

**PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
ATLANTIC STRIPED BASS MANAGEMENT BOARD**

**Radisson Hotel Old Town  
Alexandria, Virginia  
January 29, 2007**

Board Approved August 15, 2007

## ATTENDANCE

### Board Members

Terry Stockwell, ME DMR, proxy for Lapointe (AA)	Peter Himchak, NJ DFW (AA)
Pat White, ME (GA)	Erling Berg, NJ (GA)
Sen. Dennis Damon, ME (LA)	Frank Cozzo, PA, proxy for Rep. Schroder (LA)
G. Ritchie White, NH (GA)	Roy Miller, DE DFW (AA)
Rep. Dennis Abbott, NH (LA)	Howard King, MD DNR (AA)
Paul Diodati, MA DMF (AA), Chair	Bruno Vasta, MD (GA)
William Adler, MA (GA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Vito Calomo, MA, proxy for Rep. Verga (LA)	A.C. Carpenter, PRFC (AA)
Mark Gibson, RI DFW (AA), Vice Chair	Jack Travelstead, VA MRC (AA)
Everett Petronio, Jr., RI (GA)	Catherine Davenport, VA (GA)
Gil Pope, RI, proxy for Rep. Naughton (LA)	Kelly Place, VA, proxy for Sen. Chichester (LA)
Eric Smith, CT DEP (AA)	Fentress Munden, NC DMF (AA)
Dr. Lance Stewart, CT (GA)	Damon Tatem, NC (GA)
Sen. George Gunther, CT (LA)	Jimmy Johnson, NC, proxy for Rep. Wainwright (LA)
Gordon Colvin, NY DEC (AA)	Tom Meyer, NOAA Fisheries
Pat Augustine, NY (GA)	Jaime Geiger, USFWS
Brian Culhane, NY, proxy for Sen. Johnson (LA)	

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

### Ex-Officio Members

Doug Grout, Technical Committee Chair  
Jim Gilford, Advisory Panel Chair

### Staff

Vince O'Shea	Nichola Meserve
Robert Beal	Erika Robbins

### Guests

Alex Williams, MD Charter Boat Assn.	G. Velema, MD DNR
Arnold Leo, East Hampton Div. Com. Fisheries	R. Novotny, MSSA
Pete Jensen, MAFMC	Luke Whitman, MD DNR
Margaret McBride, NOAA CB Office	Erik Zlokovitz, MD DNR
Bill Goldsborough, Ches. Bay Foundation	Carrie Kennedy, MD DNR
Capt. G. A. Prenant, MD Charter Boat Assn.	Mark Amorello, MA MFC
Charles Sissow, MD Charter Boat Assn.	Michael Luisi, MD DNR
Linda Barker, MD DNR	Harry Hornick, MD DNR
Alexei Sharov, MD DNR	Beth Versak, MD DNR
Tom O'Connell, MD DNR	Andrea Hoover, MD DNR
Harley Speir, MD DNR	Lisa Warner, CT DEP
Steve Early MD, DNR	Mark Alexander, CT DEP
S. Baynard, CCA MD	Denise Wagner, trap fishery
B. Windley, RFA/MSSA	George Lapointe, ME DNR

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## INDEX OF MOTIONS

### **Move to approve Maryland's plan.**

Motion made by Mr. Carpenter, second by Mr. Cozzo (page 14). Motion withdrawn (page 14).

### **Move to substitute a Chesapeake Bay spring striped bass fishery quota with non-quota management through a freeze for status quo Maryland migrant fish regulations that have consistently been in place and allowing the spring harvest of migrants to fluctuate naturally with stock abundance and weather conditions, and to forecast harvest ranges expected each year and report subsequent harvest assessment post season to the technical committee for inspection by the Board.**

Motion made by Mr. King, second by Mr. Carpenter (page 14). Motion fails, seven against, six in favor, two abstentions (page 22).

### **Move to set a target for the Chesapeake Bay spring striped bass fishery based on past VPA calculated methods and the payback for the 2006 overage to establish a Chesapeake Bay spring striped bass fishery quota no less than 30,000 fish for 2007 only.**

Motion by Mr. King, second by Mr. Carpenter (page 22). Motion passes. Ten in favor, three opposed, two abstentions (page 24).

## CALL TO ORDER

CHAIRMAN PAUL DIODATI: If board members will take their seats, please, we're about to start the Striped Bass Policy Board meeting. We were scheduled to start at 12:30. I need people in the back of the room to take their seats or settle down a little bit.

I welcome you all to the first meeting of the week and we don't have any introductions but I will look for consent to approve the agenda starting with Pat Augustine. I think we may, do we have any changes to the agenda, first?

## APPROVAL OF AGENDA

MS. NICHOLA MESERVE: Yes, Mr. Chairman, North Carolina has asked that Agenda Item Number 6, their proposal for the 2007 Albemarle Sound/Roanoke River striped bass TAC be removed from the agenda.

CHAIRMAN DIODATI: Okay, that's fine with North Carolina? Any other changes to the agenda? **A motion to accept the agenda -- Pat Augustine. We don't need a second. I'll accept that. The agenda is approved.**

## APPROVAL OF PROCEEDINGS

We have minutes from the last meeting. Any questions or changes to those minutes? Seeing none **I will accept those minutes as approved.**

## PUBLIC COMMENT

Public comment. We will have opportunity for public comment as we go through the agenda but if anyone has any questions or comments, they'd like to bring anything to the attention of the board now I will take public comment. Seeing none, we'll move to Item 4. This will be Doug Grout giving a little presentation on the terms of reference for the next stock assessment.

## TECHNICAL COMMITTEE UPDATE

### TERMS OF REFERENCE

MR. DOUGLAS GROUT: Thank you, Paul. As you know, we're getting ready for a peer reviewed stock assessment in 2007. And the technical committee has come up with a draft terms of reference for the peer review and we need board approval of these

terms of references. These are fairly basic and standard, although it is a little bit customized to striped bass.

They are the things that are very similar to what is at many SAW/SARCs. First of all, we have characterization of the commercial and recreational catch, including landings and discards. Then we also want them to review the characterization of the fisheries-independent and dependent indices of abundance that we use in the assessment.

Item 3 is, as you know we have, in striped bass assessment we have two sources of modeling that we use. And our Assessment 1 is based on an age-based assessment. The other one is tagging. So Item 3 is review the catch-at-age base model. Currently that's a VPA but we may have some variation on that when we come to peer review and the model that's used in the stock assessment to provide estimates of F, spawning stock biomass, and total abundance and characterize the uncertainty around those estimates.

And Item 4, review the tag-based model used in the stock assessment to provide estimates of F and total abundance and characterize the uncertainties around the estimates. And, finally, Number 5 is a review of the biological reference points for striped bass and determine the stock status based on those reference points. So I will take any questions on that. But we'd like approval from the board.

CHAIRMAN DIODATI: Questions for Doug, Mark.

DR. MARK GIBSON: Doug, I heard through Paul Diodati that there is a new assessment model being developed which integrates catch-at-age analysis with tag-based estimates of fishing mortality. Was there anything else to say about that? Is that something that is going to come down the road or it is?

MR. GROUT: It's still in the process of development and I want to thank Paul for letting his staff, Gary Nelson, work on this. He has put a lot of time and effort into this. We're still at the developmental stages. We are not totally certain whether we'll have that ready for peer review but we are working towards that as a goal as one of the models that we may bring forward.

CHAIRMAN DIODATI: Any other questions for Doug? I'll ask one and then Pat. Go ahead, Pat. Go first.

MR. PATRICK AUGUSTINE: Thank you, Mr.

Chairman. In your opinion at this point in time, Doug, is there a sense that the new model being developed will be significantly different and may result in some very severe swings in our outcome?

MR. GROUT: I can't tell you that at this point. I mean it's essentially at the programming stage. We have the concept where we brought the statistical catch-at-age model and then are incorporating a tag data into this. It's something that's very new. They're going to be working on it actually and in February right now there is going to be a workshop down at Woods Hole.

MR. AUGUSTINE: A follow-on question, Mr. Chairman, so once this model is tested or proved will you actually run a parallel check on using your existing model against the new model or will it be just an automatic transition into the new model?

MR. GROUT: Certainly as we transition from one model to the other we will have side-by-side comparisons, just like when we revised the fisheries-independent indices that go into the VPA we showed you what it would have been without the revisions and with the revisions.

CHAIRMAN DIODATI: Doug, I have a question. First of all, these terms of reference, were these developed by the technical committee?

MR. GROUT: Yes, Paul, they were developed by a, drafts were developed by the Stock Assessment Committee and Tagging Committee chairs with myself and then we brought these forward. We brought a terms of reference forward to the technical committee and they actually modified them to reflect what you see now.

CHAIRMAN DIODATI: So if there are board members that have questions after today or they want to perhaps suggest a modification or an addition is there a timeline where we have an opportunity to do that?

MR. GROUT: Certainly if you want to approve it tentatively with some, and move forward I would believe because we need – I don't know when. Do you know when we need to have the terms of reference together, Nichola, at this point? I believe you could probably have another month or two or maybe until the spring meeting if you didn't want to finalize them right now.

CHAIRMAN DIODATI: You know, I'm just thinking that in terms of performance of the

management plan as we look at things like biological reference points we might want to look at those in context of performance of the plan.

And with this assessment I think it's going to enlighten us of whether or not the plan is performing the way we want it to or there might be opportunities for adding to allocations, changing allocations of harvest and that sort of thing. So are those the kinds of things that we'll get out of this or do we have to actually add specific questions about performance, plan performance? I guess Bob Beal might want to jump in.

MR. ROBERT E. BEAL: Just a quick comment on timing. The SARC usually likes to have the final terms of reference kind of in their hands about 4-4.5 months prior to the SARC so that as they're selecting their reviewers from the Center for Independent Experts they can kind of gauge, can match up the talents of the experts and the reviewers with the products that are going to be brought forward for review.

So we've got, you know this isn't going to be peer reviewed until late November so, you know, four months ahead of that is the middle toward the end of summer so you've got a little while to play with these. But the tech committee probably needs to know what they're working toward as well to do their assessment work.

CHAIRMAN DIODATI: From the lack of comments I don't think we need a motion to approve these. We'll just accept them as tentative and we may discuss them again in time prior to the SARC. So if there is no opposition to that we'll just move forward and leave these as tentative. Pat.

MR. AUGUSTINE: A question, Mr. Chairman, I didn't get the sense that there wasn't any urgency to get this done but I listened to Bob's comments and does the technical staff or technical committee need more direction, more specifics, than you've received here?

MR. GROUT: Only if you're going to do some major changes to these reference points. We need to have those before the assessment workshops. And one of the things that may change from our standpoint, we might want to come back and recommend a change if we do develop this model that is integrating both the tagging and the age-based assessment into a single model.

CHAIRMAN DIODATI: My concern here is that I

don't know how many board members have actually seen this list of five items. And it wouldn't be unusual for a board to get the results of a stock peer review, an assessment peer review, ask specific questions of the technical committee, and then their response might be, "Well, we didn't look at that; we weren't asked to look at that." So I just want to make sure that your questions are laid out very clearly to the technical committee and those of the SARC. I had Eric did have a question.

MR. ERIC SMITH: Thank you. I agree with in, almost in total what you said, Paul. I would view these as terms of reference that no one seems to have had a problem with so this is the starting point. And what I hear you saying is we may want to add one or two as things develop over the next two or three months. But I didn't hear, I haven't head anybody say that these aren't the basic five for striped bass.

CHAIRMAN DIODATI: I agree. That's what I'm hearing. So these will be the basic five but there may be other things that board members might want to recommend and hopefully there will be time to do that. Okay, anything else, Doug?

#### **MATERIAL SUBMISSION DEADLINE**

MR. GROUT: Yes, Mr. Chairman. I have a couple other items that were brought up at our Striped Bass Technical Committee meeting. One is in the commission's guidance to technical committees there is a policy that was developed back in 2002 that stated that "All proposals and documents for technical committees will be submitted at least two weeks prior to the meeting."

We've been running into problems fairly consistently over the past few years with documents coming in a week or less before the meeting. These are technically complex documents. And as you know, your staff is not full-time on ASMFC-related projects.

And we just want you to be aware that although we recognize the difficulty that some states may have in getting people to, who work very hard to get proposals together in time, that you also have a technical committee that needs time to review these.

And at some point we would, if this continues we would like to, with your permission, be able to adhere to this standard that they need to be in at least two weeks ahead of time because we don't feel that getting proposals and technical documents two and three days or even a week before is sufficient time for

us to do the rigorous technical review that we need to have, that these need to have.

CHAIRMAN DIODATI: Okay, so what I'm hearing there is that there is a policy that the board has adopted that all technical information required for a management change, a proposal from a state, all that information needs to be in the hands of the technical committee members two weeks prior in order for them to review it.

What the technical committee sounds like they're asking for is for the chair to have the discretion of right of refusal if they do not have that material in-hand two weeks prior to a review. Let's have some discussion about that.

I know that there are times that we send proposals back to the technical committee after we receive them. There are other instances where proposals are simply received late. But any thoughts on this? Anybody? Pat.

MR. AUGUSTINE: Mr. Chairman, in all fairness to the technical committee I think it was stated that these folks do have full-time other jobs. And I think the least we can do, although I'm not a state, a person with those kind of responsibilities and each one of you are under the gun and under-staffed and under-budgeted, but I think if we are going to keep the process going to the best of our ability I think those are priority items where reports are supposed to be in by a certain time.

And I think in order to keep it going on some semblance of making the process for each one of these 23 species move along I think we should try to hold the gun. And I'm not sure there has to be any threat of punitive damage. I think it's just asking each one of the member states to understand that our technical committees are bound by two rulers, one is their immediate supervisor within their state and the other one is through the board.

And I'm sure that a lot of them put in their own time after hours doing the work they do. So I would hope that we collectively can give them full support. And whether it requires a motion to do this or just an agreement that all folks involved will do the best they can to supply these on time. Thank you, Mr. Chairman.

CHAIRMAN DIODATI: Thank you. Gordon and then Pete.

MR. GORDON C. COLVIN: Thank you, Mr.

Chairman. I appreciate Doug bringing this up. It's a very real issue to many members of the technical committee. And I know I've heard at times, and not just for striped bass but with other technical committees as well, the frustrations that staff bring back from meetings under those circumstances.

There is a related issue, kind of a corollary, if you will, that facing deadlines submissions are made that are incomplete and that are supplemented extensively at the meeting. This also happens sometimes at the quota-setting or monitoring committee meetings of those, for those species that are managed that way.

And this last August I heard some extreme frustration expressed about what happened with fluke, scup and sea bass in that regard, particularly fluke. So we do, I think, indeed, have to improve our performance in this area. And I believe the technical committee's recommendation is well founded.

I would think that we should all be aware of the consequences of what is being suggested because it could boil down to this: if a technical committee member is late in making a submission to the technical committee and the determination is that it won't be reviewed, that a full twelve months could go by before another opportunity is presented to that state to change its striped bass regulations.

A delay of that nature, as you can imagine in many instances would be extremely punitive and controversial. So for that reason I think we need to proceed but with caution and with thought given to what forms of communication will be made.

I know at a minimum the commissioners from the state need clear, upfront communication themselves about what the deadlines are with the skull and crossbones and everything else next to it that enables them to appreciate its significance as well as some I think probably last-minute communication, again to the state directors, to give them an opportunity to do whatever triage or authorize overtime or whatever they need to do to make sure the deadlines are met so that they're not blindsided.

You know in some instances our technical staff are not located in the same building as the state commissioners and we have our own internal communication issues. We need to work on them. We need to work on them together. Thanks.

MR. GROUT: Can I respond to that?

CHAIRMAN DIODATI: Go ahead, Doug.

MR. GROUT: Gordon, just internally the Striped Bass Technical Committee has taken one of those steps already in that we've agreed that when we send out agenda items for our technical committee meetings there is going to be a deadline for submission written at the top of, on that agenda so that at least the technical committee will be aware. And I don't know if the board gets those agenda items. It might be a way of communicating to you folks.

CHAIRMAN DIODATI: Okay, we already have the policy. I think really what we need to do is just crystallize what the implementation process is going to be for this policy. So I think what might work is that each technical committee member who generally prepares these proposals should be made aware that it is a two-week lead-time; and if the material is not in-hand within two weeks then the chair of the technical committee can bring that to the attention of the member in question.

And if it is a timeline situation as Gordon has pointed out then I think you would need to speak with the chair of the Policy Board and perhaps the director of the ISMP to establish whether or not we could take this out of the timeline. But I think that's all we need for now at this point. Pete.

MR. PETER HIMCHAK: Mr. Chairman, I just had one comment on this, this particular policy that came out of 2002. I believe we were called the "Technical Committee Evaluation Committee", subcommittee or something to that effect. And it was to set the trend for how technical committees would operate in future years.

And there are a number of recommendations such as, you know, the minimizing, the formulation of motions and presenting consensus and minority opinions. And they were all, seemed to me, to be strictly adhered to. But this, I remember this deadline this seems not to have risen to the level of importance as a number of the other policy recommendations.

CHAIRMAN DIODATI: Okay. Unless anybody has anything to add on that I'm going to move on to the next agenda item. Okay, go ahead.

#### **REQUEST FOR THIRD REVIEWER**

MR. GROUT: Just a couple more things. Another thing that the Striped Bass Technical Committee wanted to suggest to the board, currently NMFS has only enough money to fund two CIE reviewers for



the peer review. And the technical committee felt fairly strongly that in this particular case and maybe others there may be need for a third one.

This -- historically they have had three reviewers but because of budget cuts they only have two now. And we feel that it's particularly important for striped bass because we are going to be conducting both an age-based and a tag-based assessment so we need expertise in both of them.

The other important reason is if we ever run into a situation like bluefish where we have, they have difference of opinion with the reviewers at least you come up with a majority instead of having it split. And actually since that meeting I think Megan Caldwell has talked with Jim Weinberg of NMFS and might have something to update us on this.

MS. MEGAN CALDWELL: Thank you, Doug. I did speak with Dr. Weinberg and he told me that at one time funding had been an issue and so the number of reviewers had been cut down to two. They are currently in the process of trying to get the approval for a third reviewer for the fall SARC.

There is a data quality act that requires a rigorous review and approval and so they don't know definitively when they will get that approval but the assumption is that there will be a third reviewer for the fall SARC. I guess my suggestion would be that we could bring this up to the NRCC that the Striped Bass Technical Committee feels strongly that there is indeed three reviewers at this SAW/SARC.

CHAIRMAN DIODATI: It sounds like we don't have to deal with that right now then.

#### **STOCK ASSESSMENT TIMELINE**

MR. GROUT: And then one last thing. I just wanted to throw up some important dates again in keeping this assessment on track. And I bring it up to the policy, the board members so that they can keep their staff on track on this.

June 15<sup>th</sup> all state compliance reports are due and that includes with striped bass submitting all your fisheries-independent and fisheries-dependent data including catch-at-age for your particular state.

We've had problems in the past two assessments where states have been not making the deadline and we nearly did not have an assessment for you two years ago because of this. So it's going to be critical that this deadline is met if we're going to have an

assessment that can make it to the fall SARC.

Then we plan to have assessment workshops in July and August so keep your staff free for that, any of them that are on those committees. And then our two-week deadline what we've set, as I've said, of getting documents before the technical committee review is going to be September 4<sup>th</sup> that the assessment document needs to be put together.

We'll meet in mid-September and the Striped Bass Technical Committee will review what the Stock Assessment Committee and the Tag Subcommittee has put together for an assessment. And then of course the SAW, the SARC, the peer review will be in November and we will have an assessment for you to approve or disapprove in January.

CHAIRMAN DIODATI: Okay, I would request that perhaps Nichola if you can send this to all members of the board, the technical committee, via e-mail in a memo form, this timeline. I don't think we have any questions about this, do we? Vince.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Yes, thanks, Mr. Chairman. This discussion we're having here now really goes back to some of the other issues we've had looking at trying to keep stock assessments on track and getting a commitment from the policy folks lined up with the technical people in terms of expectations.

I'm wondering on the June 15<sup>th</sup> date if it would make sense for commission staff to give a report out of who we haven't heard from and let the full board be aware of that rather than just sending a reminder out to the individuals. If you think that would be helpful I would be happy to commit to that, Mr. Chairman.

CHAIRMAN DIODATI: Appreciate that. That would be fine. Gordon.

MR. COLVIN: Another suggestion, I don't know if others do this or not but I know that I use, we use the meeting summary from the meeting weeks when we return home as a checklist to run down with staff on things to do. If this schedule appears in the meeting summary then when I go back it will be something I go over with my staff. So I would just suggest that, that anytime there is something that requires a follow up if it's in that summary it's a good place.

CHAIRMAN DIODATI: Any other comments on this issue? Doug, anything else?

MR. GROUT: No, Mr. Chairman.

CHAIRMAN DIODATI: Nichola, do you have anything on this item? All right, we're ready for Item 5. Who wants to introduce this? Is it Nichola or Doug? Nichola.

## MARYLAND PROPOSAL

### OVERVIEW

MS. MESERVE: I'll be providing a brief introduction to Maryland's proposal which was received by the commission on January 3<sup>rd</sup>. This was a proposal to eliminate the quota system for the Chesapeake Bay Spring Trophy fishery. I'm just going to give a brief history of the quota management system for the bay, tell you how the quota is currently calculated, give a little bit more information about the proposal, its basis, and the anticipated effect on the coastwide stock.

The Chesapeake Bay Spring Trophy fishery targets the adult migrant population of striped bass. This fishery was reopened in 1991 after a six-year moratorium. A cap was originally established in 1993 by the board at 3,000 fish. This was increased to 5,000 fish in 1994 and then to 25,000 fish in 1995.

Amendment 5 was implemented in 1995 which required the spring producer area recreational fishery to be controlled by a 28-inch or greater minimum size limit, a specific fishing season and a harvest cap. In 1995 there was also the first overage of the cap.

In 1996 the board agreed upon a 30,000 fish cap which was in place until 2003. This number was decided rather arbitrarily by the board based on recent landings, the recent landings history and not the stock size. And there were no overages of this cap from 1996 to 2002.

In 2003 the 30,000 fish cap was exceeded for the second time by 13,900 fish. Also in 2003 Amendment 6 was approved. It did not contain any specific language about the spring fishery. However, on June 8<sup>th</sup> of 2003 the board approved a proposal from Maryland to implement Amendment 6 only after the inclusion of a 30,000 cap was, on the fishery was included in that proposal.

Amendment 6 also required that overages be subtracted from the subsequent year's cap; thus, in 2004 the cap would have been the 30,000 fish minus the 13,900 but in December of 2003 the board approved a new methodology for calculating the quota which reflects the number of Age 8-plus fish.

As a result the baseline was changed to 40,624 fish. And this resulted in a cap of 26,724 fish for 2004.

The harvest then was 31,404 fish, an overage of 4,680. For the 2005 quota the board approved to keep the same baseline quota as the previous year rather than the proposed 56,424 fish then subtracting the overage from the previous year which resulted in a cap of 35,944 fish.

In 2006 the board approved Maryland's proposal to reduce that overage of 29,720 fish to 13,720 fish with an additional increase in the minimum size to 33-inches and additional future Maryland controls which resulted in a cap of 41,488 fish for 2006. The catch for 2006 has now been estimated at 67,771 fish.

The quota, as I said, the calculation method was changed in 2003 because the 30,000 fish quota was not based on any biological analysis. Therefore, it was changed to an equation which reflected the Age 8-plus fish times the ratio of the original quota to the population – sorry – a ratio of the original quota to the population at that time which is approximately .96 percent, so less than 1 percent.

In the proposal Maryland writes, "Despite restrictive regulations the quota is exceeded annually because of the incompatibility between the quota estimation mechanism, the population size of migrant striped bass and the current regulations." Therefore, Maryland has proposed to eliminate the quota while the states of Maryland and Virginia would maintain certain other regulations.

These are in Maryland: to have a one-fish creel and 28-inch minimum size from the third Saturday in April to May 15<sup>th</sup> then from May 16<sup>th</sup> to the 31<sup>st</sup> one of the two fish limit can be greater than or equal to 28 fish; in Virginia: from May 1<sup>st</sup> to the 15<sup>th</sup> there would be a one-fish creel at 32-inch minimum and from May 16<sup>th</sup> to June 15<sup>th</sup> one of the two fish limit can be greater than or equal to 32 fish.

This change would align the Chesapeake Bay spring regulations with those for the coastal fishery and if the coastal F were to be found above the overfishing threshold Maryland and Virginia would have to reduce F in coordination with the other states.

Maryland has provided several reasons for the proposal. First is the uncertainty in the MRFSS harvest estimation. It's a multi-step process in which error is introduced in each step of that process and there are high PSEs in this calculation.

There is also limited prediction ability. The annual harvest is highly variable. Many assumptions go into the harvest prediction and it's impossible to guarantee that harvest will be less than the quota unless excessively strict regulations are used.

For the effect on the coastwide stock, Maryland feels that the spring fishery has an insignificant effect on the fishing mortality of the migrant striped bass. This first table on the top provides the percent of the spring Chesapeake Bay harvest as a percent of the total coastwide harvest at Age 8-plus fish. It ranges from 1.5 to 4.4 percent. And the fishing mortality that is associated with that ranges in the bay from .003 to .015.

The high coastwide population is expected to stay very strong. There is an, the eight-plus abundance has been at or near the record level since 1996 in the bay. The fishing mortality is below the overfishing definition and there have been strong year classes produced since 1996.

The fishing effort in the spring fishery is also level or decreasing. In Waves 2 and 3 the Maryland charter boat trips have shown no trend in the last six years and this is according to Maryland's charter boat logbooks.

Also the number of charter vessels is capped. And anecdotal evidence supports a declining amount of private boat effort. And there is also a decline in the number of Maryland recreational fishing licenses.

"Overall, the elimination of the spring season is not expected to pose any risk to the reproductive capacity of the striped bass migrant stock but would maintain an important opportunity for a high-quality trophy fishery for bay anglers" is how Maryland sums up their proposal. I'd like to ask if Howard King has anything to add.

MR. HOWARD KING: Thank you, Nichola. That was very well done. I think what Nichola went through there in the beginning where she outlined what the quotas have been and how the harvest has been calculated and the overages and the make-ups is symptomatic of what we're facing.

I mean, did anyone really follow that in spite of Nichola's best work? You can see how confusing that is. That is part of what our argument is, that this is not a very credible system, that we're assigning a quota based on a relatively arbitrary idea or floor and then we are having to use analytical and assessment tools that are inadequate to try to accurately predict

and then account for the harvest.

Nichola put this in terms of eliminating the cap. In my mind it is a substitution of continuing putting a freeze on our existing regulations which I think you saw were pretty conservative – short season, one fish per person per day, high minimum size, no fishing in spawning areas or rivers of any type – and a spring fishery that in 2006, for instance, only accounted for 46 percent of the total harvest. So a lot of that spring fishery is non-migratory stock. But migratory stock are harvested along with the resident fish as well.

In the past the overages have tended to accumulate, that in one year if we had, if an overage has resulted then the next year's quota has been reduced. The year classes have been variable and we haven't been able to fit that harvest into a new quota. There is a continuing overage and it accumulates.

And this again to me is symptomatic. It's not a system that works very well. The problem in 2005 and 2006 we've been able to show has been a result of the high '93-'96 year classes. Prior to that we were well within a VPA-based quota.

So we weren't as smart as we could have been last year when we proposed the quota for 2006. The technical committee didn't pick up on the year class contribution, either. And so we're faced again with an overage in 2006 that we have to deal with in 2007.

We believe that the harvest is going to fluctuate with the year class contribution and with weather. And I would look ahead and remind you that we have a 2001-2003 strong year class coming down the pike.

They're not nearly as dominant as the '93-'96, between two-thirds and one-half, so given our existing regulations and the absence of a cap we would predict that our harvest is going to decline in the future naturally. But what we're suggesting, and it will come up later, is that it allow, it be allowed to fluctuate naturally and not be measured against a hard, fixed number that in our view is symbolic in nature and not all that meaningful. Thank you.

CHAIRMAN DIODATI: Let me ask, Doug, did the technical committee have anything on this issue that you wanted to report at this time?

#### **TECHNICAL COMMITTEE REVIEW OF PROPOSAL**

MR. GROUT: Yes, Mr. Chairman.

CHAIRMAN DIODATI: Are you going to share that with us?

MR. GROUT: I sure will. Maryland presented us both with their quota calculation – excuse me, their harvest calculations and then the proposal to eliminate the quota. Our comments on the harvest calculations were as follows. There was concerns about the discrepancy between the Maryland charter boat logbooks and the MRFSS estimates.

We heard from a Maryland technical committee member that there is under-reporting in the logbooks estimated at roughly about 20 percent of the captains don't report. This is due to some don't fish at all and others due to some late reporting that occurs. The quota, it was also felt that the quota may provide an incentive to under-report on the logbooks and also that the MRFSS For-Hire Survey may be an over-estimate and the logbooks may be an under-estimate.

We also made recommendations to Maryland for future analysis and better data collection whether or not the quota is maintained or not. We asked that they compare the catch per unit effort from the logbooks with the MRFSS For-Hire Survey to see if they are similar, recalculate the migration rates used in the harvest estimate with current tag data. We're using migration rates that were established back with data from the 1980s when we had a much smaller stock.

Specific spring fishery, a recommendation was made that maybe there should be a specific spring fishery charter permit which would then encourage the charter boat captains to report immediately after the spring fishery is over as opposed to the end of the year. And that might get some more better estimate, better data reporting.

So that's what our recommendations were on the harvest estimates. And if we go to the next slide this is what our recommendations were on the request to eliminate the quota. And these I will note are essentially similar recommendations, ideas that we put forward when we were asked to review this proposal last year.

We feel this is an allocation issue for the board because of the way the TAC, the quota was set up. Our comments on the quota is that past spring fishery has accounted for a very small portion of the coastwide F on Age 8-plus. And you saw that in the presentation that Nichola presented where F contribution to the coastwide F is below .01 in all but one year.

We also recommended using tag data to determine the effect of the spring fishery on the Maryland portion of the Chesapeake Bay stock. The reason for this is their analysis is comparing things on a coastwide basis while their fishery takes place on the Maryland portion, primarily on the Maryland portion of the Chesapeake Bay stock.

So there was some technical committee members that felt that there might be a greater impact on just the Maryland portion of the Chesapeake Bay stock. And, finally, as we stated last year it's, from our opinion it's the regulations and stock size that appear to be driving the harvest and not the quota.

CHAIRMAN DIODATI: Thank you. Jim, what about the advisory panel? Do you have any comments or recommendations from the advisory panel to relay?

#### **ADVISORY PANEL REVIEW OF PROPOSAL**

DR. JAMES GILFORD: Thank you, Paul. I do have some recommendations from the advisory panel. I'm a little bit skewed because of some related miscommunications but let me introduce a little bit. On behalf of the advisory panel I have requested that copies of the Maryland and the North Carolina proposals and a copy of the technical committee report be sent to each of the 21 members currently serving on the advisory panel.

Because the technical committee report was not available on January 12<sup>th</sup> when the proposals were sent out to the panel, an excerpt of the staff notes from the technical committee meeting was included in lieu of the official report. And a consequence of that, the advisory panel saw a different wording in the results of the technical committee meeting – a difference in wording, not necessarily difference in meaning.

Without the opportunity to convene as it has in the past with a technical representative present to provide guidance on technical issues the advisory panel members submitted their comments independently based on the proposals themselves and the excerpts from the staff's notes from the technical committee meeting.

Having the advisory panel function in isolation does not serve well either the advisory panel process or the board. In evaluating the North Carolina proposal panel members might reasonably have questions, have had questions about the basis for the current

TAC given that the technical committee's comment that there was no measure of either a current or historical mortality rate for the AR fishery.

The technical committee comments as the advisory panel saw them to the board regarding the Maryland proposal suggests that the actual mortality in the spring season likely is being under-estimated and that there is a potential for a slight increase in fishing mortality if the quota is eliminated.

Without access to the technical committee panel members had to decide for themselves what the technical committee meant specifically by "likely", "potential", and "slight". Comments have been received from eleven advisory panel members including: six recreational representatives, one each from New Hampshire, Rhode Island, Connecticut, New York, Virginia, and North Carolina; two charter boat representatives, one each from Maine and Maryland; and three commercial representatives, one each from New York, Virginia and North Carolina.

Board members have received copies of the unedited comments and the supporting rationale submitted by each of these eleven panel members. In the interest of time I have attempted to categorize the panel members' positions on each proposal and I refer you to the verbatim copies of the panel members comments to judge the appropriateness of the categorization.

With respect to the Maryland proposal, four panel members – one charter boat representative, one commercial and two recreational – are opposed to eliminating the quota. One recreational representative concurred with the conclusion as stated in the excerpts of the technical committee meeting but also could support the proposal provided adequate reporting and documentation of the fishery is provided.

Four panel members – one charter boat representative, one recreational and two commercial – support the proposal. One panel member who neither opposed or supported eliminating the quota recommended that the board err on the side of caution while one member did not comment on the Maryland proposal.

CHAIRMAN DIODATI: Thanks for that very good, thorough report, Jim. Any questions for Jim? Go ahead, Gordon.

#### **BOARD DISCUSSION OF PROPOSAL**

MR. COLVIN: For Doug, if I could. Thank you. Doug, I think early in your presentation there was a comment to the effect that the committee thought that perhaps the tag, the two estimates of harvest that the MRFSS For-Hire Survey could be over-estimating and the Maryland reporting-based survey could be under-estimating. Is there a reason that the committee thought that the For-Hire Survey might be over-estimating or is it equally possible that it is over- or under-estimating?

MR. GROUT: I'm going to have to draw on my memory banks as to why they felt it could potentially be over-estimating. And I think it has something to do with the new method where they're sampling a portion of the list of for-hire captains.

And what happens is they may not, they may have a sample size of, say, for example, 10 or 20 charter boats out of a sample of 50 that they'll contact every week for these estimates. Now not all of these 50 that are in the sampling frame are, may be active and fishing at that point.

And so what they're doing is they take an average number of trips from the 20 that they sampled in this example that were taken or angler trips and then they expand it by the total. But if some of those total sampling frame are not fishing, there is a potential for over-estimating. And that's I think where we came to that conclusion and is one of the reasons we wanted to have a more refined, in-depth look at the two methods. I hope that was clear.

CHAIRMAN DIODATI: Actually we don't have a motion yet on this and I would like to get a motion and then we can get into some more thorough discussion to deal with it. Tom, first.

MR. TOM MEYER: Thank you, Mr. Chairman. Doug, could you elaborate a little bit more on why you felt, feel it's an allocation issue and also was conservation equivalency discussed at all during your meeting?

MR. GROUT: No, there was no, first of all there was no mention of conservation equivalency. And the basic reason that we felt originally that this was an allocation issue, because it was a quota level that was originally set by the board.

That is basically – originally back in the early '90s, from my historical recollection, we had the 18- to 28-inch fish being fished on by Chesapeake Bay and then the fish 28 and above were fished on the coast.

And then the bay requested harvesting a portion of the migratory fish, via their spring fishery at that point. And that was approved by the board. And, again, these have been all board issues so we felt, that's the reason we feel it's an allocation issue.

CHAIRMAN DIODATI: A.C.

MR. A.C. CARPENTER: Thank you, Mr. Chairman. I would like to for the record state that the Potomac River Fisheries Commission, although it wasn't mentioned in the slide there, will adopt the season/size limit/creel limits that Maryland is proposing in this. **And with that regard I would go ahead and move approval of Maryland's plan.**

CHAIRMAN DIODATI: Is there a second? Second. Before we get into this –

MR. FRANK COZZO: It's Frank Cozzo, C-o-z-z-o, Pennsylvania.

CHAIRMAN DIODATI: Okay, before we get into discussion on the motion I'm going to call for about a three-minute break, if you don't mind. Is that possible? We have plenty of time. The North Carolina proposal is off the table so a three-minute break. We'll come back. We'll discuss the proposal. You'll have time to caucus. Three minutes. We'll come back at 1:30.

(Whereupon, a brief recess was observed.)

CHAIRMAN DIODATI: Okay, we're going to get started again. Board members, please take your seats. Board members, please take your seats. Audience members, take your seats. Howard, did you – did you want to address this motion, Howard?

MR. KING: Yes, thank you, Mr. Chairman. In order to lighten the workload of the Striped Bass Technical Committee I would like to make the following clarifying motion which follows A.C.'s motion. Nichola, if you would put that motion up on the board, please, or Erika.

CHAIRMAN DIODATI: So does this become A.C.'s motion – a clarifying motion? That's a new one to me. Go ahead, Howard.

MR. KING: Shall I heard the motion, Mr. Chairman?

CHAIRMAN DIODATI: Yes. Just for the record if this is going to be A.C.'s motion or are you substituting this motion for –

MR. KING: Staff would have to advise us on that.

EXECUTIVE DIRECTOR O'SHEA: Maybe you might ask the maker of the original motion if he wants to withdraw it.

CHAIRMAN DIODATI: A.C.?

MR. CARPENTER: Either that or this can be a substitute motion for it, whichever is most appropriate.

CHAIRMAN DIODATI: Withdraw?

MR. CARPENTER: **I'll withdraw.**

CHAIRMAN DIODATI: Seconder agrees? Is there a new motion? Here is it. Howard, would you like to read this motion and then we'll look for a seconder?

MR. KING: Yes. **Move to substitute a Chesapeake Bay spring striped bass fishery quota with non-quota management through a freeze for status-quo Maryland migrant fish regulations that have consistently been in place and allowing the spring harvest of migrants to fluctuate naturally with stock abundance and weather conditions and to forecast harvest ranges expected each year and report subsequent harvest assessment post-season to the technical committee for inspection by the board.**

MR. CARPENTER : I'll second that one, then.

CHAIRMAN DIODATI: Discussions on this motion. Roy.

MR. ROY MILLER: Thank you, Mr. Chairman. Let me just say at the outside that I don't recall any biological basis for the 30,000 quota or 50,000 or whatever. The previous spring quota had been for the Chesapeake states so I would not necessarily recommend that we retain the old way of looking at the Maryland and the rest of the Chesapeake spring harvest.

However, having said that, I have to point out the discrepancies between how striped bass are managed in the Chesapeake jurisdictions in the springtime and how they're managed elsewhere in the springtime. For instance, within the Delaware estuary, which everyone knows contains a reproducing striped bass population as well, the Delaware jurisdictions, and perhaps the Hudson as well if memory serves, are pretty much confined at two fish at 28 inches.

Now if we're going to be discussing allocation issues this afternoon, then I think that brings in the issue of fairness and those sorts of non-biological concerns as well. And I couldn't help but notice that in the Maryland proposal there is a two-week period when there is a minimum size in the spring of 18-inches, at least for one fish in the slot of 18 to 28.

Now, if that's okay in Maryland why is it not okay elsewhere along the coast or vice-versa? So, I'd just like to point out those discrepancies and ask if anyone else considers this a fairness issue or not. Now, the technical analysis is that the percentage of harvest in the spring is quite small but one could argue perhaps the percentage harvest in the Delaware estuary below the spawning grounds would also be quite small in the spring.

Those arguments could go on and on. So I just wanted to point out that discrepancy and also point out the obvious discrepancy between the Maryland size limits and the Virginia size limits. Apparently that doesn't give the Chesapeake jurisdictions any heartburn, or at least none they've brought to my attention. But there is a huge difference in the size limits. Thank you.

CHAIRMAN DIODATI: Okay, I think some of Roy's question might be rhetorical in nature but – Mr. Adler.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. I'm having a great difficulty with this, several reasons. First of all, the Massachusetts quota, we have a quota there and I'm wondering if – a commercial quota, that means we can revisit our quota because a lot of the, a lot of the numbers picked are arbitrary. Even the commercial quotas are somewhat arbitrary based on information.

And I have a problem here with trying to do away with one of the quotas. A new assessment is due out soon. And maybe it would be appropriate at that time to reassess all of these quotas that they do have up and down the coast and this would – maybe an addendum or an amendment to discuss these changes might be in order at that time.

But I have a problem with I know it's, I agree there is probably plenty of striped bass, probably more than we know. But at the same time I think that since we started off with the quota in this particular fishery down in Maryland and we upped it I believe a little at a time but we upped it and now, well, we're just going to do away with it. I'd like to do that with my

commercial striped bass quota up in Massachusetts but we can't. So maybe we can or maybe we can look at all of these things again. But I think that this is not the time. Thank you.

CHAIRMAN DIODATI: I'm going to go to Bob Beal who might have some clarifying?

MR. BEAL: Well, actually, I just had a question of Howard I think about the wording of the motion. Is that okay, Paul?

CHAIRMAN DIODATI: Sure.

MR. BEAL: Okay. Howard, in the motion it says Maryland is going to freeze their regulations that have been consistently in place. Are those regulations the regulations that Nichola described in her presentation earlier in the meeting?

MR. KING: They are.

MR. BEAL: Okay, just, I just wanted to make sure everybody is on the same page and knowing what regulations Maryland is going to put in place because they've had a number of changes over the last few years.

CHAIRMAN DIODATI: Before I go to Terry, Howard, did you want to respond?

MR. KING: Yes, just to Bill. There is no plan or proposal to eliminate the Maryland commercial striped bass quota. We're merely suggesting proposing that the Maryland spring fishery be fished under the F which controls the coastal fishery and not to relax the commercial quotas.

CHAIRMAN DIODATI: Terry.

MR. TERRY STOCKWELL: Yes, thank you, Mr. Chair. Our anglers are reporting fewer and fewer big fish. And a question for Howard is could you be more specific, please, on how this proposal is going to reduce the harvest of big fish in 2007 and in the years to come?

MR. KING: My earlier comment reflected on the previous year classes of 1993-1996 which are still with us. They're still moving through the system. Nineteen-ninety-six, particularly, is still in the Chesapeake component in the spring. In future years we'll be looking towards 2001-2003 year classes which are at a level based on the Juvenile Recruitment Index of between one-half and two-thirds of the '96 year class.

The harvest in Chesapeake Bay, given the stable fishing regulations that we have, should be reduced. That's not to say that the harvest of big fish along the coast is going to be less. I mean Maryland's harvest has increased as those year classes have increased. Maryland's harvest has not increased to the same level of the coastal harvest increase, however.

Now I did want to make that point. It appears as though Maryland maybe in isolation has increased the catch of big striped bass but our catch has not been as large an increase as the coast in general. So we think we're conservative. The coast really needs to manage that fishery as one unit stock and not, we think, partition off a relatively small quota for a particular state.

CHAIRMAN DIODATI: Ritchie White.

MR. G. RITCHIE WHITE: Thank you, Mr. Chairman. I've been wrestling with this since it was sent out. And I guess I've come down to having a problem with the principle of this. And in good faith the commission set a quota. Maryland accepted that quota. They didn't object in 2003 when it was in the plan.

They didn't object in 2004. In 2005 it was altered. Still wasn't an objection to changing the manner of managing. And now we come to the point where the overages are such that it would shut the fishery down and now we want to change it. And I just have a problem.

If this had started in 2003 talking about this, before there were overages, I think it would be, it would be much easier to swallow than to be at a, after the "horse is out of the barn," so-to-speak. So I guess I would like to see this, the overages paid back and then discuss how we would go forward. Thank you.

CHAIRMAN DIODATI: Any other board discussion on this motion? Mark.

DR. GIBSON: Thank you, Mr. Chairman. Maryland has made the case that, you know, these increase in catch are abundance based, based on the year classes that are coming through and to some degree that is certainly true. But I would argue that they're also effort based and in the Figure 4, the first document, it's the Wave II trips that are increasing strongly, that have quadrupled since 2002 and stand at their highest level.

And those are the early trips and they're the ones that

generate, if you go to the next document, the size compositions, in the very earliest part of the wave, in the Wave II, you know, portion of the wave and those are the largest. They have the most extended size composition, out to 49 inches. Those are the true, you know, migratory spawners.

And so, and I just, I have had a long-standing concern about the mortality rates on the oldest fish. It looks to me as though the private boat effort is moving towards that fishery and expanding on those groups of fish, those larger fish. And I just think we're playing with fire, not only here but along the coast entirely, because we don't know much about these old fish in terms of their mortality rates.

It seems to be this overage problem could be straightened out by just dropping out this April portion of the trophy fishery. It would put the largest fish off limits, the ones we have most concerns about, would probably bring you back into your cap range. So I wouldn't support this motion at this time.

CHAIRMAN DIODATI: Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. Along those same lines, and I don't want to beat a dead horse but referring back to Figure 3 and Figure 4 of Page 7 of this one document it strikes me that the comments that have been made indicate that either the charter boat trips have been stabilized – and while let's assume that they are – they are at about 40, maybe 42,000.

And then I go down here and within, from 2005 down you've lost maybe six or so thousand trips. But then I go down here and I look at the number of trips made by private boats so definitely that number fully offsets the number of charter boats because we've had an increase of about 90,000 trips, between 85 or 90,000. Call me a liar for 5,000. But the numbers look pretty close to maybe 90,000 additional trips between 2005 and 2006.

So any economies it seems to me that the charter boat folks could have added or subtracted from the problem have been exacerbated by the number of private boats. And, again, like Ritchie White has mentioned, it's awful difficult to find ourselves in other fisheries – and I'm not going to talk about fluke but in other fisheries – all held to basically the same timeline and size, bag and season or a combination thereof.

And it just, it bothered me several years ago when we went down this path with Maryland where we



allowed them a different scenario – and when we get to North Carolina I'll say basically the same thing – based on a different model, if you will.

As Roy Miller said, we have the same concerns in the Hudson River. We went from 18-inch fish to, in one fell swoop in two years to two greater than 28. Our catch rate went to zippo. And we had individuals, as they're going to have in Maryland, stressed because they aren't able to book the trips to do what they do.

Again, we're talking about an increase of some 62,000 pounds. I looked at this chart that Nichola presented and I kind of, it boggles my mind to think we went to 65,000 bay spring harvest fish.

And if I asked what was the mix of females to males and assume that half of those were females and none of them had a chance to spawn, and I look at what the impact is on the population I find it hard to believe that it's less than 1 percent, unless we assume that all the eggs died. So it's a real problem.

Again, it would seem to me that in order to support where we want to go with this and give Maryland a chance to fish we really have to look at what similar states are forced with, either the one-fish at 28, two at 28. And I think we have to have this consideration to, as Ritchie White pointed out, to look at what we do about this payback if in fact we get to that point in time.

I don't think anyone around the table wants to put Maryland's fisheries out of business. But if we go down this narrow path – and it gets very narrow at the other end – that light at the other end of the tunnel is not going to be a little car or a horse and buggy; it's going to be a locomotive.

And we are going to set precedent here again if we're not careful. So I think each of us around the table are obligated to do the best we can to come up with the right solution for Maryland. But to eliminate the quota and support this motion would be awful, awful difficult at best and I know I couldn't support it. Thank you, Mr. Chairman.

CHAIRMAN DIODATI: Gordon. Wait a minute, Gordon. Let's let Howard respond. Do you want to respond?

MR. KING: Yes, thank you, Mr. Chairman. Just a question, first, Pat. What is the Hudson River's spring striped bass quota?

MR. AUGUSTINE: Gordon could probably answer

that.

MR. COLVIN: I'll be correcting the record on that entire point in a moment.

MR. KING: Okay, thank you. I did want to point out you all were looking at the chart that showed the private boat effort in Wave II in Maryland. That indicates that in Wave II, which would have included the April portion of the fishery, a two-week period, we had 220,000 private boat trips targeting striped bass.

We all live with what we think are deficiencies of the Marine Recreational Fisheries Statistics Survey but that to me is just glaring. You don't all live there and you don't all see what we see. But that is just an incredible estimate of private boat effort.

But I did want to say, also, that you mentioned the pre-spawn. In our Chesapeake Bay fishery in the spring we take fewer pre-spawned fish than any other jurisdiction prior to our spring fishery. Just by definition everyone is catching pre-spawn fish.

Now in Maryland we do monitor the sex ratios and those that are pre-spawn and post-spawn. In terms of spawn it varies between 35 percent and 70 percent pre-spawn. But reminding everyone again that the fish you're catching are pre-spawn, also.

CHAIRMAN DIODATI: Gordon and then Dennis.

MR. COLVIN: Thank you, Mr. Chairman. I do have a couple of points to make but before I do I just do want to set the record straight on the issue of the Hudson River striped bass regulations. New York's Hudson River regulations from the George Washington Bridge north are presently one fish at 18 inches.

That is an approved conservation equivalent regulatory measure approved by this board as conservation equivalent to the coastwide standard of two at 28. At the present time we are advancing a regulatory proposal to change that to one fish at 28 inches. Why one instead of two? Several reasons.

Prominent among them is the fact that we recognize that the fishery operates in the Hudson during the spawning season and we acknowledge the language in Amendment 6 that encourages extra conservation and care in those instances. That said, Mr. Chairman, a couple of comments if you may.

One of the, it seems to me that one of the features of

this spring so-called “trophy fishery” in the bay, and it has some things in common with other fisheries of this nature, is that it occupies a short period of time within which the harvest rates can be quite rapid. And the landings roll up very rapidly in advance of traditional or standardized ways of measuring catch so that in hindsight we can find that we overshot a quota, which we appear to have done recently, without having an opportunity to intervene.

Now we’ve seen this in other fisheries, certainly. But it is a particular problem in fisheries that have short seasons and very high intense catch rates. And it seems to me that before we abandon the quota altogether or abandon the management approach that incorporates the quota altogether, it would be appropriate to revisit the question of managing it with a different or non-traditional, much more intensive way of monitoring the catch.

And several suggestions have been made. There has been a dialogue that includes some recommendations that we heard today from the technical committee. Others of us have talked about other things. And certainly the folks in the Chesapeake are aware of many ideas that have come up in the dialogue.

And I would be more receptive to a proposal that incorporated perhaps some forgiveness on and flexibility on the issue of an absolute, pound-for-pound payoff, payback with a much more intense, aggressive permit-based reporting system than I am to one that simply proposes to abandon the restrictions of the quota system altogether in light of the problems that it has experienced.

The second point is the issue of incorporated into the argument the question of how we all got here. And that’s a tough question because the history of our, you know, if you will, the record and institutional memory of our, the evolution of our striped bass management program is voluminous and complex and often our attempts to reconstruct it mentally at the time we make decisions, you know, carries difficulty for each of us.

And those difficulties are unique to each of us. Probably each of us has our own opinion about how we got here. As somebody who has been here pretty much throughout, one of the concerns that I have is the notion that a quota that we may have operated from, whether it’s 30,000 or something else, has no basis or is arbitrary because it doesn’t appear to be specifically grounded in the output of some assessment or reference point-based analysis.

That doesn’t make it arbitrary. The decisions we make here are reasoned decisions that reflect at the end of the day the net result of our deliberations and decision-making as a body. And we got here using that process. And I think that we need to recognize that fact.

And if we want to replace it with a reasoned proposal to do so, that’s fine, using the same process. But I think to say we should abandon it because we don’t know what the, how it came to be is not an appropriate argument. And I don’t support that argument.

Personally I sort of see things this way. We have something in the Chesapeake Bay. We have a management program that’s kind of a combination of measures that evolved over time and transitioned from Amendment 5 to Amendment 6 such that the net affect is that in total, in sum, they constitute a board-approved, conservation equivalent program to what could be in place as of right under Amendment 6 which is two fish at 28-inches with historic based commercial quotas which we’ve never really established or enforced for that jurisdiction because that alternative has always been in place.

It seems to me that the three, four jurisdictions, actually, could go back to Square 1 and assert their as of right interests under Amendment 6 and we could review and approve those. But everything else collectively is a well-established alternative that is based on conservation equivalency as a whole, in my mind. As I said before, others of us may see the history of it differently. Thank you.

CHAIRMAN DIODATI: Dennis. You pass. I think I have Vito Calomo.

MR. VITO CALOMO: Thank you, Mr. Chairman. It’s never a dull moment when we talk about striped bass. That you can guarantee. Mr. Chairman, I’ve heard a lot of good information here this afternoon and some is a little new to me but most of it isn’t. I think before we go any further, Mr. Chairman – and it’s only my opinion that – this seems to be a little premature.

Whether we vote for something like this or not, it’s premature at this time. I’m not saying it can’t happen in the future but we have a new stock assessment coming out I think in 2007. I think I’m right. And if I’m right then we shouldn’t do anything until we have that stock assessment so we’ll have the information and proof what to do, whether up or down, or more or less.

Maybe everybody needs to be re-evaluated at that time. But I feel that where it's so close that even though their proposal is here on the table I think we should have the stock assessment to have the information so we can vote properly. Thank you, Mr. Chairman.

CHAIRMAN DIODATI: Okay, Eric.

MR. SMITH: Well, when I raised my hand to speak I had a view that I'm going to offer anyway but I've been listening to a lot of very compelling comments and unfortunately every one of them has been either cautionary or in opposition to this proposal. So I guess I'm just going to try and offer a different point of view, having read the proposal and listened through all of this.

It seems to me it's the stock size increase that is causing this, not that Maryland relaxed their regulations, not that they intentionally overfished or they went off the deep end, somehow. They just simply, they, like a lot of our quota-managed recreational fisheries you set a quota that, you know, years ago that you think is a good idea and then you find out that you overshoot it because the stock went up.

So I think that's probably the underlying cause of this, not anything else. Having said that, you know, I've kind of been writing down a straw vote and I kind of think I know the way this is going to go so I just simply have a question, then, for Howard that maybe helps me a little bit more when I caucus with my two colleagues here.

Is it your intention that if this passes from then on Maryland will regulate the spring fishery based on the coastal fishing mortality rate with respect to the reference point for the coastal fishery stock? So if all of us have to decline, reduce F by 20 percent three years from now Maryland would have to in the spring fishery? So in part, anyway, you're sort of getting into the mode of where the coastal fishery management plan has evolved to? Okay. Thank you.

CHAIRMAN DIODATI: Okay, before we caucus, that seems, I think we've pretty much exhausted this. I don't think we're going to hear anything different. I am going to allow audience members to have an opportunity to comment.

But this was not part of an addendum or an amendment so it hasn't gone out to public hearing. So we're not going to overly entertain public

comments on this issue. I don't think that would be fair. But how many people in the audience are going to want to comment on this issue?

Only three, fine, then we can hear all three. You'll have a couple of minutes starting with this gentleman. Then we'll go to Tom and then whoever else it was. Okay. If you can keep it short, please. Thank you.

MR. RICH NOVOTNY: I'm Rich Novotny. I'm Executive Director of the Maryland Saltwater Sports Fishermen's Association. I've been fishing in Maryland for almost all of my life, 50 years. I've seen good years. I've seen the bad years. I was around when they first established the cap on our fishery.

Our fisheries director then, Mr. Pete Jensen, which most of you do know and hopefully respect, gave you that number. And that number was very good up until about a few years ago. For eight years that number held up. And as you can see he was pretty sure of the fishery at that time.

But since that time that fishery has grown. And for the last three years or two years especially we have went over our quota. And the reason why we have went over our quota is because – I can't say "you all" or whoever has not kept up with the stock size as it has grown, once again, a remarkable recovery of striped bass.

And it's a great thing that you all did in bringing the striped bass back. But once again we only have a one-month fishery on these fish. Most of our, and part of that total that is being talked about, part of those are resident stock. It's not all migratory stock. So you're also tying our hands with including our resident stock in with the migratory stock.

If you go ahead and not allow us to remove this cap, especially just for this next year, and you hold a penalty on us like you did last year, I mean we went from 28 inches to 33 inches and just remind you we went for a five-year moratorium while all the other states were fishing. We're not looking for any paybacks on that.

We went to a one-fish size limit, 28-inch size limit for in the bay for our spring fishery. We then went and furthermore conservation went to a two-fish limit at 18-inches but only one of which could be over 28 inches. So once again we went over and above what most states are doing now. So we could only catch one fish over 28 inches during the entire summer all

the way up through December.

So, once again, we feel as though we really have given up a lot in the state of Maryland. And now that if you're going to not remove this cap on us and you impose this penalty on us you are going to crush us. This is going to be crippling because I can well imagine what the size limit has got to be once again because last year we went from 28 to 33. I can't see going to 40 inches. And that might, just might would have happened.

And when you start doing that you're going to have the same amount of people out there fishing and you're going to have a lot more mortality, needless mortality. So that once again I would really appreciate it that do a little soul searching.

Nobody said nothing about when North Carolina went way over their quota that one year. Nobody said anything about Virginia going over its, doing 350,000 fish in their last fall fishery. And you're concerned about Maryland with only have catching 60,000 fish. So –

CHAIRMAN DIODATI: Okay, thank you, sir. Tom Fote.

MR. THOMAS FOTE: Tom Fote, Jersey Coast Anglers Association. Some of us have been around here for a long time and remember. As Gordon says, everybody has their own memory of what happened over the years. But remember, this started off as the Chesapeake Bay wanted to fish at 18 inches. They were going to fish under conservation equivalency. And they were not going to fish during the spawning run and that was why they had the dual size limits put in place in 1990.

Then Vic Crecco from Connecticut basically made the decision that 25 percent, that Maryland has these fish 25 percent of the time in the bay and they should be allowed to harvest some of the coastal migratory stock. And that's when in '93 they voted to basically allow a 3,000 fish during that period of time.

But that's where it generated from. You were giving, allowed to harvest 18 inches because you were not going to harvest fish during the spawning. And that was decided in '89-'88 when we were sitting around this table, because I was there.

This is going back on what was decided under those amendments going through. If you're going to change this process, and I know you said, Paul, that we should go out. This did not go out to public

hearings. But this is a reallocation of quota. This is a changing of how you basically treat the spawning areas.

You know we basically closed down the Hudson River and closed down the Delaware River. We are basically now all fishing at two at 28. And I would have no problem with having a full year-round season in the Chesapeake Bay at two at 28 just as the rest of the coast and now the rest of the bays and producing areas have.

If they want to do that, there is no problem. But as long as you want special jurisdiction to fish an 18-inch fish, then you basically pay a consequence for that to fish on the coastal migratory. And I don't know what 4 percent, if you're saying you're catching 4 percent of those bigger fish.. Are they 4 percent of the fish that are spawned in the Chesapeake Bay? I mean, and how do they contribute to the coastal stocks?

So it's a real problem, a real concern. And that's why Jersey Coast Anglers Association, as we have in the previous years, cannot support this, especially with the new stock assessment because our fear is this new stock assessment is going to produce that we're fishing too much on the bigger fish and that we're all going to have to cut back and I don't need any more pressure than that. Thank you for your time.

CHAIRMAN DIODATI: Thank you. Last comment.

MR. BILL WINDLEY: Thank you, Mr. Chair. Bill Windley from Maryland Saltwater Sport Fishermen's Association, senior advisor for Interstate Fisheries Recreational Fishing Alliance. I'd like to go on record in supporting the things that Rich Nevatni mentioned in his earlier comments.

And I would like to add one thing. I've heard a number of people say while coming to these meetings that management has a much more difficult time managing success than they do in managing failure. The direction to take in times of failure are pretty obvious. Sometimes the directions to take in times of success are not so obvious.

I do believe that not taking some measure at this point in time to relieve the pressure that is going to be on the Maryland Charter Boat Association with the numbers left the way they are is not in the spirit of what this organization has always intended to do, especially in times when we have such a great

success with our fishery.

One final point and that is there is still equivalency left in this proposal in that we're talking about taking one fish at a larger size as opposed to two fish on the coast. So, there still is conservation equivalency left in the proposal as Mr. King provided it. Thank you.

CHAIRMAN DIODATI: Thank you. Does the board request a short caucus? They do. Before they do that I'll allow Howard, to make a closing comment.

MR. KING: Well, this is the forum and these are the people that resolve these kinds of issues and these kinds of problems and I'm confident we can do that. I have had a sense from the board. **I'm going to propose that I withdraw this motion and the seconder agree to that.**

There is still time for Maryland I believe to come back to the board over the next 60 days. It may be through a fax vote and other types of communications but I think I've heard enough that I think we can fashion a proposal that would better meet and address the concerns of the board members from what I've heard today.

CHAIRMAN DIODATI: Okay, the seconder agrees to withdrawing the motion at this time?

MR. CARPENTER: Yes. I'm not sure that we've got 60 days, Howard, but I'll withdraw the motion.

CHAIRMAN DIODATI: Dennis.

MR. DENNIS ABBOTT: Thank you, Mr. Chairman. We surely aren't unhappy that Howard withdrew the motion but the thought of dealing with this at a later time through faxes, phone calls and telephone calls I think with the seriousness of this matter, that's no way to do business. If we're going to deal with this again, if we go that far, then the board had better meet again. That's my opinion.

CHAIRMAN DIODATI: Howard.

MR. KING: Bob and Vince is there an opportunity to bring up a motion later in this meeting week?

CHAIRMAN DIODATI: The answer is no to that. Pete.

MR. HIMCHAK: Mr. Chairman, I fail to see how an extra 60 days is going to solve the problem, an issue that started in 1991 or there about with the dual size

limits and producing waters and nursery areas. And I would make the motion that the proposal by Maryland to eliminate a quota be rejected.

CHAIRMAN DIODATI: Yes, but I think that the proposer of the question and the seconder have agreed to withdraw it. I don't think we need to vote on that. It is withdrawn. So I think that Maryland recognizes that timing will be difficult. And I don't think that a question relative to allocation will be dealt with over the telephone. I don't think that the board is going to want to agree with that. Rich – go ahead.

EXECUTIVE DIRECTOR O'SHEA: Yes, thanks, Mr. Chairman. You know in fairness to Maryland, and I maybe should have been thinking quicker, when Mr. King was making the suggestion to withdraw this it was, sounded to me like he had an expectation that this was feasible through a poll or telephone 60 days down. And now that he has had that answer there may be some consideration to see if he still is of the same mind when he made his initial statement.

CHAIRMAN DIODATI: That's fair enough. Howard.

MR. KING: I felt as though we could come to some further agreement down the road but if time doesn't permit that then **let the motion stand.**

CHAIRMAN DIODATI: So **the motion is back on the table.** The seconder agrees? And unless it's something new, Eric, I'd like to just call – it's something new?

MR. SMITH: Yes. Very quickly. I just thought Maryland might increase their chances which I think are in trouble right now if they make it for one year only and we, and if you want to try this out and see how it works for another year while we're getting the next assessment, at least don't put your feet in concrete for the future, just a suggestion.

CHAIRMAN DIODATI: Okay, I think we have a motion on the table. There is a second. I'm going to call for a short caucus right now. All right, board members please take your seat. Board members take your seat; audience members, the same, please.

Okay, the motion is on the board. All in favor please raise your hand and keep your hand up so Nichola can take a count, in favor of the motion; opposed, same sign; null votes; abstentions. **The motion fails 7 against, 6 in favor, 2 abstentions.** Anything else

on this issue? Otherwise, we will go to the last agenda item. Howard.

MR. KING: I would like to make a motion, if Nichola is ready. **Move to set a target for the Chesapeake Bay spring striped bass fishery based on past VPA calculated methods and the, a payback for the 2006 overage but to establish a Chesapeake Bay spring striped bass fishery quota no less than 30,000 fish. This is for 2007 only.**

CHAIRMAN DIODATI: Okay, is there a second to that? Second, Jack Travelstead. Comments on the motion. Questions. Ritchie.

MR. G. WHITE: In trying to understand it, it's a quota but basically it's a set of regulations for a year. In other words, the quota – there is nothing that enforces the amount of fish in the quota. Is that correct?

MR. KING: We would have to set regulations to meet the conditions I set out there.

CHAIRMAN DIODATI: Dennis, did you have your hand up? Vince.

EXECUTIVE DIRECTOR O'SHEA: Thanks, Mr. Chairman. Just for clarification on how this is intended to work, is that, they would get a number out of the VPA then apply the payback number of the 2006 overage and then use that number for the 2007 quota provided that it's not less than 30,000 fish, in which case it would be 30,000 fish. Do I have that right?

MR. KING: That is correct.

CHAIRMAN DIODATI: So it's my understanding that the likely 2007 calculated quota minus your overage would be somewhat less than 30,000 fish. So, we're really talking about a 30,000 fish target?

MR. KING: Likely.

CHAIRMAN DIODATI: Likely.

MR. KING: That's true.

CHAIRMAN DIODATI: Okay. Any other questions or comments? Dennis.

MR. ABBOTT: Thank you, Mr. Chairman. I had my hand up before and didn't know what question I wanted to ask or what comment I wanted to make and I'm probably still in the same position.

But I do know that as a board member reading the beginning of that, "moved to set a target for the Chesapeake Bay spring striped bass fishery based on past VPA calculated methods and the payback for the 2006 overage to establish a Chesapeake Bay spring striped bass fishery", I don't understand that.

I don't know what that tells me. And that makes it hard for me to make an intelligent vote. If the gentleman from Maryland made a simple motion to establish a reasonable number this year I could probably support that. But this is just too complicated for me.

CHAIRMAN DIODATI: Any other – Rich.

MR. G. WHITE: A question. Will the regulations that Maryland determines to meet the 30,000 fish, will that be vetted through the technical committee?

MR. KING: Yes.

CHAIRMAN DIODATI: Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. Would it be possible to make a calculation if the state of Maryland were to take on a one-fish greater than 28 in the spring harvest? And I'm not sure how you would measure that. But, again, as with Mr. Abbott, I haven't got a clue where this is going, whether or not they'll end up at 50,000 or hopefully only at 30,000.

I'm not looking to put the group out of business; I'm looking to control the 62,000 back to a reasonable level. So, technically is it possible to determine what that might equate to if you went one at 28 or two at 28 during the spring season? Or is that just way out there in left field somewhere?

CHAIRMAN DIODATI: Go ahead, Howard.

MR. KING: Pat, it's already one at 28.

MR. AUGUSTINE: Okay.

CHAIRMAN DIODATI: It might help some of the board members if they understood the implications if this motion failed. What happens with your spring fishery if this fails? What would your quota be at?

MR. KING: If this motion failed we would essentially be at a little or no spring fishery and be in a much more uncomfortable place this time next year.

CHAIRMAN DIODATI: Bill Adler.

MR. ADLER: Thank you. A question, I was trying to follow this. If the baseline quota for 2007, baseline, was 55,208, let's say, and you took the overage of 26,283 away, wouldn't that, wouldn't that give you 28,925 or something like that? I mean isn't that how that would work? So you'd have 28,925, give or – you know, basically.

MR. KING: That calculation might be close but that's why we set the floor of 30,000.

CHAIRMAN DIODATI: I'm getting a sense that some board members might be more comfortable if the word "target" was a "cap". That might make a big difference. And it's just for 2007. That might, that might help quite a bit. I know that's problematic for you but let me go to Pete Himchak first and then I'll come back to you, Howard, while you're thinking about that.

MR. HIMCHAK: I was just, but I was going to ask if Nichola could put up the time series on the caps and the underages so that we could get a better understanding of where 30,000 is in relation to the VPA minus the overage.

CHAIRMAN DIODATI: And Howard, did you want to?

MR. KING: Well, the original objective was to substitute the cap management for non-cap management and so I'm just not willing to go there. I mean that was our primary objective and we could have worked a season around that so I'm not willing to replace "target" with "cap".

CHAIRMAN DIODATI: Okay. Any other questions or comments? Roy.

MR. MILLER: Thank you, Mr. Chairman. I'm a little confused, Howard. In your original motion you talked about freezing regulations. I gather that under this motion regulations would be fluid so that you could set regulations designed to keep you under the or – well, there is no cap in this. Are regulations fluid I guess is what I want to ask?

MR. KING: The objective of this motion is, yes, the regulations would be fluid. They would be more restrictive. I would have to determine in what way we would apply those after talking with stakeholders. But the objective of this motion is to eliminate the cap, essentially set a 30,000 fish target – and the reason I say "target" for 2007 is so that we don't end

up in this same place in 2008.

We will provide the regulation changes with the calculations to the technical committee. They would have to agree that those calculations should result in not exceeding a 30,000 fish cap. However, if they do, for the same reasons I brought up before, because of our inability to accurately calculate the influence of year class strength and weather, if that 30,000 fish target is exceeded there would be no payback in 2008.

CHAIRMAN DIODATI: Gordon.

MR. COLVIN: Howard, would that proposal also include some changes in the monitoring program for this year?

MR. KING: In any event when we go back home we'll have to do some housecleaning. We'll have to look at permitting for the spring season. We'll have to consider some additional monitoring, probably aerial over flights and some other methods. But, yes, I mean for everyone's benefit we need to take a more intense look at how that fishery is being prosecuted.

CHAIRMAN DIODATI: Roy.

MR. MILLER: If I could just follow up, Mr. Chairman. Howard, you said, you used the term "target" with 30,000. But your motion, as I read it, doesn't really establish a target of 30,000, only a, the lower bounds on your potential harvest would be 30,000. Am I right?

MR. KING: It would only be 30,000 if the VPA calculated number minus the 2006 overage is less than 30,000. I don't have those figures in front of me. But it's going to come out around 30,000 either way I think.

CHAIRMAN DIODATI: Okay, I'm going to allow a short caucus on this and then we're going to move the question, just one or two minutes please. Ready to call the question? **All in favor of this motion please raise your hand; opposed; null votes; abstentions. Okay, the motion passes. We'll read the results for Joe: 10 in favor, 3 opposed, 2 abstentions.** Ritchie.

MR. G. WHITE: I'd just like to clarify for the record and that the regulations that Maryland will bring forward must be accepted by the technical committee. If there is not consensus on the technical committee then Maryland would have to bring a new set of regulations forward. And I believe Howard is

in agreement with that.

CHAIRMAN DIODATI: I believe he is.

MR. KING: That is correct. And I'd like to take this opportunity to thank the board for their patience. I know you all have issues similar to these that you face each year. But we need to get through this and we need to be in a better place next year.

#### **OTHER BUSINESS**

CHAIRMAN DIODATI: Okay, I'm going to move to the last agenda item and I know that Jim had something he wanted to bring to our attention. I don't think there is any other business to come before the board today but, Jim, you did want to?

DR. GILFORD: Yes, thank you, Paul, and quickly, Fred Schwab who is a recreational representative from New York on the advisory panel is stepping down after a long period of voluntary service with the panel. He was formerly a chairman of the panel.

He has been involved with striped bass management since the inception of the panel and long before that. And I would ask the management board to consider acknowledging Fred's contributions in some fashion that you feel is appropriate, in some formal fashion that you feel is appropriate. Thank you.

CHAIRMAN DIODATI: Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. I've

already suggested it. Above and beyond that with my two counterparts from New York and we'll get with Vince on that, the thing we do at the end of the year kind of thing in addition to a letter. Follow?

CHAIRMAN DIODATI: Certainly.

MR. AUGUSTINE: Okay. It will be handled I think, Jim. Thank you very much.

CHAIRMAN DIODATI: Okay, Gordon.

MR. COLVIN: I want to thank Jim for bringing that up. And you know Fred's contribution to our advisory process goes all the way back to the original Striped Bass Fishery Management Plan and serving as an advisor to the commission and to the state almost from the outset. I was dismayed when I got his letter that said that he would be cutting back on what he was doing.

But we were very appreciative of his effort for all those years. And it would be appropriate, I think, for the commission to recognize that very long-term service appropriately with a letter and a certificate of appreciation.

CHAIRMAN DIODATI: Thank you, Gordon. Any other business before the board? Seeing none, the meeting is adjourned.

**(Whereupon, the meeting was adjourned at 2:35 o'clock a.m. on Monday, January 29, 2007.)**