

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

**Radisson Hotel Old Town
Alexandria, Virginia
August 15, 2007**

Board Approved October 31, 2007

ATTENDANCE

Board Members

George LaPointe, ME (AA)	Eugene Kray, PA (GA)
Pat White, ME (GA)	Leroy Young, PA, proxy for Douglas Austen (AA)
Doug Grout, NH F&G, proxy for Nelson (AA)	Roy Miller, DE DFW (AA)
Rep. Dennis Abbott, NH (LA)	Bernie Pankowski, DE, proxy for Sen. Venables (LA)
Paul Diodati, MA DMF (AA), Chair	Howard King, MD DNR (AA)
William Adler, MA (GA)	Bruno Vasta, MD (GA)
Vito Calomo, MA, proxy for Rep. Verga (LA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Mark Gibson, RI DFW (AA)	A.C. Carpenter, PRFC (AA)
Gil Pope, RI, proxy for Rep. Naughton (LA)	John Siemien, DC
Eric Smith, CT DEP (AA)	Jack Travelstead, VA for Steve Bowman (AA)
Dr. Lance Stewart, CT (GA)	Catherine Davenport, VA (GA)
Karen Chytalo, NY, proxy for Gerald Barnhard (AA)	Kelly Place, VA, proxy for Sen. Chichester (LA)
Pat Augustine, NY (GA)	Louis Daniel, NC (AA)
Brian Culhane, NY, proxy for Sen. Johnson (LA)	Damon Tatem, NC (GA)
Erling Berg, NJ (GA)	Jimmy Johnson, NC, proxy for Rep. Wainwright (LA)
Dick Herb, NJ, proxy for Asm. Fisher (LA)	Tom Meyer, NOAA Fisheries
Tom McCloy, NJ, proxy for David Chanda (AA)	Steve Meyers, NOAA
Frank Cozzo, PA, proxy for Rep. Schroder (LA)	Wilson Laney, USFWS

(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
Toni Kerns

Mike Howard
Nichola Meserve

Guests

Arnold Leo, East Hampton Div. Com. Fisheries
Desmond Kahn, DE DFW
Bill Goldsborough, Ches. Bay Foundation

Tom O'Connell, MD DNR
Bill Windley, RFA/MSSA
Ken Simmers, MSSA

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Approval of Proceedings of January 29, 2007, by consent (Page 1).

Approval of 2007 Striped Bass FMP Review, by consent (Page 5).

Motion to approve the Rhode Island conservation equivalency proposal for the commercial floating trap fishery. Further, if implemented in 2007, Rhode Island will fish to the reduced 26-inch quota (Page 10). Motion by Mark Gibson; Second by Eric Smith. Motion carried (Page 12).

Motion to approve the Maryland Susquehanna Flats Proposal for 2008 as presented (Page 15). Motion by Howard King; second by A.C. Carpenter. Motion carried (Page 16).

Motion to approve John McMurray from NY and Kyle Schick from PRFC to the advisory panel (Page 16). Motion by Pat Augustine; second by A.C. Carpenter. Motion passes without objection (Page 16).

CALL TO ORDER

CHAIRMAN PAUL DIODATI: Board members, take your seats, please, we're starting the Striped Bass Board meeting.

APPROVAL OF AGENDA

You should have the agenda. Do we have the approval of the agenda? Any objections; any changes? Thank you.

APPROVAL OF PROCEEDINGS

The proceedings from last January, the minutes from our last meeting – go ahead, Pat.

MR. PATRICK AUGUSTINE: So move, Mr. Chairman, that we accept the proceedings from last January.

MR. WILLIAM A. ADLER: Second.

PUBLIC COMMENT

CHAIRMAN DIODATI: Okay, I don't think we need any comment on that. Seeing no hands, I'll approve those. Public comment on any issues that are currently not on the agenda, so we are talking about any new business; is there any public comment relative new business? I'll give an opportunity during the meeting, if appropriate, for members of the public to comment. I don't see any comments.

2007 FMP REVIEW

The 2007 review of the Fishery Management Plan; this will require an action item, but we'll first have a presentation by Nichola.

MS. NICHOLA MESERVE: Thank you, Mr. Chairman. The plan review team met last month to complete the 2007 FMP Review. The document was on the briefing book, and there are also copies on the back table if you don't have it with you. I am going to provide a presentation that has an overview of its contents.

Regarding the status of the FMP Amendment 6, it was fully implemented in 2004 and provides the basis for determining compliance in 2006. The flexibility in Amendment 6 has resulted in a variety of state regulations which are shown in Tables 1 and 2 in the document. The EEZ remains closed to striped bass fishing.

Addendum I is currently under development, and staff currently is passing around a new draft of that document, and I am hoping that commissioners will have an opportunity to take a look at this and send me any advice or suggestions prior to the annual meeting when it is going to be back on the table. This document is not going to be passed out to the public because it is just for board review.

For the status of the stocks, this information comes from the 2005 assessment, which includes data through 2004. The assessment found that striped bass was not overfished nor was overfishing occurring. The 2007 stock assessment is currently underway, and it is going to be peer reviewed in November at the 46th Regional Stock Assessment Workshop. Doug Grout will provide some more information on that when we get to the TC update.

For the status of the fisheries, in 2006 the total striped bass harvest is estimated at 3.81 million fish or 36.5 million pounds. The total number of fish harvested increased by nearly 15 percent from 2005, and this increase is largely attributed to the growth in the recreational fishery rather than the commercial fishery.

The commercial fishery, which is shown in orange on the board, harvested an estimated 1.1 million fish or 6.9 million pounds, which is about 28 percent of the total by the number of fish or 19 percent by the weight of fish. The recreational fishery shown in green has harvested an estimated 2.71 million fish or 29.5 million pounds in 2006. That makes up about 72 percent of the total by the number of fish or 81 percent by the weight of the fish.

Here the recreational fishery is shown in turquoise in the furthest left bars, and it is compared to the recreational releases shown in purple, and the dead discards which are shown in orange. In 2006 the releases totaled nearly 26 million fish, which, when multiplied by the 8 percent release mortality rate that the technical committee uses, results in 2.1 million dead discards.

Using this estimate for dead discards, which is preliminary – the stock assessment will do a better job of estimating this than I did for this document – the total number of recreational removals in 2006 increased by about 24 percent from 2005. The document covers a number of issues, all of which I will go through quickly except for the law enforcement update, which Mike Howard will present at the end.

For coastal commercial quota, this table shows the quotas, harvest overages and adjusted quotas. In 2006, four states had coastal commercial quotas which were lower than their Amendment 6 allocation; Massachusetts and Rhode Island due to quota overages in 2005; and New York and Maryland due to conservation equivalencies which are related to their minimum size.

In 2006 two states exceeded their coastal commercial quotas and should have their 2007 quotas lowered accordingly. This is Massachusetts which exceeded the quota by 171,687 pounds, resulting in an adjusted 2007 quota of 988,063 pounds; and Virginia which exceeded its quota by about 10,000 pounds and results in a 2007 quota of 174,772 pounds.

Amendment 6 also implements a separate management program for the Chesapeake Bay due to the size availability of striped bass in that area. In 2006 the Bay-wide quota was set at about 9.8 million pounds based on the 0.27 fishing mortality rate. It was then allocated among the three jurisdictions based on the historical harvest and split by each jurisdiction between its commercial and recreational fisheries as shown in this figure. Overall, the Bay-wide harvest was approximately 600,000 pounds less than the Bay-wide quota, and thus there is no management action required on the Chesapeake Bay quota.

The recreational fishermen in the Chesapeake Bay are permitted to take migrant fish during a limited seasonal fishery, commonly referred to as a spring trophy fishery. This table shows the quotas, harvest overages, and adjusted quotas since 2003. The 2006 quota was adjusted to 41,488 fish, and the harvest exceeded this number by 26,283 fish. In January Maryland proposed to eliminate the quota system. However, the board approved a target harvest for 2007 of the VPA-calculated quota minus the 2006 overage to be no less than 30,000 fish. This calculation method resulted in a 30,000 fish target for the 2007 fishery.

Next are the juvenile abundance indices. The PRT would recommend any actions by the board if any of the indices were to show recruitment failure for three consecutive years. Recruitment failure is defined as an index lower than 75 percent of all the other values in the time set and the data set.

For Maine and Virginia, the indices were above the time series averages. However, New Jersey, Maryland, and North Carolina indices were below

their time series average. Additionally, the Hudson River Index was below its time series average for the third year in a row; and in the last year, in 2006, it did qualify as showing recruitment failure. However, that was just the first time that it's recruitment failure, so no management action is required based on the indices.

The Albemarle/Roanoke FMP was previously found by the PRT and the TC to be in compliance with Amendment 6. North Carolina is required to report the harvest and inform the commission of any management changes. The total 2006 harvest in the Albemarle/Roanoke System was estimated at 276,822 pounds; and the total losses, including discards, that was estimated at 346,602 pounds.

During 2006 there was one regulatory change. In the fall Albemarle Sound Management Area Recreational Fishery, the creel limit was increased from two fish per day to three fish per day due to low harvest in that same fishery in the spring part of that season. This change is expected to continue into 2007.

Additionally, in 2007 the Roanoke River Management Area Recreational Fishery is operating under one season for the whole river from March 1st to April 3rd rather than two zones with individual open seasons.

Overall, the PRT found all states and jurisdictions to be in compliance with the plan. Several states did indicate plan changes for 2007, and these are in Section 7 of the document.

In terms of recommendations from the PRT, the PRT recommended that the board reduce the 2007 coastal commercial quotas in Massachusetts and Virginia by the overages in 2006, and these were shown earlier. The document also includes a set of research recommendations.

Lastly, the PRT recommended that the board discuss and clarify the intent of Section 4.1 in Amendment 6. This section of Amendment 6 states that beginning in the third year after implementation of Amendment 6, any management measures established by the board will be maintained by the states for three years unless a target or threshold is violated.

The PRT members put forward this recommendation because they had heard some disagreement as to what the meaning of this part of Amendment 6 was. It could be taken to mean that there should be no new state proposals that could alter the regulations, or it

could be taken to mean that there should be no amendments or addenda in this three-year period. Since Amendment 6 was implemented in 2004, we are past three-year period, so the board might want to talk about this section and make sure that the PRT has the right understanding of it.

Also, on the CD there was also included a memo from the PRT to the technical committee. This was in response to a question from the technical committee is what it stems from. In January of 2006 the TC asked the PRT to consider whether a conservation equivalency proposal is constrained by the management plan's target fishing mortality rate. This question stems from two proposals submitted by states that would have maintained a conservation equivalency percent maximum spawning potential, but would have resulted in a higher target fishing mortality rate than the Amendment 6 standard of 0.03. It also would have led to a larger commercial quota. The TC interpreted the Amendment 6 target F as a ceiling both times, but determined that the PRT should be brought in to interpret the intent of the plan. The PRT supported the TC's decision that it is the intent of the plan to restricting each jurisdiction's fishing mortality rate to the target fishing mortality rate even if a proposal leads to a percent maximum spawning potential which is more conservative than the original regulations.

I will ask Mike Howard to do the law enforcement update now and then come back for any questions.

LAW ENFORCEMENT COMMITTEE REPORT

MR. MICHAEL HOWARD: Thank you, Nichola. Mike Howard, law enforcement coordinator for the Atlantic States Law Enforcement Committee. As everyone knows, the striped bass fishery has increased over the past several years, and it is probably one of the most active recreational fisheries and commercial fisheries that we have in the Atlantic states.

Compliance remains good if you look at the fishery and the amount of participation in it. Two years ago the Striped Bass Board asked us to put extra effort into the EEZ, which had not received much attention. Through help with our federal partners, specifically the National Marine Fisheries Service and their Joint Enforcement Agreements, an aggressive effort was taken last year, which probably many of your states have realized from phone calls from people who said they have harvested their for years and how come they can't fish there anymore?

This is a coast-wide effort on several layers. Through the joint enforcement agreements and new equipment purchased, state officers are going into federal waters and making cases from Maine to Virginia through the joint enforcement agreements. North Carolina still doesn't have a joint enforcement agreement, which would greatly assist law enforcement efforts.

I'll go state by state on what they have reported, just to give you an update, since Christmas of last year. Maine, there have been no violations, and there is good compliance. New Hampshire still is encountering a problem, which the board is aware of, between the board of Maine and New Hampshire because of different size limits and different regulations and different seasons. They have made several cases of undersized or over the limit on coastal waters.

Massachusetts continues to do an aggressive patrol, using their new equipment, and report high compliance and are making several arrests. Rhode Island has made several exclusive economic zone cases. Just to give you an example, a Rhode Island boat was launching from Connecticut, fishing in New York and selling in Massachusetts. Now, you don't go out there and just write a ticket for that. That requires a lot of cooperative investigative techniques between the states. It's an excellent case, and they're looking for strong penalties to deter people that want to work this kind of way.

Connecticut has had 24 arrests. Their joint operations with Rhode Island on illegal commercial fishing activities have been very productive. In New York, they seem to be similar to Maryland, which I will go into, but they have a wide variety of cases. Their officers are spending a lot of time in markets getting filets without proper documentation, commercial people under-reporting, over the limits, and a lot of back-door sale cases.

They've even gone on the internet, under fish, and someone offers fish for sale, and they've had officers go to a person's house and you say, "What kind of fish have you got?" And the officer goes there in plainclothes and the guy comes out with two rockfish and a bluefish, and he gets the ticket in return.

New Jersey is still making some EEZ cases and reports high compliance, generally. Delaware, no significant problems. Maryland, which is heavily fished in a variety of seasons in the Chesapeake Bay, is reporting good compliance, with heavy fishing, but there are several cases of undersized fish.

Virginia stepped up their EEZ enforcement this year in the winter and made approximately 50 cases outside the Chesapeake Bay Bridge Tunnel, in the area between Smith Island off Cape Charles and Virginia Beach. This is where the large fish gather and congregate before they enter the Chesapeake Bay to spawn. This outstanding effort should be commended because just two years before there were no cases.

This year we're looking forward to see that has an impact on the amount of pressure that people were putting on those fish out there and people will abide by the law. Most of those cases were in support of joint enforcement efforts, supported by the National Marine Fisheries Service and the Coast Guard.

The National Marine Fisheries Service handled through their office 48 referrals and cases that they made for summary settlements. As you know, our summary fines went up to a hundred dollars. These will be for the minor one- or two-fish violations for recreational fishermen. They also have several pending joint undercover operations on charterboats. These cases involve commercial charterboat operators in the EEZ, and undercover operations in those will most likely result in hefty sanctions and fines.

The U.S. Coast Guard is in their second year of "Striper Swiper", and since December 6th have recorded 14 additional violations, seizing 45 fish and issuing summary penalties to all those individuals. Do you have any questions?

MR. ROY MILLER: Thank you, Mr. Chairman. I do have a question, if I may, Mike. Concerning EEZ enforcement, pardon me if we've dealt with this issue before at the board level, but are arrests being made for trips for which the angler does not retain striped bass – I'm talking about recreational fishing – but might be targeting striped bass; in other words, using gear that could be suitable either for bluefish or striped bass.

I made some phone calls concerning this issue because I received a call from Senator Venables, who is our ASMFC commissioner, in this regard, and I was trying to get some definition. I wondered if you could clarify that for me. Thank you.

MR. HOWARD: I am going to speak off the top of my head without the law in front of me, but Special Agent Andy Cohen is directly behind me. It is my understanding that it is illegal to fish for striped bass.

Okay, let me quote it, "It is illegal to fish for Atlantic striped bass in the EEZ, harvest striped bass from the EEZ, or possess them from the EEZ."

To answer your specific question, I am aware of one in-depth case in New Hampshire where it was taken to federal court – it was a prominent person – where there was a catch-and-release striped bass, and they were targeting striped bass. That case was successfully prosecuted. Proving that type of case is very difficult, and, obviously, we want to enforce the law, but primarily the cases being made – the vast majority are possession. But, it is illegal to fish for them. Proving that is another thing. Does that answer your question?

MR. MILLER: If I may just quickly follow up, it answers my question. It is the same sort of response I received earlier in the year. As you say, the difficulty comes in how does one prove that it's a targeted striped bass trip when the same gear could be used for other species like bluefish. So, it is kind of ambiguous in terms of whether a case could be made. My advice to people has been don't target striped bass, but beyond that I can't offer them much more in the way of advice.

MR. HOWARD: That's good advice. This issue was dealt with in Maryland long before the EEZ issue in the spawning areas of the Upper Potomac, and it was dealt with great difficulty there. However, to answer your specific question, yes, there has been a case made, and, yes, it was successfully prosecuted because of the evidence that prevailed.

CHAIRMAN DIODATI: Thank you, Mike. Go ahead, A.C.

MR. A.C. CARPENTER: I think Mike misspoke. I thought the case was in the Susquehanna and not the Potomac.

MR. HOWARD: You're absolutely right. I would never do that again, sir.

CHAIRMAN DIODATI: I think it should be noted that during Mike's report – I mean, this is a fishery that spans from Maine to North Carolina and includes commercial and recreational sectors, has hand gear in it, nets, all types of different gear types involved, and the number of violations that you're talking about, for the level of enforcement, that it sounds like – they named it "Striper Swiper". It has a name.

It sounds like it is pretty obscure and fairly benign for a fishery this size. Compared to some of the other

violations that I am aware of in other fisheries, there is really nothing going on here, unless you want to characterize it differently.

MR. HOWARD: Your first characterization was accurate; it's a massive fishery. If I was to give you a list of violations, it could be interpreted wrong. It is perceived within the Atlantic coast that this is a priority issue. There is a lot of work being put into it, and the rate of violations are minor in comparison with the other illegal activities. It is a very important issue, though, to us.

CHAIRMAN DIODATI: Rightfully so, especially in Connecticut with 24 arrests. Nichola, you did an excellent job. Any questions for Nichola on the FMP Review? No questions for Nichola? Again, it should be noted that this fishery, for 12 years now, continues to not only be sustainable, but there is an increase in catch rates since 1995, when the fishery was declared restored.

She also made the point that today overfishing is not occurring, and the resource is not overfished. I think that's an extraordinary effort for a fishery as complex as this. It's the only one that I know of that has been sustainable for 12 years. I also should note that I'm turning the chairmanship over at the next meeting, Mark, so I have a clean conscience as I give it over to you.

Without any further questions or comments about this report, unless I see otherwise, I'll consider this report approved. Thank you.

TECHNICAL COMMITTEE UPDATE

The technical committee update, Doug.

MR. DOUGLAS GROUT: Thank you, Mr. Chairman. The first part of my report, I want to give you just a brief update on where we are at in the stock assessment process since this is a peer review stock assessment. We've held two workshops; one which occurred back in July with our tagging subcommittee; the second which was held at the beginning of August with our stock assessment subcommittee.

The tagging subcommittee came out with a recommendation to the Striped Bass Technical Committee that the Baranov Catch Equation as the recommended model for estimating F with tag data for this year. This is the model that we first presented to you two years ago where we tried to get at getting away from the constant M assumption.

Using this equation you can come up with Z from our Mark Model and come up with an F and then you can actually make an estimate of M from this. So, we felt this was an advantage over the constant M assumption.

We also have been working very hard over the past couple of years, since you've given us a year break from the assessment process and coming up with new things, which we think will be an improvement. One of the things that the tagging committee had been working on developing was an instantaneous catch-and-release model, which is essentially something that was originally developed John Hoenig and then developed by Jiang et al.

We are going to bring that, also, to the peer review for future use when we've fully developed it. We don't feel it's ready for prime time quite yet. We need to do several other analyses before we feel comfortable using this as a primary stock assessment model, but it does have a lot of advantages over the Baranov Catch Equation.

Those advantages include directly incorporating the live release estimates; that is, from the tagging database there are two components. There are tag returns that have been harvested and killed, and then there is information on tags that have been released and reported. So, we can incorporate those directly into this estimates of F that come out of the IRCR model.

It also incorporates a single-data matrix of inputs as opposed to the Baranov Catch Equation, which uses the Mark Model and then R over M. It also provides direct estimates of variance around the F estimates, which I know you've, in the past, have asked for. Again, we can also estimate M from this model. That is what the tagging subcommittee is going to recommend to the Striped Bass Technical Committee at their September meeting.

Next comes the stock assessment recommendation. If you remember from your stock assessment training today, in the past we have been dealing with backward-projecting models. We are going to recommend a forward-projecting model as the primary model for estimating FSSB and abundance; at least the stock assessment subcommittee is. It is the statistical catch-at-age model. We call it SCAM, better or worse, but that is what we came up with.

It is a forward-projecting model. As you learned today, it's a little less uncertain in the terminal year.

There, again, it also provides for direct estimates of CVs around the F abundance estimates, et cetera. We think this will be a much better way to go.

We also have been working very hard; or, I should say Gary Nelson from Massachusetts DMS has been working very hard on developing something called SCAM tag, which is a statistical catch-at-age model, that incorporates the tagging data that we have, coming up with single estimates of F, again, SSB and abundance.

This is another thing that is close to being ready for prime time, but not quite. We are going to bring that to the peer review for their evaluation of this particular model, as it stands right now, and to see if they have any recommendations and anything we can do to improve this. Then in the assessment, the stock assessment subcommittee also is recommending that we will present ADAPT from a historical perspective so that you will have something to compare to the traditional ADAPT VPA model that we had used in the past.

Then we also have the ASAP model that we ran and also developed relative F plots and catch curves and all of these corroborated the SCAM model results, so we have sort of backup information showing that they are very similar trends compared to the SCAM model. So, that is where we are going.

Just to give you an update on the timeframe, the stock assessment subcommittee and the tag committee will submit reports to Nichola by September 4th. If any of you have staff on this, please remind them that they have a September 4th deadline, so that information could be in two weeks ahead of time before the technical committee meeting.

The technical committee meeting will be held the week of September 20th for Striped Bass Technical Committee review and approval of the assessment. We will then spend the month of October finalizing the assessment, if there are any additional recommendations the technical committee has. We also have to put it into a format that the SARC wants.

We have an ASMFC format and then a SARC format, so we're essentially going to be putting together two reports, but hopefully it will just be a matter of cutting and pasting. The peer review is going to be the week of November 27th; and from what I hear, we're going to be only species on the peer review, so we should be able to get the full attention of the peer reviewers.

Then at our winter meeting in '08, we will be presenting the assessment and peer review to you folks. Are there any questions on that?

Okay, another item that was on the agenda here is review and consideration of the terms of reference. We will be bringing that back to you at the annual meeting. If you remember from the – I believe it was the January meeting, we presented some general terms of references to you. Now that we have come up with recommendations on specific models, once the technical committee approves those, we will also refine those terms of reference to incorporate what we're asking the peer review team to evaluate for us. So, we will bring that back to you for approval at the annual meeting.

REQUEST TO PRIORITIZE EXPANSION OF MRFSS SAMPLING INTO WAVE I

And, finally, the technical committee wanted – in light of the fact that the Marine Recreational Information System Program is being reviewed and updated, and NMFS is going through a process of trying to improve recreational data collection, one thing that the technical committee felt was very important is that we wanted to emphasize the importance of Wave 1 sampling continuing and actually, hopefully, expanding into other states throughout maybe the Mid-Atlantic and maybe even into New England.

We wanted to make a recommendation that a letter from ASMFC to the chairs of the executive steering committee and operations committee reviewing the recreational fisheries information program be sent out. Originally we wanted this to come from the Striped Bass Board. However, at our conference call it was brought to our attention that Wave 1 sampling may be important for other species other striped bass, such as tautog and black sea bass.

There may be some fisheries where you need to have recreational estimates of harvest during Wave 1, so then it became apparent that this might be a policy board issue and it should come from the policy board. So, our recommendation now to the Striped Bass Board is that they bring a recommendation that there be a letter sent to the steering committee and operations committee stating the need for a Wave 1 – the importance of Wave 1 sampling in the redesign of the RFIP. We have even developed a draft letter for Paul to bring forward to the board if you would like.

CHAIRMAN DIODATI: Yes, let me comment on this a little bit more. I would suggest that if there is

still time to modify tomorrow's policy board meeting, then perhaps we could raise this as a policy board issue rather than a Striped Bass Board issue, and not take action on it this afternoon. I believe you are correct, there are probably a number of other species that would have some importance in Wave 1. For that matter, you can raise it as a discussion with a possible action item as the New Hampshire delegate tomorrow at the policy board. That's what I would recommend. Is that appropriate?

MR. GROUT: With the board's support, sure.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Thanks, Mr. Chairman. I guess I had a question, unless I missed something here, but when you said the executive committee and the steering committee of the MRFSS improvement effort, and I'm just wondering why we wouldn't want to just send a letter right now to the director of MRFSS, saying that we have a scientific reason why we think Wave 1 data is important, and be on record with Dr. Van Voorhees of MRFSS. I am sure they're going to come back and say two things. One is the money issue and, number two, it's an importance issue, and if we express the importance, then maybe they can revisit the money issue.

CHAIRMAN DIODATI: I think we can send the letter. It's just a matter of whether the letter should have come from the Striped Bass Board; I think not. It should go from the policy board, in which case Doug, as New Hampshire's representative, can raise it tomorrow and offer that draft letter. Then we just simply have to decide who it should go to, and I am sure David Van Voorhees is a likely candidate.

MR. GROUT: The technical committee was sort of looking at things in a long-term situation here. I think in the past there may have been a letter already sent out requesting Wave 1 sampling to Dave Van Voorhees. This was several year ago when Wave 1 sampling started in North Carolina. They were particularly looking for the coastal house telephone survey to be implemented by NMFS, and they said they didn't have money.

So, we looked at it as – the operations committee and eventually the executive steering committee is looking at ways to improve it, and so that's why were looking at things in the future that this needed to be put up there as a very important thing for striped bass management; and then as it turned out, it may be important for other species.

CHAIRMAN DIODATI: In any case, there is no need to take action on either of these two issues that Doug has raised, which are the terms of reference and this proposed letter. We did leave one question hanging that Nichola had raised from her report, and that was the intent of the board, when we drafted Amendment 6, about stabilizing state regulations for a three-year period.

I don't think we gave her an answer on that. It was my recollection that the intent was that whatever your state proposal was, it would remain in effect for three years, and conservation equivalency would not be brought into bear during that three-year period. Someone else may have a different recollection, but my understand was it was to allow the technical folks to be able to account for performance in the fishery and response of the stock without many changes in size limits or seasons or bag limits during at least a three-year period.

I think that was the intent of the language in Amendment 6. My only suggestion is we can review it a little bit more. Does anyone want to comment on that? Does everyone have a different recollection? Eric.

MR. ERIC SMITH: Well, Mr. Chairman, your recollection, which I can't recall, but that's my fault, makes a lot of sense. It's how it seems like it ought to be. Those words, in quotes, sound to me like, you know, in the fourth and fifth and sixth years you have to maintain your management measures unless the target or threshold is violated, and I don't see the logic in that. We do need some clarity on this.

MR. JACK TRAVELSTEAD: It makes sense except in the instance where states might exceed their recreational or commercial quotas and have to change management measures to make sure they don't exceed those quotas the following year. Virginia has been in that situation quite a bit.

DR. MARK GIBSON: Well, I guess we need some clarity on it because the next agenda item may be a moot point and an issue we don't need to – or the board doesn't want to address if in fact we're supposed to keep our commercial regulations in place since the adoption.

CHAIRMAN DIODATI: Well, actually, we have been in place for the three-year period now; haven't we, since Amendment 6 was adopted? I think we have gone the three years, and you may have the opportunity to make some changes now.

MS. MESERVE: I think what the language means is that beginning for 2007 and 2008 and 2009 there would be no changes, no new proposals if that is the way the board interprets the language.

MR. ROBERT BEAL: Thank you, Mr. Chairman. My recollection is that during the development of Amendment 6 – actually, prior to the development of Amendment 6, we had a number of stock assessment scares, if you want to call them that. We had assessments that indicated that F on older fish was high and we needed to take reductions, but then the next year the assessment indicated that F wasn't as high on the older fish and we didn't really need to take those reductions.

We had a couple of years in there during the Amendment 5, and right around 2000 and 2001, where there were pretty frequent changes to the overall striped bass management program, and I think this planning horizon section was included in Amendment 6 to sort of prevent the whipsawing of the fishery up and down.

You know, we are in the third year right now in 2007. The question that I don't think is clear probably in the amendment or in the record to this is whether – you know, is this a direction to the management board where the overall standards of the fishery management plan shouldn't change more frequently than three years unless the target or threshold is violated; or, is it the individual state programs have to remain identical for that entire period. I don't know if there is a record of exactly what the intention was.

CHAIRMAN DIODATI: Well, there is probably a record in the minutes. I don't know what meeting it would have been, but we've had plenty of those. Well, I am not sure how to resolve it or give it the clarity that we should give it. I don't think we're going to do that at this meeting. I think what we ought to do is ask Nichola to generate a memo to the board that we could digest and maybe discuss and vote on at the next meeting or at least clarify it for the next meeting. A.C., did you want to talk about this?

MR. CARPENTER: Yes, I think Bob's recollection matches mine, that we had gone through a period of quite a bit of volatility there. I think one of the ways you can read this sentence is that beginning in the third year, which is obviously this year, any management measures established by the board now will remain constant for the next three years; not that you can't change.

But, if the Rhode Island Proposal, for example, if that's considered a board action – if they put it forward, they've got to stick with that for three years before they can come back and try to change it again. That's one possible interpretation of that language.

CHAIRMAN DIODATI: It seems like we might want to allow that flexibility. Otherwise, the concept of conservation equivalency is no longer valid.

MR. ADLER: That was what I was going to say, Mr. Chairman, the conservation equivalency, and I sort of agree with A.C. The way that is worded there, I think A.C. had it right.

CHAIRMAN DIODATI: So why don't we work on this a little bit more between now and the next meeting, and I think we will try to clarify it then. That brings us to Rhode Island's Proposal. Yes, Dennis.

REPRESENTATIVE DENNIS ABBOTT: Just backing up a little bit, I had my hand half way up a couple of times, and I wanted to ask Doug a question about the use of the new modeling and he is going to be presenting the results to us. Will this cause us any grief or whatever with the results of it and drastically changing F rates possibly on one side or the other? Will the results be much different than what we've had in the past and what would be the results – or where would that possibly take us, I guess?

MR. GROUT: Are you talking about the results of the current assessment, what is going to come out of the current assessment?

REPRESENTATIVE ABBOTT: Yes, using the new model versus what would have come out with the old model.

MR. GROUT: Right now we haven't finalized it because the technical committee hasn't reviewed it. But, in general, any of the models that we looked at both from the tagging and from the stock assessment subcommittee did not show that we were overfished or that overfishing was occurring. Beyond that, I would prefer not to give you any specific values only because at the end of the technical committee meeting, we may ask for some refinements of the input to those models which may affect the output to those models.

MR. CARPENTER: Now that we're back on models, I wasn't going to say this unless we got there, but yesterday the Eel Board was presented with an option for a model that was aptly named, and the

model today of SCAM really bothers me, so you've got to find another name for it. You can still use it, but you've got to find another name.

CHAIRMAN DIODATI: Good point. Any other questions for Doug? I think, just following on Dennis' question or comment, it's really about not what the new values might be, but will the currency come into question between the old and the new, and we want to make sure that we're not getting into that kind of dilemma. I am sure you guys will look at that very closely.

MR. GROUT: Well, sure, and the answer to that is at this point you still have the same reference points, so we're still comparing it against the same currency.

CHAIRMAN DIODATI: Any other questions for Doug, and Doug will reconsider that name.

MR. GROUT: Talk to your own employee; he came up with it.

CHAIRMAN DIODATI: Okay, is Mark or Doug or Nichola going to comment on this?

RHODE ISLAND PROPOSAL FOR THE COMMERCIAL TRAP FISHERY

MS. MESERVE: I will start off on this unless Mark wants to. Rhode Island submitted a proposal to the commission, the conservation equivalency proposal for the commercial trap fishery. It proposes to reduce the commercial trap fishery's 28-inch minimum size limit to 26 inches by a conservationally equivalent reduction in the fishery's quota from 97,450 pounds to 93,780 pounds, a difference of 3,662 pounds.

I'll provide a little information on the trap fishery and the method of conservation equivalency, and then Doug and then Jim Gilford will provide the TC and AP views. Currently, the trap fishery is allocated 40 percent of the Rhode Island coastal commercial quota or 97,450 pounds per year and operates under the 28-inch minimum size limit.

Some other regulations, the fishery is open year round; however, traps are most often set in May and fished through October. The quota is divided into two sub-periods. The first period has the full quota minus a 10,000 pound set aside, and then the second part of the season has the 10,000 pound set aside, which can be provided to the general category as well in October if a certain amount of it hasn't been fished.

Also, in the first period a possession limit of 500 pounds per day will be imposed if the harvest reaches 80 percent of quota. Then the fishery is closed when the whole quota is reached. For the proposal, the conservation equivalency of Rhode Island's proposal proposed alternative size limit was measured in terms of percent maximum spawning potential.

Percent MSP is the degree to which fishing reduces the spawning stock biomass per recruit as compared to the spawning potential of a stock with no fishing mortality. The Rhode Island staff estimated that the current minimum size limit of 28 inches and the target fishing mortality rate of 0.30 results in a 27.9 percent MSP.

Staff then estimated that maintaining that percent MSP with a 26-inch minimum size limit would require a reduction in the fishing mortality to 0.23, which in turn would require a reduction in the quota by 3.8 percent, which brought that quota down to 93,788 pounds. This would also result in a slight shifting of the split of the quota between the general category and the trip fishery from a 60/40 split to a 39/61 split. Doug will provide the TC review, and the TC conducted this review in June.

MR. GROUT: Thank you very much. We considered that Rhode Island had used appropriate methods for the conservation equivalency proposal. The percent MSP had been used before by other states to come up with conservation equivalency proposals, and the methods were correctly applied to the data.

The proposal lacked detailed methods on the development of a partial recruitment, and the TC asked that Rhode Island provide that information. They did in a subsequent draft of that proposal, and there were no further comments from the technical committee. We had one question, and that was if this was to be implemented in 2007, that means that part of 2007 would be under a 28-inch size limit, and another part would be under the 26-inch size limit.

So, we were wondering how Rhode Island was planning to deal with that. Are they going to go with the 93,788 pound quota for all of 2007 to reduce quota, or are they going to try and prorate it? There wasn't any answer to that particular question.

CHAIRMAN DIODATI: Okay, I think the advisory panel also looked at this.

DR. JAMES GILFORD: The advisory panel met by telephone conference call on July 18th, and a summary of that meeting was included in the briefing

materials that were passed out to the board. I am not going to go into the details that is there; you will be able to ready that easily enough.

Let me summarize simply by saying that seven of the twenty advisory panel members were able to make the conference call; four other participated in the advisory panel conclusion by correspondence. In the end, eight of the eleven voted not to recommend approval of the Rhode Island proposal; two voted to approve it; and one abstained.

The primary concerns underlying the majority recommendation not to approve the proposal are the following. One was the sense that departures from the uniform minimum size limit make it more difficult for the technical committee to predict effects on the coastal population. Secondly, the panel saw no compelling reason to change the minimum size limit as proposed by Rhode Island and has the sense that approval of a proposal would encourage other states to propose similar minimum size limit changes based on special interests.

CHAIRMAN DIODATI: Mark, are you ready to talk about this?

DR. GIBSON: Mr. Chairman, I have a motion; and if it's seconded, I would be prepared to offer some rationale as to why we have requested this.

CHAIRMAN DIODATI: Why don't you go ahead, then?

DR. GIBSON: Okay. **I would move that the Striped Bass Board approve the Rhode Island conservation equivalency proposal for the commercial floating trap fishery. Further, if implemented in 2007, Rhode Island will fish to the reduced 26-inch quota.**

CHAIRMAN DIODATI: Is there a second to that motion? Eric Smith seconds. Okay, Mark.

DR. GIBSON: There are a number of reasons why we've come forward with this proposal. The first is it was at the request of the trap industry who has a significant portion of the quota allocated to them. In past years they have had some difficulty catching their entire quota under the 28-inch rule, and that leads to loss revenues to them, which they're concerned about and we're concerned about.

It's a historical mode of fishing and it's a labor-intensive operation. It requires a considerable amount of people to man the main catching boat, to

work skiffs and to tend the net and removing fish from the net, sorting them and so forth. The second problem that occurs as a result of that is that when there is uncaught quota, they'll leave their frames in longer.

They tend to have a pretty set fishing season. They put their frames in in April when striped bass show up, scup, tautog, sea bass, fish like that. Then they take them out in the fall. If they have some significant quota left, they tend to leave their frames in longer, speculating that they'll catch some of these striped bass.

That can lead to some discarding of striped bass in the 26-inch category. Although I don't believe that the discard mortality rate is particularly high in the floating trap because of the nature of the gear, inevitably there will be some fish caught and released that will in fact die that could have been caught had they been under a 26-inch standard. So, we have discard concerns that could be allayed if we provided them a broader size distribution to fish on, so that they could conclude their season.

The third thing that happened – and Nichola touched on it a little bit – is there is an administrative burden, because we strive to catch the entire striped bass quota, so if there is significant catch left in the fall, we're put into a rule-making situation where we have to shift to what we call a general category; that is, everybody can avail themselves of the remaining fish.

That can lead to sort of a derby because it reactivates the rod-and-reel small boat fishery in a derby mode after the remaining fish. That can create some administrative burden and uncertainty and closing the fishery in a timely fashion relative to the total quota. The final thing that happens is when this derby takes place late in the fall, it can lead to safety-at-sea issues because it creates an incentive for people to jump back in at a time of the year when, frankly, we would prefer that both sectors had caught all of their fish already.

Late in the fall, the last thing we want are small boats following the ferry over to Block Island and attempt to catch other remaining quota because that's where the fish are. So we think that by dropping a marginal amount to 26 inches, that will allow the floating trap fishery to catch the quota that's assigned to them during their traditional fishing season.

The rod-and-reel fishery will probably conclude its fishery; most of it will be caught in the month of

June; there will be a secondary small season in September, and they will catch that. Both fisheries will be done. We will have a clean slate in terms of monitoring each sector, accounting for the catch, and getting it concluded before the end of the year when the weather starts to go back and we start to create incentives for unsafe fishing conditions.

CHAIRMAN DIODATI: Mark, how would you respond to Doug's question about the fishery already having begun?

DR. GIBSON: Yes, that was the intent of the second sentence in the motion, that if we can implement this in 2007, we will cut off the total fishery at the reduced quota. We won't try to prorate anything. There is some question as to whether I can get this done in time because it involves the size limit changes and not just a possession limit adjustment.

If we can't get it done for this year, it will go into effect for 2008. But if we do put it into effect for this year, we would cut it off at the reduced 4 percent less than what we were allocated initially.

CHAIRMAN DIODATI: Before I begin taking questions on Mark's motion, I see a couple of hands up, I will remind everyone that a number of states represented here have similar conservation equivalencies in place. Massachusetts is one. Instead of 28 inches, we operate our commercial fishery at 34, and I think a lot of the recreational fisheries have various options that they have chosen to implement. With that, I'll take Bill.

MR. ADLER: Thank you, Mr. Chairman, a couple of questions, if I may, to Mark. First of all, now, would they be getting into a scenario, well, geez, you know, we're throwing a lot of 24's over now; we've gone from 28 to 26, and now we've really got 24's – just a question of whether that would occur, I don't know. The second question on that would be will there be any contentiousness within your state when you've got one group that can take this size and this guy can't? These are just thoughts.

DR. GIBSON: On the first point, I don't intend to come back to this well a second time. This is a marginal adjustment purely to try to provide for a rational floating trap fishery that catches their quota during their typical fishing season. We experimented with a fishery I think as low as maybe 18 or 20 inches at the beginning of the restoration period, and we don't want to go back to that.

That was too small a fish to be fishing on, so the agency isn't going to support anything more than this one. The floating trap industry is, to some degree, under attack anyway by some segments of the recreational fishery, not so much by what they catch but because they claim to obscure prime fishing grounds and so on, so they've got their own battles to wage. They already have them. I don't think that the 26 from 28 is going to change anything for them.

MR. ADLER: If I may, how about within the commercial sector? What do you have, a 28 for every other commercial guy? I don't know.

DR. GIBSON: No, we fish at 34 in the other category, so we're already above 28 in the other category, and they want to stay there because if they drop to a lower number, they'll catch their quota so fast they won't make any money.

DR. LOUIS DANIEL: I like the precedent; I like the flexibility. I think it's a good opportunity to catch the quota. We've got issues like this in North Carolina where this could help us. The one question I have, Mark, is going from 0.3 to 0.23 on an annual exploitation rate – and I don't have my calculator to be able to determine that, but that would be more than 3.8 percent if you looked at annual exploitation rates.

DR. GIBSON: I am just relying on the technical committee's evaluation of the calculations. I haven't gone through them myself, to be honest with you.

DR. DANIEL: Doug, can you –

MR. GROUT: I don't think, according to this proposal, we're not looking at the change in F to reduce the quota. It's to change the percent MSP.

CHAIRMAN DIODATI: George, did you have your hand up?

MR. LAPOINTE: I was going to ask how they handle enforcement of two size limits. I guess the question is still with me whether it is 34 and 28 and 34 and 26; does that cause enforcement problems?

DR. GIBSON: I don't believe it does. I would prefer to have my enforcement officers answer that, but the floating trap is a very specialized fishery. There is only about six companies and perhaps half a dozen or so nets that are deployed. They're deployed in specifically permitted sites. They have to tell us at the beginning of the year where and when they're going to deploy.

They only have certain authorized sites and they have to tell us in the fall when they have pulled their frames out. Also, our enforcement agency and mine makes a joint inspection to verify in fact did they put those nets where they say they brought them. The operations are very well known. They can be easily visited.

And when they come back, they're highly visible. They have a fishing boat with three skiffs trailing them on their way to the shore, so they can very easily be inspected. But we've had multiple size limits for some time.

MR. LAPOINTE: I guess my question was more when things get into the dealers and whatnot; is there a way to enforce the differential in size limits?

DR. GIBSON: Yes, all the fish have to be tagged, and each company receives individually coded sequence tags they have to put on the fish.

MR. AUGUSTINE: Thank you, Mr. Chairman, just a point of information. I was looking at the limits that we have in New York. We're a producer area so we had the range of 24 to 36, and then we had Maryland as another producer area of 18 to 36, but I notice the other states do not have that flexibility.

I cannot recall whether we were allowed that on a conservation equivalency basis or whether we were given that range because they were producer states. That might help us make our decision as to which way we go with this one.

CHAIRMAN DIODATI: I don't recall; you may have gotten –

MR. AUGUSTINE: I don't know if our technical people can tell us or not.

MR. SMITH: I think it's a tight proposal, and I think it makes sense. I note the advisory panel concerns, but I also note that the technical committee didn't have the same concern about the effect on the stock assessment. I note that there already are disparate size limits, so that, as an advisory panel concern, has been with us, anyway, so I don't see it as a real concern or an obstruction to approval. I also note that it's twelve minutes past six, and I have been at this, like everybody else, for ten hours. So, unless somebody really wants to comment, I would like to call the question.

CHAIRMAN DIODATI: Okay, there is a gentleman in the audience. Do you have a response to one of the points?

MR. ARNOLD LEO: Yes, thanks. Arnold Leo, East Hampton. First, Pat, in New York our commercial quota is a conservation equivalency. We otherwise would be getting over a million pounds. Instead we have 800,000 something, okay, the conservation equivalency. My comment really is this is a tool that is a legitimate tool of the commission, conservation equivalency.

And, in this case, you've got these fixed gear, these floating traps, just like we have our pound traps that are set in stakes, actually close to shore. If fish of a certain size don't come in these areas, the commercial fishermen are unnecessarily damaged by these larger size limits. So, in New York we chose to take fewer fish so that we could in fact catch our conservation equivalency, as Pat mentioned, 24 up to 36 instead of 28 and over. Thanks.

CHAIRMAN DIODATI: Thank you, Mr. Leo. Pat, did you want to just respond and then we're going to call the question.

MR. AUGUSTINE: Just a final one. Thank you for that, Arnold, and I appreciate it. You've been around for a million years on that and have been with the advisory panel since the onset of it. The only other thing would be Mark indicated there isn't a problem right now with law enforcement, but is there going to be any way to identify the difference sizes from the gears or do they get a set of tickets each, you tag them, when you're tags are gone, you're done; is that basically what it is?

DR. GIBSON: Yes, the trap companies that operate approved gear and approved sites are all pre-issued before the fish arrive, sequence tags that dedicated to their company. So we can identify – presuming they're tagging the fish, we can identify them in commerce as to where they came from.

CHAIRMAN DIODATI: Okay, let's take a one-minute caucus.

(Whereupon, a caucus was held.)

CHAIRMAN DIODATI: Okay, are you ready? All in favor, say aye; opposed; abstentions; null votes. **The motion passes.** Okay, the next one is Maryland's Proposal for the Susquehanna Flats. This is one that has been on the table before. Nichola, do you want to give the presentation.

MARYLAND PROPOSAL FOR THE SUSQUEHANNA FLATS

MS. MESERVE: Thank you, Mr. Chairman. Maryland submitted a proposal for a recreational fishery in the Susquehanna Flats. In this picture on the slide, it is just a very small area on the top. The fishery would be two weeks' long, from May 16th to the 31st. There would be a one-fish creel limit and an 18 to 26-inch slot limit. There would also be a tackle restriction if you are using bait.

Currently there is a catch-and-release fishery in this area, running from March 1st to May 3rd. Maryland DNR has put forward this proposal in hopes of providing an equal fishing opportunity to anglers in the upper bay. This proposal should look familiar to us. It's been referenced a couple of times today at the policy board meeting, but this slide is just to remind you that it was originally submitted in February.

The TC reviewed it in March. The Policy Board approved the FAX poll, and in that process the proposal was changed from a 14-day fishery to a 10-day fishery to allow for the AP to provide comments on it. Then the AP reviewed it; the FAX poll happened; and the board failed to approve the proposal.

Then Maryland resubmitted the proposal in July. Because the AP looked at a slightly different proposal, I went back to them and asked for any new or revised comments. One was received, and that was in favor of the proposal. But, when the TC reviewed it, this is what they had to say; that the current F values in the Bay for 18-inch-plus fish are relatively low; that the fishery is going to add very little mortality the Bay-wide F; that the fishery will be on mostly residence males; the harvest will be monitored and included in the Bay-wide quota; and the TC will continue to monitor the Bay-wide fishing mortality.

The AP comments from the first go-round; some were in support because of the positive TC review and also because it was going to result in a small removal of fish, and the fishing mortality would be minimal. There was some opposition because of the process, but that is now a moot point.

There was also some concern that this was traditionally referred to as a spawning area; and also one comment that there should be more research on the Bay and the health there before there is any

liberalization of the regulations; and also one concern that some coastal fish would be caught in this fishery.

Some other issues were that this would set a bad precedent for opening spawning areas, and it could result in a cascade of more changes. I think that Howard may want to say something. That's all I had for an overview.

CHAIRMAN DIODATI: Before you start, Howard, I guess my concern here is that the board has already seen this proposal and voted on it by FAX poll and opposed it. Now we're here maybe a month or so later looking at it again. It's essentially the same proposal, right? That's one question, so –

MR. HOWARD KING: Different process, Mr. Chairman.

CHAIRMAN DIODATI: But I think at the last board meeting, when you were given the option of the FAX poll, I think I warned you that I wouldn't want to be in that position, because we generally have a lot of discussion, as we just saw with Rhode Island's Proposal for 3,000 pounds. We discussed it pretty thoroughly, and he counts and tags every single one of those fish.

So, it seems like we do scrutinize everything pretty carefully, and so it was expected that you would have some difficulty with the FAX poll. You did, and now I'm not sure if this motion is in order – I assume there will be a motion – given that we have already very recently opposed this proposal. Go ahead, Howard.

MR. KING: I do appreciate your indulgence. To try to soothe the process issues earlier this year, I asked Vito to sing the Maryland Proposal, but he said it would be too costly, and I agree. I only wanted to add to Nichola's presentation. The opportunity here is that in that Upper Bay area, which has been called a spawning area because eggs are found there, I wanted to mention that only 1 percent of the eggs in the Upper Bay, less than 1 percent are found in this area.

It is an area that's within view of – if one boat is out there, that boat can see all the other people fishing. It's an opportunity for small boats, 16-foot John Boats; 18-foot fiberglass boats. We met with our Natural Resources police and had a one-day workshop to be confident that we could enforce this in the way in which we would have to for this 2008 season.

We're only asking for it for 2008, not in perpetuity. We also have a kick-out clause that the Secretary could terminate this fishery with 48 hours' notice if something unanticipated is occurring. We're looking at the smaller size fish on the resident bay stock and not on the migratory stock. We think it is a reasonable request. I hope the board can approve it. Thank you, Mr. Chairman.

CHAIRMAN DIODATI: Howard, what would happen in 2009? It's just a one-year fishery?

MR. KING: It's only for 2008. We're cautious ourselves. We want to make sure we're doing the right thing; we think we are. We come back to you and report what the 2008 season looked like.

CHAIRMAN DIODATI: Do you want to make a motion before I take any questions or comment, except, Pat, do you want to say something?

MR. PATTEN WHITE: I just had a question, Mr. Chairman, before we have a motion. Do we have to have a two-thirds vote on this where it's basically the same motion?

CHAIRMAN DIODATI: Well, I wasn't sure whether or not it was in order to take such a similar motion in such a short time and is it something that would require a different procedure. But, it seems that it has changed slightly. It is not for 2007; it's for 2008. The motion that the FAX poll judged was in 2007. I don't know if there is any other significant change. The length of the season has been shortened.

MS. MESERVE: Lengthened.

MR. SMITH: Thank you, Mr. Chairman. I would like to talk to the process question before we get to the meat of the proposal. We have adopted the two-thirds majority rule for a very specific reason, to try and dampen the enthusiasm of a state to come back with the identical idea for a second bite of the apple.

I see this as entirely different. It's a different year. I mean, they're proposing something for nine months from now. They were chastised properly because they came in very late in early '07 to try and get something in effect a few weeks later. They bypassed the Striped Bass Board, and I am not blaming them for that. It was the timing that they had to do that. That's why I voted no on the FAX poll, quite frankly, but I would hate to hold them to the two-thirds majority rule now when this is a fundamentally different proposal simply because that was annual '07, and their new proposal is annual '08.

CHAIRMAN DIODATI: Yes, I suggest we take a look at the motion that I think Howard might be ready to make, and then I can make a judgment on it.

MR. KING: I would move that the board approve the Maryland Susquehanna Flats Proposal for 2008 as presented on August 15th, 2007.

CHAIRMAN DIODATI: Okay, I will accept a second. A.C. seconds. This will require just a majority vote of the board. Comments on this proposal, starting here with Dennis.

REPRESENTATIVE ABBOTT: Thank you. Just back to what Eric talked about, is it clear that the motion that was done in the FAX poll only included 2007? If that's so, then I would go along with the interpretation of not needing the two-thirds.

CHAIRMAN DIODATI: That's my understanding; is that true, Howard?

MR. KING: That is correct, we always intended a one-year trial.

REPRESENTATIVE ABBOTT: Okay, and a followup question on a different note. I was just curious, Howard, what the historical background is of why the Susquehanna Flats was closed and remained closed over the years and was not opened in view of the fact that you say it's really a egg-producing area?

MR. KING: Ultra-conservatism. After Maryland came off the five-year moratorium, we've approached any opening of new areas very cautiously. I would add, for the board's interest, that in Maryland, again, and in the Upper Bay, particularly, we have an above-average juvenile recruitment of striped bass and also shad and river herring, for your information. So, production remains high in the Upper Bay, and we're still being conservative. This is, in our view, not a spawning reach where the fish actually do spawn.

MR. ADLER: Thank you, Mr. Chairman, may I ask a question? According to this chart, is this one of the catch-and-release areas that I'm looking at here?

MR. KING: Yes, it is. There is an earlier catch-and-release season in that same area.

MR. ADLER: So, they are fishing for these fish up there, anyway, but they're releasing them if they catch them, right?

MR. KING: That's correct because earlier in the year there are the occasional larger fish in there, but by May 16th the spawning is pretty over. The big fish have moved down bay.

MR. ADLER: And, may I also ask why, all of a sudden, they want to have a ten-day catch time up there? I mean, what is the rationale behind why it's got to be up there?

MR. KING: Because there is an opportunity to fish on the resident stock. Otherwise, they would have to pack their bags and go 30 miles down bay to catch the same fish.

CHAIRMAN DIODATI: Any other questions or comments on this motion? Then I am going to take one comment or question from the audience.

MR. BILL WINDLEY: Bill Windley from the Maryland Saltwater Sport Fishermen's Association. Thank you, Mr. Chairman, and I appreciate the board's patience in this situation. Today I'm really here representing Cecil and Hartford County, Maryland. For many years we looked at the possibility of having catch and release on the Susquehanna Flats, which isn't an actual spawning reach where the spawning takes place.

Our anglers worked with the department to obtain tremendous amounts of data, so we know a tremendous amount about what happens in that area and what the fish do. For four and a half years the people of the Northern Bay Chapter have worked until they came up with a proposal that satisfied the Coastal Conservation Association's Fishery Committee, the Maryland Saltwater Sport Fishermen's Association Board of Directors, and the Maryland Sport Fisheries Commission.

This is a very few fish. The 26 alone will ensure that we're not fishing on migrant fish. We'll be fishing on small fish. The impetus for it is that this catch-release season, which has proven to follow the projections that the original data produced, that has been monitored more closely than any fishery I know of in Maryland, has worked very well to help our area, to help the people in our area.

We're a struggling area. We're stuck in between Wilmington and Baltimore. Mostly it is blue collar. The small boat people will have an opportunity to fish this fishery that wouldn't have an opportunity otherwise. It's done remarkable things for the people in our area. I will close with that and thank you, again, for hearing us and just ask you, if you would,

to consider the people of the area. It's very efficient in terms of the number of fish consumed to the good that it will do the area. Thank you.

CHAIRMAN DIODATI: You're welcome. Two-minute caucus and then I'm going to call the question.

(Whereupon, a caucus was held.)

CHAIRMAN DIODATI: Okay, everybody ready. This time a show of hands; all in favor, raise your right hand; all opposed; abstentions; null votes. **The motion passes.** We have at least one, maybe more advisory panel nominations. I don't know who they are. Which state has them? Would you like to make a motion?

ADVISORY PANEL NOMINATIONS

MR. AUGUSTINE: Yes. I move that John McMurry from New York be put on the advisory panel.

MR. WHITE: Second.

CHAIRMAN DIODATI: All right, so moved. Is there another? Virginia has one. A.C.

MR. CARPENTER: Kyle Shick is from the PRFC and not from Virginia, but other than that, I would second the motion.

CHAIRMAN DIODATI: **So moved without opposition from the board.**

OTHER BUSINESS

Any other business to come before this board? Mr. Leo or any other audience members want to bring anything before the board, now would be the time.

MR. LEO: Really quickly, concerning the Striped Bass Advisory Panel, when the advisory panels were originally set up, there was supposed to be from each state one recreational and one commercial. I notice on the lists that were provided here today for the Striped Bass Advisory Panel that Rhode Island is listed with one recreational member and a vacancy that's indicated to be recreational. I mean, that is not appropriate. The vacancy should be filled there by a commercial.

Massachusetts has only one and it should have two. It should have also a commercial representative. I bring this up because constantly at our AP meetings –

Jim Gilford will confirm this – the vote is always lopsidedly, you know, eight to two or whatever. That’s only because we only have two commercial representatives, and we’re supposed to have one from each state. Thanks.

ADJOURN

CHAIRMAN DIODATI: I think we all recognize that as a standing issue for all the boards, and we will review the makeup of this advisory panel with staff. Unless there is nothing else, we are adjourned.

(Whereupon, the meeting was adjourned at 6:35 o’clock p.m., August 15, 2007.)