

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

**August 16, 2004
Radisson Old Town Alexandria
Alexandria, Virginia**

ATTENDANCE

Board Members

David Pierce, Massachusetts DMF	Tom Fote, New Jersey Gov. Appointee
Bill Adler, Massachusetts Gov. Appointee	Ed Goldman, proxy for Assemblyman Smith (NJ)
Vito Calomo, proxy for Rep. Verga (MA)	Jeff Tinsman, Delaware DFW
Mark Gibson, Rhode Island DEM	Sen. Robert Venables (DE)
Jerry Carvalho, proxy for Rep. Naughton (RI)	Howard King, Maryland DNR
Eric Smith, Connecticut DEP	Bruno Vasta, Maryland Gov. Appointee
Lance Stewart, Connecticut Gov. Appointee	Jack Travelstead, Virginia MRC
Gordon Colvin, New York DEC	Kelly Place, proxy for Catherine Davenport (VA)
Pat Augustine, New York Gov. Appointee	Wilson Laney, US FWS
Bruce Freeman, New Jersey F&G	Harry Mears, NMFS

Ex-Officio Members

Paul Caruso, TC Chair

ASMFC Staff

Bob Beal
Nancy Wallace
Lydia Munger

Guests

There may have been others in attendance who did not sign the attendance sheet.

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MOTIONS

- 1. Move to elect Dr. David Pierce as Vice-Chair of the Tautog Management Board.**

Motion made by Mr. Carvalho; seconded by Mr. Adler. Motion carries.

- 2. Move that the Board select an external peer review process for completion by June 2005.**

Motion made by Dr. Pierce; seconded by Mr. Travelstead. Motion carries unanimously .

- 3. Move to grant Delaware and North Carolina de minimis status for 2004 for the commercial fisheries.**

Motion made by Mr. Freeman; seconded by Mr. Augustine. Motion carries.

**ATLANTIC STATES MARINE
FISHERIES COMMISSION
TAUTOG MANAGEMENT BOARD**

**Radisson Hotel Old Towne
Alexandria, Virginia**

August 16, 2004

The Tautog Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Room of the Radisson Hotel Old Towne, Alexandria, Virginia, on Monday, August 16, 2004, and was called to order at 3:00 o'clock, p.m. by Mr. Robert E. Beal.

WELCOME & INTRODUCTIONS

MR. ROBERT E. BEAL:
We'll go ahead and get the Tautog Board started. All right, thank you for coming. This is the Tautog Management Board. The chairman of this management board currently is David Borden, and David Borden is in the process of retiring.

He's been doing that for a couple of months now. He's not very good at it, but sooner or later, he may actually retire. And there is no vice chair, so given those circumstances, I will chair the meeting as the ISFMP Charter provides.

Just also for the record, there is a quorum at the table. There are enough states here to represent a quorum, as well as the federal services. Everyone should have an agenda. There was one on the CD-Rom. There are also additional copies in the back of the room.

There are going to be a couple of changes to the agenda. The first is after Agenda Item

Number 2, which is the board consent, we will have a public comment period and also the election of a vice chair, which, to me, right now is very interesting.

Items Number 3 and 4, we're going to take those in the reverse order, and we'll have the discussion of the peer review process prior to the annual reports, and that's because I just talked to Gordon Colvin and he is somewhere on 95 between here and Baltimore.

He's on his way and wanted to attend the annual report section of this meeting, since there is a compliance issue noted for the state of New York, and he wants to update the management board on the status of New York's compliance.

We'll go ahead and take the annual reports as the last item on the agenda and hopefully the New York folks will run in before that part of the meeting.

BOARD CONSENT

With that said, are there any other changes or additions to the agenda that anyone would like to see? All right, seeing none, is there any objection to approving the agenda? All right, agenda approved.

Are there any changes or additional comments regarding the proceedings from the February 25th board meeting? All right, seeing none, are there any objections to approving those proceedings from last February? All right, seeing none those are approved. That brings us to public comment. Is there any public comment? Tony.

PUBLIC COMMENT

MR. TONY BOGAN: Thank

you, Mr. Chairman. I'm Tony Bogan from United Boatmen. I just wanted to bring a quick point up to the management board here. It's the first opportunity I've had in a while to be here when this board has met.

It's especially important from our perspective, as far as the fact that we know some of the future agenda items are going to be working on getting a team together, doing a stock assessment. I know there is, I believe, a committee meeting or a team meeting coming up in September.

What it relates to is actually an issue that we brought up in the context of Addendum VIII back last year, almost a year ago, I believe it was the August meeting, with an aberration in the landings numbers for tautog.

The reason why I feel it's important today, this is not a discussion about MRFSS being good or bad, it's about how this number reflects on potentially the stock assessment. When I was at the constituent data review at MRFSS in April in Silver Spring, Maryland, in a morning conversation with Vince O'Shea, I asked him what had happened with blackfish, because I had missed the last meeting.

He just commented how the stock is still overfished, and overfishing is still occurring. While I don't necessarily believe that a change in these numbers or this particular number might make or break that determination, I just wanted to bring to your attention and hopefully get an answer from the technical staff in the future, what kind of impact a landings number like this would have and hopefully convince this board that this is something that the stock assessment, when it's done, needs to consider.

If you look at the handout that Mr. Forsberg

passed around, you look at a ten-year history of the tautog landings from the state of New York. I don't think I need to point out which year is the one that looks a little out of whack with all the rest of them.

If you look at the second page in the handout, you'll look at a ten-year history of New York's tautog landings from Wave 6. Again, I don't think I have to point out which year is the one that we think is a bit of an aberration.

And you look at the last of the three pages that you have in front of you, and it's Wave 6 landings just from the private rental boats sector for the last ten years.

Our concern was you're looking at numbers that literally show one sector that historically represents a very small portion of the fishery as a whole, and from New York represents half or less of the landings, has more landings in two months than they had in six years combined, and the same thing with the state as a whole.

Another thing that brought this to our attention is there has been a lot of talk in the context of recreational landings numbers and data about the PSE. Well, the PSE on a state level, we know the confidence in the landings data is lower on a state level than it is on a coast-wide level.

However, in the context of tautog, and this is where we think this number is going to become important if, as has been done in the past, they do a regional VPA.

Well, the VPA landings are a primary component in the stock assessment, so this number would have an even larger impact than if the stock assessment team decides to go with a different type of model.

The PSE on the state of New York for 2002 was 30 percent. But the PSE for the entire coast in 2002 was only, I believe, around 12 percent. Well, if you take 30 percent of that landings number from New York or 12 percent of the entire coastal landings, the number of fish in that margin of error, plus or minus from New York, is greater than the coast-wide PSE is.

So there is a larger margin of error in numbers of fish from just one state than there is the margin of error for the entire coast. Keep in mind that the individual state numbers are what makes up the coast-wide landings total.

So, I don't know how much of an impact this landings number would have on the stock assessment. That's why I wanted to bring this to the attention of the board, so hopefully you could ask the stock assessment team, when it comes time, what kind of impact this type of number is going to have.

In discussions with Mr. Sminke from MRFSS, he also explained to me that there are statistical ways to try and mitigate a number like this if it is believed to be an aberration in the data, if it is believed to be a statistical outlier.

Now while MRFSS can't make that determination, only the management board can, but also at the stock assessment level they can do that. The stock assessment scientists can look at a number and try and mitigate something that might not seem correct, whether it was for a lack of data or incorrect data. So that was really my only point here.

To put one more little point of context in here, just to hopefully convince people that there is definitely something a little odd

going on here when New York landed 636,000 fish in one year and couldn't land that many in the six years previous combined, in 2001 and 2002, the regulations in New York were unchanged.

In 2003 you'll notice the landings are right back down inside of the ten-year average minus that 2002 number. The only thing different was from June 1st until October 6th when New York traditionally has a one-fish bag limit, it had a zero-fish bag limit.

When you look back at the landings that time frame from the beginning of June until the beginning of October, is not historically the percentage of their landings. It's less than a third of when their landings are made, anyway.

So neither regulations nor historical averages nor sector participation could account for such a large number to come in. Again, that number is almost 50 percent of the coastal landings for that very year.

It's just something that I wanted to bring to the board's attention and hope that if it stays on the radar screen with the stock assessment looming on the horizon, we figure out exactly what kind of impact that may or may not have on the stock assessment. Thank you very much for your time, Mr. Chairman.

MR. BEAL: Thank you, Tony. Before I let the board comment, if they have comments on that, just a quick comment that the tautog stock is scheduled for a peer-reviewed stock assessment in 2005, which I think is what sparked a lot of Tony's comments.

The Commission is now going through or modeling their stock assessment development approach after the SEDAR in

the South Atlantic, which there is a data workshop where all the states get together and compile the data that will be used in the assessment is the first meeting. The second meeting is the assessment workshop.

During that first meeting, the data compilation meeting, I think a lot of this data quality and investigation of the data will take place to determine what should and should not be included in the stock assessment.

What peer review venue the board would like to select is one of the next agenda items, but we'll get into that in a minute. The Tautog Technical Committee is going to meet at the end of September, actually during the ASMFC Technical Committee meeting week, and that's going to be in Manchester, New Hampshire.

It was scheduled for Providence. We couldn't find a hotel there, so we've moved it to Manchester. During that meeting -- and Paul Caruso, the technical committee chair is here as well, and he can comment if he would like, but that meeting is when they are going to start to develop the stock assessment, just talk about potential modeling approaches and data availability and those sorts of things.

But that will just be the initial step, and we'll have a series of meetings in 2005 to finalize the assessment and get it ready for a peer review. So, just a comment, there definitely will be a few layers of review of the data quality and availability before it gets fed into the assessment. Are there any other comments? Yes, David Pierce.

DR. DAVID PIERCE: I assume the technical committee has already reacted to the 2002 landings. Do we have any preliminary conclusions from the

technical committee regarding this large amount of landings, commercial as well as recreational? I guess this is all recreational, I suppose; right? Yes. Any preliminary conclusions regarding these data?

MR. BEAL: Paul.

MR. PAUL CARUSO: Yes, David, as a group, we have not looked at any of this data, as you will know in a couple of minutes. We haven't met fall of 2002, anyway. But, these types of spikes are not that abnormal.

I think we saw it in Maryland a few years ago. New Jersey had like a 1,000 percent increase one year a couple years back, so I'm sure we're going to be giving great consideration to the data quality and how we put it into the assessment models and what models we use. We may have to treat it as an outlier. That's not uncommon.

MR. BEAL: Thank you, Paul. Any other comments on the issue brought forward in the public comment by Tony? Okay, seeing none, that brings us to the next agenda item on the modified agenda, which is the election of a vice chair. Any nominations? Mr. Carvalho.

ELECTION OF A VICE-CHAIR

MR. GERALD M. CARVALHO: I'd like to nominate David Pierce for vice chairman.

MR. BEAL: There is a nomination for Dr. Pierce as vice chair of the Tautog Board. Is there a second to that nomination? Bill Adler, thank you. Any other additional nominations for a vice chair?

Seeing none, is there any objection to Dr.

Pierce being the vice chair of the Tautog Management Board? Seeing no objections, congratulations, David. We'll see when David Borden's retirement is to see when you're effective date is, I guess.

Since the New York folks are still somewhere on 95, we'll go ahead and take Agenda Item Number 4 on the original agenda, which is the discussion of the peer review process for the upcoming stock assessment. Paul, do you want to introduce that?

DISCUSSION OF THE PEER REVIEW PROCESS FOR THE UPCOMING STOCK ASSESSMENT

MR. CARUSO: Yes, I'll be glad to start that out, David. Just a brief review of the technical committee activity in the last couple of years so you know where we stand relative to the assessment; also, a little bit of background of where you guys have been with this discussion.

I believe you tabled it at your last meeting for lack of both a pressing need to make a decision at that time as well as a little lack of input from the TC.

The committee last met in the fall of 2002. That was our last table meeting. At that time, we reviewed state-submitted management proposals, which you folks voted on and which were implemented in the spring of 2003.

The only other meeting that the committee has had since then was a conference call in April of 2003. At that time, the committee made recommendations to the management board regarding the stock assessment and also recommended some catch-curve analysis guidelines.

The state of Virginia had put forth an individual assessment based on a catch curve, and the management board in turn had asked for technical committee input for future catch curve analysis, so we put up a set of guidelines which went to the stock assessment committee at a later date to weigh in on.

I've attached to a handout that's up at the table here the recommendations from the committee at that time regarding the next assessment, which is going to take place this fall and into 2005.

The committee at that time made three recommendations. The first was to delay the assessment until 2005, and the reason for that request for the delay were to accommodate the use of both 2003 and 2004 recreational catch data.

As you know, we made the changes just in 2003, so the catch data in 2003 would have been the only year of the new regulations. It's good to get two years of data because in a VPA or similar model, the last year estimated fishing mortality is the least precise of the series, so to have two years of recreational data under our belt was a wise thing.

We also recognized a historical positive retrospective pattern in the VPA, meaning it traditionally underestimated the terminal year F, so, again, another good reason to delay the assessment.

The board, in their wisdom, agreed with the technical committee and did delay the assessment for a year. The committee also requested that the board initiate the stock assessment process early in the fall. We know this is going to be an interesting and difficult stock assessment.

Over the years, those of you who have followed the management board actions and tech committee workings have realized that we started off in the first assessment with a coast-wide default assessment.

We have a real data lack of fisheries-independent data south of New Jersey. The first assessment was done on a coast-wide basis, as was the second one. We looked at that kind of as a default estimate of fishing mortality and stock conditions because we had literally no data from the southern end of the range.

In the last couple of years, the data has improved quite a bit. There is a lot of age data out there that we all started collecting in '76 when the — '96, excuse me, when the FMP went into effect.

So we're confident this time around, and the board has expressed a desire to localize the assessments as much we can. When we do the data review this fall, we expect the data to literally tell us at what level we can assess the stock, in some cases maybe even down to the state level.

As we get more information from our tagging studies, we know the obvious, and what we expected all along is that these fish are really localized animals, at least in the northern part of the range.

So, it pays to kind of break from a traditional coast-wide VPA model here or even a regional and try to get down to as small a geographic level as we can, because they are localized stocks, and there are individual components.

The third recommendation from the technical committee was to choose a non-traditional stock review, as was done for striped bass in the fall of 2002, which was

largely a review of the methodology and a critique.

It was at that time not a thumbs-up, thumbs-down type assessment review. It was a critique of what they did and how they could improve it. But since that time, the SARC format has changed entirely.

So, I guess I could say pointblank here that the committee's recommendation really doesn't hold true any more. It doesn't hold water, because that SARC review that we all knew in the past and the non-traditional one even has been replaced by a new SARC format.

I happen to have been at the bluefish and sea scallop stock assessment review, so I have a little bit of a feel for the new review process, and I think it's a good one. I think it's not only instructive, but we've got some real high-class people there, and it's a very good process.

From the board's perspective, the only issue that I'll bring up that I can see, which may bear on their decision today, and one which the tech committee hasn't necessarily endorsed, but I'm going to have to go out on a limb for them a little bit here.

Mark and I talked about this on the plane ride up here, but the timeliness of the review might be an issue for the board. In other words, for bluefish this was a thumbs-down. So where does that leave the board for management purposes?

You literally walk away from a table with nothing. It would be another six months before we have another SARC round at NMFS, so you're left with a lack of management information.

You may want to choose an outside peer

review that doesn't include that form only because if we lose parts of the assessment as we go along here, you'll still desire management information within, I hope, a year and hopefully, well within six months of completing our work.

So, like I said, from my perspective that might be the only thing that really weighs in on your decision of which way to go. From a technical committee standpoint, as far where we go, we don't really care.

We want the best review possible. We want it to be instructive. But I think the biggest peer review task here will be for whatever body to review it, to look at all these individual little pieces of the assessment that may come out of this assessment and kind of pass muster on things that people probably haven't seen for years.

Can we use this catch curve? It might come down to a catch curve for some states, and we may have a VPA for the northeast area. We might have one for even Rhode Island or Massachusetts. We might have enough data to do that.

But I think, as we get further down the range, these states are going to need information. Traditionally, if it goes to a SARC, and they put thumbs-down on a thing like a catch curve, you'd literally be out on the street, I think, without any baggage for your travels. I'd be happy to answer any questions if anybody has them. Harry.

MR. HARRY MEARS: Paul, what might be helpful for this discussion, could you kind of, the best you can, look ahead and generally or subjectively describe how the stock assessment would occur with tautog based upon your experience you just went through

for bluefish?

MR. CARUSO: Yes, as I just mentioned, Harry, I think what is going to happen is the data in the northern end of the range is really pretty strong. We have enough age data.

I think we'll be able to go back to our previous VPAs and literally do another run for, say, from New York or New Jersey north. We might even be able to get down to state level VPAs. I think they'll be pretty strong because I think the data is there.

What's going to happen below the Mason-Dixon Line, so-to-speak, that's where the issue is going to lie. I think we'll start up with a qualitative assessment so that even if the quantitative assessment falls apart, at least we have some information.

I mean, I always think there's a good signal there in just abundance indices or catch records, and it's important to document that, because if you go into the SARC or any other review process with just the qualitative assessment and it doesn't fly, you have literally, again, nothing. You have no information.

So I think we'll have a good qualitative assessment. I think we'll have some good qualitative model runs for the northern region. I think where we're going to have trouble is south of New Jersey where there are no abundance indices. Literally, we'll be forced to go to things like catch curve, and that's pretty qualitative.

MR. BEAL: Harry, a follow up.

MR. MEARS: Thank you, Paul. Could you further comment on the timing, that where the ultimate step would

be to thumbs-up, thumbs-down in terms of when the process would begin, who is involved, and who is involved at the very end?

MR. CARUSO: Sure. Right now, we're just going to be meeting in Providence at the end of September, as Bob mentioned. I just talked to Lydia about it. I think we'll look at that as at least a data-gathering workshop to see what's out there.

I've already had feelers out to the states -- questionnaires to see who has how many age samples, so it has already given me a feel for what kind of age data we have, which was kind of the sticky point in the past assessments.

I imagine, if we have money, we'll probably do a data workshop on top of that with a smaller group of people. We have yet to get a stock assessment group together. That's another thing that will happen at this data gathering workshop.

We'll find out who is going to work on the assessment. We'll parcel out the jobs. I presume that we'll have a pretty good read on the assessments by late fall or early winter in 2005, and then we'll wrap up in early spring.

Then the assessment review, if it's a traditional SARC, it would be in June. It would be the second week in June, I think it's when they hold that. So that would wrap it up and that would be the final arbiter of whether the assessment would pass muster or not. We might feel before that that we're in trouble. But that will be the final.

MR. BEAL: Okay, I've seen a couple more hands on questions for Paul, but just to kind of remind the board of the action that they need to take today is a

decision on what peer review process the board would like to see the tautog assessment go through.

Should it be a SARC? Should it be a Commission external peer review? Those are really probably the two main options that are in front of the board. There are also other forms of written reviews through AFS and those sorts of things, but the Commission hasn't historically used those very often or that approach very often.

So, that will be kind of the end of this discussion. But, just as a point of information, the tautog assessment, there is a placeholder in the SARC schedule for the fall of 2005. A little more than a year from now, there is a placeholder for the tautog assessment.

If this board is interested in speeding that up and asking the SARC to do it in June in their spring SARC, we may be able to do that through requesting a spot on the earlier SARC in 2005, but all those decisions are what is in front of the board today. With that, David Pierce, you had your hand up.

DR. PIERCE: Yes, Paul, I think you said you felt we would be in a position to receive a good qualitative assessment in 2005. But a quantitative assessment, is it likely that we won't get a quantitative assessment that we can use, especially in light of this uncertainty regarding the New York estimate?

If the New York estimate is as high as it is, then clearly that might cause some interesting discussions by the board. So, we'll get a qualitative assessment but no quantitative assessment? Is that the correct characterization?

MR. CARUSO: No, I think

we'll have a good quantitative assessment, as much as we're going to get out of it by June or so. Originally, I had thought that it was on the June SARC schedule, so we're shooting in that direction.

I think we'll even have enough of the data from MRFSS to run with it by June. But I think what we'll have of a quantitative assessment, we'll have by June or we should have by June.

Like I said, I think parts of it are just going to fall out. If we start cutting the assessment up into pieces like we traditionally have, especially at a sub-regional level, which I would say one or two states together, you'll start seeing -- the data will just start getting skinny.

We'll have no indices for south of New Jersey, and we just won't ever have a quantitative assessment for those, unless we go back to a coast-wide default, which is all that was in the past. Your coast-wide assessment was -- you have to look at it more or less as a default value for states to use when they didn't have their own.

DR. PIERCE: Okay, so you're recommending then -- I need to make sure I understand what the recommendation is from the technical committee, especially in light of the report that you gave a few moments ago.

The technical committee is recommending Number 3 regarding recent tautog technical committee activity, and that is to choose a non-traditional SARC review as was done for striped bass in fall 2002, and to request that work be done through the SARC at its June 2005 meeting?

MR. CARUSO: That was our recommendation a year ago, David.

Like you said, in light of the new SARC format and in light of some of the holes that may develop in the assessment, I personally suggest you might want to go the other way, but the committee has not had a chance to discuss and talk about this.

DR. PIERCE: I'm still not sure what you mean by "go the other way."

MR. CARUSO: Go to an in-house peer review process instead of the SARC review. My personal viewpoint is you might get a faster turn if parts of the assessment don't pan out; whereas, if you go with the SARC format, especially if you do it in the fall, you might be stuck in the fall saying, well, okay, well, we know what's going on in Massachusetts, Rhode Island, New Jersey and New York, but we don't know what's going on down south, now what do we do?

Now it's another whole six months before the SARC has another review, and that might be another whole year before you can get back in the SARC time line.

DR. PIERCE: Excuse me, Mr. Chairman, I'm still very confused as to what the specific recommendations are for us to use. We have the document in front of us that has the technical committee recommendation, and Paul just said that is the recommendation, but he's saying that in his view it should be an in-house review.

As a consequence, I'm not sure what kind of advice we're now getting from the technical committee as to how we should proceed on tautog.

MR. BEAL: Paul, this document that was handed out, the April 30, 2003, document, the summary of recent Tautog Technical Committee activity is

from April 30th of last year; is that correct?

MR. CARUSO: Yes.

MR. BEAL: Okay, so this document is dated 18 months or so. So, I guess Paul is saying now, given the changes that have taken place at the SARC and the potential for the SARC not approving the tautog assessment, given the lack of data in certain regions of the coast, my understanding is that Paul is saying that he feels the technical committee would be more comfortable with an ASMFC external peer review to allow for more flexibility in the type of responses or type of information that comes out of the peer review to give this board more latitude or to provide some assessment guidance, if not complete assessment guidance for management -- for this board to make management decisions.

That's kind of how I read it. I don't know if Paul has any comments on that. Paul is shaking his head that I guess I summarized it correctly. So, like I said earlier, there are essentially two options, the SARC or the external peer review, and it sounds like external peer review.

The tech committee, or at least the chair, reading between the lines, feels that the tech committee would be more comfortable with the external peer review. Mark Gibson had his hand up earlier.

DR. MARK GIBSON: I had an assessment process question and then a comment on the peer review venue. If an individual state believes they can and should come forward with a state-specific stock assessment to support 2005 fisheries specifications, is there a process and an opportunity for them to do that?

It was my understanding that Rhode Island

had that opportunity to do that, and now it's sounding like we're going to be backed up into 2005 somewhere in part of a larger process, which I don't mind being, but we have an ability, I think, to produce a state-specific assessment for purposes of setting 2005 state specifications, including a commercial quota. I want to know if there is an opportunity and a procedure to do that?

MR. BEAL: Okay, the quotas and the overall fishery management programs for each state are set based on a fishing mortality target. So if Rhode Island brought forward a state assessment or a state proposal based on a state assessment for tautog, given what we know about the migration of tautog, and runs that through the technical review, and the technical committee supports that state assessment, that may be acceptable for 2005, provided the tech committee buys off on that approach.

DR. GIBSON: Okay, and my comment on the choices of an assessment review venue, I would suggest that if you were to go back to the new SARC structure, you're very likely to run into some very significant problems with the assessment models being used, similar to what was the criticism levied on the bluefish assessment.

It relates back to what Tony Bogan had shown, that the tautog landings are dominated by the recreational catch, and that's measured through an estimation process, and it's measured with error, in some cases a considerable amount of error.

If and when we apply the ADAPT model again, this new review process may very well reject it, because we're not explicitly treating the measurement error in the input landings, which in ADAPT model are

assumed to be measured without error.

So, I'm not sure that what was done in the past will pass muster this next time around, even it were done the same way with new data added to it.

MR. BEAL: Thank you, Mark. Any other questions for Paul regarding where the status -- Yes, Harry.

MR. MEARS: I have one more process question. I realize that these are a series of questions that are hard to answer for Paul, because the new SARC process is so new. But, I'm trying to better understand the key difference between choosing an ASMFC external peer review over the SARC process.

It almost sounds like up to a certain point, the two processes are identical where you have the technical committee, perhaps through sub-groups, looking at different facets of the assessment; and as you explained earlier, they're going to meet in September and then later on during the fall and conclude some time early in 2005.

Now, I assume that's probably going to happen either way that a decision is made to do the stock assessment. The difference sounds like it occurs at the very end in terms of what you get out as a final product. I'm just wondering how much of the process is identical for the two approaches?

MR. BEAL: Let me try to comment on that, I think, Paul, and then you can chime in. The new SARC process and ASMFC process are very similar, you're right, Harry.

The only difference is the new SARC process where the SARC brings in three or four CIE, Center for Independent Expert,

individuals to review the assessment, and then they either approve or disapprove the assessment.

There is no longer a give-and-take or a modification of the assessment during the SARC week, so it's kind of you're in or you're out. It's a binomial decision by those guys. The critical element for either of these paths is the crafting of the terms of reference.

So if the board crafts the terms of reference so that different models or different levels of models are reviewed sort of independently within that peer review, in other words, if there are VPAs for certain regions and catch curves for certain regions, and they're asked to review those independently, the SARC may be able to produce a similar result as the Commission process, but the Commission process has the ability to provide more advisory advice.

There's more flexibility in the end product in the advice given to the management board from the Commission process, external peer review process, than there is from the current SARC process where it's CIE folks and thumbs-up or thumbs-down, and that's it. Dr. Pierce.

DR. PIERCE: All right, in light of what we've received in written form and, of course, the summary provided by Paul and the clarification subsequent to that, I would move that the board select an external peer review process to provide assessment advice by June 2005.

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

MR. JACK TRAVELSTEAD: Second.

MR. BEAL: Jack Travelstead, thank you. Any discussion on Dr. Pierce's motion regarding external peer review by early next summer for the tautog assessment? Seeing no discussion, is there a need to caucus on the motion?

Seeing no need to caucus, all those in favor of the motion, please raise your right hand; those opposed; abstentions; and null votes. All right, the motion carries unanimously. Anything else on peer review, Paul? Bruce.

MR. BRUCE FREEMAN: Paul, New Jersey had some money several years ago to look at various biological phenomena, one of which they put some money into doing -- I think they're looking at mitochondrial DNA for tautog, and that report has been completed. I had a copy.

Was that ever submitted to you or to the technical committee? I think the work was completed about a year ago. It was submitted to you?

MR. CARUSO: I don't think it was ever submitted formally to the board or the tech committee, but the tech committee did look at it in the last addendum. Some of that information was woven into a paragraph or two under the habitat.

Basically, the finding was that DNA-wise it's a coast-wide stock, but we all know from the tagging studies that we've done -- I just actually am in the process of doing one now -- we really have learned at least in the northern end of the range how localized these animals are. In Massachusetts they don't even leave Cape Cod Bay. They just stay in the same bay.

MR. FREEMAN: Well, I

think some of the work, if I recall, had some specimens north of the Cape, and they were distinct from south of the Cape. It appeared the Gulf of Maine is doing a lot, but at Cape Cod Bay. where you do find them, are definitely distinct from the southern population.

MR. CARUSO: We'll look at it again, Bruce.

MR. FREEMAN: Yes, well, I'll make sure. I'll send you a copy or send Bob a copy just to make sure you have the most recent one

MR. CARUSO: It might even be a different study than the one I'm thinking of.

MR. BEAL: Great, thanks, Bruce. Any other questions for Paul or for the technical committee regarding peer review or any of the work they're involved with?

All right, seeing none, I see the folks from New York have gotten off of 95 and are here now, so that brings us back to Agenda Item Number 3, which is the annual reports. Lydia.

ANNUAL REPORTS

MS. LYDIA MUNGER: Thank you, Mr. Acting Chairman. The 2004 review of the fishery management plan and the 2004 PRT report on state compliance are coming around right now. I'll quickly go through the FMP and the PRT report on compliance.

The 2004 review of the fishery management plan updates the status of the fishery in terms of updating the landings. The commercial landings go up to 2002 and the

recreational landings go up to — I'm sorry, the commercial landings go up to 2003 and the recreational landings go to 2002.

The FMP review also updates the prioritized research needs as of June 2004. The FMP review covers current state-by-state implementation of FMP compliance requirements, and this section is actually detailed in the 2004 PRT report on state compliance.

There are three things that the PRT wanted to highlight for the board today, and I'm going to go through those. As far as de minimis status, according to Addendum I, a state must prove that its commercial landings in the most recent year for which data is available do not exceed the greater of 10,000 pounds or 1 percent of the coast-wide commercial landings to qualify for de minimis status.

The states of Delaware and North Carolina meet these criteria for calendar year 2003, and both states have formally requested de minimis status for the 2004 fishing year.

One area of concern that the PRT wished to point out for North Carolina, the state of North Carolina does not have a minimum size limit for tautog.

Addendum I states that if de minimum status is granted, the de minimis state is required to implement the minimum size for the commercial fishery and also pot and trap degradable fastener provisions and regulations consistent with those in the recreational fishery.

North Carolina did request removal from the management unit and North Carolina's landing are minimal. As such, the PRT felt that this issue should be highlighted as an area of concern and would like to highlight

that the issue of North Carolina's inclusion in the management unit may warrant examination in the next amendment to the fishery management plan.

The last issue that the PRT wanted to highlight for the board relates to the state of New York. New York did not implement the monitoring requirement of collecting 200 age-and-length samples of tautog in 2003.

The compliance report noted that New York does not have plans to implement this monitoring requirement in 2004. This monitoring requirement is a compliance issue, and therefore the plan review team recommends that the state of New York be found out of compliance with the fishery management plan for tautog for 2003.

MR. BEAL: Thank you. Let's take the first two comments regarding North Carolina, the status of North Carolina with respect to inclusion in the management unit and the de minimis status for Delaware and North Carolina.

Then we'll address the New York issue. Are there any comments on the North Carolina situation? Tom Fote.

MR. THOMAS FOTE: My real concern is that Virginia has a tautog fishery, and basically they have a minimum size. Somebody from North Carolina could fish in Virginia's waters; and with the price of live tautog in the restaurant fishery, it could be a problem. Is Virginia concerned? It says there's a localized stock. Is Virginia concerned about that?

MR. BEAL: Jack, I guess the question to you is do you have a concern regarding the lack of a minimum size limit for the state of North Carolina?

MR. TRAVELSTEAD: No.

MR. BEAL: Thank you. Any other questions or comments on the North Carolina situation? I think the plan review team makes a reasonable comment in that the next time this plan goes through an addendum or an amendment, this board may want to consider whether or not North Carolina should be included in the management unit for tautog since their landings are essentially negligible, given what's going on coastwide.

So with that, is there any objection to granting Delaware and North Carolina de minimis status for 2004? Both those states have formally petitioned this board for a continuation of their de minimis status. Are there any questions on this issue? David Pierce.

DR. PIERCE: All right, maybe I wasn't listening closely enough. We just received the reports, so I haven't had a chance to read the reports. It makes it a bit difficult. But I know that we're talking de minimis status that would reflect the overall landings, recreational as well as commercial?

Okay, in Table 1 in the 2004 review, I note that Delaware landings, recreational harvest, that is, have been relatively high over a rather extensive period of time, so I'm wondering why the request for de minimis when the landings have been so high?

MR. BEAL: That is for Delaware?

DR. PIERCE: That is for Delaware, right. Like, for example, 2002, 647,000 pounds of fish, and they were way up close to the top of the list in terms of

states with landings of tautog, so I'm missing something. I apologize for that.

MR. BEAL: David, the landings for de minimis, Delaware is actually requesting that only for their commercial fishery. Sorry, I think I mentioned it was combined earlier, but it is only for their commercial fishery where they have landed 2,546 pounds in 2003.

DR. PIERCE: All right, thank you for that clarification.

MR. BEAL: Thank you. Any objections to granting Delaware and North Carolina de minimis status? Harry.

MR. MEARS: Just a comment. I don't have an objection, per se, based upon the information presented, but at the same time, we have a fishery management plan that's very clear in terms of what is required of a de minimis state or a state requesting to be de minimis.

If future exemptions are contemplated by the board, and I suspect they are since we're giving one in this case, I would say as a point of consideration in the next addendum, that we look very closely at the de minimis provisions and change them if, in fact, that's what we want to do. Thank you.

MR. BEAL: Thank you, Harry. Seeing no other hands, I assume there are no other -- Bruce.

MR. FREEMAN: If this is a formal motion, and I think it should be, then it should be specific to the commercial, because we keep talking about de minimis for the states; and as Dave Pierce pointed out, there is a considerable difference between the commercial harvest and the recreational.

But in order for the administrative record to be clear, I think what both states are seeking is simply from the commercial standpoint?

MR. BEAL: Yes, Bruce, both states are seeking de minimis status for their commercial fishery given their landing levels for 2003. Given the confusion around the table, it may be better if there is a formal motion granting these two states de minimis for their commercial fishery. Mr. Freeman.

MR. FREEMAN: I'll move that Delaware and North Carolina be given de minimis status for 2005 for their commercial fishery.

MR. BEAL: For 2004, the current year, Bruce.

MR. FREEMAN: Oh, all right, 2004.

MR. BEAL: They're requesting de minimis for the current year based on the previous year's landings. Seconded by Mr. Augustine. Any discussion on this motion? Is there a need for a caucus?

All those in favor of granting de minimis status for commercial fisheries for Delaware and North Carolina, please raise your right hand; those opposed; abstentions, two abstentions; any null votes? The motion carries.

With that, I think the remaining issue is the compliance status or compliance recommendation from the plan review team for the state of New York. The plan review team raised a concern that New York didn't fully collect the required 200 age/length samples in 2003. Mr. Colvin, do you have any comment on this?

MR. GORDON C. COLVIN: Yes, thank you, Mr. Chairman. Historically, we had done quite a bit of tautog aging work. And, one of the reasons that we supported the implementation of the mandatory requirement for aging is that we had that experience and activity underway.

The samples that we used for that purpose were primarily recovered from sea sampling aboard open boats and to a lesser degree charter boats in the tautog fishery in New York.

A couple of years ago the biologist that did that work left, and that unit has not been able to replace that position and another position that supported it, because of the state hiring freeze that has been in place since 2001.

So we had to drop the sea-sampling program. It was done at the time involving tautog, sea bass and scup. We did make an effort last year to recover tautog samples from the commercial fishery, in fact, but it failed, primarily because of the small size of the commercial fishery and the predominant nature of the fish intercept that was in the live fish fishery and we couldn't get their heads.

We were not, through last year, operating any fishery-independent surveys that produced much in the way of adult tautog. Most of the tautog we were taking in our fishery-independent work were juveniles.

Notwithstanding what's said in our compliance report for this year, we have been able to put together a strategy for attempting to recover a sample. I will say that having talked to Byron, he offered to get on the speaker phone this afternoon and talk to you all.

But I don't think you really want to hear from him, because he'd be pretty hot under the collar. He's facing a lot of ASMFC-imposed deadlines right now, and it's getting to be pretty burdensome.

But he pointed out that the particulars of how this sample is stratified is quite demanding, particularly when you don't get much in the way of fishery-independent samples to work with, and you have to get what you can find. So it's a challenge.

But, nonetheless, there will be an effort made to meet the requirements. One of the good pieces of news is that we're now operating a fishery-independent lobster trap survey in Western Long Island Sound.

They are catching some black fish, and that may help us to a great deal. Also, there is a couple of lobstermen who have agreed to help us as well. If needs be, I think perhaps we can get some help from a few of the Eastern Long Island open boats. So we're pretty optimistic.

I suggest, perhaps, what would be in order is for me to send a letter back to the board that lays out what the game plan is to complete a sample for this year. I will also say that I have questions in my mind, once we've recovered the sample, about how the aging work is getting done.

I've talked to our technical committee representative about issues related to, in my mind, questions about consistency of aging of tautog, and I'm interested to see how that's being resolved. But, we will make every effort to get sampling done.

MR. BEAL: Thank you, Gordon. Are there any questions for Gordon? I guess the board has heard the current status of the sampling in 2004, as well as the suggestion from New

York to send a letter back to the Commission highlighting their efforts and detailing the optimism that they have to collect the 200 samples, or as close as possible to that.

What is the pleasure of the board, hearing the status of things in New York? Mr. Colvin.

MR. COLVIN: I just want to emphasize, if it was a simple matter of getting 200 operculas to age, that would be a no-brainer. It's meeting the particulars of the size intervals, because when you're sampling, you get what there is. That's not what we're being asked to do. We're being asked to meet a specific stratification design. It's tough.

MR. BEAL: Thank you. Given that, are there any concerns, or what's the board's pleasure as far as the status of compliance in New York? Mark Gibson.

DR. GIBSON: I had a question for Paul. I'm not familiar with which states are required to collect the samples and so on, but what would be the consequences to your age key construction if New York doesn't have samples in '03 and '04?

MR. CARUSO: Well, it's obviously going to put a hole in it. I think we'll be okay because Connecticut oversampled and Massachusetts and Rhode Island are doing pretty good.

I think New Jersey is in good shape, so I think we'll be able to get around it, but I it obviously will hurt us a little bit if we start to fine-tune the assessment and get down to the sub-regional level where we put a couple of states together, obviously.

But I think we can make a case. In this case we can use the regional age key that will maybe cover from New Jersey north, so we might skate by okay, but it would be sure helpful to get those samples.

If I could just kind of go out on a limb here for the committee, if we can't make the 200 and five fish per centimeter, we'll take whatever we can get. It's always I think helpful to have some samples from the region, even if you don't meet the stratification.

I don't think we've looked into it too tight, and I don't think anybody really has complied with that down to the wire type requirement about five per centimeter.

As Gordon mentioned, you start getting up in the 60s, you're going to be hard pressed to get five tautog in the state, never mind five samples out of your commercial or recreational fishery.

But this is a joint effort. The assessment will be a joint effort, and obviously the more people bring to the table, the better the soup will come out at the end.

MR. BEAL: Thank you, Paul. I have Bruce Freeman then Howard.

MR. FREEMAN: Gordon, you indicated that you were collecting samples, but they were not necessarily of the -- all of them necessary for the various stratifications. The ones you are collecting, are they being utilized, either aged by you or by someone else? Are they being contributed to what we do have?

MR. COLVIN: I don't know; I'll find out.

MR. BEAL: Howard.

MR. HOWARD KING: Yes, if it's necessary, I would like to move that we find the state of New York conditionally compliant with the requirement, under the condition that they do provide a definite date certain when they would be able to fully comply.

MR. BEAL: Actually, we don't necessarily need a motion to find a state in compliance. It's assumed a state is in compliance. New York has indicated what they're willing to do to follow up with a letter detailing what Gordon has just mentioned on the record.

But, if the board feels that they would like to make a motion requesting that New York take certain activities or get certain things done by a certain date, the board has that latitude, but it's not necessary to pass a motion to find a state in compliance. Dr. Pierce.

DR. PIERCE: Well, at the least, I would like to see something in writing that would describe exactly what the problems were. Gordon has given us a verbal accounting, and I tried to follow it, but it was a bit difficult.

I would like something in writing so that we can better appreciate the extent of the problems that he's had to face. I'm certainly sympathetic to any state that has to accomplish specific monitoring to be in compliance with the plan when no funds are provided by ASMFC to do that monitoring.

It's difficult. We knew that would be the case from the get-go when this was put in as a compliance criteria, that states would have to make that effort to get the samples.

I think that Gordon said that the principal

reason why the samples weren't obtained is that the sizes of tautog appearing in the fishery weren't of a sufficient range that he could get the necessary samples. Am I adequately describing that, Gordon, that was a major problem for you?

MR. COLVIN: I'm tempted to say that the major problem is that we had an employee who decided to switch jobs so she could stay home with her kids, and there is a state hiring freeze that has been in effect since October of 2001. That's the principal reason. That's the underlying reason.

Let's not kid ourselves, that's a big issue for all of us. But in terms of what we see as the obstacle, the challenge for getting a complete sample this year, it's going to be filling out all of those size intervals in the sample.

Frankly, what has been said here today is helpful. The problem we ran into last year is that we had a game plan which just fell flat on its face, because we could not get samples from the commercial fishery.

You can see the commercial fishery isn't large to begin with, and what we find in the market place is predominantly live fish. We just couldn't get samples from them.

DR. PIERCE: Okay, so the problem was in 2003, and the problem is in 2004 you won't be able to get the necessary samples --

MR. COLVIN: We don't know; we're going to try.

DR. PIERCE: Okay, all right. All right, so New York is clearly indicating that it is going to make every attempt to get those samples.

With that understood, I certainly would not want to rule New York out or compliance on this monitoring criteria, but, again, I would like to see something in writing just for the record so we can refer back to it as the months go on, and we have to reflect back on this particular problem. So if, Gordon, you could provide that, that would be appreciated.

MR. COLVIN: As I said earlier, I'd be more than willing to send the board a letter that lays out what the game plan is.

MR. BEAL: Okay, thank you, Gordon. Gordon, do you think one-month time, say, September 15th, would be sufficient time to get that letter together, given your workload or will that make Byron go over the edge?

MR. COLVIN: We'll make every effort to get it to you by September 15th.

MR. BEAL: Thanks, Gordon. Vince had his hand up and then Tom Fote.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Thank you, Mr. Chairman. In our list of species, this is one of the four that hangs out there as overfished, and overfishing is occurring.

My question is, is there anything that the Commission might do that might help the state of New York internally with your argument on resources and priorities to address some of the things that are going on?

MR. BEAL: Gordon, do you have a response to that question?

MR. COLVIN: I need to think about that.

MR. BEAL: All right, thank you. Tom, and then we'll go back to Gordon.

MR. FOTE: Well, I know New Jersey, Vince, to answer your question, give us money. I mean, we're going to have the same problem. The problem is even if you get money, we can't hire the people to do the work, because we have the same hiring freeze that everybody else has.

We've actually had a hiring freeze, I don't know, it's going on ten years now, which makes it very difficult to hire when people retire. And as more people retire, it's going to get worse and worse.

I don't know. I mean, I think every state is going through the same problem. Maybe we need to set up a committee to look at it and help Vince and the Commission come up with some ideas to basically help us to get the people necessary or find out another way of doing it, because I think New Jersey is in the same difficult situation.

I would imagine the rest of the states are in the same place. Nobody is giving us any money to do that stuff. Even if we get the money, because of freezes, we are not allowed to hire the people to replace those that retired. I mean, we still haven't replaced Bruce Halgren or Buchane when they left.

MR. BEAL: Thanks, Tom. Gordon.

MR. COLVIN: Tom's comments remind me of one thing that is responsive, kind of generically, to Vince's question. I recall this coming up when we

adopted the current amendment to the Weakfish Plan, because like tautog, weakfish has a compulsory requirement for recover of, I believe, a certain number of otolith samples for aging work.

During the time of that adoption, there were a lot of concerns raised about the ability of the states, the same issue that we're talking about now.

One of the things that was kicked around at that time was that perhaps something that the Commission could look into doing was putting together some kind of a contract with a third party to do the actual aging.

The states could at least get the samples by hook or by crook working with the ACCSP or whatever. A third party contractually doing all the aging would take one more brick off the load, and that wouldn't be unwelcome at all.

MR. BEAL: Thank you, Gordon. Paul, do you have a comment on that?

MR. CARUSO: Gordon, just to help you out a little bit here, any state that collects the samples, I think you'll find that we can find enough horsepower for a couple hundred samples in the committee just to get them read.

So I think once you make that commitment to get the samples, at least they're archived. Even if they sit there for five years, we'll find a way to read them. Thanks.

MR. BEAL: Thanks, Paul. We are about two minutes over our time, so we've got a couple more comments. Gerry.

MR. CARVALHO: I'll make it short, Mr. Chairman. If it will help,

Gordon, in Rhode Island, when they need samples, there are a dozen commercial boats that they call. The commercial boats catch them and will deliver them for the sample taking, so he might utilize that same resource.

MR. BEAL: Thank you, Gerry. Given the fact that the discussion is that -- or where we are now is Gordon is going to draft a letter, hopefully, in the next month or so, send it to the management board, summarizing the status of data collection in New York and the probability or optimism that they'll be able to fill out the 200 samples in the right bins that have been created for 2004, is there any other action that the board would like to take regarding the New York compliance with the monitoring requirement in the plan?

OTHER BUSINESS

All right, seeing none, that brings us to Number 5 on our agenda, which is other business. Is there any other business to come before the Tautog Management Board? Seeing none, the management board is adjourned.

(Whereupon, the meeting adjourned at 3:05 o'clock p.m., August 16, 2004.)

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