

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

**Loews Annapolis Hotel  
Alexandria, Virginia  
October 30, 2007**

Approved February 5, 2008

**TABLE OF CONTENTS**

Call to Order ..... 1

Approval of Agenda ..... 1

Approval of Proceedings ..... 1

Public Comment ..... 1

Additional Plan to Achieve F=20 Delaware ..... 1

Massachusetts/Rhode Island VPA ..... 1

New Jersey Trawl-Based Assessment Method Review ..... 3

Live Market Poaching VPA..... 8

Other Business ..... 11

Adjourn..... 11

## INDEX OF MOTIONS

1. **Approval of Agenda, by Consent.** (Page 1)
2. **Approval of Proceedings of August 15, 2007, by Consent.** (Page 1)
3. **Move to approve the Delaware proposal** (Page 1). Motion by Peter Himchak; second by Pat Augustine. Motion carried (Page 1).
4. **Move to approve the Rhode Island/Massachusetts Bi-State Tautog Management Plan** (Page 4). Motion by Mark Gibson; second by Eric Smith. Motion carried on Page 8.
5. **Move that the board approved New Jerseys' Trawl-Based Assessment Model**, which is TBAM, evaluated as technically sound with a high level of precision by the Tautog Technical Committee as documenting a state-specific fishing mortality rate of F equals 0.20, which is the target fishing mortality rate of Addendum V (Page 6). Motion made by Peter Himchak; second by Vito Calomo. Motion failed (Page 11).

## ATTENDANCE

### Board Members

Paul Diodati, MA (AA)	Peter Himchak, NJ DFW, proxy for Chanda (AA)
William Adler, MA (GA)	Erling Berg, NJ (GA)
Vito Calomo, MA, proxy for Rep. Verga (LA)	Dick Herb, NJ, proxy for Asm. Fisher (LA)
Mark Gibson, RI DFW (AA), Vice Chair	Jeff Tinsman, DE, proxy for Timothy Targett (GA)
Everett Petronio, RI (GA)	Bernie Pankowski, DE proxy for Sen. Venable, (LA)
Gil Pope, RI, proxy for Rep. Naughton (LA)	Howard King, MD DNR (AA)
Eric Smith, CT (AA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Dr. Lance Stewart, CT (GA)	Jack Travelstead, VA, proxy for Steve Bowman (AC)
James Gilmore, NY (AA)	Catherine Davenport, VA (GA)
Pat Augustine, NY (GA)	Harry Mears, NMFS
Brian Culhane, NY, proxy for Sen. Johnson (LA)	Jaime Geiger, USFWS
	A.C. Carpenter, PRFC

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

### Ex-Officio Members

Jason McNamee, RI DEM

### Staff

Vince O'Shea  
Robert Beal

Chris Vonderweidt  
Toni Kearns

### Guests

Kyle Schick, VMRC/PFRC  
Bob Ross, NMFS

Mary Griffin, MA DFG

The Tautog Management Board of the Atlantic States Marine Fisheries Commission convened in the Ballroom of the Loews Annapolis Hotel, Annapolis, Maryland, October 30, 2007, and was called to order at 4:00 o'clock p.m. by Chairman David Pierce.

### **CALL TO ORDER**

CHAIRMAN DAVID PIERCE: I want to call the Tautog Board to order. Again, we have one hour to accomplish some very important business.

### **APPROVAL OF AGENDA**

CHAIRMAN DAVID PIERCE: You have the agenda before you. Unless someone cares to make changes in that agenda, I will consider it adopted by the consent. All right, so done.

### **APPROVAL OF PROCEEDINGS**

Regarding the proceedings from our August 15 meeting, our last meeting of the board, once again if there are no suggestions for change to those proceedings, we will adopt the proceedings by consent. Next on the agenda is public comment. As always, we give the public an opportunity to comment on any items relative to tautog management or science that are not on the agenda.

### **PUBLIC COMMENT**

I do not have anything in front of me describing an interest from the audience to raise any new issues. All right, I see no desire to comment on any other issues regarding tautog management or science.

### **ADDITIONAL PLAN TO ACHIEVE F=20 DELAWARE**

We'll go on to the next item on the agenda, which is the additional plan to achieve the fishing mortality rate target of 0.20. Apparently there is action required or needs to be considered relative to Delaware. I'll turn to Jason and Jason will report on that issue.

MR. JASON McNAMEE: Okay, I think, as Delaware was going through its public process to adopt their reduction recommendations, an additional option came up. It was reviewed by the technical committee. It basically follows the same methodology that we've all developed our reduction plans with, so there were no issues with the technical committee. Therefore, the technical committee approved the additional option.

CHAIRMAN PIERCE: All right, the technical committee has approved that additional option. I assume that we would need a motion from the board to approve that particular option. Does anyone care to make that motion? Is there anyone here from Delaware? Go ahead, Peter.

MR. PETER HIMCHAK: I'll make the motion to approve the Delaware proposal.

CHAIRMAN PIERCE: All right, we have a motion to approve the Delaware proposal. Is there a second? Pat Augustine is the seconder. Any discussion on the motion? I see none. Without objection, the motion is approved. The next item on the agenda is state-specific assessments. Some action is required. You will find that described in your meeting overview, one of the handouts.

As you recall, as indicated in this excellent overview prepared by Chris, we did approve all state plans at our last meeting to meet the F of 0.20 target that is required by the Addenda IV and V. However, there was need to delay action on Massachusetts and Rhode Island to give the technical committee an opportunity to review those specific proposals that were brought forward at that time.

A new document was provided to the board, and the board felt uncomfortable. It was too new; therefore, the technical committee has done its job. It has reviewed it and it has apparently a recommendation to make to us. So, Jason, you have a brief presentation to make regarding this issue, if you will, please.

MR. McNAMEE: The board also tabled a recommendation on the New Jersey state-specific assessment, so that is included in this presentation. But, based on those two state-specific assessments, there is a Massachusetts/Rhode Island joint assessment and then a New Jersey state-specific assessment.

The technical committee had a conference call to go over a bullet point and a memo that was presented to the board at the last meeting regarding the Rhode Island and Massachusetts assessment. The particular bullet point – let me get into the presentation. We had a conference call on this.

### **MASSACHUSETTS/RHODE ISLAND VPA**

The agenda topics for that call were to review the board actions and requests from the August board meeting, which I just described. Then we were

tasked with reviewing the memo regarding the Massachusetts/Rhode Island VPA. And then just because they had been tabled, we also gave the technical meeting one more shot at any further comments they had on the New Jersey proposals.

Then to reiterate the board actions, you approved all of the reduction plans using the approved Addendum V methodology. Again, the board requested that we take a look at the statement made in the memo from Massachusetts and Rhode Island, which provided justification for approving the Massachusetts/Rhode Island regional assessment.

Specifically, one of the points in the memo was that because of the outcome of the Rhode Island/Massachusetts assessment, the technical committee had previously stated if you allow a certain group of states to opt out and adopt a different reduction strategy, the remaining states in the coastwise assessment would have to compensate.

Well, that's not necessarily the case, and that was the point made in the memo, and that is what I'll talk about in a couple of minutes. The final board request was to use a modeling approach, specifically use the VPA analysis to look at the potential magnitude of illegal tautog harvest, so we can report on that today, too.

So, the Rhode Island/Massachusetts memo, basically what it stated was reductions will still be achieved. Due to the low Massachusetts/Rhode Island VPA terminal F, it compensates for the other states with a higher F, and then the other states do not have to take greater reductions. Now, what I will show in the next couple of slides is there is an analysis that was done to support that statement.

The technical committee reviewed this and agreed that the analysis was valid with a couple of caveats that they wanted included. Here is the calculation and I'll briefly go through it. The harvest numbers for the states, taken from the VPA, is in that first table. What you have is these are the numbers from the VPA, and then the bottom row there is the average of 2003 and 2004.

The next bullet is predicted harvest for the following year assumes the harvest will be equal to the '03 and '04 average, and it also takes into account a 25.6 percent reduction for Connecticut through Virginia and then a 54 percent reduction for Massachusetts and Rhode Island. That 54 percent reduction is based on the regional assessment where it says that Rhode Island and Massachusetts are at a much lower F and

therefore exploitation rate. Even the 0.2, that model says that we're at 0.11.

The next table down is the predicted harvest, and the total there you'll see is 712,001. Now, if you were to apply the target to the total at the top, that 1,041,145, what you would end up with, if all states were to achieve a 25.6 percent reduction, is 774,612. What the table above shows you is that because Rhode Island and Massachusetts are further below 25.6 percent, you end up with 712,000, which is approximately 8 percent lower than the target, or the target is approximately 8 percent higher than the theoretical number calculated above.

Therefore, the target can be achieved with all the states other than Rhode Island and Massachusetts taking the required 25.6 percent reduction. Just to reiterate that, the gist of all this is because the regional assessment is stating that Rhode Island and Massachusetts are way below the target F already, if the other states achieve their 25.6 percent reduction and Rhode Island and Massachusetts – in this calculation Rhode Island and Massachusetts have done nothing, for instance – you can still achieve your target reduction in harvest.

Just one other point to make, Rhode Island and Massachusetts aren't stating that they're going to remain as status quo. They're still recommending that they take a 12 percent reduction. It is just not as high as what the rest of the states coastwide will take, which is 25.6 percent. If the Massachusetts/Rhode Island regional assessment is approved, these are the caveats that I mentioned in the previous slide.

Rhode Island and Massachusetts have to abide by the regional assessment in the future. The technical committee would like authorization to provide recommendations to the board based on the regional assessment in the future. Then just one last note, some of the technical committee members were still uncomfortable with this and stated that they would like to see that all submitted assessments are reviewed by objective parties; in other words, should be peer reviewed as well as the coastwide.

Then New Jersey had submitted two separate models, if you recall from the last board meeting. The technical committee didn't have any new recommendations or comments for the board regarding the New Jersey analyses. I think there is a slide in here that just gives you a review of the VPA that they submitted. The technical committee rejected the New Jersey VPA because it was not at

the same level of precision as the coast-wide assessment.

### **NEW JERSEY TRAWL-BASED ASSESSMENT METHOD REVIEW**

It had a high MSR calculation and it had a really saw-toothed pattern in the F calculations from year to year. Then the New Jersey TBAM, which is Trawl-Based Assessment Method Review, this was a unique different model that the technical committee member from New Jersey came up with. Originally there were some concerns brought up by the technical committee, and the second iteration of TBAM analysis answered some of the concerns brought up by the technical committee.

They removed all the fish not exploited by the fishery and also ran several new precision analyses on the model. The technical committee agreed that the methodology was technically sound. It was indicating a good level of precision results, and in the terminal year New Jersey was at the target F, and therefore, according to the model, did not need to take further reductions. The TC still voiced concerns over this models; one, that the coastwide is a VPA.

The difference between the VPA and the TBAM, they're very different analyses, and it was difficult for us to compare and contrast them. Then there were some concerns about the basic assumptions that went into the model; namely, that the coast-wide VPA F is a good proxy for New Jersey up until, I believe the date is 2003, and then after 2003 the assumption is that it's not a proxy for New Jersey anymore, so there were some concerns about that previously. That's it.

CHAIRMAN PIERCE: All right, thank you, Jason. Any questions regarding Jason's presentation? Pat.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. I thought I was following you very well, Jason, until you start mentioning the fact that there are certain parts of the presentation and information that Massachusetts presented, and then we jumped over to New Jersey, and there's still concern about the consistent evaluation or comparison of VPA versus TBAM.

So, I don't know how we, the board, can rationalize accepting dissimilar assessments and treating all states fair and equal at the same time. I don't need a response yet. As far as the Massachusetts plan is concerned, I need to draw a parallel. States like New York have been at one striped bass –

CHAIRMAN PIERCE: Excuse me, Pat, do you have a question for Jason?

MR. AUGUSTINE: I'm sorry, it's a question for Jason. I'm trying to draw a parallel here. When it came time to figure out does a state get credit for having been more conservative than another state, the answer always has been, no, it doesn't count, you were very good that you did that. And, we went through this exercise – if you want flip back to the Massachusetts thing – I still don't see where they have met the criteria of reducing their – and I understand that they've been below the level that they should be at.

I still don't see where we now show that they have reduced anything other than they have taken something that they didn't catch and are taking credit for. I am really befuddled by that. I really need more clarification. I'd love to support it if I understood it. I don't understand how we do that. I hate to use the term "snake oil", but something doesn't jive here, and maybe you can help me.

CHAIRMAN PIERCE: Well, first of all, before I get to Peter, Jason, do you care to respond to that? Did you find the question in there?

MR. McNAMEE: I guess I can say what this calculation – I can't say anything about taking credit or anything like that. What this calculation intends to show you is that the statement previously made by the technical committee is not necessarily true because all things are not equal amongst the states as far as where they are with their fisheries.

For instance, what this example shows is if you accept the Rhode Island/Massachusetts regional assessment, it states that Rhode Island and Massachusetts are currently at a lower F than what the coast-wide assessment is saying. I apologize personally; it may be my fault for the confusion. It's very difficult to explain math sometimes.

But, what this analysis is showing that the target, because of that fact, can still be reached even if Rhode Island and Massachusetts don't take the 25.6 percent reduction that the other states are taking. The pivotal point there is because the regional assessment is saying that they are currently way below that 25.6 percent.

MR. AUGUSTINE: Very good, Mr. Chairman, but just to follow up, I thought we were managing this on a coast-wide F basis and that regionals weren't being considered at this particular point in time, and here

we are, we're taking a region – maybe I'm wrong, but we're taking a region and allowing the assessment of that region to override the fact that we have a coastal plan and its coastal F. Have I missed a point here? I don't know, maybe someone else can help me.

MR. HIMCHAK: I understand Pat's concerns from the last board meeting as far as states not being restricted and other states having to take more than the required reduction. We have two relative precedents in this coast-wide management of tautog under Addendum III. At that time a commercial fishery was not required to take any reduction coastwide, and two individual states were not required to take the required reduction and still after a number of years we did reach the target F, which subsequently we learned needed to further reduced.

I'd like to make a distinction between what Pat is saying is that nobody is looking for credit here for what we've been fishing for under the last couple of years. What we're saying is that we're trying to document that we're fishing at a current fishing mortality rate that doesn't require additional reductions in our management measures.

CHAIRMAN PIERCE: All right, thank you, Peter. We're not continuing with questions; we're getting into some discussion about the specific proposals, I believe. I'll entertain a motion if anyone cares to make one. Mark.

MR. MARK GIBSON: I would move approval of the Rhode Island/Massachusetts Bi-State Tautog Management Plan.

CHAIRMAN PIERCE: All right, we have motion from Mark Gibson; seconded by Eric Smith. Discussion on the motion? Gil.

MR. GIL POPE: Thank you, Mr. Chairman. To me, it's almost like, when I compare this, grading on a curve where if one student or a series of students that have good grades and another series of students that have bad grades, and they're really going to love it if you grade on the curve because that's going to bring their Fs or Ds up to Cs and Bs, and then the other guys are not, and they're going to hate it because their As and stuff down to Bs and Cs.

So, having this as a coast-wide fish was a mistake from the beginning, but I guess we're stuck with it and there's nothing we can do. Everybody knows that they are not actually a coast-wide migrating fish, unless I'm mistaken on this, and that they're fairly

territorial and they're fairly easy to measure F because of that in comparison to a lot of other fish that travel on a coast-wide basis.

So, that being said, I mean, I guess, you know, the people that are getting the As are getting tired of being graded on a curve, and they want people to stand up for their own – you know, whatever their own actions have been in the past and so on. People taking credit, I remember Phil Coates sitting down at a meeting that we had up in Providence almost ten years ago or if not more, saying, "Oh, yes, we'll give you credit on the striped bass," because we were at one fish and whatever, and it went through. So this is no precedent. I have some institutional memory on that one. Thank you.

MR. ERIC SMITH: Three points on why I seconded it and why I support this. The technical committee was charged with looking at it and saying is it the same kind of method and is there similar precision in the outcome, and they basically said yes, or at least they endorsed this as being of equivalent mathematical, if you will, to use that term, approach.

The big heartburn I had with leading up to this back in August was Connecticut or any other state going to have to do more conservation to account for what other states in a regional approach might not have to do, and I have been satisfied from the documents that we don't have to. If I read this correctly, it's because the estimated F in the most recent year is far less than the F rebuild.

And if the F in the region is less than the F rebuild, then we're actually all benefiting from what happens to be going on in that region as opposed to having to do more conservation because of what is going on in that region. If the technical committee is comfortable with the methodology and they passed that test, and if I don't have to impose more restrictive regulations in Connecticut because of what we might decide to approve here for this regional approach, then I would say that's what the two addenda passed in this year, in 2007, were intending to do.

It was intending to let states form a region, do a VPA, see what the consequence was, and then we would look at it after the fact, and that's what we're here today to do, and I find it supportable for the two reasons I just identified. Thanks.

MR. JAMES GILMORE: I agree with that to one point. Essentially, we're taking two bites of the apple, though, because the technical committee said two things. First off, it's a little tough to go through the numbers right there and see – and I'll have to take

your word for it that essentially the numbers were equivalent.

But, I guess the second point of that is we're doing two things. We're going from taking a coast-wide stock assessment, and now we're doing localized stock assessments. Now, the coastwide was subject to a peer review that was essentially a set of standards for all the assessments. So, not only are we doing localized assessments now, but now we're not going to the same standard of peer review that we're doing on a coast-wide assessment, so there's kind of two bites at the apple or two changes that are being made. I think that's why I have a problem with it.

MR. GIBSON: A couple of things on that last point. All of the information that goes into the Rhode Island and Massachusetts Bi-State VPA goes into the coast-wide one, so I don't see if there's a peer review, which you hit the same model, the buttons are pushed the same way, and it's the information that goes in.

Having said that and to follow up on Eric's comments and maybe to help Pat with some of his confusion, the remainder of the states are actually getting a subsidy from us taking this approach. If the regional assessment is correct and F is well below the coast-wide mortality, then by definition of what an average value is, it means the rest of the states on average are above that coast-wide value.

But we're only imposing on them the coast-wide value as the standard for reduction, so your reductions would actually be higher were we to go in and try to tease out the states remaining mortality rates because by definition the two have to average the bi-state and the remainder have to average to the coastwide. If we teased out what it was, you'd have a much higher value that you'd have to be cutting from, so you're actually getting a subsidy out of this.

MR. ROBERT E. BEAL: Thank you, Mr. Chairman, just a quick question to the maker of the motion. Is the intent of this motion to really do two things? One is to accept the methodology for the bi-state VPA and to accept the suite of regulations that achieve the reduced level or a smaller reduction as necessary. The wording of the motion is fairly general. I just want to make sure what all it's encompassing.

MR. GIBSON: I'm trying to remember the suite of the regulatory package that was associated with this. I don't know that I remember that. I mean, if there is one, then that would be my intent, but I don't remember that.

CHAIRMAN PIERCE: I believe those were submitted at the last meeting, and their approval was contingent on this motion that you have made. Bob's question, for clarification, is perfectly legitimate.

MR. GIBSON: Yes, that would be my intent, then, that we're approving not only the assessment but the proposed bi-state regulatory package which would achieve that reduction.

CHAIRMAN PIERCE: All right, thank you, Mark. Thank you for that clarification, Bob. Eric.

MR. SMITH: I am reminded of the other point in the technical committee comments that I thought is a good one. Envision the case where next year we run the VPA again and we find out that the current F coming out of the VPA is .35; in other words, as far over F rebuild as this one is under.

The technical committee said if we approve this proposal, their expectation would be that they would stay with that approach, whether it's good for them next year and the year after or not, for some period of time. You know, we probably can't get anybody to sign their name in blood at this time of day, but I sure would want to if we – I'd have brought the knife if we could have thought about it ahead of time. I would like the commission of the two states that for some period of time off into the future, whether it's another year after or two years after, you're committed to this not just in the years where it benefits but in the years where it may not.

CHAIRMAN PIERCE: Yes, I think I can speak for Mark on this issue. We would be committing to the multi-year approach. Obviously, as indicated by one of the board members, tautog don't move far afield, they're pretty localized in terms of how far afield they do move. That's one reason why Rhode Island and Massachusetts worked so aggressively to put this package together because we feel that we can manage these tautog in our area in an effective way, keep mortality under control.

And, of course, as already indicated, we're going to be taking more of a cut than we have to. I mean, we're serious about being good stewards of the tautog resource in the waters that we share. All right, if there are no further comments to be made or questions to be raised regarding the motion, I would like to call the question. I see no objection. Would everyone care to confer within state?

(Whereupon, a caucus was held.)

CHAIRMAN PIERCE: All right, it seems like everyone is prepared to vote. All those in favor of the motion, please raise your hand; all those opposed; are there any abstentions; are there any null votes. All right, the motion is approved.

The next item on the agenda is the New Jersey Trawl-Based Assessment Method. I believe that's already been highlighted by Jason. Does anyone care to make a motion? Peter.

MR. HIMCHAK: Mr. Chairman, I had one comment, and then I am prepared to offer a motion. We offered initially a trawl-based assessment model as documenting our current fishing mortality rates, and then we were asked to do a VPA, which was rejected because of the lack of precision.

The trawl-based assessment model, the TBAM, was still commented on favorably by the technical committee, and I incorporated the language of their review into the motion. Basically, we are maintaining that the coast-wide F was highly reflective of New Jersey fishing mortality rates up through Addendum III.

And then our restrictive measures implemented in 2003 – we at one time harvested almost 90 percent of the entire Atlantic coastal tautog harvest. We have fallen from the number one recreational fishing state to number six. We maintain that our measures implemented in 2003 were highly successful in reducing our harvest.

We developed the TBAM model subsequent to Addendum III to demonstrate that our current fishing mortality rate is at the target of 0.20, which is required under Addendum IV and V. So, with that said, I would like to offer a motion. I've already asked for it to be put up. It does not have to be a VPA-based comparison to the coast-wide VPA.

It has to be a model that has the same level of precision as the results of the coastal VPA. This was a critical point that we discussed at the last board meeting. Nowhere did it say that it had to be a VPA. In fact, we were reminded that catch curve analyses were used in past years. So, enough said, our commercial fishery has been more restrictive than what the coastal FMP has required since Addendum I, where we have a very limited entry quota-based system, and still we have implemented the restrictive seasons of the FMP. So, enough said on that.

The motion is move that the board approved New Jersey' Trawl-Based Assessment Model, which is

TBAM, evaluated as technically sound with a high level of precision by the Tautog Technical Committee as documenting a state-specific fishing mortality rate of F equals 0.20, which is the target fishing mortality rate of Addendum V.

CHAIRMAN PIERCE: All right, a motion by Peter; seconded by Vito Calomo. I am going to turn to Jason for a moment and ask Jason if, indeed, the assumptions or the claims made in the motion are correct regarding the technical committee's position.

MR. McNAMEE: Yes, again, the technical committee reviewed this, and the model works and the precision estimates that were done on the model indicate that it is at a good level of precision. Just to give you the sort of – and maybe my tone where I'm kind of doing this with my body here, it wasn't that the technical committee was saying this is awesome and equal and is the same as the coast-wide VPA.

It was a unique model; it was a good model put together; and it was showing precision. It was just difficult for the technical committee to make the comparison between that and the coast-wide VPA, and the assumptions were troubling to some of the technical committee members. I just offer that as the flavor from the technical committee.

CHAIRMAN PIERCE: Thank you, Jason. To the motion, Mark.

MR. GIBSON: Jason, did the technical committee make any suggested modifications and improvements to the TBAM model to the state of New Jersey? I know I made comments on it and I never saw any response to those comments.

MR. McNAMEE: Originally, the New Jersey technical committee member had put forward a model, and we made some suggestions to him at that point. As I noted in one of the slides, off the top of my head, one of the things was you're representing fish in your analysis that are unexploited fish, so those need to be removed. He did that.

He answered a bunch of our questions. The other big one was he only had one precision analysis in the original report that he produced, and he ran a bunch of other precision analyses on the second iteration of that TBAM model. So, he did answer the questions put forward by the technical committee.

The comments that you have since offered him, as well as I know that New Jersey has reached out to some other objective people, I guess, to kind of

review the model and provide him with some comments for the future, I don't think he intended that those – he has not produced at this point a subsequent iteration of his model to include comments made by you or anyone else. He has not presented to the technical committee at this point.

MR. HIMCHAK: To that, Mr. Chairman, yes, Jeff Brust did address the issue of the fully exploited portion from the trawl survey, and he did reach out to other reviewers. He just thought it would be a little inappropriate to have people comment to this body at this meeting, and it would be somewhat uncomfortable for us to ask them to do that, but they will work him in house to make any necessary improvements or give him feedback. I don't know that he has actually gotten feedback from two outside reviewers yet. Thank you.

CHAIRMAN PIERCE: All right, any further comment on the motion? Go ahead, Jeff.

MR. JEFF TINSMAN: Thank you, Mr. Chairman, a question for Jason. My understanding is that the technical committee's original concern about the assumptions of this TBAM approach pretty much remains unresolved after further consultation. As I understand it, the assumption that New Jersey's fishing mortality – that the coast-wide fishing mortality over the years, up until 2002, as a proxy for New Jersey is not an approvable or unprovable assumption. It's just something that has to be accepted to go forward with this approach and really remains unquantified and uncertain. Would you characterize that as accurate?

MR. McNAMEE: Yes, that's accurate.

MR. TINSMAN: That being the case, I would have to say that I see the technical committee's position as less than an enthusiastic endorsement, then.

CHAIRMAN PIERCE: Anyone else care to address the motion? Eric.

MR. SMITH: In spite of that interchange or actually somewhat in support of the question and answer, this one bothers me more than the Massachusetts/Rhode Island one did. I guess I am probably not going to be able to articulate it as well as I did on the other one, so I'm just going to hit three or four points of why I'm troubled.

Whether we allow a new model or not, in my view, you know, the point was made that we're really looking at the precision of the outcome rather than

whether it's a different model or not. I would say, well, that's a fair point for a proponent to make, but when I think of the fact that we're using a new, different model and it hasn't been reviewed, then I'm a little queasy there, and I want to see the peer review.

Mark Gibson had a good answer to the question posed of their model, the same VPA, the same input parameters, it's already been peer reviewed, it's just a different subset of the data being used, and that satisfied me. This one is a different model and not peer reviewed, so that's the first concern.

As Jeff pointed out, the technical committee, that was not a ringing endorsement, that was, well, okay, if you talk about the precision test, that's okay, but they're very troubled by the differences in the models, and I give a certain amount of weight to that one, too. The other thing, though, is even using the different model and the second iteration – I would say the real F, but that's really not right – the resulting F from the model is right at F rebuild. It's right at F 0.2.

We had the luxury with the Massachusetts and Rhode Island one, that even if there was, what I call, a little bit gear slap in there, their estimated F was half the rebuild F, so there was a lot of room to maybe have a little bit of confidence that we weren't going to overshoot. But with this one, with the other two concerns and then the fact that we're right on the F rebuild, all of those uncertainties become a lot more prominent.

And then I guess the fourth point is a little bit secondary. I guess the technical committee did have some question on the assumptions that went into it, and I guess I couldn't comment further on that. It's just a note I made to myself as I was listening to everyone. All things considered, I'm still troubled by this one. I hope people are going to be able to offer comments wherever that help me get to a point where I'm really comfortable in a vote. Thank you.

CHAIRMAN PIERCE: Peter, I'll give you another opportunity to address your motion, and I'll also remind everyone that it's almost quarter of five, so we need to finish with this item of business fairly soon.

MR. HIMCHAK: Thank you, Mr. Chairman, very briefly. One distinction is that the in the Rhode Island/Massachusetts VPA, it's a terminal year F estimate. And even though it's 0.11, I believe the state is still – because of the prior year's F estimates,

the states are willing to take a 12 percent reduction in their fishery, so that point one.

The other is that the technical committee not giving a ringing endorsement to the model I think is a subjective call on some board's take. I think it was appropriate to use the VPA F as a surrogate to New Jersey F estimates through the 2003 period because we were responsible for the greatest part of the fishing mortality on the resource up to that point. That's it.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. All right, with the 12 percent and the 25.6 percent and all that stuff, even with this new model, how do you compute into what your reduction is going to be? Is it going to be 25.5 or 12 or 50; how does that work?

CHAIRMAN PIERCE: Pete, do you care to address that question?

MR. HIMCHAK: Well, the last sentence of the motion says that we are currently fishing at the target level of Addendum V. That being the case, there would be no need for any further restrictions at this time. If our fishing mortality were to be above 0.20, then we would resort to any number or the reduction mechanisms that have already been approved by the technical committee.

CHAIRMAN PIERCE: All right, thank you, Peter. With no objection, we will vote on this issue. I see no objection; therefore, I assume that people would like to caucus. Please take a few moments to do that.

(Whereupon, a caucus was held.)

CHAIRMAN PIERCE: All right, it appears that everyone is through with their caucus. All those in favor of the motion, please signify by raising your hand; all opposed; abstentions; null votes. The motion fails.

### **LIVE MARKET POACHING VPA**

All right, the next item of business is Number 6 on the list; that's the Live Market Poaching VPA Analysis. As indicated in the overview, we were provided with a poaching analysis at our last meeting in August. We requested that additional analyses be conducted using the VPA model. Jason and the technical committee apparently have addressed this task, and he has comment to provide.

MR. McNAMEE: Okay, Paul Caruso from Massachusetts took the request from the board and

ran some additional runs through the coast-wide VPA model, and this presentation is regarding that analysis. We also had a conference call to discuss this. The agenda topic for that conference call was to review the analysis on potential illegal harvest.

I think the crux from the board was they wanted to assign a number to illegal harvest; can you give us a number that will tell us how bad or how not bad this is? That's sort of how we viewed this. Again, the request from the August meeting was to use a modeling approach; namely, use the coast-wide VPA, adjust the harvest levels to various degrees and see what the model tells you as sort of an alternate view from what we had previously shown the board.

Here are the methods. To simulate increases in illegal harvest, the commercial catch at age was increased by 10 percent, 20 percent, 50 percent and 100 percent. Those were the four runs that were done. Just conversely, we used the commercial catch, and it was just an arbitrary choice. It was just to add in harvest. Just to view that in another sense, it would 1 to 10 percent in those same steps of the recreational harvest.

The assumption in the initial set of runs was that the fish averaged 13 inches, because it was our understanding, to that point, that the unreported catch was thought to be primarily for the live market. The general thought is that they prefer a smaller fish. So then the coast-wide VPA was run for all four scenarios.

As the theoretical poached harvest was increased, the fit of the model remained relatively constant so that MRS calculation, which is an indication of the precision of the model, didn't change too much. It increased a little with each iteration but not much. In contrast, the terminal fishing mortality rate dropped slightly with increasing harvest while stock rose appreciably. Those are the results, and they're kind of – they don't make a lot of sense on the top.

But, here is the discussion slide, and the VPA is adjusting stock size to match harvest in a backwards direction, so VPA is a hind-casting modeling method. What it does is the model responds to increased harvest by adjusting the earlier population size upwards. One way to think of that is it looks at this new harvest number which is higher than it was before, and it says, well, if you kill this many fish, they must have lived at some point, so your population in the past must have been bigger.

The bullet point there is these results in no way imply that large, unreported harvest is good for the fishery or stock management. It's just the whole idea of as you add harvest, the population numbers get better, it's not really it. The terminal year F estimates in actuality are likely lower. This is when we run it with legitimate data in the model.

Terminal year F estimates in actuality are likely lower and the stock size larger than those estimated during the assessment model runs, which means that targets could be reached sooner if the actual harvest values were known according to the model. Based on the technical committee comments, further analysis was conducted, which increased the affected size range and increased the magnitude of unreported catch.

When the original report was sent out to the technical committee, there were some questions to say, well, that might not necessarily be the case; that's it's 13-inch fish, so let's expand that size range, because we do get some bigger fish that we catch in enforcement actions that are illegal harvest, so it's not necessary just these small fish, and compare it more to the recreation catch, because it might be even larger than these estimates of percentages of the commercial catch, so we did that, but the findings were the same as previously stated.

Every time you increase that – I believe he went up to 500 percent – it just keeps doing the same thing. I imagine at some point we'd break the model, but at 500 percent we still hadn't. The consensus of the TC was that the VPA was not a good tool to do this analysis. Because of the fact that it looks backwards in time, it kind of gives you this quirky answer that actually things are better than they appear at this time.

That's not necessarily the case. If we really want to pursue this even further, some other possible methods would be to develop a forward-projection model, do the same method but with a forward-projection model; or, do some sort of – it's almost like a poll, some sort of extrapolation used the data from enforcement actions, almost like a tagging research project where you look at the enforcement action, how many fish did they catch that were illegally harvested in that action, and what do we think the relationship is to the general fishing population, and then do some sort of analysis, which would probably be difficult and no better than any of the other things that we've done to this point.

And just one last comment from TC was that poaching is bad, and we should do what we can to stop it. Just because we can't assign a number to it specifically, to us it doesn't mean anything, we should move forward with the awareness with enforcement and the enforcement that is currently taking place with this fishery. I believe that was the last slide.

CHAIRMAN PIERCE: All right, let me try to summarize briefly what you said. The board, at our last meeting, requested an additional analysis be conducted using the VPA model; that is, the impact of live market poaching on the assessment. The technical committee has concluded that the VPA is just not a good analysis.

You've indicated that if you're going pursue this issue further, you would do it using new methods, and you've identified what those methods would be. Is that a fair summary of what you just said?

MR. McNAMEE: Yes, that it's not good tool, not necessarily that there was anything with the analysis. The analysis was good. It just doesn't really give you what you're looking for.

CHAIRMAN PIERCE: All right, board members, it seems therefore that we are left with being in the position of not knowing, at this time, the impacts of different levels of poaching on the assessment and its implications for management. Any questions for Jason regarding the work the technical committee has done? Eric.

MR. SMITH: Thank you. Sometimes you go off on a sensitivity analysis and it doesn't give you much of value, and this is one of those times. I think the objective was a good one to try and see just what the effect would be on management or on the fish stock and then consequently management if we could estimate what would happen if poaching was higher by some iterative amount, 10, 20, 30, 40 percent.

In one of your slides, Jason, you pointed out that maybe some other methods ought to be used; and at the risk of creating more work for the technical committee, I don't know what is involved in using either of those forward-projection models or the other one, which I forget. Are we on a fool's errand if we keep pursuing this or did we just simply hiccup by using a VPA and then find out that it wasn't a useful tool for what we wanted to do; and, would we be more likely to have a successful outcome if we used one or the approaches? The question is still valid..

MR. McNAMEE: I don't think it's a fool's errand, as you put it. I think it is a great idea. The problem as the technical committee sees it at this point is that we don't have these – it was easy to use the VPA because we had it. We don't have these other things developed. If you recall from the peer review for coast-wide assessment, the Peer Review Panel said you should look at other things.

I think it's a great idea to move forward not with just looking at this particular issue, but to develop possibly and, namely, a forward-projection model for the tautog assessment and add that in as something else to look at when we do that.

MR. SMITH: Are you comfortable that's the direction that the technical committee is going, anyway, and then we don't have to have a motion of this board to ask you to do that, because if you're doing it, anyway, that's great news. Is that the next step in the assessment process for this committee to begin to explore that or do you need a charge from the board to do it?

MR. McNAMEE: Yes, that's exactly – you read my mind there. To this point we have no further guidance from the board to say why don't you guys do something else here. You know, the VPA is good and we turn that crank again when we have to, but let's get something else out here. I think we would need a charge from the board to undertake that.

CHAIRMAN PIERCE: Eric, you've taken the bait, not yet, I guess.

MR. SMITH: Well, I would accept for the fact that we just had our action plan meeting this morning, and I don't recall, frankly, where we were in terms of further tautog assessment work, and I don't want to muddy those waters. Maybe we should leave it to the point when we talk about it again at the Policy Board, and I will have had a chance to think about it.

CHAIRMAN PIERCE: Okay, how about you, Mark, you had a point.

MR. GIBSON: Yes, I'm sorry I was trying to jump out of my chair, but this is very frustrating to me because I could have told you this would have been answer the day that I suggested this if I knew this was the way it was going to be done. Perturbing the VPA all the catch years across time by the same amount does not nothing and it won't matter if you used better models. Anything that is rooted in virtual populations or catch-at-age analysis, if you inflate the amount of dead fish, in order to be dead you had to

be once alive, so all the population sizes go up if there is no change to the model.

What I had suggested was because this had become a recent issue for the commission, and there was a lot of hoopla about enforcement efforts, lack of enforcement efforts, it appeared to me, at least, that this was an increasing problem through time and a most recent problem. What should have been done is there should have been a perturbation of the catch at age in the most recent years proportional to the enforcement activity that was going on recently as opposed to earlier in the time series.

Then you would have gotten a different answer. I think the question is still valid, but perhaps it's my fault for not following up with the individuals, but I received no calls for guidance, so we can share the blame.

CHAIRMAN PIERCE: All right, board members, we have two minutes to go before the midnight hour arrives. Go ahead, Pat.

MR. AUGUSTINE: This is a question, Mr. Chairman. We approved the Rhode Island – well, you all approved the Rhode Island/Massachusetts Plan. Did you and Mark talk about what the impact would be on bag size and season potential for next year?

CHAIRMAN PIERCE: Well, before we go there, Pat, let's finish up with this issue, and I don't see anyone prepared to make a motion regarding further charges to the technical committee. Eric.

MR. SMITH: I'm not prepared to charge them to do something further, but Mark just gave us new information. They already have the VPA, and the hiccup was that if they didn't use the existing VPA in the way that he thought they ought to, then I would suggest that maybe a little more work in that regard, in a conference call, perhaps, could enlighten us for the next time we meet.

CHAIRMAN PIERCE: All right, then, I would also suggest that Mark, Jason, myself and Paul Caruso – they'll get their charges from us within our respective states to move this forward because, clearly, it's in the best interest of our two states and collectively the entire board for this work to be done. I think progress will be made on this issue regardless of whether or not the board takes further action today. Okay, Pat, I'm sorry, go ahead.

MR. AUGUSTINE: My biggest concern was the impacts that we're going to have because we have our fishermen fishing in Rhode Island waters and Massachusetts waters sometimes, and not by approving this whether or not – we'll continue to be more restrictive by 25 percent in New York State, and you folks can be less restrictive.

Did you indicate that you were going to change your bag size and/or season or had you and Mark resolved that issue yet? That's the first question that is going to come up back home; is there going to be a disparity between the states again or further disparity between the states? If you don't have the answer now, it's fine, maybe we talk about it before the week is over.

CHAIRMAN PIERCE: Yes, I don't have the answer at this time. We have a number of options that were approved, and I suspect that Mark and I and our staffs will get together to come up with something as closely as it can possibly be, and then we'll notify the other states as to what that is. Peter.

MR. HIMCHAK: Mr. Chairman, I'd just like to acknowledge that our legal commercial fishermen are very happy that Pennsylvania implemented a 14-inch minimum size limit to help us with illegal fishing marketing. Also, we are moving forward with our regulations to increase the penalty. There is enormous non-compliance especially during the warm weather months. It will be going from thirty dollars per fish to one hundred dollars per fish for non-compliance. Thank you.

### **OTHER BUSINESS**

CHAIRMAN PIERCE: Okay, thank you, Peter, for that information. No one has indicated earlier on that there is other business.

### **ADJOURN**

CHAIRMAN PIERCE: I'll assume that there is none; so without objection, we will adjourn this meeting.

(Whereupon, the meeting was adjourned at 5:05 o'clock p.m., October 30, 2007.)