very commendable, you know, Item 5 and then you go on to Item 6, and how you've actually been involved significantly in contributing to local and coast-wide management and so on.

When you go down to seven, it's more of the same. I think it is very commendable what you've done. By the same time, here we are with a management plan that had been cast in concrete and agreed to by everyone else and up comes one or two states that believes there is a better way to do it.

In the final analysis, it appears somewhere the difference has to be made up. You know, in one statement you indicate that each of the state fisheries

extend into adjoining states, and therefore it is going to be an advantage to other states. Then you go on further to say in another sentence the stock is local. I mean, if it makes fish available to markets for a commercial catch and so on, that's one thing, but what does it do for the stock? Does it really do anything for the stock?

The other concern that I have is we're setting precedent again. I think this is kind of corollary to looking at New York coming to the board and saying, "Hey, folks, we need a larger quota for those species that we have run over." This is not going to give you more fish, but it is going to reduce the impact, if you will, on the contribution that both of those states make toward the 26.5 percent, or whatever that number is, and whether it's infinitesimal, as long as it is something more than even in terms of an increase to the other states, I think our fishermen are going to rear up and say, "What the heck is this all about?"

So, from that point of view, I have some reluctance in supporting this. David, I wasn't being facetious when I said I'd like to talk, not against it but about it. Those are my concerns. I have been talking to my counterparts here from New York, and I think we're going to have a couple of other comments to make. But, I am having difficult accepting a substitute plan in addition to the fact that the technical committee come forward with a position as to the viability of this and whether or not it should be recommended to the board that we support it. Thank you for the opportunity, Mr. Chairman.

MR. BEAL: Okay, we are running short on time here. Eric Smith.

MR. SMITH: Unfortunately, I just developed a process problem, which is very similar to the one we had with the Susquehanna River Flats Striped Bass Proposal. I did not realize that the technical committee has not seen apparently the New Jersey or the Rhode Island/Massachusetts proposals.

A question for Mark and for David. In your regulatory process, how damaging is it for you to have approval of this at the annual meeting for the fishery that starts sometime in 2008? Do you have sufficient time to adopt a regulation if we were to postpone consideration of these two proposals until the technical committee had a chance to review it?

MR. BEAL: Eric, just before Mark answers, the technical committee has seen the proposals from Massachusetts and Rhode Island. What they have not see is the front-and-back memo that Dr. Pierce

handed out at the beginning of this meeting, which contains, I believe, some additional information. Mark, are you able to respond to Eric Smith?

DR. GIBSON: Yes, that wouldn't cause us any regulatory hurdles to have consideration at the annual meeting.

MR. BEAL: I assume you would like to know the same answer from Massachusetts. Dr. Pierce.

DR. PIERCE: No, we could still handle it if we had to do it later on in the year, the earlier the better, of course. The technical committee chairman has already indicated that these are compelling reasons for moving this forward. I understand the hesitancy of Eric, his concern about process, and getting more information from the technical committee.

Of course, if the board wants to do that, fine. However, I really don't think it is necessary. The arguments have been made, and, clearly, it would be up to the board to say whether or not it wanted to take further cuts. However, let's cut to the chase; we could delay if need be.

MR. SMITH: Very briefly, I am not sure we need to now. This is a bouncing ball. I mean, at one point it sounded like the technical committee hadn't seen this in response to Jeff's question. Now it appears they have, but they hadn't seen the memo. Well, the memo is for us. I mean, I did the same thing on lobster the other day.

The technical committee got the proposal, but the management board got a discussion of the management stuff. If the technical committee has said this proposal is technically sound, then I don't have a reservation, and I am not going to propose a postponement. Is that clear, that the technical committee said this is a sound proposal?

MR. BEAL: That's what I got out of Jason's presentation.

MR. SMITH: Okay, then I have no recommendation for postponement.

MR. BEAL: Okay, I have got two hands, Karen Chytalo and then Dave Perkins.

MS. CHYTALO: I am just a little concerned about us having to take a cut in our quota right now, and I'm not sure – you know, even though you make that statement in here there is no additional reduction necessary at this time, how do we know that? When are we going to really know that or how is that going

to be dealt with? I don't know if the technical committee has every dealt with that issue or given us a recommendation on that.

MR. BEAL: Well, as I mentioned earlier, these proposals aren't just single-year proposals. They carry on until the next stock assessment, and we will get another read in a couple of years as to how the stock is responding. At that time this board will need to decide if further cuts are needed or if they are comfortable with hopefully a course of recovery that the tautog stock is on. Yes, Dave.

DR. DAVID PERKINS: I guess I'm still a little bit confused. Since the technical committee, in their report, said that if certain states did not get to the 26 percent reduction, that there would need to be offsets in other states. On the other hand, we're talking about that they have seen this proposal from the other states. They like the approach, but I guess I'm still unclear as to whether their recommendations that there would need to be offsets in other states still applies or not.

MR. BEAL: I'll ask Jason to try to respond to that.

MR. McNAMEE: The technical committee, I believe, stands by their comment that we made in the presentation, that based on the coast-wide VPA, if some states aren't taking as big a reduction, the other states would have to compensate for it. Now, since that statement, this memo has come forward with some arguments on it for the board to consider why that might not necessarily be the case, sort of removed and adding additional information into that original analysis.

MR. BEAL: We're running really tight on time, and let's see if we can either vote on this or decide to postpone it. Pat Augustine.

MR. AUGUSTINE: I move to postpone to a final decision to our annual meeting. If I get a second on that, I would like request something of the technical committee, Mr. Chairman.

MR. BEAL: Is there a second to that motion to postpone to a time-specific. Pete Himchak seconded. Pat.

MR. AUGUSTINE: Then, the follow on would be to request specifically of the technical committee to review this two-page memo and try to do an analysis, whether it's off the back of an envelope or whatever, an analysis as to what the implications are of the other states having to pick up the balance that appears

will be created in terms of states are going to have a slight increase or however much that increase might be over the long haul. This, as I recall, is not a one-year plan, so I surely would like to have the board aware of that. Thank you, Mr. Chairman.

MR. BEAL: All right, any other discussion on the motion to postpone? Seeing no hands, and I think we have a fairly clear question that will go back to the technical committee for response, let's go ahead and vote on this. Is there a need to caucus? Seeing no need, all those in favor of postponing the previous motion until the annual meeting, please raise your right hand; those opposed, like sign; abstentions; null votes. The motion carries by 8 votes in favor, 3 in opposition.

### **NEW JERSEY PROPOSAL**

Okay, that brings us to the New Jersey Proposal, which includes the VPA and the TBAM model. Pete, would you like to comment on that?

MR. HIMCHAK: Yes. Mr. Chairman, our argument and our TBAM model brings up the same issue as what we've just dealt with; that is, if the acceptance of the estimates of fishing mortality require no restrictions for 2008, how does that affect the other sates. So I would request that the consideration of our proposal be postponed until the annual meeting, as well.

MR. BEAL: Any opposition to postponing that until the annual meeting? The same response from the technical meeting will essentially apply to both of these proposals. Okay, if there is no opposition, we're all set. Now we will go back to the unresolved question we had on Addendum V now that we have Red Munden at the table.

### **NORTH CAROLINA REQUEST FOR DE MINIMIS STATUS**

Red, just to give you because I know you weren't in the room, the board was contemplating approval of Addendum V. One of the provisions of Addendum V is to remove North Carolina from the management unit for tautog, given that North Carolina has a very small harvest of tautog, essentially an insignificant impact on the stock.

One of the questions that members of the management board had for North Carolina was will North Carolina maintain its 14-inch minimum size limit for tautog? Some of the concerns that came up during the public comment period was that if North

Carolina is exempted from the management unit and they no longer have a minimum size, it may create a loophole for harvest smaller than the 14-inch minimum size, and through North Carolina be landed and it wouldn't be in violation of a North Carolina law if the 14-inch minimum size was removed. So, that is a long-winded way of asking you would North Carolina be able to maintain its 14-inch minimum size if they were exempted from the management unit?

MR. MUNDEN: Bob, the short answer is yes, but if I can just take just a minute to give you a little background. Our former director, Preston Pate, asked that North Carolina be removed from the management unit, basically to reduce staff workload. My recollection is that North Carolina has been granted de minimis status by the board for a number of years based on our very low landings.

I have spoken with Dr. Daniel, and he does not have a problem with North Carolina remaining a part of the management unit, and we would request de minimis for the upcoming fishing year, and maintain the current regulations that we have in place for the plan. We would support Pat Augustine's motion as it is on the board, if that is the pleasure of the board.

MR. BEAL: Okay, thank you, Red. When Pat made this motion earlier, we kind of interrupted the process, and we did not get a second for the motion since we were waiting for North Carolina to enter the room. So, Eric Smith has seconded the motion. Is there a need to caucus or discuss the motion as it is up on the board, which is to leave North Carolina in the management unit for tautog and request de minimis status for 2008? Pete Himchak.

MR. HIMCHAK: Mr. Chairman, I support the motion. I just wanted to make sure that there would be a follow through on my inquiry about the Wave 1 field intercepts and telephone survey as far as landings for North Carolina on tautog. That would not show up in the MRFSS. Thank you.

MR. BEAL: Pete, your specific request is to ask North Carolina if they do have any Wave 1 information, then bring that forward to the management board?

MR. HIMCHAK: That is correct.

MR. BEAL: We can ask North Carolina if they have that information.

MR. MUNDEN: We would do that, Mr. Chairman.

MR. BEAL: Thank you, Red. Okay, I think we're all set. Is there a need to caucus on this motion that is up on the board, which is leaving North Carolina in the management unit? Seeing none, all those in favor of the motion, please raise your right hand, 11 in favor; those opposed, like sign, none in opposition; abstentions; null votes. The motion carries unanimously.

I think the only other business to come before this board would be to have a motion that fully approves Addendum V, as modified today. Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. I move to approve Addendum V with the options that the board selected.

MR. BEAL: Is there a second to that motion?

MR. ADLER: I'll second.

MR. BEAL: Bill Adler. We don't need a compliance date for this addendum because it essentially modifies the contents of Addendum IV, and the compliance date for that is January 1, 2008, so the provisions of this addendum will also be applicable to January 1, 2008.

Any discussion or need to ask questions of this motion? Seeing none, need for caucus? Seeing none, those in favor of approving Addendum V, please raise your right hand; opposition to approval; abstentions, 1 abstention; null votes. The motion carries, 10 in favor, zero in opposition, 1 abstention, and no null votes. Mark Gibson.

DR. GIBSON: Thank you. I know you're running short of time, but the prior issue on the proposals have me a bit concerned process-wise, because I'm afraid we may have pigeonholed our ourselves into a predicament where we have approved all of the standard proposals which met the – I don't remember what it was – 26 percent reduction or something.

I am concerned now that we're stuck with that decision there is no way to make the numbers add up. I am confident the technical committee is going to come back and say this bi-state VPA is good and it meets our standards of diagnostics and so forth, but your numbers don't quite add up anymore because you're going to take a lesser proposal on part of the range.

And, having approved the state proposals on the standard methods, there is going to be little leeway or no leeway for us to get our proposal back on the table

with that advice from the technical committee, short of them telling us, well, the difference really doesn't matter and wait for it to come out in the wash two years later. That is my concern process-wise.

MR. BEAL: Dr. Pierce.

DR. PIERCE: I think the intent of the board was clear, that after the technical committee reviews the information that we have provided today, they will provide the board with a recommendation regarding whether or not, indeed, the 12 percent cut will result in no further cuts in 2008 for the other states, or more, and if, indeed, they say more, then I suspect there will be no change.

But, if, indeed, they say there is no consequence for the other states, the board would be very favorably disposed towards our having the 12 percent cut. I don't think there is a problem, Mark. This is a group that works together in a friendly manner. If I have stated the intent incorrectly, please –

## OTHER BUSINESS

MR. BEAL: All right, with that, are there any other concerns on the course of action that the board has set to address these two additional proposals?

## ADJOURN

Seeing none, we will have the Tautog Management Board stand adjourned.

(Whereupon, the meeting was adjourned at 10:15 o'clock a.m., August 15, 2007.)