

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

**Crowne Plaza Hotel Old Town
Alexandria, Virginia
August 3, 2010**

Board Approved: November 2010

TABLE OF CONTENTS

Call to Order	1
Approval of Agenda.....	1
Approval of Proceedings.....	1
Public Comment.....	1
Review of Previous Board Actions.....	1
Technical Committee Conference Call Summary.....	2
Advisory Panel Conference Call Summary	7
LEC Review of Illegal Live Market	9
Discussion of Next Steps in Tautog Management	9
2007 and 2008 FMP Review and State Compliance.....	15
Appointments To Technical Committee Membership.....	15
Advisory Panel Membership.....	15
Adjournment	15

INDEX OF MOTIONS

1. **Approval of Agenda by Consent** (Page 1).
2. **Approval of Proceedings of February 5, 2008 by Consent** (Page 1).
3. **Motion to initiate an addendum to address illegal harvest of tautog and to prevent an escalation in fishing mortality prior to the completion of the next assessment** (Page 12).
Motion by David Simpson; second by William McElroy. Motion carried by consensus (Page 15).
4. **Motion to adjourn by Consent** (Page 15).

ATTENDANCE

Board Members

David Pierce, MA, proxy for P. Diodati, (AA)
William Adler, MA (GA)
Rep. Sarah Peake, MA (LA)
Mark Gibson, RI, proxy for R. Ballou (AA)
William McElroy, RI (GA)
Rep. Peter Martin, RI (LA)
Dr. Lance Stewart, CT (GA)
Dave Simpson, CT (AC)
Rep. Craig Miner, CT (LA)
James Gilmore, NY (AA)
Pat Augustine, NY (GA)
Brian Culhane, NY, proxy for Sen. Foley (LA)

Peter Himchak, NJ, proxy for D. Chanda (AC)
Tom Fote, NJ (GA)
Jeff Tinsman, DE, proxy for P. Emory (AA)
Bernie Pankowski, DE, proxy for Sen. Venables(LA)
Roy Miller, DE (GA)
Tom O'Connell, MD (AA)
Bill Goldsborough, MD (GA)
Russell Dize, MD, proxy for Sen. Colburn (LA)
Jack Travelstead, VA, proxy for S. Bowman (AA)
Catherine Davenport, VA (GA)
Bob Ross, NMFS

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

Ex-Officio Members

Staff

Robert Beal
Brad Spear

Chris Vonderweidt

Guests

Peter Burns, NMFS
Pat Donnelly

Paul Caruso

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 3, 2010, and was called to order at 8:00 o'clock a.m. by Chairman Patrick Augustine.

CALL TO ORDER

CHAIRMAN PATRICK AUGUSTINE: Good morning, ladies and gentlemen. Welcome to the Tautog Management Board Meeting this August 3, 2010.

APPROVAL OF AGENDA

We have an agenda in front of you. I would like to have quickly review that. Are there additions, corrections, suggestions, realignment? Okay, are there any objections to the agenda as presented? Seeing none, the agenda is approved.

APPROVAL OF PROCEEDINGS

I hope you've had a chance to review the proceedings from the February 5, 2008, minutes. They've have been so long passed now I forgot what they were, so I went back and reviewed them. Were there any corrections, changes or deletions that you would like to see? Is there any objection to approving the February 2008 minutes? Seeing none, they're approved by consensus.

PUBLIC COMMENT

At this time I would like to offer an opportunity for public comment. As you recall, if there is an item that is not on the agenda and you would like to bring it forth at this time, please feel free to do so. As the presentations are made from each of the groups, the advisory panel, technical committee and law enforcement committee, after they have made their presentation and the board has an opportunity to respond, I will ask the public for their comments and we'll address you at that time. We're down to Item 4, Chris, would please bring us up to speed on previous board actions.

REVIEW OF PREVIOUS BOARD ACTIONS

MR. CHRISTOPHER VONDERWEIDT: It has been about two and a half years since this board has met, so I'm just going to go through and I was asked to give a little review of what happened in the year and a half or so leading up to the previous actions. The most recent assessment, the 2005 assessment and

the 2006 update of that assessment, showed that the fishing mortality rates were near the target, which was specified by Addendum III of spawning stock biomass 40 percent. That was right around 0.29.

It also showed that stock levels remain near historic lows. In response to this, the board initiated Addendum IV. This graphic is the target and threshold which were approved about a year and a half after the actual assessment, but the thick box at the bottom, the blue, that is the SSB, and then target is the dashed line – or the threshold is the dashed line and the target is the solid line.

You can see there is lots of room for rebuilding. During the development of Addendum IV, the technical committee developed projections and recommendations based on those projections. They recommended a target of 26,800 metric tons; a threshold that is 75 percent of that target, which is 20,100 metric tons. Previously there was no biomass metric so there was nothing to let us know if it was overfished or not.

They also recommended an Ftarget equal to 0.15. Just a little note there at the bottom, the initial FMP in 1996, the fishing mortality that was implemented was 0.15, which coincides with the natural mortality rate, so it was set at a level equal to that. States had trouble implementing that, and so it was delayed implementation through subsequent Addendum I in 1997, and then it was further delayed in 1999.

Then in 2002 the board set the fishing mortality rate equal to SSB 40 percent, which equals 0.29. There is kind of this history of 0.15 but never really coming all the way there. As I said before, in the development of Addendum IV the technical committee developed projections based on the current biomass.

If you look up there, the dotted little tooth line there at 20,000, that's the threshold and the target is up at 26,000 and this is various fishing mortality rates. This is the least optimistic of the projections. I'll show you that's slightly more optimistic. This is based on constant recruitment. The current fishing mortality rate is the asterisk line at the bottom there, and you see that even in 15 years it doesn't come close to achieving the threshold.

Then above that is the X, which is F equals 0.2, which is what the current fishing mortality rate is. Based on constant recruitment, it doesn't come close to the threshold either in 15 years. Then the 0.15, the triangle, that gets up to the threshold in about 15

years. Now a more optimistic outlook of that is the Beverton-Holt, so this takes into account the new recruits to the fishery, so it goes on a more exponential level.

The asterisks' line at the bottom there is 0.28 and you see that almost reaches the threshold in about 15 years; and then 0.2, which is what we implemented, that breaks the threshold in 12 years; and then 0.15, that breaks the threshold in about 9 years. These are the projections that were developed.

One important note is that the technical committee said you can't really take – you could take these with a grain of salt past five years because it is very hard to project, so up to five years is kind of what their comfort level was with these projections. Addendum IV established the target and threshold biomass, giving us a reference metric for the first time; implemented 0.20, which is less than what the technical committee recommended.

This equated to a 25.6 percent reduction in exploitation. There was a provision in there that said reductions can only come from the recreational fishery. Based on the coast-wide fishing mortality rate, all states were required to reduce their overall fishery 25.6 percent by taking reductions in the recreational fisheries, so this means more than 25.6 percent in the recreational fishery because you've got to account for the commercial fishing pressure.

It was also based on the notion that the fishery is about 90 percent recreational and 10 percent commercial. As states went back and looked at their actual landings, the fishery had shifted more like 60/40 in some states. I think Massachusetts was a little bit higher. Addendum IV was run and it just allowed states to achieve reductions in the recreational and/or commercial fishery.

I would also point out that states that could prove with a regional assessment at the same level of precision as the coast-wide assessment were allowed to have less reductions than the 25.6 percent. Massachusetts and Rhode Island brought forth a regional VPA. Paul is going to go over that in great detail in the next presentation.

And then the last note was that January 2008 was the first year that states were required to implement regulations. If you go to the next slide and you look on the right here – and this is more anecdotal than anything else – the red circle there, those are the base years that the technical committee recommended, the

board reviewed and said all states must reduce their exploitation based on these base years, 2003-2005.

The circle to the right of that in blue are landings since states have implemented the new regulations. There is more landing now than the base years even years even though states have implemented the reductions that meet or exceed the requirements and were reviewed and approved by the board and the technical committee. That is the history.

CHAIRMAN AUGUSTINE: Very good recap, Chris, thank you very much. Any questions from the board? Yes, Dr. Pierce.

DR. DAVID PIERCE: To the last figure, Chris, I couldn't make out the colors; the line, that was the recreational fishery harvest?

MR. VONDERWEIDT: Correct.

CHAIRMAN AUGUSTINE: Okay, any further questions? Any questions from the public? Okay, seeing none, thank you very much for that update, Chris. We would like to have the technical committee conference call summary now. Paul Caruso, will you please give us that.

TECHNICAL COMMITTEE CONFERENCE CALL SUMMARY

MR. PAUL CARUSO: On your agenda you will note there are five items that the technical committee reviewed during a conference call recently. It was about a month and a half ago. The first item that the technical committee went over was the state regulation update. Since the annual compliance report process reviews the state regulations, the only regulation we discussed during this part of the agenda was the New Jersey regulations.

The state of New Jersey implemented regulations in 2008, just like all the other states. The process is generally the same. The state puts forward options and the technical committee reviews those options and recommends various options to the board. The board decides and then the states go and implement. In this case the state of New Jersey implemented a slightly difference regulation than they originally had listed in their options.

The technical committee reviewed the methodology that they used to develop this new regulation. It is identical to the methodology used to review the options back when the technical committee reviewed them. There was a very minor difference between the required reductions. At the time 25.6 was the

required reduction, as Chris had mentioned. My recollection is the New Jersey implemented regulation added up to 24.56.

Based upon the assumptions that we normally make going into these analyses and the review of those analyses, this is a trivial amount. That's the feeling of the technical committee, so the technical committee was very comfortable with the regulation that New Jersey approved and had no further comment. It might be best as I go through this, if anybody has any other questions about this item, to bring it up now instead of at the end.

CHAIRMAN AUGUSTINE: Does the board have any questions on that approach?

MR. CARUSO: Okay, great! As Chris had mentioned, Massachusetts and Rhode Island, in 2008, brought forward a VPA. It's pretty much identical to the regional VPA. The only difference is the only data in our regional assessment is that it's all Massachusetts and Rhode Island data. At that time the technical committee was comfortable with the VPA and that it met the requirements of the FMP.

Massachusetts and Rhode Island have basically been allowed to do their own thing for the last couple of years. The reduction that was needed to be taken for Massachusetts and Rhode Island – there was still a reduction and it was 12 percent instead of the 25.6 percent. Massachusetts and Rhode Island, the landings have dropped approximately 17 percent, so we did meet the reductions.

However, the latest update of the assessment shows that our fishing mortality rate is creeping up. The 2007 estimate was 0.23, I believe, which is slightly above the target of 0.2. Just to let folks know, generally when we do these VPA updates, we look at the terminal year F, but we adopt the prior to the last year's terminal year estimate.

That is because the VPA is a little unstable in the last year so we always wait an extra year to get a secondary read on that terminal year estimate before we adopt it. At that time the two states just sat on that because we felt that clearly that's the first year read on that fishing mortality rate, and it was only the first year that landings were being adjusted by this reduction in harvest.

This spring Jason McNamee, who I'm sitting in for, by the way, and I reran the Massachusetts and Rhode Island VPA update, and it is showing a terminal year estimate of fishing mortality that is up around 0.38,

so things are creeping up. Just to get into why they're creeping up, we looked at the landings, of course, and the landings have dropped; so that's a good thing, we met the requirement of the reduction in landings.

But, like the coast-wide assessment, this VPA model is pretty vulnerable to slight changes in the fisheries-independent indices, and that's pretty what is happening. Because we have a little drop in the indices, the VPA reacts quite rapidly to those drops and the fishing mortality rate has crept up over what we consider our target, which is the same as the coast-wide target.

As Massachusetts and Rhode Island is concerned, the stock numbers are still high. We have no immediate concern of recruitment failure or the stock is going to crash here. The state of Rhode Island is proactively considering a change in their recreational management measures. The reason for that is they have a fall harvest limit that's eight fish, I believe.

In Massachusetts we have a year-round limit of three fish. It has done a big job in Massachusetts of bringing down the fishery effort. Basically, when you get down below four or five fish, the fishing effort drops substantially, and our catches have dropped from an average of about 250,000 fish back in the eighties and nineties to about 30,000 fish a year, a considerable drop.

Rhode Island has this liberal bag limit in the fall months when, as you know, tautog represents one of the few recreational targets for the late season fishery. I think there has been this feeling in Rhode Island that this is a little bit too much of an opportunity for the anglers. When you talk about bag limits in the six to eight range, anglers feel compelled to want to target tautog.

It is really a fish that you have to target to catch, and there has been kind of an effort shift to later in the year for these animals. There are also some transboundary issues that go along with this higher bag limit. Rhode Island feels that people in Massachusetts and Connecticut may be traveling to Rhode Island to take advantage of the liberal bag limit; and I think correspondingly people in Massachusetts, we've seen boats that come from Rhode Island and fish in our waters and keep more than our minimum bag limit of three and then go back to Rhode Island where they're legal.

This is a good thing to address I think for the state of Rhode Island especially given that it can make the

landings jump up considerably in the years when we have good fall weather. That's it for Rhode Island. All right, well, that's it for the Massachusetts/Rhode Island update. I guess I'll take questions on that now before we jump to the next item.

CHAIRMAN AUGUSTINE: Thank you for the update, Paul. Any questions on that and did Rhode Island want to respond with what their plan might be? Dr. Pierce.

DR. PIERCE: I'll pass to Mark.

DR. MARK GIBSON: We went to public hearing last week and took comment on a number of alternatives that might address what we feel is an increase in the fishing mortality rate. Paul has characterized that exactly right; that the catch remains high enough that given a change in the abundance indices to the negative, it generates a higher fishing mortality rate. We're concerned that the recovery that we haven't seen for the past few years could be squandered.

Tautog is probably one of the species where the population dynamics are the most stable, and we understand it has fairly stable recruitment. Its accruals of rates of biomass are pretty well understood, and there is pretty much a direct relationship between fishing – or inverse between fishing mortality, the higher you fish them the less biomass you're going to have because you truncate out the age structure.

We're quite concerned about that. I don't know what the director is going to decide yet, but there are a number of options including elimination of that liberal fall bag limit, which we think is where most of the action is relative to the fishing mortality rate right now.

CHAIRMAN AUGUSTINE: Dr. Gibson, a followup; do you feel there will be a result between now and our next meeting and that you might want to report on that?

DR. GIBSON: Yes, we should know by then.

CHAIRMAN AUGUSTINE: David, you were next now.

DR. PIERCE: Well, obviously, we are aware of what the state of Rhode Island is doing and we're very glad to see that they're moving forward with a number of options that would deal with what we all expect will be an increase in effort on the tautog

resource. As Mark has already indicate, we don't want to squander any other benefits we've already accrued through the restrictions we have imposed in our local area.

We will be just continuing our communication with Mark and his director to see where they end up, encouraging them to, well, hopefully, get on the same page that we're on with a lower possession limit in order to respond to what likely will be that shift in effort. You heard yesterday what is going on with the lobster fishery.

Of course, there have been previous board meetings dealing with the lobster fishery and the dire straits for the lobster fishery in the Southern New England area, as indicated by Paul and others, fishermen considering and actually shifting to tautog as a way to compensate for a lack of lobster.

We're encouraged to see them move forward and we hope for a very positive outcome because we don't want to see, in the end, what New Jersey and New York have had to deal with for many years with rather drastic difference in possession limits for recreational fisheries that has caused all sorts of grief for the state with a lower limit.

CHAIRMAN AUGUSTINE: Any comment from the public or other board members? If not, Paul, I guess we're back to you again.

MR. CARUSO: I'm just going to back up for one second and one thing I failed to mention regarding the regional VPA assessment. The model we've used for the coast-wide assessment as well as the regional assessment for the last ten years or so, we've had a good feeling about it. Unlike a lot of other species, we've really had a retrospective pattern with respect to the estimates of biomass and fishing mortality.

However, one is starting to creep up in the regional assessment; and I assume when we get to the coastwide, we may see a similar pattern. This will segue I guess into our discussion about the illegal live market. We always ponder when we use these models what the actual catch is versus what models are telling us what the catch is, and in this case things are starting to diverge and we're starting to see a little retrospective and it may be an indication of illegal catch not being recorded.

Okay, on to the next assessment, and obviously it's not too early to start talking about an update of the coast-wide assessment. The technical committee had a rather lengthy discussion about it. Obviously, as in

most other species, we're tied to the data stream that we can plug into the model. As you know, we implemented the last round of reductions in 2008, so that's 2008 and we'll have 2009 harvest data.

The VPA model needs the following year's fisheries-independent indices to run, so that would mean the 2010 indices. They're not in yet; it's still 2010 so we can't start working today. We're basically constrained with a January 1 start when most state indices will be in and the harvest data will be in. We'll be using preliminary recreational harvest data.

Well, excuse me, we'll be actually using final data from 2009, so we're okay there. It does not appear at this time that is going to be a conflict with any of the other key species. As most of you are aware, most of the technical committee members work on a lot of other ASMFC species, and we wanted to be sure we weren't splitting our resources as we have in the past trying to deal with three or four different assessments in the same year.

The consensus of the committee was to put forward the VPA model we've used in the last few years, but we're going to work to transition to the ASAP model, as we have with many of the other similar species. Fluke, scup and bluefish have all moved to the ASAP model. The ASAP model has been a good tool for those species. However, it's not one of these, I guess you could call it cold cake dish where you just jump right into it.

You need to transition from the VPA model to the ASAP model because the ASAP model has a lot of knobs and whistles and bells that you can adjust, but you need to groundtruth that to something. In the past, with the other assessments, we've also groundtruthed it to the VPA model. We try to tune that ASAP model to get similar results to the VPA model and then bring forward the ASAP model as the primary model to the peer review and hopefully get that accepted.

If we have time and we have the expertise, which I think we do, we'll probably at a Stock Synthesis Model. If we have a little help from our friends, we'll probably run a biomass dynamic model as well for comparison to the prior VPA results and the new ASAP results. Prior criticisms of that model have been that the life span of this animal was longer than the data stream that we put into it, but it has been another ten years now, so we'll have another model there that we can at least look at and groundtruth the other models with.

That's it I guess for the discussion of the assessment. It looks like we'll start early next spring and hopefully we'll bring it to peer review next fall. Whether or not it gets through the peer review process in time to do something by January of next year, that will pretty much be up to the way things flow, but that's the hope.

CHAIRMAN AUGUSTINE: Thank you for that presentation, Paul. On the next assessment the technical committee is asking for a consensus to start the process next spring. Unless there is objection from the board – is there any objection from the board for the technical committee to commence that effort for 2011? So without object, then, we will approve the technical committee does that.

MR. PETER HIMCHAK: Mr. Chairman, I had a question for Paul before we moved off this subject. Assuming the transition to the ASAP model or you stay with the VPA model, what actually will be presented for the peer review? Will it be the coast-wide VPA or the coast-wide ASAP? Then, again, we're going to come into the possibilities of separate regional assessments, and will they be submitted at the same time? Will they be peer reviewed or will we just get the one peer review and then your regional assessment if it passes muster in comparison to the coastal standard?

CHAIRMAN AUGUSTINE: Paul, do you want to try to respond to that one?

MR. CARUSO: Yes, those are all very good questions, Peter. We didn't talk a lot about it at the call, but I think if history is our past guide we'll try to do what we did the last time. We'll carry forward the best coast-wide model. We may be able to break it down to a regional north/south estimate like we have in the past. As you know, the southern has always been a little bit of a problem because we lose most of our fisheries-independent indices once we go south of your state of New Jersey.

I assume at this time – and it may be a bad assumption, but I'm thinking that most of the states, if they have additional information, models of their own, a Massachusetts/Rhode Island again, that we will put it forward at the same time as kind of a different appendices for the peer review panel to review and comment. I think that process worked very well.

I think the panel was fair in their assessment that most of the regional or state-wide models were – you know, some of them were very good and some of

them were not so good. I think all of it was great information to put on the table. It gave them a comfort level I think about the regional models.

MR. HIMCHAK: If I might, Mr. Chairman, yes, I think this would have been very helpful to us. I assume we'll still put forward the TBAM model, which was a trawl-based assessment methodology; and, boy, we only lost by one vote at the board level for getting it approved. If we could get favorable comments during the peer review, it may help us specifically to New Jersey, but I would certainly want to take advantage of that opportunity to get a peer review on it.

MR. CARUSO: Okay, next the technical committee talked about the recreational effort shift. The board had requested that we look at the efforts. We did review the data from MRFSS over the last four years. We didn't go back much further than that, because I think the board was looking to see what might have happened with respect to last year's black sea bass changes.

Most of you are aware that this is the species that when sea bass is not available at about that time of the year, in the fall especially, people have turned to tautog. That's probably not true over the entire coast. It seems to be more of an issue in the Mid-Atlantic. We did look at those changes in effort, and there didn't seem to be any real change except for the state of Maryland in 2009 and may be likely because of the black sea bass.

But because of the timing of the fisheries, especially the further north you go, they don't really co-occur at the same time. It's probably less of an issue up north. I know in Massachusetts our sea bass are gone by Columbus Day, and that's just when the good tautog fishing kicks in, so it's not really an issue there.

The technical committee has determined that obviously with the return of the season of black sea bass, it shouldn't be an issue in 2010 and may be in the future if we have a black sea bass seasonal restriction again. The technical committee notes that there are interactions between many of these species that must be kept in mind when setting seasons, bags, et cetera, as regional recreational fishing behavior is very plastic and will change to take advantage of any lost opportunity.

I think you're going to be dealing quite soon with two species where this is particularly true, and that's scup and black sea bass. What you do for one is going to affect the other no matter how you are trying

to slice and dice it. Other than that, we really didn't have a lot of comments. We thought it was a one-year issue and hopefully it has gone away for a while.

CHAIRMAN AUGUSTINE: Any comments? That's a good report. Mr. Adler.

MR. WILLIAM A. ADLER: Paul, after the presentation, which is good, I just wanted a couple of takeaway messages, which is one of the pieces of paper here. Basically, the stock is still overfished because the abundance is below the target and threshold; and what about overfishing?

MR. CARUSO: Back at the last assessment, tautog was overfished. I don't believe overfishing was occurring at the time, no.

MR. ADLER: Okay, because the last page here, the fishing mortality is below the existing overfishing definition and stock biomass is still well below the target and threshold levels. Am I reading that at least when this picture was taken, that they were not overfishing but the stock biomass was still not up where it is supposed to be; is that the takeaway?

MR. CARUSO: That's correct.

CHAIRMAN AUGUSTINE: Any further questions from the board? Any questions from the public? Seeing none, we will move on.

MR. CARUSO: Okay, the next discussion item – this was a long conference call – was the illegal harvest. The technical committee has talked about this in the past, as you're well aware. Genny Nesslage did some analyses back then and showed that you would have to have very significant illegal harvest to affect the assessment results as a rule.

We're talking on the order of almost as much harvest illegally as you have legally to make that fishing mortality rate jump up quite a bit. This is largely commercial landings. Obviously, this is unrecorded landings so it's very hard to quantify the scope of those landings; and other than a lot of hearsay evidence, we don't really know what is going on. We may hear a little bit more from law enforcement.

We know that it may be increasing the northeast. Last year we had people advertising on Craig's List to buy tautog presumably illegally in landings. I guess there were some law enforcement actions. I don't believe in Massachusetts there was much, but I think in either Rhode Island or Connecticut or New

York there was some substantial law enforcement actions.

This is an animal that even in small quantities are worth some serious money. As much as people need water to keep them alive, you would think anybody would see a tank truck going by with a lot of tautog in it. Because they're a very hale and hardy animal, you can take a hundred gallon drum and shove it full of water and you can put almost as many tautog in there as there is water, so they're a little bit portable and the price is high.

There are a lot of venues when you can get rid of live tautog, particularly ethnic markets and ethnic restaurants, so there is reason to believe there may be some increase in the northeast, more than there has been in the past. This retrospective bias I talked about in the regional assessment is cause for some concern that leads me to believe there may be some more of this in the northeast, but we'll watch for this same retrospective bias to see if it develops in the coast-wide pattern to see if it's a larger issue.

Something that you already know and we know is that we believe that black market sales are symptomatic of the poor economy, the reduction in X-vessel prices to the fishermen for a lot of their catch and a pretty serious reduction in law enforcement capabilities. That's really all we had to say about it at this time.

CHAIRMAN AUGUSTINE: Okay, thank you very much, very clear and concise, and we appreciate the effort, though, of the technical committee. Any comments from the board?

MR. CARUSO: Final slide, promise. The only thing you need to about the vice-chair; it's me, Round 3. Hopefully, it will be as much fun as the last couple of times around. It will be a lot of work. I think we're going to go into another assessment, so I've got my work cut out for me.

CHAIRMAN AUGUSTINE: Thank you, Paul. Without further ado, we'll move on to, Dr. Donnelly, would you give us your advisory panel conference call report, please.

ADVISORY PANEL CONFERENCE CALL SUMMARY

DR. PATRICK DONNELLY: We had a conference call on July 9th. We started discussing the shift in effort because of the closure of the black sea bass season. Most of the advisors involved did not think it was a big deal that because of the nature of

particularly recreational tautog fishing, it's not something that somebody just jumps into and gets good at.

We are hoping, obviously, that we don't have to have a closure of black sea bass and that doesn't happen again, but the majority of advisors did not think that was something that we're going to have to worry about too much longer. The lobster issue, the commercial people thought that would not be something – I don't think that they thought that they were going to have to make a shift in that direction.

Overall, the effort shift issue was not that much of a discussion topic. The live market was. I would say that the people who are on the water think that 90/10 in terms of a split, people feel that the illegal market is at least as much a live issue as the legal market and the legal fishery. There was a lot of frustration on the conference call concerning how we best address that.

People are stumbling over issues of how we can address it and what could be done. There was talk of requiring recreational anglers to kill their fish so that it would take them out of the live market, it would stop people from high grading and throwing back smaller fish as they get bigger fish.

I'll speak from New Jersey's standpoint, at our last council meeting law enforcement said they had a hundred percent success rate of catching illegal tautog fishers; that every time they stopped somebody tautog fishing, they were in violation whether it was commercial or recreational. When we talk about how big a deal it is, the people on the water think it's an outrageous deal.

The recreational people were not that much in favor of having to kill their fish and do that. That was more of a commercial issue, but there was just a general level of frustration of how we best address this because the people who do follow the rules are paying the price for people who are not following the rules.

I think if the discussion was an hour and a half, that was probably an hour and ten minutes of the discussion. There was some discussion about not having a federal plan and how we close loopholes to make sure that there is no way for anybody to access this illegal fishery. Again, you're hearing what is anecdotal that is on-the-water comments, but people are looking for how best to address this.

There was some discussion that the illegal fishery is not only the live fishery. Some of the commercial

people were saying that the pinhook fishery is as big a deal also, so they are upset because it is affecting their price. Again, since they are not licensed commercial fishermen, we as recreational don't want to have them lumped under our umbrella either.

Again, it was the first time that the AP has together in a couple of years. It was good to get the discussion going. I can tell you that the gist of the conference call centered on addressing that illegal fishery and how best we go forward, knowing that we need to rebuild the stock. Thank you, Mr. Chair.

CHAIRMAN AUGUSTINE: Excellent report, thank you very much. Mr. Fote.

MR. THOMAS FOTE: Last Thursday we had a meeting, a pre-Atlantic States Marine Fisheries Commission, as do with all the commissioners from New Jersey and with all the staff. One of the questions we asked about the law enforcement question, the way it was posed was who are they checking, and, you know, what they're checking is people they found violations on before, so they've got a hundred percent chance of those party and charterboats that they've found violations on, again finding the same violations.

It is not where they're going out and randomly checking a lot of the people. That's one of the reasons we're asking law enforcement to tell us how they come with those statistics, which we want to make sure that because if their targeting people they know that break the law and they're not targeting the other people, it is going to skew the statistics saying it's a hundred percent looking at it. We want to make sure the figures are basically there, because when you use compliance figures, it is a lot different than a hundred percent law enforcement, so we have to make sure that those figures are taken into context of what the law enforcement does on it.

CHAIRMAN AUGUSTINE: Thank you, Mr. Fote. Any other comments from the board? I noted in here that the advisory panel made a very distinct consensus statement relative to killing fish. It said the final consensus was that recreational anglers should be required to kill any tautog immediately after catching them, and they believed probably the best way to do it – and one member described how to do it.

The AP also agreed the recreational fishermen have no need for live fish and the poached fish supply lowers the price. I would suggest that the board might want to consider action along that line of

following their recommendation or at least we should bring it up before the meeting is over under other business. Any other comments? Thank you, Dr. Donnelly. Mike Howard is not here, but you have a law enforcement report. I think one was passed out to you. I'm sorry, before we go forward, please come forward, I forgot.

MR. ADAM NOWALSKI: Mr. Chairman, Adam Nowalski. I was on the AP call as an observer to be able to listen to that. With regards to the consensus and unanimous agreement here that was indicated with regards to bleeding and killing of tautog in the recreational market, I just wanted to make the comment that when taking a look at the list of participants that were on that call from the advisors, that there was a limited number of recreational advisors out of the whole advisory panel there.

In fact some of them that were on the call that are listed here were not able to stay on for the entire call. This recommendation came from a very limited recreational advisory sense, and this recommendation I felt was put forth more so by the commercial sector as a way for the commercial interest to say here is a problem and we want the recreational sector purely to address this.

I just want to bring that point forward that while the comments in here are accurate, that out of those people on the call and this is what was represented, I think it's very limited in terms of what the entire advisory panel recommends. I think that if you polled the entire advisory panel you would find limited support from the recreational sector for moving forward with a recommendation of this magnitude.

This is an effort that is a problem with regards to the live market that is certainly shared by the recreational sector, but it needs to be recognized that this is a commercial problem as well, and the recreational sector should not bear the brunt of addressing the problem. Thank you very much.

CHAIRMAN AUGUSTINE: Thank you, Mr. Nowalski, for that clarification. The board still may want to consider some action in order to control the live market or help enforcement do a better job. Mr. Fote.

MR. FOTE: Again, we call this live market and we basically refer to the poachers as recreational fishermen. They're not recreational fishermen, and I think that's where the recreational community is upset about this figure. It's illegal commercial

fishermen operating beyond the bounds of the law. They are the people who need to be addressed.

There was a proposal years ago to basically do away with the live sale of blackfish, and we figured that would basically deal with the problem altogether both commercially and recreationally. If we're going to look at a suite of options, we have to look at a suite of options to deal with poachers, to deal with an illegal commercial fishery that is going on.

It's also whether it's – you know, the recreational community doesn't put out live wells to go and catch blackfish to bring them home. It's an illegal commercial poaching operation and we need to address that, and that's really what I'm looking at. I'm not looking at blaming one sector or the other but dealing with an illegal fishery.

CHAIRMAN AUGUSTINE: Thank you for that clarification, Mr. Fote; right on! Any further comments from the board? You all have a copy of the law enforcement report. Were there any questions on it? It looks like the law enforcement –

MR. VONDERWEIDT: Can I just brief the board real quick?

CHAIRMAN AUGUSTINE: Yes. It looks like they did an awful lot of work and answered the hard questions we were asking them to answer, so, Chris, would you follow up, please, since you attended that meeting.

LEC REVIEW OF ILLEGAL LIVE MARKET

MR. VONDERWEIDT: Actually, Mike was hoping to be here, but he had a conflict at the last minute. I talked to him at length last week. There is a memo dated July 14, 2010, on the CD. It's two paragraphs and it basically says that the tautog regulations are enforceable and enforcement is aggressive.

Being that I was going to have to give the update, I asked him more about that. He sent me the report from January 15, 2007. You might remember the board sent a bunch of questions to the LEC about the live market. There were specific questions from board members. Rather than go through that, I just handed it out and you can look through that quickly. I'm not prepared to answer questions from a law enforcement point of view, so that's kind of the background of it. This memo was kind of intended to just remind the board of what the LEC came up with the last time.

CHAIRMAN AUGUSTINE: Thank you for that clarification. Mr. Fote, followup.

MR. FOTE: I'd like to ask the Law Enforcement Committee the same question we're going to ask New Jersey's Law Enforcement Committee is when it comes to the statistics and you come to targeting people, are you targeting people because they're recidive and you know they're chronic lawbreakers and does that skew your law enforcement report? I'm not sure and I'd just like to have that question answered because we do compliance figures. We figure the summer flounder, sea bass or tautog and we do that and so I would like to know.

DISCUSSION OF NEXT STEPS IN TAUTOG MANAGEMENT

CHAIRMAN AUGUSTINE: We'll pose that question to the Law Enforcement Committee. Thank you, Mr. Fote. All right, we'll move on to the next item, a discussion of next steps in tautog management. We already started into that discussion with our last few comments. Is there anything that the board would like to put on the table at this particular point in time or are we satisfied with what the technical committee has put forth and the advisory panel and law enforcement? Are there any issues that are burning that we should move forward with in the process or are we happy with where we are and the direction we're going? Unless there is a specific burning issue – Representative Miner, please.

REPRESENTATIVE CRAIG A. MINER: I guess I'm just trying to figure out what the issue is that we're trying to resolve in the bleeding of fish. Is it that you don't want to bring it ashore alive so that it can be transported from there or you don't want the upsizing? I know some states have upsizing rules. The state of Maine does with regard to salmon. You have to kill the fish immediately, but I'm not so sure that necessarily stops people from releasing a dead fish into the water on a 23-mile-long lake.

CHAIRMAN AUGUSTINE: We can have Dr. Donnelly respond to that. It sounds like the point that the advisory panel made and that I've heard voiced personally is that a live fish is saleable. Whether you're poaching or whether you're recreational or commercial, typically commercial, they'll get a higher price for it, needless to say, and those folks that are poaching illegally, whether they're again in that quasi-recreational, they are commercial by selling, they prefer to keep them alive. I do know on Long Island the prices goes anywhere between eight

and nine dollars a pound. That goes for burgalls, also. Dr. Donnelly, if you would respond, please.

DR. DONNELLY: I think when the discussion started, it started as nobody lands a live fish and it drifted in one direction. You guys do more conference calls than I do. We had somebody kind of dominate our conference call for a little bit, and it just kind of went off in that direction. It started with nobody lands live fish and ended with discussions on high grading and where we go from there.

The issue was live fish coming back to the dock. That's where the discussion started. There was – when we say unanimous support, Mr. Nowalski was right, I would say that recreational people were not really well represented in that discussion, but the commercial interests there know that, as Mr. Augustine said, a live fish is eight dollars a pound and a dead fish is two dollars a pound. The commercial people I don't think are going to complain as much about a two dollar fish coming in as an eight dollar fish. That was the gist of the discussion is to stop live fish from coming into the dock.

CHAIRMAN AUGUSTINE: Does that answer that question?

REPRESENTATIVE MINER: Well, it does; and I guess I would suggest if that is really going to be our focus, then we shouldn't be so concerned about upgrading, if that's what it is, because it seems like this specie is pretty hardy and can withstand upgrading. I think there are some that probably don't fair as well. If it is really the market that we're trying to correct, I think it's important that we focus on how we deal with that point of bleeding. Then, of course, I think the point is made about whether it's just recreational or recreational and commercial as well is something we need to resolve.

CHAIRMAN AUGUSTINE: That's correct. Dr. Pierce followed by Mr. Fote.

DR. PIERCE: I'm still trying to reconcile the conclusions of the advisory panel, the points that they made versus the answers to the questions that law enforcement has provided. Illegal poaching, the advisors say that illegal poaching is common. They say new regulations are necessary to fix the problem.

Enforcement says existing regulations are very enforceable as written. The demand for live undersized tautog is of concern of them still, or course. However, they've done quite a bit in their

arena, and that is they've had dozens of cases and seizures of undersized and illegal tautog, but then they conclude that these efforts have not eliminated the ongoing problem.

I'm left still wondering, as I have been wondering for the last four or five years about this problem, to what extent is it a problem; is it really being addressed. The advisors seem to think it is still a problem. They haven't characterized it as significant, I don't think. Maybe they're struggling with it as well.

Again, what new regulations are necessary to address what problem; how significant is the problem? I still don't know and adding to my confusion is a point made by Paul in that I think you said, Paul, that in order for the illegal harvest, the unaccounted for catch to be a problem for the assessment, it would have to equal the legal catch. I think you said something like that, so I'm trying to reconcile that as well. I don't know where to go from here with tautog because the advice and information provided to me is very confusing and unsatisfying.

CHAIRMAN AUGUSTINE: Thank you. Paul, would you want to reiterate. It sounds like what you said was that we don't know what that quantity is, but it could be significant and it could be equal to the illegal harvest. The advisory panel says we do recognize there is a problem. They didn't point it at being the commercial or the recreational. They said there is a problem with live fish. We who have some interaction with fishermen know it's a problem, and it's the difference between a two dollar fish and an eight or nine dollar fish.

The real question to the board is do we want to try to address this black hole, if you will – I don't know what else to call it – of how many pounds or fish are there that are not counted, and is that having a major detrimental impact on the rebuilding of the stock above and beyond where we are? It sounds like the report from the technical committee, indeed, identifies this as a major problem.

They haven't talked about natural mortality. I have yet to hear that come up when it refers to tautog. It would just seem to me that we can sit here and say status quo and not have anything happen, no change. The law enforcement report has been basically the same for the last two or three times that we've had meetings; they're getting people, they're penalizing and giving them tickets and so on.

Unless your judges are better than ours – and I shouldn't say this on the record, but I will – they

seem to blow off the fact that if someone has 300 pounds of illegal fish, they'll charge 50 bucks or some minimal amount and dismiss the case. On the one hand, we're trying to correct a problem, and the question is do we try to address at the board level through an issue resolution or do we just say, well, let's keep going the way we are?

I think that's the dilemma the board is facing; so if we're going to take further action on this, I think we should take some overt action. It doesn't seem to me that we are addressing the issue. It's a problem and either we fix or we don't. I'm not supposed to talk as chairman; I'm only supposed to run the meeting, but that's my opinion. Dr. Gibson.

DR. GIBSON: Paul, could you refresh me again when would these assessments be updated and subject to peer review again? I know you spoke to that and I simply had a senior moment, I guess, and forward.

MR. CARUSO: That's all right, Mark, we all have them. We'll start the spring of 2011 and hopefully by next fall we'll at least get through peer review part of this. Whether we come back to the board or not before or the first of the year or just after the first of the year, I think that's a little questionable.

DR. GIBSON: It would be the data stream that's in those; it would be catches through 2010?

MR. CARUSO: No, it would be 2008 and 2009, the two years of new management, and then your 2010 fisheries-independent indices which we need to run the VPA.

DR. GIBSON: That's great and that's coming, but I share Dave Pierce's concern. I'm not really sure where we are here. I don't have a good feel for the magnitude of this issue, but I would suggest that with this stock it probably wouldn't take much to knock us out of whack relative to our rebuilding trajectory. I think, again, their F rates are pretty sensitive to the amount of catch that comes out relative to the indices. Their recruitment doesn't come in big bursts of dominant year classes.

It's dribs and drabs so you have to build your bank account the same way you do – you know, the fish account same way, compound your interest and maintain your deposits and so on. I would suggest we could be getting ourselves into a problem, but I don't know what the strategy is to address it short of waiting for the next assessment and seeing what they put in there for catches and hopefully do some

sensitivities that inflate the catch stream and say this is what would happen if it's this much.

I think we could be building ourselves into a problem here. I think that's happening in Rhode Island. I don't know about the live market of it, but I'm pretty sure our catches are in excess of what is appropriate for rebuilding.

CHAIRMAN AUGUSTINE: To that point, before we get to you Mr. Fote, any comments on the board on that issue that Mark raises. Mr. McElroy.

MR. WILLIAM McELROY: Mr. Chairman, I'm a little bit confused about this issue. I know a couple of small dealers in Rhode Island who are licensed, legitimate dealers, and they do handle live fish. They handle tautog; they hand burgalls and a few other different species. As you well noted, the price is considerably higher.

The first concern that comes my mind is that if a dealer and a fisherman is abiding by the law and is able to maximize a profit off the limited number of fish that they're allowed, it seems to me unless we can really show that there is a huge problem with these live fish being landed, that as well as winnowing out some of the illegal activity, which is certainly an admirable goal, it has the potential to make serious economic harm to fellows that are abiding by the law in every account. How does this fit into that?

CHAIRMAN AUGUSTINE: Well, to that point – and, again, I don't pontificate from the chair. I try to just run the meeting – Mr. Fote hit it right on target. It's about poaching; it's not about hurting the commercial fishermen; it's not about hurting the permitted fishermen or the buyer. This is about the fisherman who is not permitted and who is selling live tautog.

That's really the issue, so the question for the board is do you want to go forward to come up with a suite of possible options as to how to address this as opposed to taking a black-and-white stand as the advisory panel said. There was an inference it was like for recreational, and I think they were referring to poaching in general. That's the real issue and Mr. Fote was very clear on that point. Any movement that this board makes is not to penalize the legal fishermen or the legal seafood dealer. That should resolve that. Mr. McElroy.

MR. McELROY: Well, yes, and I understand that and I'm all for catching the crooks, but in my

experience if a guy is a crook, you know, the rules that we make isn't necessarily going to solve that problem, and the unintended consequence is the people who are abiding by the law end up getting penalized, and that is a little bit of sticking point for me that I'm trying to digest and figure out where to go with that. Thank you.

CHAIRMAN AUGUSTINE: I'll let the board respond to that. Thank you for that point.

MR. FOTE: I agree 100 percent and that's the problem here. We can pass all the regulations we want, but it's an illegal fishery so they're going to operate illegally no matter what we pass. It's how do you stop the problem. I mean, years ago when we talked about other species, we talked about a license to sell and a license to buy and everything had to be recorded where you got the fish, so when you walked into a dealer, it's like we have in New Jersey on hybrid striped bass, you have to have a record where you bought the hybrid striped bass.

You have to have the documentation and everything else to basically do that; so if law enforcement walks into the store and starts getting at the point of the last sale, then you start dealing with the problem. That will also deal with the illegal poaching, whether it's commercial or whether it's recreational, out of season, is if you have the paper trail where you can follow, which is what they have in Maryland on striped bass, so you can basically follow where the legal fishery goes. We need to look at how we do that.

The other thing is you basically eliminate the sale and then you're penalizing also of live fish. Also, we have a lot of ethnic people that like to bring the fish back live because that's the way they cook them. They're Asian and we should be respecting them and not penalize them for again the illegal fishery that's going on.

That's all I'm looking for is an answer of how do we deal with illegal fishermen that all the regulations we're going to pass, they're going to break anyway so how do we deal with making them not being able to bypass the regulations, and I think you ought to do that at points of sale.

MR. HIMCHAK: Mr. Chairman, very briefly, when I read the enforcement two-paragraph report dated July 14th that the regulations are enforceable; but then when I hear the enforcement reports at our council meetings; I mean, their horror stories of the number of fish over the limit and sublegal fish.

What we have tried to do is we have stalled proposed regulations to increase the fine on every illegal tautog because there has to be a financial deterrent to continue this illegal fishery. If you can get the fine up high enough and make some significant cases, maybe that would squash some of this where it would be more detrimental than the cost of doing business is what I'm getting at.

MR. DAVID SIMPSON: I share the concerns that have been voiced around the table. As I was just saying to Jim off offline, part of me is just exhausted with lobster and I don't really want to start anything new, and I suspect others feel the same way, but I think we do have a problem here. One thing about tautog is that local action results in either local benefit or local inaction results in local destruction of fisheries with this species because of their limited migration.

Mark made the point that the assessment is still the better part of a year from being initiated and completed. We're close to a year and a half before we could take action on it. I'm concerned that's a little too long to wait. I think we've got some areas where maybe a major action isn't required, but I think there is some bandaging that needs to occur before then. **For that reason I'm going to move that we initiate an addendum to address illegal harvest of tautog and to prevent an escalation in fishing mortality prior to the completion of the next assessment.**

CHAIRMAN AUGUSTINE: Thank you; do I have a second? Do I have a second to that motion? Yes, Mr. McElroy seconded. Discussion on the motion? Mr. Fote, does that respond to the point you were trying to get across?

MR. FOTE: Yes, I think we need to look at the scope of why this fishery – how do we correct the illegal sale of tautog and you need a final paper trail. I think that will be addressed in this. We could start putting a bunch of options out.

CHAIRMAN AUGUSTINE: Okay, thank you; and before I get to you Dr. Pierce, Mr. Leo has had his hand up for three or four minutes and thank you for your patience.

MR. ARNOLD LEO: Arnold Leo, consultant for fisheries, Town of East Hampton. Looking in Mike Howard's report, it is clearly stated that the degree or rate of violations in the tautog fishery appears to be similar to the violations in other fisheries, whether live or dead. Well, okay, so poaching is a problem,

but it seems as though it is the same kind of problem and to the same degree as in other fisheries.

To address the poaching problem let's say in the summer flounder fishery, do we ban the taking of summer flounder, because that's what we'll be doing if we ban the taking of live tautog. We will have tried to solve an enforcement problem by banning a legal activity that many people are dependent on for income.

CHAIRMAN AUGUSTINE: Thank you for that comment, Mr. Leo. This motion would be actually to ban the poaching, people who are not permitted as commercial fishermen from doing this, and those folks who claim they are recreational indeed are commercial if they're selling them, but I think this is clearly written so that it addresses the illegal part of it. Dr. Pierce, you had your hand up and then Mr. Miller had his hand up.

DR. PIERCE: I guess I'll look to the maker of the motion to see if he has any ideas as to what might be in this particular addendum that he is proposing. My take on it is that the illegal trade of tautog is likely causing the increase in fishing mortality that is generating our concern. Therefore, we have to deal with the illegal trade, which would be the second part of the motion, prevent an increase in fishing mortality prior to the completion of the next assessment.

Okay, then deal with illegal trade, so how do we deal with the illegal trade. We've had all that discussion already. Are we going to work with the bleeding issue, but again don't we penalize the recreational fisherman who is a recreational fisherman and not a commercial fisherman acting under the guise perhaps of a recreational fisherman.

It's all about dealing with illegal fishing activity, and I look to the maker of the motion as to how we can do that? My preference actually is – first of all, I share David's concerns that waiting a year and a half or so for the assessment to be done might be a bit too long. Frankly, I think we really have not much of a chance because once the new assessment is done, if we see that there is a retrospective pattern that would strongly suggest that, okay, there is a lot of catch that's not being accounted for, then that might be enough for us to make a very fateful decision as a board, one that will dramatically decrease the value of the tautog fishery to commercial fishermen, and that is we may have to ban the live market, deal with strategies that would do away with the live market.

In our state, Massachusetts, we tried to do that years ago in kind of a de facto way by increasing the minimum size for tautog. We were alarmed at the increase in the landings of tautog. The live fish market, tremendous demand, we said how can we in a way do away with that market? Okay, well, increase the minimum size up to 16 inches. Well, the live fish market adapted, so there is still a live fish market with big fish.

We're not going to increase the minimum size anymore beyond 16 inches to do away with the live fish market or significantly curtail it. I suggest we're going to have to do away with that market in the interest of stock rebuilding, getting to our targets, if indeed it's determined, through the assessment, that it's very likely this unaccounted for catch is just doing us in and preventing us from achieving our objective. Whether I'll support this motion not, I'm not quite sure. I ask again if the maker of the motion has any thoughts as to how we might move this forward, any options or strategies that might be viable for the addendum.

CHAIRMAN AUGUSTINE: Mr. Simpson, would you respond to that?

MR. SIMPSON: One suggestion has already been made and that's the landing requirements of dead fish rather than live although I would hate to see the value of the species diminished in the commercial fishery. I think what I had in mind was greater interstate coordination in our management of the commercial live market.

In other words, to ease law enforcement if there were discrete seasons where the live market was permitted, then a fish taken in Connecticut and shipped to New York markets, where I think a lot of the market is for our fish, if those seasons were coincident – they're opened or they're closed – law enforcement can take action wherever those fish are found.

If the fishery is closed, then those fish don't belong anywhere. If it's open, then at least you've contained the period where you can focus law enforcement effort. That's what I had in mind in terms of addressing the live market is coordinating interstate regulations so that we can manage this live market, keep the value of it but not let it get out of hand.

CHAIRMAN AUGUSTINE: Thank you. Wouldn't that also include some of the items or the idea that the advisory panel came forward with? In other words, we still have to have to get this addendum fleshed out, and in the construct of it there might be three or

four of five options come forward through the PDT or to the board as recommendations. When it comes back to the board for review, we may either add or clip or subtract or take away from, and I think that may address Dr. Pierce's concern as this moves forward. Does that make sense to you, Mr. Simpson?

MR. SIMPSON: Yes, exactly, and we can set trip limits, also, on top of these coordinated open seasons, you can consider the alternative of landing dead fish only at certain times of the year; you know, two or three alternatives that we could take out for public comment and see if there is the will out there to do something.

CHAIRMAN AUGUSTINE: Thank you. Mr. McElroy, does that description and explanation fit your second and your sense for where we're going with this?

MR. McELROY: Yes.

MR. ROY MILLER: Mr. Chairman, I'll be brief. David Pierce expressed my reservations concerning the motion. I have no problem I think with the intent of David Simpson's motion, but I might be a little concerned about some of the eventual details which he went into a little bit. This issue of requiring recreational fishermen to harvest only dead fish or bring home a dead fish rather than a live fish; if in fact the price is eight dollars for a live fish and two-something for a dead fish, then there must be a reason for that.

I've never brought a live tautog home, but apparently there is some taste advantage to have done so, I guess, or the price wouldn't be so much different. So why should a recreational fisherman be precluded from that higher-quality product if he or she wants that higher-quality product? That's my reservation about a blanket prohibition against taking home a live fish that is caught legally and consumed legally. It may be that when we see the details of what results from this endeavor, that I'll be supportive. Thank you.

MR. HIMCHAK: Mr. Chairman, one last plug for excessive fines as being the deterrent. I think that again some states may have difficulty and they may be bound by statute as to the range of fines that they can impose on certain species, but I would certainly see that as an effective tool in cutting down on that fishery. To carry it to an extreme, I know in New Jersey at \$10,000 for a horseshoe crab – being in possession of a horseshoe crab, there aren't many

people with illegal horseshoe crabs, but that's a little bit on the absurd side.

CHAIRMAN AUGUSTINE: Are you suggesting as a part of this addendum and our direction to the PDT would be to identify a possibly penalty chart that might be used as an example for other states? It sounds like that's where we're going and if it's very effective in New Jersey, it very well be effective in other states when they see what you're doing. To the point of this, Tom, we're running out of time.

MR. FOTE: When we did summer flounder – and as some of you remember that were around in the early years – we had a lot of problems tracking fish that were legally being sold. The only way we dealt with that problem was the paper trail to look at how fish are being sold. Then you could walk into the restaurant and you could find out where he bought, he didn't buy it out of the back of a pickup truck, and it didn't go around the quota.

That's another problem we're looking at. We're basically looking to stay within the quota so we need to track the illegal fishery, and the only way you can do that is requiring anybody that has a live tank in their restaurant – and that's really the purpose of having it so the person can go look in and pick out what tautog he wants to eat and pay for the price of that tautog.

I don't know whether know it tastes better if you bleed a fish or not, but I think it really has to go with the fact that the restaurants like to put them in the fish tank the same way they put live lobster. So, again, the only way I see this working is we get a paper trail that we can trace the fish down; and if you don't have the right paper trail, you fine the restaurant a lot of money. That's a different situation than – or you basically pull that permit allowing them to sell live tautog in their store.

CHAIRMAN AUGUSTINE: Thanks, Tom, we've got to move on. To the point, Mr. Simpson, otherwise I'm going to ask if there are any further comments on the motion. Please, go ahead.

MR. SIMPSON: Yes, just to flesh out the specifics of what the addendum would include, I would add that third strategy to the list so that everyone is clear this addendum would consider alternatives specifically that would coordinate the live fish market on an interstate level, it would consider an alternative for fish tagging or some kind of paper trail in commerce; and third and finally, a dead fish only requirement in commerce. I would give the technical

committee latitude and the other committees latitude to make other suggestions for consideration.

CHAIRMAN AUGUSTINE: Good, thank you, they took some notes on that and we'll go from there. Is there any objection to this motion before I read it? Is there any objection to the motion as presented? Any further comments on it? **Without any objection, the motion carries by consensus.** Chris, would you move on to the next item to consider 2007 and 2008 FMP review and state compliance.

2007 AND 2008 FMP REVIEW AND STATE COMPLIANCE

MR. VONDERWEIDT: Being that it has been two and a half years since the board met, we haven't reviewed state compliance. You've got two FMP reviews in front of you, the 2007 fishing year and the 2008 fishing year. They have been updated with the information that the policy board requested, goals and objectives of the plan, what the reference metrics are and all that stuff, so hopefully everything is included that board members wanted.

I'm going to go fairly quickly. Both FMP reviews were on the CD. We've gone over the landings. We're gone over the assessment. In 2007 states were still under the Addendum III regulations of the spawning stock biomass fishing mortality rate equal to 40 percent spawning stock biomass, which was 0.29. There was a 14-inch minimum size limit.

There is also a requirement that goes back to the original FMP that pot and traps must have degradable hinge and fasteners that could be untreated hemp, jute, or cotton string less than or are equal to 3/16 of an inch or magnesium alloy hinges with a timed float release or something similar or ungalvanized or uncoated iron wire less than or equal to 0.094 inches. In 2007 all states met or exceeded the requirements of the FMP, and North Carolina and Delaware met the requirements for and requested de minimis status.

Moving forward to 2008, this was the first year under the Addendum IV and V fishing mortality rate of 25.6 percent reduction. Massachusetts and Rhode Island submitted and had approved a regional assessment, which Paul just went over in great detail. All other states were required to do a 25.6 percent reduction. Upon review, all states meet or exceed the requirements of the FMP. North Carolina and Delaware meet the requirements and requested de minimis status, so that's the same two states and the same two years. That's the report.

CHAIRMAN AUGUSTINE: Thank you on that, Chris. Are there any questions on either the 2007 or 2008 FMP review? Is there any objection to approving those reviews as presented by Chris? **Seeing none, they're approved by consensus.** De minimis status for Delaware and North Carolina, 2008 and 2009 fishing years, was there any objection to those having been approved? Any discussion? **Seeing none, they're approved by consensus.** Chris will handle nominations now for technical committee membership.

APPOINTMENTS TO TECHNICAL COMMITTEE MEMBERSHIP

MR. VONDERWEIDT: Alice Weber from New York and Scott Newlin from Delaware were appointed to the technical committee, so this is just an FY.

ADVISORY PANEL MEMBERSHIP

MR. VONDERWEIDT: Then as far as the advisory panel membership, Victor Bunting from Maryland and Carey Evans from Delaware have been nominated to the advisory panel, so they would need to be approved by the board. Tina has provided the board with a little background information on these nominees, and that's on the CD if you want to take a look at that.

CHAIRMAN AUGUSTINE: Okay, thank you for that presentation. Is there any objection to Victor Bunting from Maryland and Carey Evans from Delaware being approved for being on the advisory panel? **Seeing none, they're approved by consensus.** Thank you all for your indulgence and the lively discussion on the live market and the direction that this board wants to go. Thank you, Mr. Simpson, for your motion to get the ball rolling on that.

ADJOURNMENT

CHAIRMAN AUGUSTINE: If there are no further comments or business to come before the board, the meeting is adjourned.

(Whereupon, the meeting was adjourned at 9:22 o'clock a.m., August 3, 2010.)