

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

**November 18, 2002
Williamsburg Lodge
Williamsburg, Virginia**

ATTENDENCE

Board Members

Bill Adler, Massachusetts Gov. Appointee
Vito Calomo, proxy for Rep. Verga (MA)
David Pierce, Massachusetts DMF
Jerry Carvalho, proxy for Rep. Naughton (RI)
Najih Lazar, proxy for David Borden, RI DEM
Gil Pope, Rhode Island Gov. Appointee
Pat Augustine, New York Gov. Appointee
Gordon Colvin, New York DEC
Brian Culhane, proxy for Senator Johnson (NY)
John De Persenaire, proxy for Assmblmn. Smith (NJ)

Tom Fote, New Jersey Gov. Appointee
Bruce Freeman, **Chair**, New Jersey F&W
Timothy Targett, University of Delaware
Jeff Tinsman, Delaware DFW
Pete Jensen, proxy for Delegate Guns (MD)
Eric Schwab, Maryland DNR
Jack Travelstead, Virginia MRC
Preston Pate, North Carolina DMF
Bill Cole, USFWS
Harold Mears, NMFS

Ex-Officio Members

Paul Piavis, MD DNR, TC Chair

Rob Winkel, NJ F&W Law Enforcement, LEC Rep.

ASMFC Staff

Lydia Munger
Bob Beal

Tina Berger
Vince O'Shea

Guests

Paul Caruso, MA DMF
Columbus Brown, USFWS
Charles Lynch, NOAA
Bob Ross, NMFS
Anne Lange, NMFS-HQ
Peter Burns, NMFS
Willie Egerter, United Boatmen
Harley Speir, MD DNR

David Simpson, CT DEP
Paul Perra, NMFS
John Hoenig, VIMS
Robert O'Reilly, VMRC
Chad Boyce, VMRC
Rich Seagraves, MAFWC
Dan Furlong, MAFWC

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

TABLE OF CONTENTS

MOTIONS.....4

WELCOME & INTRODUCTIONS5

BOARD CONSENT5

PUBLIC COMMENT5

PRT REPORT: STATUS OF STATE COMPLIANCE.....5

PRT REPORT: FMP REVIEW5

REVIEW STATE PROPOSALS.....5

REVIEW STATE PROPOSALS: TECHNICAL COMMITTEE REPORT/RECOMMENDATIONS7

REVIEW STATE PROPOSALS: ADVISORY PANEL REPORT/RECOMMENDATIONS.....25

REVIEW STATE PROPOSALS: LAW ENFORCEMENT REPORT/RECOMMENDATIONS26

BOARD DECISION ON STATE PROPOSALS28

REMOVAL OF NORTH CAROLINA FROM THE FMP.....31

ERRATA TO ADDENDUM III33

BOARD DIRECTIVE TO STAFF34

NOMINATIONS TO TECHNICAL COMMITTEE AND ADVISORY PANEL34

MOTIONS

1. Motion to approve PRT Report.

Motion by Mr. Travelstead, second by Mr. Adler; motion carries.

2. Motion to approve 2002 FMP Review.

Motion by Mr. Adler, second by Mr. Augustine; motion carries.

3. Motion to approve Massachusetts' options.

Motion by Mr. Adler, second by Mr. Colvin; motion carries.

4. Motion to approve the State of Rhode Island's proposal to maintain status quo management for 2003.

Motion by Dr. Pierce, second by Mr. Schwab; motion carries (with 3 abstentions).

5. Motion to approve the State of Connecticut's proposal.

Motion by Mr. Fote, second by Mr. Adler; motion carries.

6. Motion to approve the State of New York's proposal.

Motion by Mr. Augustine, second by Mr. Fote; motion carries (2 abstentions).

7. Motion to approve the State of New Jersey's proposal.

Motion by Mr. Fote, second by Mr. Colvin; motion carries (2 abstentions).

8. Motion to approve the State of Delaware's proposal.

Motion by Mr. Lazar, second by Mr. Adler; motion carries (2 abstentions).

9. Motion to approve the State of Maryland's proposal.

Motion by Mr. Schwaab, second by Mr. Fote; motion carries (2 abstentions).

10. Motion to approve the Commonwealth of Virginia's proposal.

Motion by Mr. Calomo, second by Mr. Carvalho; motion carries (4 abstentions).

11. Motion to determine that North Carolina is a *de minimis* state for Tautog.

Motion by Mr. Colvin, second by Mr. Fote; motion carries (2 abstentions).

12. Motion to authorize the development of a technical addendum to incorporate the errata.

Motion by Mr. Colvin, second by Mr. Adler; motion carries.

13. Motion to approve the nominations to the Technical Committee (Drs. Brian Oles and Robert Unsworth) and to the Advisory Panel [Robert Rokean (MA), Bill Lister (MA), John Mihale (NY), and Denise Wagner (NJ)].

Motion by Mr. Augustine, second by Mr. Travelstead; motion carries.

ATLANTIC STATES MARINE FISHERIES
COMMISSION

TAUTOG MANAGEMENT BOARD

Williamsburg Lodge
Williamsburg, Virginia

November 18, 2002

The Tautog Management Board of the Atlantic States Marine Fisheries Commission convened in the Tidewater Room of the Williamsburg Lodge, Williamsburg, Virginia, November 18, 2002, and was called to order at 8:00 o'clock a.m. by Chairman Bruce Freeman.

WELCOME & INTRODUCTIONS

CHAIRMAN BRUCE FREEMAN: All right, we would like to begin this meeting. This is the Tautog Board, starting off the commission meeting with an interesting gathering this morning.

BOARD CONSENT

Everyone should have a copy of the agenda. Are there any suggested changes or additions to that agenda by any of the members? We don't need to take role. I think Tina is keeping track of everyone's attendance.

PUBLIC COMMENT

Is there any public comment, anyone caring to make a comment from the public on this particular plan? We should have time during the meeting to have public comment on various items. We'll try to accommodate that within the timeframe.

All right, everyone should have received the minutes from our last board meeting. Is there a motion to accept those minutes?

MR. WILLIAM A. ADLER: So moved.

CHAIRMAN FREEMAN: Bill Adler moves to accept, Pat Augustine seconds. Any discussion, any corrections, or changes? Seeing none, we will accept the minutes. All right, PRT Report.

**PRT REPORT: STATUS OF STATE
COMPLIANCE**

MS. LYDIA MUNGER: For the PRT Report, there are just a few things I would like to point out. As far as the status of state compliance goes, there were no compliance issues to report to the board.

There were no compliance issues to report on the state compliance, and the PRT would like to remind the states of New Jersey, Delaware, and North Carolina to follow the standard report format. There were no requests for *de minimis*, though Delaware and North Carolina meet the requirements for *de minimis* for the calendar year 2002. That's all I have for the PRT report.

CHAIRMAN FREEMAN: All right, any comments? We'll need an approval of that report. Motion to approve the report made by Mr. Travelstead, seconded by Mr. Adler. Any comments? If not, the report is approved. Okay, FMP review.

PRT REPORT: FMP REVIEW

MS. MUNGER: For the FMP review, there's just a few things I'll point out on that. The recreational landings have declined from 1987 to 2001. Massachusetts, New York, and New Jersey account for 65 percent of the recreational harvest from 1981 to 2000.

Only 7 percent of the total tautog harvest in 2000 was from the commercial fishery. The FMP review mentions Addendum III for the fishery management plan for tautog, which calls for the reductions in the recreational fishery and that's what we'll be discussing later on.

CHAIRMAN FREEMAN: Okay, any comments, anyone? All right, we'll need action to approve that report. Motion for approval made by Mr. Adler, second by Mr. Augustine. Comments? Seeing none, the report is approved.

REVIEW STATE PROPOSALS

Lydia will review the state proposals. In order to expedite this, Lydia will go through all the reports and then we'll go back and take action on individual state reports after that is concluded. If there's any questions, you raise the questions, but we'll not take action until we go through all of them.

MS. MUNGER: Correct. And after I go through the proposals, Paul Piavis is going to present the technical committee report on the proposals and is also going to answer the technical questions. So after we go through the presentations, then there will be plenty of time for questions.

So for the reduction proposals, they're required in Addendum III to the fishery management plan for tautog, and the goal of the reduction proposals is to meet either a 29 percent reduction in fishing mortality or a 25 percent reduction in exploitation rate.

The 1998 through 2000 data is to be used as the benchmark. The reduction may be achieved through possession limits, seasons, or a combination of both. The states' deadline for implementation of these is April 1, 2003.

I am just going to go through state by state the proposals. Many states submitted various options, so I tried to outline all of them on the slides.

For Massachusetts, their current regulations are listed in the top line and then they gave six options for reduction in the fishery. The latter two were not in the original proposal.

They are in their revised proposal that has been passed out, but they have been approved by the technical committee. The technical committee came to consensus on each of these six options that they were acceptable for presentation to the board for approval. They meet the requirements through a combination of closed seasons and possession limits.

Rhode Island is going to argue that they have already achieved their required reductions and, therefore, shouldn't be required to submit a proposal for further reductions in their recreational fishery.

The technical committee was not able to come to consensus on this proposal, and we're going to get into this one further in a few minutes.

The majority opinion of the technical committee was that the VPA presented by Rhode Island, in defense of their request, is scientifically sound, based on the opinion that the indices utilized in the VPA are representative of the stock and population in Rhode Island.

A minority of the technical committee dissented for Rhode Island's report, stating that they had a number of concerns, but, namely, the effects of bordering

state regulations and transboundary impacts are not considered when a state takes on sole responsibility for managing the migratory stock located within its state waters.

There were concerns that minimum size increases may result in the temporary delay of mortality until the fish grow and recruit into the fishery.

There was concern about -- Rhode Island presented some data that was combined with Massachusetts, and there was concern about the confidence intervals for that data. The minority of the technical committee also pointed out that because there is limited data, they suggest that a coastwide approach for the assessment of tautog should be followed and that individual state approaches to assessment should not be allowed.

For Connecticut, the technical committee did come to consensus that all of the options presented by Connecticut were acceptable for approval to the board.

They only presented two options, and there, again, they could come into effect through a combination of possession limits and seasons, so those two options are in the report.

New York presented five options for a reduction in their recreational fishery, also to be achieved through a combination of possession limits and seasons. The technical committee did come to a consensus that all these options were acceptable for presentation to the board.

New Jersey had five options also for its recreational fishery. They'll keep their size limit of 14 inches. All their options were acceptable to the technical committee. New Jersey also, just as a note, submitted a proposal for the commercial fishery for reductions, and they wanted it pointed out that proposal was also accepted by the technical committee, by consensus of the technical committee.

Delaware submitted five options. Delaware also had a revised proposal that was circulated to you at the beginning of this meeting, and that revised proposal has also been approved by the technical committee, because the revisions are to meet the 25 percent reduction in exploitation rate. I'm sorry, Delaware presented nine options.

Maryland's proposal was pretty straightforward. They're going to maintain their current regulations and they would like to add an additional closed

season for the month of December, which achieves more than the reductions required. Maryland's proposal was also approved by the technical committee.

Virginia is another one that gets into a catch-curve analysis. They argue that their current regulation are sufficient. The technical committee was not able to come to a consensus on Virginia's proposal.

The majority of the technical committee does say that Virginia's methodology is scientifically sound, and the majority opinion is based upon the fact that there is no scientific evidence that Virginia's fishers are fishing above the target in the plan, and that the scientific information provided does suggest that there is a trend in declining mortality for Virginia.

There was a minority opinion for the technical committee that there were concerns that the catch-curve analysis may not be based on a representative sample.

Paul will get into these concerns in a few minutes, but I'm just going to outline them for you. There is no index to corroborate or dispute the findings of the catch-curve analysis that Virginia presents; that Virginia's analysis doesn't account for catches during Wave 1; and the same concern that was presented with Rhode Island, that since there is limited data, that the coastwide approach to the management of tautog should be used and individual state approaches to management should not be allowed.

North Carolina, we're going to be discussing this later as well, but they did not submit a proposal because they're requesting removal from the fishery management plan and its scope and responsibilities.

CHAIRMAN FREEMAN: Okay, any questions? All right, we'll hear from the technical committee relative to their position on these various proposals. Paul will go through these, explaining each state, and then we'll have a discussion at that point and take action.

REVIEW STATE PROPOSALS: TECHNICAL COMMITTEE REPORT/RECOMMENDATIONS

MR. PAUL PIAVIS: Before we get into the minority/majority consensus opinions, the first thing I want to do is introduce Paul Caruso. He's the incoming chair, and I'm sure he's familiar to all of you.

He is previously the immediate chair. I would like to introduce him now, just because I'm sure he'll have some input into our discussions today.

Since we had met the last time, we've had a couple of meetings. The technical committee has had a couple of meetings and some conference calls. The last meeting was a joint meeting with the advisors. One of the topics that came up was an explanation.

The advisors requested an explanation of the difference between

F for instantaneous fishing mortality and exploitation rates and why the technical committee moved to use exploitation rates as the basis for our reductions, so we would just like to go over that again.

That's kind of a difficult topic to off the cuff come up with an explanation, so I hope to clear some of that up today. Then I would like to move into the majority/minority opinions for Virginia and Rhode Island's assessments in a little more detail.

The technical committee also produced a memo pertaining to both splits and precision in the MRFSS and how effective or how uncertain it is when you go to a finer resolution for fishing reductions.

There is another memo that the technical committee produced that I'll insert a little later after the mode splitting one, and that was pretty much a technical guidance paper to the southern states in implementing monitoring for tautog in order to move towards a southern VPA. Finally, we're going to just talk about the landings updates from MRFSS through August.

Okay, so now we get into F and exploitation. F is an instantaneous rate. It's a logarithmic transformation of the abundance at time.

Unfortunately, some of the confusion, I think, comes from just referring to F as fishing mortality when it really should be termed instantaneous fishing mortality, and that takes away from the explanation of exploitation rates, which is the actual annual percentage of fish removed from the population.

The exploitation rate is certainly the more intuitive. If you have a 30 percent exploitation rate, if you started with a thousand fish, you're going to have 700 at the end of the year; another 30 percent exploitation, you'll have 49 fish left.

F is a unitless parameter. Where exploitation is units of percent fished per year, F is unitless, as I said, and that property makes it amenable for use in fisheries

models. I'll explain it on the next slide here a little clearer.

What we have here is a hypothetical population, and this can be age class or this can be a population. We're starting with a thousand fish -- and for this purpose, we're not going to be concerned with natural mortality. This is just an illustration.

If you have 35 percent exploitation, these thousand fish are reduced to 650. Another 35 percent exploitation takes you down to somewhere above 400 and down through ten years.

The line is simply connecting the abundance datapoints, and you can see that it's curved linear through time. This line is log transformation, and that's noted on the Y2 axis -- are the datapoints log transformed, and you can see that has the impact of linearizing the datapoints.

The slope of this line, the negative slope of this line, is F, and you can see that the exploitation rate of 35 percent produces an F of 0.43.

So why do we use that in fisheries? Well, you can see, if you're running a fisheries model, this exploitation wouldn't necessarily be additive. If you have 35 percent exploitation here and 35 percent exploitation here and 35 exploitation here, that's 105 percent if you try to add them together.

You would have a negative population here by the year 4. F is additive. A basic fisheries equation is number at time T is the beginning times E to the negative, in this case, F times T. Well, the T is the time, so you can take the F, multiply it by the time, and get back; whereas, you can't do that with the exploitation rate.

So why do we use exploitation rate for the reductions? What we really intend to do is reduce harvest, which are these regulations, through bag limits or size limits. The reduction tables that we're basing them on are from MRFSS data and those are harvest reduction units.

Therefore, in order to compare apples and apples and oranges to oranges, we need to use the exploitation rates. So we need to convert F back into exploitation rate for the current F of 0.41, do it also for the targeted F of 0.29.

You get the two different exploitation rates, and then the percent reduction required came out to be 25 percent, a little more. In this instance, the differences

are fairly small. With higher F's, they could become substantial.

I refer you to Connecticut's paper in the meeting materials, I believe. They go through and do a nice job of showing the math involved in the reductions. There is also an interesting graph there showing the relationship between exploitation rate and instantaneous mortality. Are there any questions on this topic?

CHAIRMAN FREEMAN: Let me just interject. The reason that I asked to spend a little time on this, if you go through, those of the board members, you'll notice that the fishing mortality is different than the exploitation rate that's required.

There have been several questions raised, well, why are these different? Why is one 0.29 and one 0.25 and what we tried to do is indicate there is a difference. We want to make certain that the states understand the difference.

It certainly is done at the technical committee, but from the board's perspective, everyone will be held to the same standard. There is a technical difference between the exploitation rate and instantaneous rate of fishing mortality.

Now I don't want to spend an inordinate amount of time, but I definitely want the board to understand that difference does exist and each state is held to the same standard. One state is not held to a 0.29 and another to 0.25. Any questions; any comments?

MR. PIAVIS: As a point of clarification, too, that's what we have done is used exploitation rates, and I believe most every other technical committee does the same.

CHAIRMAN FREEMAN: Okay, Gil.

MR. GIL POPE: Thank you, just a quick question. So when I see these and I see F written down, will I see a little sign next to it saying which one it's going to be, whether it's going to be your straight line or your curve?

MR. PIAVIS: Capital Z would be total, M is natural. If they're capitalized, it's an instantaneous rate. It's not a percentage. The symbol for exploitation is the Greek lower case mu, like a little u with a preceding tail.

CHAIRMAN FREEMAN: Other questions?

MR. PIAVIS: Okay, so now we'll get into the technical committee opinions. As Lydia stated, there was a unanimous approval of all states except for Rhode Island and Virginia. Those two states brought forth individual assessments.

In Virginia's case, it was a catch curve designed to indicate that they are currently at the target. To corroborate their catch curve, they have provided recreational landings history showing a decline in landings, which argues for a decrease in mortality.

In addition, Dr. Hoenig produced a paper, which is in your packet, basically a theoretical examination of the shape of the catch curve and what it would look like if a population was under higher or lower mortality.

Rhode Island introduced their own VPA to demonstrate that their F's were low and that their stock was rebounding nicely. As Lydia had mentioned, they've produced indices, landings, and their current regulations as evidence that their F is under control.

So on to Virginia, again as Lydia had stated, the majority decided that the information was scientifically valid. Again, there was no evidence of increased mortality due to declining recreational landings.

Their average recreational landings in '96 to '98 was 127,000 pounds annually. In the period '99 to '01, that had declined to 35.5 thousand pounds.

Well, the minority had several more comments than the majority, so we spent a bit of time on this. There was concern over the sampling design. It was an ad hoc sampling design. The sample size, in the minority's opinion was small.

I believe in 2000 it was under 200 fish, 192 fish if I remember correctly; about 260 in '99, and I think there was 670 or so in '98.

The concern over the sample size, a point was brought up that in the addendum it states that if states want to go to even a sub-regional assessment, that 500 ages would be needed per state. The minority felt that if that was the case for an age-length key, why shouldn't that be the case for any other assessment, especially as a catch curve.

Again, the minority was not comfortable that there was no fishery-independent data to corroborate the trend in low F. The point was made that if everybody

remembers in the late '90's, when the first plan reductions were to take place, every state brought forth catch curves, and the technical committee at that time was very concerned over the data suitability, and that in itself argued for a coastwide assessment, or at least hopefully a regional or south assessment.

The minority, along those lines, also felt that since there is a coastwide SAW/SARC accepted assessment, that should in fact be the basis for management. And, again, to lead into the next point, there really isn't a directive from the commission as to how to handle these individual assessments; the point being if it's a full-blown assessment, why would the coastal assessment be held to external peer review where the individual assessments, there is no such requirement.

In fact, it's certainly more lax than the coastal assessment. Any questions on the majority or minority opinions for Virginia?

CHAIRMAN FREEMAN: Dave Pierce.

DR. DAVID PIERCE: The basis for the minority opinion regarding the catch-curve analysis not being scientifically sound versus the majority saying it is scientifically sound, that leaves us in a bit of a dilemma regarding is it or isn't it?

The catch-curve analysis, is it based on the following of a particular year class throughout its life history so that you can really get a good feel for what is going on with mortality as applied to at least one year class or is it a catch curve based on number of year classes all melded together, in which case recruitment can disguise what the actual fishing mortality rate may happen to be?

MR. PIAVIS: Yes, the assessment is on the whole suite of age classes in any one year. It's not following a cohort and that's -- I didn't go into that at all, but what you're getting at is true, and that's why technical committees have a lot of reservations with catch curves that can be impacted by recruitment and other issues.

In Dr. Hoenig's paper, he explained how that catch curve would change, the shape of the catch curve would change over time given different factors, that it wouldn't be status quo.

But, yes, the minority opinion -- also, we had a long discussion looking back at the last round, when everybody had brought forth catch curves. There is

the argument -- you can understand that the slope of a line may stay the same, but the relative height of that may change.

In other words, if there is equal pressure, you could be fishing your stock down; and that's why, if there is equal pressure over all age classes, and that's why some sort of standardization would be the best way to look at it, whether it be indexes of age classes or even if there was some sort of effort standardization and comparing each year's catch curve.

DR. PIERCE: Well, obviously, catch curves have problems in some interpretations, especially regarding the calculation of fishing mortality rates. We've dealt with that in Massachusetts for a number of species, and it is troubling.

Of course, it does oblige you to come up with some other index that can corroborate, as best you can, whether or not that catch curve is really valid. I suppose for Virginia we're not in a position at this time to corroborate the catch-curve analysis because there is no other index of what indeed is happening with mortality. Am I correct with that assumption?

MR. PIAVIS: Yes. Again, I want to point out the decrease in recreational landings. The only other explanation is either a crash of the stock, which I don't think people would agree with, or a severe decrease in fishing effort.

That's a pretty big jump from an average of, I forget, 127,000 pounds annually down to 35,000 pounds annually, and that was Virginia's corroborating detail.

DR. PIERCE: One final thing. I did note that Virginia's recreational harvest is the lowest harvest in the time series. When I saw that, I concluded it's either a resource problem or perhaps regulations in place have been extremely successful in reducing the recreational take.

I don't know what the answer may happen to be, but I guess the board is pretty much left with no real good guidance from the technical committee as to how we should proceed with Virginia's options.

CHAIRMAN FREEMAN: I recognize the gentleman in the public, and I will get to you in just a moment. We'll get the board's comments and then we'll go to the public. Let me just make some personal comments relative to this.

This is an important issue from the standpoint that the technical committee and the board accepted coastwide VPA, recognizing there are difficulties in some of the data. We need more information, particularly in the southern portion of the resource.

But we did decide to go with a VPA. Now states are coming in with catch curves, which will have an impact. The question I pose to the board is -- well, perhaps even the technical committee -- if half the states or the majority of the states go with catch curves, then how is this going to interfere and influence the VPA?

Will we get sufficient information to better understand the stock on a coastwide basis. As opposed to if individual states go with their own catch-curve analysis, will that ever lead us to better understanding the resource on a coastwide basis? Paul, do you have a comment?

MR. PIAVIS: Well, yes. The catch-curve analysis really is -- the best that it's going to tell you is a relative regional exploitation rate, that is if every state in the region were to come up with a valid catch curve, which is highly unlikely.

And even regionally, I think you would see Virginia's catches, in general, previous to the last couple of years, they're substantially higher than neighboring Maryland. There's just not a whole lot of directed effort on tautog in Maryland.

So even on a state-by-state basis, I don't think that each individual catch curve is going to tell you a whole lot about a regional direction of the stocks. You're very likely to get all kinds of confounding signals.

CHAIRMAN FREEMAN: All right, Gordon.

MR. GORDON C. COLVIN: I know we're going to get into this and there will be some extensive discussion of it later. I wanted to lay one fact on the table and invite the board members to examine it and think about its consequences as we go forward.

I draw your attention to the Plan Review Report, Table 1, Page 7, the recreational harvests by states since 1981. I invite the board members to put their finger on New York and New Jersey and move down the column, from top to bottom on those two rows on the table, and I put this question to you.

If we begin to allow states individually to comply with Addendum III by developing catch-curve analysis, catch-curve based analysis of fishing mortality rates within their own states; and if New Jersey were to do so -- and New Jersey does have age samples -- and was to find, as Rhode Island and Virginia have, that their mortality rates suggest they need do nothing to comply with Addendum III and New York either found differently or didn't have, as happens to be the case, sufficient age samples to do a catch-curve analysis at the present time, where would that leave us do you think? I ask you to think about that as this discussion goes forward.

CHAIRMAN FREEMAN: Other comments? Jack.

MR. JACK TRAVELSTEAD: Well, there haven't been a whole lot of questions asked at this point, so I don't have much to respond to. Dr. John Hoenig is here in the audience, and he can certainly respond to any detailed questions you have about the study he has conducted here.

I would only point out that several years ago, when we went through the last round of regulations, Virginia submitted a catch-curve analysis which was supported by a majority of the technical committee and subsequently supported by the management board, so there is some precedent for using catch-curve analysis.

This is not a single catch curve that Dr. Hoenig has produced. It's a series of catch curves. We don't have a VPA that really uses a lot of data to encompass the southern part of the region. Virginia has been collected age samples on tautog now for several years and we intend to continue to do that.

We've, in fact, bumped up our target from 300 fish to 400 fish. We're going to continue to produce these catch-curve analyses to give us at least some indication as to what is happening to the stock in Virginia waters until such time as everybody comes on line and is collecting enough samples to really produce a VPA for the whole coast that is more reliable and more agreeable, I think, to most of us.

I wish I had more to offer you in terms of corroborating evidence, but it's clear to us, in talking to our anglers, that as the striped bass stocks have improved in Virginia, interest in tautog has declined and people simply are not fishing for it the way they did in the early '90's when striped bass weren't around. The seasons pretty much correspond to one another and most anglers would simply rather be out

trying to catch their two rockfish instead of hunting for tautog.

CHAIRMAN FREEMAN: Other comments? Pete.

MR. W. PETE JENSEN: One comment. I appreciate the report the technical committee has brought forward because it's the kind of report the boards have been asking for as opposed to a just up-or-down vote. It's very helpful.

Maybe I missed it, but I'm unclear as to what the difference would be in Virginia and Rhode Island if the coastwide stock status was used. I don't see where the technical committee addressed that. Did you not address it or is it not possible to say that if you use the coastwide stock status, the answer would be different.

MR. PIAVIS: Well, if I understand your question correctly, there is a difference in the two individual approaches. Virginia's is not a status. Virginia's is we're currently at or below that target.

Rhode Island's is a different assessment. They're saying that this is our stock; and when we get into that, you'll see that F is very low and the stock actually has been rebounding. I don't know if that quite answers your question.

MR. JENSEN: Well, I guess my real question is did the technical committee attempt to come up with a different -- not the approach that Rhode Island used, but using the approach that every other state used, would the answer would be different?

I mean, would you come to a different conclusion? I'm not making my question clear, I guess, but it seems to me that if some minority members had a problem with the analysis presented, then they would have addressed it in terms of if you use the same approach all the other states use, this is what the answer would be or the conclusion would be.

MR. PIAVIS: That's it, there are no other assessments, other states' assessments.

CHAIRMAN FREEMAN: Well, I think what Pete is asking, if all the states use the VPA as the plan presently exists, would there be a difference in the catch in the Virginia over the catch-curve analysis, what that indicates?

MR. PIAVIS: From a coastwide basis?

CHAIRMAN FREEMAN: Yes.

MR. PIAVIS: Well, yes, their F's are shown quite a bit lower than the coastwide VPA F.

CHAIRMAN FREEMAN: My understanding, Pete, would be that if the coastwide VPA were to be used, then there would be an additional reduction required, the 25 percent.

If the catch curves are used, as Jack has indicated, then what Virginia is simply stating is that they meet their requirements and there is no need to have further reductions, so there would be a difference. Najih.

MR. NAJIH LAZAR: Yes, I think if I understand the question, in the case of Virginia, as is in a lot of other states, you can't use a VPA. If you want to compare a catch-curve analysis to a VPA in Virginia, you couldn't do that. There is not enough data to support for a VPA in Virginia.

CHAIRMAN FREEMAN: Tom.

MR. TOM FOTE: I guess the simple answer to Pete's question -- and I'm trying to figure it out the same way as Pete is -- if we basically approve this plan, it would mean they would not have to do a 25 percent reduction like everybody else does on the coastwide basis.

So they're actually basically saying we were already there, so we don't have to do a reduction, so we can stay status quo while the other states will be taking a 25 percent reduction because the board has over the years said we couldn't do this. Am I right or wrong?

CHAIRMAN FREEMAN: Other comments? Najih.

MR. LAZAR: Yes, I think I would like to bring everybody back to the plan. In 1996 this board adopted a plan that called for a coastwide or regional assessment. The reason we did that is simply because we didn't have state-by-state data to support a state-by-state assessment.

We fell back to a regional or a coastwide assessment for, again, that same simple reason, that the data was not there to support a state-by-state assessment.

And in the plan, and if you have a copy of it, on page 35 it does allow the states, if the state can support an assessment based on their data, recognizing the fact

that the stock of tautog -- the summer flounder is not the striped bass stock.

Tautog, as you know, biologically stay within the same borders, not the borders, but within the same reefs within a state and move in and out of the state's features.

For that biological reason, the state by state was encouraged at the beginning of the development of this plan, but we had to fall back to a coastwide because of lack of data.

And the plan allowed, again, if that state had enough data to show to the board, to the technical committee, that their fishing mortality is other than the coastwide estimates, then they have to avail themselves to present that data to the technical committee and then to the board for consideration.

Our assessment that we presented is a full assessment that is similar to a coastwide VPA. It includes the catch at age for both recreational and commercial, and it includes also the abundance, an independent measure of abundance based on a trawl survey and the beach seine survey.

With all those data combined, we were able to pull together a sound assessment that has a much better precision than the coastwise assessment, and that's what we showed to the technical committee with the full support -- and if you read, I think, their report that the scientific merit of the assessment was sound.

There are other considerations that the technical committee considered, but the scientific merit was okayed by the technical committee.

CHAIRMAN FREEMAN: Other comments? Tom.

MR. FOTE: I was part of that board back in '94 when we started putting this plan forward, and there were arguments made strongly by New Jersey and other states to do the state by state, and we were told we couldn't do it basically because the data wasn't available and also because it's regions.

I mean, whether you're fishing in the New York Bight, it's basically New York and New Jersey fishing on the same fish, and we can't basically evaluate the discrimination of those two stocks there.

Whether it's Delaware Bay, then it's Delaware and New Jersey fishing on the stock. So we basically came to an understanding that especially it would

have to be regional if you were going to do that, especially like in Rhode Island where Massachusetts and Connecticut could be fishing the same area.

So unless all three states are doing it and have enough available data to do it, then we couldn't use that method, because we fought strongly for that.

We pointed out the fact that we put in regulations in New Jersey that fit an extreme reduction of the catch over the years; and by changing it, we couldn't get any credit for that based on size reductions. We've been fighting that all along.

Also, the southern states were left out of a lot of the early regulations because there was no data available and they were basically pretty much *de minimis* status, so they just has to come up to size limits or something like that as the years went through.

So it's very tough for me to swallow this at this point since I was, you know, screaming and yelling in '96, when we basically implemented this thing, because I knew it was going to be a problem. I remember pretty much that we had to go regionally, not state by state.

CHAIRMAN FREEMAN: Other comments? I think this is an important issue for the board. And, again, to use Gordon's example, it could be a situation where New Jersey has a catch of over a million -- let's say a million and a half fish, New York has a catch of 200,000.

If we use a catch curve, it could very well be that we could show we're fishing under F and we would not be required to take a reduction; where New York, catching a fraction of the fish, may be required to have increased restrictions.

Now, that has to be explained to the public and it's going to be extremely difficult to do. It was an issue the board was dealing with, as Tom indicated, a number of years ago. A number of states wanted to go with state by state.

At that time, it was shown, at least genetically, that there was intermixing on a coastwide basis, it was one stock, and we agreed to look at it on a coastwide basis.

I'm not arguing for or against it, but this is an important change in position. It's going to have repercussions and I just want the board to be aware of what that means. Gordon.

MR. COLVIN: Yes, I have some concerns that our own record may be a little obscure here. I sort of have the same recollection of the history of the development of this as Tom Fote outlined.

Yes, there is a lot of water over the dam since page 35 of the original FMP was written, and I have come to the point of needing to implement Addendum III and provide direction to our staff and communication to our fishermen about Addendum III with the perception, as a board member, that collectively we have come to a point where state-specific estimates of fishing mortality, however they may be done, are inappropriate, and that we are collectively called on to rely on the most recent coastwide assessment, which was based on a VPA and was subject to peer review; and that regardless of what it may say in the FMP, the practice, based on technical advice and the guidance of the board, has been to rely on a single coastwide estimate of fishing mortality, which then calls on each state to implement an equivalent reduction in exploitation in its recreational fishery.

Now, if my understanding is incorrect, I would like to be pointed out where on the record it's incorrect. There are both technical and policy questions that revolve around this here. The technical questions are important, but I don't know that they're necessarily the most important questions to the board.

For example, the Rhode Island situation was brought up in terms of the asserted soundness of the assessment that was provided to the technical committee, but just let me point out three quick things.

Sound or not, it was provided to the technical committee on the very day they met. I think we all know what was expected and what we were asked to do in terms of advance submission. It was not subject to peer review as the coastwide assessment is, and that point was made earlier this morning.

And, thirdly, I'm intrigued by the fact that in order to reach its conclusions, it needed to rely on samples from both Rhode Island and Massachusetts waters, which says something to me about the issue of perceptions that we can assess this stock based on local populations because they don't move around very much, they're not migratory, but wait a minute, we're looking at assessing a stock with the biological samples from two states' waters.

So none of that quite adds up, but, again, those technical questions are not, to me, what's really important. What's really important is the policy

questions. What have we collectively, through this board, directed be done?

Are we managing this as a unit stock or are we in fact or is there in fact a record that supports whacking it up into little pieces?

It would be very helpful, I think, if we understood clearly what's in the addendum and what's in the record on that question, because from a policy perspective, number one, I've already said where I think we are, but, number two, just in case anybody didn't know where I think we ought to be, I don't think we need a fishery management plan for tautog if we're each going to do our own thing in our own waters.

CHAIRMAN FREEMAN: All right, Bob Beal.

MR. ROBERT E. BEAL: Thanks, Mr. Chairman. I guess my recollection is similar to what Gordon and Tom Fote have said about the history of how we got to where we are, but I've just been reading through Addendum III, which usually gets me in trouble, and just looked over some of the language.

Section 4 of Addendum III is the management program implementation. The first sentence there is "States must implement regulations to reduce fishing mortality to the target of 40 percent SSB, which is currently equivalent to a fishing mortality rate of 0.29."

The next paragraph reads "If a state can provide evidence at the same level of precision as the most recent assessment of fishing mortality rates below what is indicated in the plan, then that state is only required to implement restrictions that will be sufficient to reach the target fishing mortality level. Any state utilizing this option must monitor its fisheries to assure that fishing mortality rates do not exceed the target."

So in Section 4 of Addendum III there is language saying that if a state can provide evidence at the same precision as the coastwide assessment, then that state would only need to take the necessary reductions to get from where they currently are to the 0.29 level.

So there is a statement in Addendum III that allows the states to go ahead and try to develop state-specific assessments and implement the regulations based on those state-specific assessments.

CHAIRMAN FREEMAN: Jack.

MR. TRAVELSTEAD: Well, I think Bob has just made our point for us. I mean, that was the language that we were using. That's the language that we read, and then at some expense decided to collect these samples of tautog over the years, hoping that at some point certainly they could be used in a VPA when all of the states came on line with the proper collection.

But the fact is we're not there. It seemed to us that the plan still allowed us to do other analyses and present them to the technical committee for review, and the technical committee has found that those analyses are sound.

Now, a minority of the technical committee has raised some concerns, and let me see if I can respond to those. The minority said we don't have any evidence to present, but we have some concern that the sampling may not be representative of the catch.

Now, they couldn't prove that. They don't have any evidence of that. The only thing I can offer is that several years ago we contracted with Old Dominion University to establish a fish-aging lab for the state.

We worked with Dr. Cynthia Jones and others on the staff there to design a sampling scheme for the majority of the fisheries in our state, and it is that scheme that we used for tautog. It's no different than what we used to collect our striped bass data or our bluefish or summer flounder data.

You know, there's not that much tautog floating around the state. We have people in the field. When they go to the buyers and meet the fishermen bringing their catches in, we sample everything they have.

We don't pick and choose to bias the sample, we sample their entire catch. We felt like the samples were representative; and if there is a finding that they're not, then I think we've got a much bigger problem up and down the Atlantic coast than we have, because I don't think we're doing it any differently than any of the other states.

The second point was there is no index to corroborate the findings of the catch curve, and that's true. All we could offer were our landings data, and they show a very clear picture of declining landings over the last five, six, seven years.

That is further corroborated by discussions with anglers who tell us they simply are not targeting the species the way they have because of the abundance of striped bass.

The third point was the lack of accounting for catches during Wave 1. I don't think any state, to my knowledge, is collecting Wave 1 data on tautog, nor does the VPA contain any data from Wave 1. So in terms of comparing our catch curves to the VPA, they're the same in that regard. Nobody is using Wave 1 data.

The last point was that limited data available suggests that a coastwide approach to management should occur. We agree with that. We would love to have a coastwide VPA that accurately reflected data from all the states.

Unfortunately, we don't have it and the management plan does allow states to submit their own approaches, and that's precisely what we've done.

CHAIRMAN FREEMAN: Other comments? Tom and then Gordon.

MR. FOTE: If this was striped bass and we came with an alternate management plan that basically was going to the technical committee for review on this, there would be a whole technical workshop really looking at the difference -- this is a major change to what we've been doing -- and going over it and really analyze how it compares with the other states, how you can gel this thing together.

At a one-day meeting when this gets dropped on the table, I don't think that happened. I don't even know how long this meeting was. Was it a conference call or was it an actual meeting? I kind of forget about what goes on there.

But I know when we looked at changing the VPA for striped bass, it took a year and a half and seven different models and everybody debated which model was right and everything else and people put in alternatives. And this seems to be a big jump without going through the same process we go with other species.

CHAIRMAN FREEMAN: Gordon.

MR. COLVIN: Well, so much for the policy issues. Now we come back to the technical issues. Bob read it into the record, it says what it says, and the specific words talked to the development of state-specific estimates of fishing

mortality at the same level of precision as the coastwide estimate.

So my question to the technical committee -- and I will ask the same question when we get to Rhode Island -- is did the technical committee determine the Virginia assessment was at the same level of precision as the coastwide assessment?

MR. PIAVIS: Well, we didn't address that, per se. We would have liked to, but that, again, is like comparing oranges and grapefruits. In the e-mails, Dr. Hoenig had made the point that in essence there is precision because he offered several different catch curves that came up with certainly very similar results.

But as far as the technical committee, all we can say is that the majority felt that it was a scientifically valid approach; and from the minority, again, the litany of questions, most of them actually from a management point of view, a board level point of view, and what direction the assessment has gone, where we were in the past and we just seemed to be -- they were very uncomfortable, and it just seemed like we were devolving to those methods that we had used in the late '90's.

CHAIRMAN FREEMAN: Other comments? We'll take the public. Yes, please come up to the mike.

MR. ROB O'REILLY: Rob O'Reilly, Virginia. I'm intrigued by the minority process; and sitting back as a member of the public, it does seem that the minority opinion carries a lot of information with it. But you should know that I attended my one and only Tautog Technical Committee meeting in Baltimore probably about a month ago.

Now, the minority has had an additional month to work on their opinion. Some of the effects of this are that in the beginning, as Mr. Colvin has pointed out, the technical committee was more concerned with policy than with technical issues.

When Dr. Hoenig and I went up to Baltimore, the first thing we heard was you can't possibly present a catch curve. It's not allowed under Addendum III. One state went so far as to say that, gee, if I knew that we could present catch curves, I would have done the same thing, and that state went on to support the Virginia proposal.

It was an extensive meeting, to answer Mr. Fote's question, probably four and a half to five hours. I

think the Virginia proposal was on the table at least two hours, turned every which way, and in the end there was a majority opinion, which you're seeing here again today.

The only other thing I wanted to mention, I was struck while I was at this meeting, since I don't work with tautog very often, about how great Addendum III really is in terms of what it's trying to do for those states that do need to reduce fishing mortality rates.

Finally, unlike summer flounder, here is a stock that has very little overlap on a regional basis, where if you close a season or reduce a bag limit, the chances for success are probably pretty good, which is something that, unlike summer flounder, over most of the years except this year, we've encountered problems.

I think Jack Travelstead has addressed the minority opinion very well. The only other thing I would tell you is that as we go forward, we will continue to collect age data, 400 samples for this year, and I think still there will be a benefit to the coast of that information, even if Virginia indicates that you should support the catch-curve analysis.

CHAIRMAN FREEMAN: Yes, sir.

DR. JOHN HOENIG: Good morning. I am John Hoenig from the Virginia Institute of Marine Science. I noticed there seems to be a feeling that a coastwide VPA is the superior approach if only we had all the information to make it work, and I think that there are some misconceptions.

Did you hear about the guy who was six feet tall, but he drowned in a lake that was only three feet deep on average? My point is that if you have two lakes, each with a fish stock, and one is being hammered by heavy fishing and the other is not, if you reduce the fishing pressure in the lake that is not being fished heavily, that's not going to do anything to help the lake with the heavy fishing pressure.

As several people have mentioned, the tagging data from Virginia shows that the tautog really do not move much. They'll go inshore/offshore movement seasonally. One or two tag returns have been from just over the Maryland border, and that's it.

There has been no coastwide movements or long distance movement. So, if you use a VPA, which does not take spatial pattern into consideration whatsoever, what you get is an average F that may not mean anything.

It may tell you that the average F is too high, but it doesn't tell you that Virginia's is too low or that somewhere else it's too high. And if you make a decision today, no matter what you do, there is a chance that you've made an error.

One error you could do is force Virginia to reduce its catch when that's not necessary, in which case you're just throwing away yield, and that yield is not going to benefit New York and New Jersey. It's just simply lost yield.

It won't benefit New York and New Jersey because the Virginia tautog don't go to New York or New Jersey. The other mistake you could make is to not require a reduction in Virginia when one is, in fact, appropriate.

And if you do that, we'll have a loss of yield. So no matter what, there is a chance that you'll make the wrong decision and the consequences of that will be lost yield. But there is no reason to think that either kind of error could put the stock at jeopardy.

In other words, if you fail to take action when action actually is appropriate, there is no reason whatsoever to think that we have a limitation of egg production and that the stock could collapse. The fishing mortality, if you assume the worst, that's it is the same as in the coastwide VPA, that's not the kind of level that you would be concerned about stock collapse.

You might be concerned about loss of yield, but I don't think anyone is saying, my goodness, there is an urgency, we have to prevent stock collapse.

I don't know of a single fishery textbook that says that you should ignore information, and I sort of get the feeling that's what you're trying to do. You have your VPA and that tells you something. You also have this catch-curve analysis.

If you had catch-curve analyses from all of the states, you would be able to say that the total should be equal to the sum of the parts, and you would have a way of validating your VPA and so that's something I would imagine you would want to encourage.

Yes, let's get some kind of way of backing up what we've got and checking it out. So to tell Virginia that their efforts are a complete waste, that we will not look at the catch-curve analysis, then there is no incentive for Virginia to continue; and if there is no incentive for any of the states to do that, you will never learn more about the stock.

So I would imagine that it would make sense, from a policy point of view, to say, yes, we would like to see corroboration of the stock assessments and Virginia's attempt to use catch-curve analyses ought to be encouraged.

There were some technical questions about the catch-curve analysis. Dave Pierce raised some. These were cross-sectional catch curves; and as it has been mentioned, this was done for one year, but for several years, and we didn't just look at the slope of the line and say that's the end of the story.

We said if there were changes over time, it would be important to detect them, how would we do that, and what we showed is that as the fishing mortality rate changes, the shape of the catch curve changes temporarily, and so we looked as evidence for bends in the catch curve, which suggested, if anything, that the fishing mortality rate might have gone down over time.

But if you don't accept that, then you wind up saying that we have an estimate of 0.26, 0.29, 0.27, something like that, so that there is really no evidence of a very high mortality rate, and there is amazing agreement from these different years.

Catch-curve analysis, done in a very simplistic way, get one year's data. It's true, it's primitive. It's got a lot of alternative explanations, it's not very reliable. When you get several years of data and you repeat the analysis and you keep saying the same answer, that is an empirical validation of the results, and it gives you a good indication of how much you can trust the results, despite the fact that things like variability and recruitment can affect the precision.

In contrast, with the VPA, you don't have this kind of empirical validation of it. You're forced to do things like boot strapping, which requires you to make a number of assumptions, so you can't get a completely independent assessment of the reliability of the VPA.

You can only do it on the assumption that your samples are representative so that you can bootstrap them. So all in all, it's my opinion that catch-curve analysis in fact does have validity.

It has the replicability that you're looking for to know that this is not just one piece of data, which may not be typical, and there are some distinct advantages for going with the catch-curve analysis.

It's a better way to manage a stock if you can take the spatial variation and exploitation into consideration, and it's a good thing to develop alternative ways of looking at the data to reaffirm your conclusions about the status of the overall stock. Thank you.

CHAIRMAN FREEMAN: Okay, thank you. Dave Pierce.

DR. PIERCE: Well, I'm still uneasy about the catch-curve analysis. I still feel that the technical committee's previous position regarding grave reservations over the use of catch curves is valid.

Nevertheless, the majority of the technical committee has expressed its point of view regarding Virginia's proposal. Certainly, the Commonwealth of Virginia has taken a great deal of time to put together its case, to make its arguments, and, frankly, I'll respect their arguments.

As a consequence of that, I would move that the board approve the Commonwealth of Virginia's proposal to maintain the status quo management in 2003.

CHAIRMAN FREEMAN: David, let me ask you to hold that motion. I want to go through and get the advisory panel report and the law enforcement report, so I will just ask you to hold that. When we go through these, then we'll go through individual states and take action.

DR. PIERCE: Yes, I certainly don't mind holding off. However, I hope that we don't continue discussing this issue for another half an hour. Time is passing and that's why I made the motion, to try to bring this to a close.

CHAIRMAN FREEMAN: All right, well, if there is any additional information, we'll ask for that now. I don't want to prolong this, but I want everybody to understand the implications and then you'll be asked to make a decision. Are there any other issues that need to be raised that haven't been to date on this? Tom.

MR. FOTE: Just a simple question. If we approve this alternative method of basically doing it, are all the states going to be allowed to come back in and reopen their proposals for this year?

I mean, that's really the bottom line here is most of the other states have taken off the 25 percent reduction, so are they going to be allowed to basically -- if we can provide the data and do the

same thing that Virginia and Rhode Island do, because I know New Jersey has a lot of data, are we going to be allowed to come in and do the same thing, because we in New Jersey were under the understanding that you couldn't do this.

CHAIRMAN FREEMAN: That is a good point and I'll ask Bob to think about that. It's going to be predicated on time. Again, these have to be implemented by April 1; so it's going to require, if states be given that opportunity, is there time for them to do it this year, and is there another board meeting that could be scheduled for us to make those determinations?

But that's a good point and I'll ask Bob just to keep that in mind before we vote and be able to respond. Any other comments on this particular issue? Willie, would you come forward, please? Identify yourself for the record.

MR. WILLIE EDGAR: Willie Edgar, New Jersey United Boatmen. What Virginia and Rhode Island are doing, I think – you know, I don't know a whole lot about it, but I think this would be a good opportunity for New Jersey and for all the states to do the same thing.

As Tom said, New Jersey has plenty of information on tautog, and it would probably benefit our state and all the other states if we all went with this. Thank you.

CHAIRMAN FREEMAN: All right. Okay, Gil.

MR. POPE: Thank you, Mr. Chairman. The thing that's bothering me is this is not new. Six years ago we were going around the table on this very same issue. People should have been doing this for the last six years, and they have not been doing it.

We have, we knew it, we did it, we went to 16 inches. I said it at the last meeting, I said it last year, I said it the year before, how long is it going to take to get the information? This should have been done a long, long time ago.

For us to be using Rhode Island and Virginia's low numbers to balance a curve and to make the link that Professor Hoenig talks about 6 feet deep instead of 12 and 3, for us to be doing this is not good for the fish.

If somebody had had the opportunity to put this through a long time ago, they would have done it.

That's why we did it and that's why Virginia did it. What we are doing is not good for the fish.

As a matter of a fact, we do exactly the opposite in fluke. We're using information that should not be in there and doing state-by-state reductions in fluke. It's absolutely backwards of where it should be and it's irresponsible.

From what I hear going on around the table and some of the comments from the minority of the technical committee, it's irresponsible, I'm sorry. Thank you.

CHAIRMAN FREEMAN: Any other comments on the Virginia proposal? What I want to do is move into the technical committee to just quickly run through the Rhode Island proposal.

We'll have discussion on that and then go through the advisory panel recommendations, the law enforcement, and then come back and take action. All right, Paul, go ahead and just summarize the Rhode Island proposal.

MR. PIAVIS: I just want to make one correction to something I said. I know it's kind of hard to believe, but I did make a mistake. Those landings numbers that I gave from Virginia, those were numbers and not pounds. I think I referred to them as pounds. Those were numbers.

So, on to Rhode Island's VPA, as I said previously, this is a little different tact than Virginia's. They produced their own VPA. The majority opinion was that it was a good assessment and that the management advice certainly was pertinent.

This was based on a suite of indices that Rhode Island had presented. They indicated an increasing stock over the last couple of years and very low F.

As Najih had stated, the diagnostics of the model were a very, very good statistical fit and similar to Virginia's corroborating evidence, so there was no apparent increase in landings, which argues that F's indeed were low or falling.

The minority opinions were pretty much the same as what Lydia had outlined earlier, that the low F's may be a result of mortality that has been taken out of the population, but as fish grow into a recruited population, that F may go up; that, as has been stated here with the Virginia assessment, that an individual assessment may not take into account various environmental or fishing effects in neighboring

states; and along those lines, individual assessments are too fine a resolution for this stock.

In other words, if individual assessments were to be allowed, then why did the addendum specifically state that a goal was regional or sub-regional assessments, not individual assessments?

Just to reiterate some of the concerns from the Virginia assessment, they hold also for the minority opinion on the Rhode Island assessments, and that has to do with the whole process that we have a coastwide assessment and there is no external peer review mechanism; and if that's the standards that the coastwide assessments are held up to, then why wouldn't an individual assessment be held to the same standard.

So those are the majority and minority opinions and I will entertain questions.

CHAIRMAN FREEMAN: Okay, questions? Let me get Pat and then Najih.

MR. PAT AUGUSTINE: Thank you, Mr. Chairman, a question for Bob Beal. In view of the fact that Tom Fote raised the question of whether or not there may be states, including I would think New Jersey, who may want to go ahead and move forward with another approach if in fact we accept the Virginia and Rhode Island proposals, have you had an opportunity to look at the schedule and/or budget to see if in fact it's doable for those states that have an interest to reapply or are we at a juncture in time where it would be impossible for them to put forth their effort and have the technical review it and so on?

MR. BEAL: Thanks, Pat. I think the timing issue is the next time the management board will be able to get together to review any alternate proposals or any additional proposals will be at the end of February of next year.

So the question for any of the states that may consider resubmitting proposals is if the board approves or allows you to modify your management program at the end of February, will you be able to implement that by April 1, 2003, since that's the deadline in Addendum III.

As far as the budget goes and staffing availability, I think if the state brought something forward, we can somehow figure out how to get a technical review of that, either through a conference call or series of conference calls or somehow a face- to-face meeting

if that's what has to happen. I think from the staffing side of it, we can work it out. I think the bigger problem is the timing issue at the state level.

CHAIRMAN FREEMAN: Okay. Najih.

MR. LAZAR: If I could just address the minority opinions or concerns on that slide, while I agree with the first one, the low F might result in a minimum size, which usually delays mortality to the fish recruits to the fishery at the minimum size or the next minimum size, that is not the case in Rhode Island.

Rhode Island has been at 16 inches since 1994, before the creation of the ASMFC tautog management plan. Rhode Island has had 16 inches since that time, and we don't anticipate to increase that size, so the first concern should not be worried about at this stage. We will maintain the 16 inch and we won't increase the minimum size.

The second one, the bordering states, for the recreational fishery, the current regulations we have is a four-fish bag limit at 16, and the bordering states have, I believe, a higher bag limit. Connecticut is at 14 and Massachusetts is at 16-inch minimum size.

For the commercial fishery, the state of Rhode Island implemented a quota. Since 1996 we started having a quota that was calculated based on a VPA that we did at the time and we set the quota at 134,000 pounds.

That quota has decreased since that time and it's currently at 51,000 pounds, and its constant, so we have a constant harvest policy in the state of Rhode Island for the commercial fishery.

For the individual assessments, is it too fine of a resolution for a stock assessment? I believe, again, as Bob Beal had stated, the FMP avails the states to present to both the technical committee and the board the state assessment.

Recognizing biological characteristics of the species, recognizing the homing of the species, recognizing all of that, the state of Rhode Island availed themselves with the good data that we had to present a state-based specific assessment to show that our fishing mortality has indeed declined over the last five years while the abundance in the state of Rhode Island has increased. Thank you.

CHAIRMAN FREEMAN: Comments? Gordon and then Tom and then Pat.

MR. COLVIN: I actually have a question of the technical committee. As this whole discussion is rolling out and evolving -- and it goes back, to some degree, to that initial question I asked the board members to think about -- what's being suggested here is that some of the states consider, sometime between now and next April 1st, going home, doing a bunch of work, doing a bunch of analyses, coming back, and maybe offering different proposals based on the outcome of that work.

So my question, which is not entirely hypothetical given the essence of this discussion, is suppose, technical committee, that, let's pick two, Massachusetts and New Jersey go home, do a bunch of ages or pull a bunch of age data together and discover, low and behold, oh, my goodness, that their mortality rates are such that they don't have to do any reductions.

My question is if that scenario rolls out between now and next spring, what are the implications with respect to the current assessments and the mortality reduction target of Addendum III and what we're all trying to do here?

MR. PIAVIS: That is fairly hypothetical. You're making a couple of assumptions there that those F's would turn out low --

MR. COLVIN: You're darned right I am.

MR. PIAVIS: -- but you're correct with where you're going with that question. It would certainly impact any coastwide or even regional recovery.

MR. COLVIN: Mr. Chairman, if I can follow up?

CHAIRMAN FREEMAN: Yes, go ahead.

MR. COLVIN: Let me just suggest that if that is in fact where we end up, technical issues aside now and back to policy, that Addendum III is useless, worthless, and this board will have to do an emergency reexamination of its management program at that time and before we face any April 1st compliance deadlines. That's all I'm going to say for now. We'll come back in the spring.

CHAIRMAN FREEMAN: Okay, Tom.

MR. FOTE: Since we've read the management plan, I'm looking at what it says about

Amendment 3 advocates and, Bob, since I don't have Amendment 3 with me, could you read that language in there? It says it advocates regional or sub-regional and not individual assessments.

We might as well get that on the record too since the addendum is always -- what is the latest point that we've taken, the latest thing we've voted out, and the latest thing we take to public hearings.

CHAIRMAN FREEMAN: Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. In regard to what Bob said about Amendment 3, it obviously gave the states the option to give an approach that they thought would be amenable to their state.

Apparently most of the states did not take it upon themselves to try another approach, although apparently Rhode Island had done it and in this particular case Virginia has done it.

It just seems to me that if we open up Pandora's Box at this moment, in view of the fact that all of the states, with the exception of those that did not submit a plan, if we allow this to go back home and redo again, I think we do have Pandora's Box; and as Gordon says, we might as well throw Amendment 3 away.

I would make a suggestion that we accept what the states have provided and whereby the technical committee has approved to the best of their ability, based on the information made available, that we move forward with what we have; and in the future, for 2004, if states prefer to go to the catch-rate analysis, then by all means do so.

Again, as Gordon has stated, the states of Massachusetts -- and I don't mean to pick on you, David Pierce -- and/or New Jersey relative to what we have caught in New York and how our implementation of the higher rate level has been and the effect it's had on our harvest, we're getting socked, socked to us again, and I feel at this particular point in time we're a day late and a dollar short. So, therefore, I would suggest we accept what we have on the table at this time. Thank you.

CHAIRMAN FREEMAN: Dave Pierce.

DR. PIERCE: Gordon has raised a very important point, and that is will the other states rush back home and do analyses and then come forward with some other sets or strategies or conclusions that

would indicate that fishing mortality is not as high as we think it may be at this point in time; a very legitimate question.

I can assure you that we will not, in Massachusetts, do that. We consider the tautog in our waters and adjacent waters, Rhode Island, to be fish near and dear to our heart. They don't move very far. We do have some responsibility for those fish. They're not off of Virginia, they're not of New Jersey, and probably not in New York either.

So we're taking very seriously the increase in recreational landings that have occurred in our state. We're actually considering for public hearing some additional measures that will affect our commercial fishery that are not required by ASMFC.

We're not intending to use any vote that may happen today regarding catch-curve analyses, to use that as a basis for us backing off of what we already have brought forward as appropriate means to reduce landings and mortality for tautog being caused by the recreational fishery.

So that is my assurance to you, Gordon, and to other board members that there is no hidden agenda here. We're very serious in Massachusetts about doing a lot more for the tautog resource.

CHAIRMAN FREEMAN: Okay, I have Najih.

MR. LAZAR: I would just like to help this discussion move along. I would like to remind all of the board that in the past, as the plan called for, a lot of states availed themselves and presented their own catch-curve analysis.

I am reading through my records here. In 1998 New York, Massachusetts, New Jersey, Delaware, Virginia, and Rhode Island all presented their own catch-curve analyses.

In New York, the F was 0.52; in Massachusetts, it was 0.4; in New Jersey, it was 0.54; in Delaware, it was 0.55; Virginia was 0.35; and in Rhode Island it was 0.33.

So this approach, again, it was available to a lot of states, and to all the states, as Bob said, in the past in the addendum and in the original plan that allows the states to do their own assessment. But, again, they would have to pass the technical review.

CHAIRMAN FREEMAN: Okay, Tim, did you have your hand up?

DR. TIMOTHY TARGETT: Yes. Could someone remind me, either Bob or Paul, what the external independent peer review process is for this management plan. Is it a SARC process or it was a few years ago?

MR. BEAL: The management board has the option of taking an assessment to an external peer review, either through the SARC or through a commission external peer review. There are some additional options, such as the AFS review and those sorts of things.

But the two most frequently used by the management boards are through the private process or through an external peer review. The tautog assessment went through the SARC process. Do you remember when that was, Paul?

MR. PIAVIS: I believe it was in 2000.

MR. BEAL: 2000 was the most recent. I think 2000 was the most recent time the assessment went through the SARC review, and that's where -- if my memory serves, the results of that SARC review are what were rolled into Addendum III that came up with the percent reductions required in Addendum III.

DR. TARGETT: What concerns me is the wording in Addendum III that says that any alternative or regional or statewide plans must meet the same requirements as the coastwide VPA. I'm wondering, in a subsequent review of it, if it went through the SARC routine, if whatever we're doing on an individual basis wouldn't pass that review, as it didn't originally back in '98 or whenever that was?

The individual state's records were felt to be inadequate to that task, and I'm wondering if we might be in that same position again in the next review process if it were to go through the SARC procedure?

MR. BEAL: You know, I think we're down -- since Addendum III has resolved the policy question, I think we're down to, as you say, Tim, the technical question. Addendum III does state that it has to be the same level of precision as the coastwide assessment that most recently went through the SARC.

So, the question, I think, that you're raising is basically are these individual state assessments at the same level of precision as the coastwide assessments.

DR. TARGETT: Well, it's partially that point, but the other point is we may all agree as a board that they are, but from then if we were to put that before the SARC for another review, they might say, as they did before, that they're not. So then where are we at that point?

MR. BEAL: Yes, and then the board always has the option of making decisions in light of the current technical information. In other words, if the board wants to make a decision that differs from the current technical information, they have that latitude, obviously.

But yes, we may put ourselves in a position where the technical review, such as the SARC peer review, for example, doesn't support the individual assessments; however, the board and/or the technical committee feel that they are appropriate.

DR. TARGETT: And then the board could do as it pleased, regardless of the SARC's opinion?

MR. BEAL: If they choose.

CHAIRMAN FREEMAN: Okay, Gil.

MR. POPE: Thank you very much. A number of things have been going around the table here that a number of states here now all of a sudden, if Rhode Island is approved, that they're going to have to rush back, they're going to have to do all of this new analysis, and come forth with a new plan or a new proposal.

In my mind, this is something that is not new. This just didn't appear this year. This has been going on four, six, eight years ago. In '94 I guess is when this all started.

So for a state or a number of states to not have some type of contingency plan, knowing full well that this is what was going to happen, in my mind shouldn't say that, well, because we don't have a contingency plan, then you're not allowed to do this until we have a contingency plan.

That, to me, is like putting the cart before the horse. There is also a bigger policy question here in my mind is that when somebody on the minority of the TC says that a state takes on sole responsibility for managing the migratory stock located within Rhode

Island waters, I'm not sure what migratory stock means anymore because if migratory stock means that it migrates from Florida to Maine is one thing.

If it migrates from Westerly to Narragansett, that's another. If it's within its own state waters, is it a migratory fish?

We seem to be treating the fluke as if it's not a migratory fish when it is, and we're treating the tautog as a highly migratory fish when it is not.

So it seems like if we're going to go back to basic policy decisions, we need to first decide on whether that fish can be done on either a state-by-state basis, can be done on a regional basis, or it needs to be done on a coastwide basis as a fish.

We seem to have gotten ourselves in a number of jams because we can't decide exactly what a migratory fish is or is not, and it shows up right here in the technical committee report, "and concerns that minimum size increases result in temporary delay in mortality until such time as the fish grow and recruit into the fishery", that's a very normal thing.

That's exactly what we do in all of our plans. We do delay it and in the delay we get egg production and so on. I don't see why that's any different in the state of Rhode Island or in Virginia as it is in any other state. I guess somebody would have to explain that one to me.

Then down here later on it says limited data available suggests that a coastwide approach to assessment of tautog should occur and that individual state approaches to assessment should not be allowed. What is the basis for that? It just is not consistent with any of the other plans, and is exactly backwards of what it should be. Thank you.

CHAIRMAN FREEMAN: All right, thanks, Gil. Tom.

MR. FOTE: I guess I'm answering Gil's question here. I guess states don't come in contingency when they're used to going to a technical committee and getting turned down on alternate plans.

But I guess like the Supreme Court changes, the technical committee changes over the years. There's different membership on the technical committee than there was back in '98 and '97, and some of those people have different feelings than the people on the technical committee.

That's not saying it's right or wrong. When we came up with a proposal for New Jersey, we tried this for a couple of times to use alternate methods on tautog. We were turned down and it was banging your head against the wall.

But, if it fits within the time schedule of the commission plan and it basically takes the same direction as the other states are allowing it, to not allow a state to come in with a proposal when it would be in time enough to basically implement their season would be discriminatory, because all we're doing is taking the same information, putting the same tables and everything else.

So if it's available and we're allowing one state to do that, then the other states should have the opportunity. Maybe we won't have enough time or maybe we will not be able to devote -- we find out we don't have enough information, which I doubt because we have a lot of information on tautog, but maybe we don't have the resources.

With the cutbacks in the state, we might not be able to put the scientists available to basically come up with the tables and charts because we're so restricted now in what they can do, but we want that opportunity. That's all we're asking because to be fair and equitable, you've got to give every state the same opportunity to come up with a plan.

CHAIRMAN FREEMAN: Other comments? Harry.

MR. HARRY MEARS: Thank you, Mr. Chairman. I agree with several comments made earlier that a lot of the discussion we're having here today in fact was made at our earlier meeting back in February and certainly in the years preceding that.

I believe one of the reasons we find ourselves in the type of discussion we're having today is we're working with a relatively new addendum to the plan, Addendum III, that was approved earlier this calendar year, and we've convened the technical committee to respond to the policy guidance in that document.

And at least from my perspective, I think Addendum III was very clear that, number one, the resource is being overfished. Overfishing is occurring. And it tried, I think, to some degree, to clear the air in terms of whether state-by-state catch-curve analyses could be substituted for coastwide VPA's.

And at least the policy discussions I recall, and the input provided by the technical committee, in fact, concluded at the time that the Addendum III was approved, that in fact we did not have the data, we did not have the type of refinement, we did not have the state programs in place that could offer, at that time, a substitution of the type of analysis that was incorporated into the stock assessment back in the year 2000.

So I believe to me what is most disturbing is that given this is the first time that the technical committee has been looking at state-by-state adherence to the plan, namely, Addendum III, we're talking about minority/majority opinions, which only serve to aggravate the type of minority/majority opinions we had at this board at the time the amendment was approved.

I think the technical committee, in good faith, did make a suggestion or recommendations to this board in writing, which is part of our kit, back in May in terms of how to facilitate, hopefully, into the future state-by-state substitution of coastwide assessments.

And as I recall, it recommended some type of research monitoring program that would concentrate on sampling the resource by pots and also by volunteer recreational angler surveys.

In summary, my main point is I believe it's inappropriate for us, especially given the history of how we came to be trying to manage the resource on Addendum III, to be looking at anything other than a coastwide assessment; because from what I'm hearing, the very important criterion that the substitute measure must have an equal degree of precision simply has not been met. I would agree with the earlier comment that this certainly is not good for the fish. Thank you.

CHAIRMAN FREEMAN: Okay, any other comments? Gil, is this something new?

MR. POPE: Thank you very much. I would have to disagree with that totally. Not only is it equal, it's better. It's better. Yes, it is. Thank you.

CHAIRMAN FREEMAN: Other comments? All right, let's move on. I think we've heard the issues to date. Paul has a few other things, one or two other points he needs to make, and then we need to get on to the advisory panel report and law enforcement and then the board needs to act.

MR. PIAVIS: Just to bring you up to date with a couple of the other issues that the technical committee has looked at; just very briefly, we spent quite a bit of time wrestling with the idea of MRFSS precision levels and if they were adequate enough to split modes for conservation equivalencies.

Most other committees and boards are struggling with the same question, to the degree that there has been a commission work group formed on conservation equivalencies.

If you read through our report towards the back of your packet, we try to list some of the problems. Many of the committee members are on other committees, and we excerpted some things from what flounder and black sea bass committees are going through.

The biggest question is, is the precision there to split modes when we're making new regulation recommendations, new management recommendations? In general, it's not. That's kind of the bottom line.

And within the paper, you'll see how we lay out that argument. We did come up with a recommendation, which is, for this round, a moot point.

We recommended that the management board only entertain proposals based solely on the reduction tables, meaning not to split modes, but all states did in fact do that. However, we feel so strongly about this issue that we would like to bring it to your attention for future reference and for reference in your dealings with other species.

The other memo that I just want to briefly talk about - I don't have a slide on this, but it was a memo of technical guidance basically for the southern states for formulating fishery-independent surveys in order to move towards a southern or regional or sub-regional VPA.

We discussed things such as trawl surveys, seine surveys, volunteer angler surveys, and we listed some pros and cons. When you have time, you may want to go through that short memo.

The only other thing that I have is a landings update. All these are numbers of fish. They're all through Wave 4, so this is 2000 through August, 2001 through August, and 2002 through August.

As you can see, we were up about 10 percent in 2000 over 2001, and actually we're up almost 25 and maybe 26 percent between 2001 and 2002.

I kind of want to clarify the timeline of the assessments.

The SARC-approved assessment was '98 data, data through '98, and I believe it was -- well, Paul Caruso took it to the SARC and that was in 2000. The update, which is basically what the Addendum III was based on, that was dated through 2000 and that was performed in 2001.

That didn't go to the SARC because it was an update, basically the same. I think we added one index and just more years into the model, but the general input stayed the same.

And, again, just to refresh your memory, the SARC-approved assessment, the F was very close to the interim target. It was 0.25 or 0.26, something like that, and then in the update, that's when the F had jumped to 0.41.

And although there have been some indications of very good recruitment, I think in '99 and 2000, our harvest levels are still going up. And, again, I just want to emphasize that this is through August, that the prime winter fishing months, of course, are not incorporated in this yet. And these are preliminary from MRFSS. That's it from the technical committee.

CHAIRMAN FREEMAN: Comments? Tom and then Dave.

MR. FOTE: This doesn't explain if there was a change of regulations. That were closed seasons during that period of time from one year to the next.

MR. PIAVIS: Would those be seen in there; is that what you're asking?

MR. FOTE: Yes. I mean, like in year 2000 the regulations might be different than they were in 2001 for some of the states, and that might show the dramatic switch from one way to the other.

MR. PIAVIS: Correct.

MR. FOTE: Correct. And the other thing is we've got a technical problem. The people on this end of the table are sitting on the post and we can't

see the last of the -- we need to move that thing over just a little bit so this end of the room can see it.

CHAIRMAN FREEMAN: Dave Pierce.

DR. PIERCE: From Massachusetts 2002, are we missing a zero there or is that -- I should turn to Paul Caruso, I suppose, and ask, Paul, who has a more intimate knowledge of the fisheries in Massachusetts than I do from the perspective of sampling. Is the fall fishery that good? I think it's the spring fishery where most of our catch occurs.

MR. PAUL CARUSO: David, this is the first time I've seen this and all I can assume -- and I just said that to Tina -- maybe the MRFSS survey person died, because I just can't believe that one.

DR. PIERCE: Yes, that's got to be wrong. If it's right, then I suspect that we'll probably reduce our recreational fishery landings in 2002 and 2003 to zero with the regulations that we're proposing. I don't believe that number, not by a long shot.

MR. PIAVIS: Yes, I kind of double checked that too because I did a big double take. The only thing I can think of is that they are preliminary. I can go back and look again, but I looked a couple of times. All I can say is they are preliminary.

CHAIRMAN FREEMAN: Okay, other comments? Vince.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: I'll state the obvious. I'm just amazed, sitting here listening to this conversation that has transpired before the slide went up, and now I look at it and there seems to be a radical difference in strategies on how to rebuild a stock.

It seems like some folks are saying let's have a harvest over three years and other folks are thinking let's double our harvest over three years, but maybe this data isn't reflective of the whole picture. Thank you.

CHAIRMAN FREEMAN: Other comments? Public comments. Dr. Hoenig.

DR. HOENIG: I believe it was Harry Mears that questioned the precision of the Rhode Island and the Virginia assessments and the Rhode Island people responded and said that they thought their precision was excellent.

I would like to know on what basis he is saying that the Virginia assessment is of low precision. The technical committee chair pointed out that the Virginia assessment was based on four separate years of data, each giving rise to a separate catch curve; and as I pointed out, the agreement is excellent.

If we had small sample sizes or non-representative results, you would expect the estimates to be all over the place, and the fact that they are in high agreement is strongly suggestive of excellent precision.

So if there is some reason to believe that the precision is not good, I would like to know about it because as near as I can tell, it's as least as good as the VPA and probably better. And it's based on empirical evidence rather than on assumptions, which is necessary to come up with a VPA precision.

CHAIRMAN FREEMAN: Additional comments? We'll turn to the advisory panel report and staff will give that report.

REVIEW STATE PROPOSALS: ADVISORY PANEL REPORT/RECOMMENDATIONS

MS. MUNGER: Pat Donnelly, the advisory panel chair, wasn't able to make it to the meeting, so I will just outline the report of the advisory panel.

The advisory panel met the same day as the technical committee, and in fact right after the technical committee met, and many of the AP members that were at the meeting were able to sit in on the TC discussions with relation to the state proposals.

The AP was given the opportunity to ask questions of the technical committee members when forming their report. I will just go through an outline of what they had to say.

Actually, what I'm going to do is give a general comment given by the advisory panel first. Each advisor commented on the feeling that the stock assessment was out of touch with their observations that they see on the water.

Everyone who was present felt as though abundance was much greater than was estimated in the last stock assessment. So with that in mind, for Massachusetts the panel members again raised concern that the stock appears to be doing very well from there.

They noticed that the levels they see are much higher than the latest stock assessment suggests. Panel members noted a preference for continuing to catch fish with no further reductions. However, given a choice between the options presented by Massachusetts, the panel supported Option Number 5.

For Rhode Island, the advisory panel discussed the Rhode Island proposal at length. The panel agreed that the Rhode Island assessment reflects the abundance that they see out on the water. The panel did not offer any concern relating to Rhode Island's request for status quo management.

For Connecticut, the panel supported Option 1 as presented by the state of Connecticut. For New York, the panel also supported Option 1 as presented by New York.

For New Jersey, no official recommendation was offered with regard to the recreational options presented by New Jersey, although they did comment that the fishermen would rather eliminate one fish during the summer, which is June through October.

And if you look back to the New Jersey proposal, minimal catch is insignificant in terms of maintaining the recreational fishery. And as a side note, as far as New Jersey's commercial proposal, the panel supported Option 1 as presented by New Jersey.

For Delaware, the panel supported Option 1 as presented by Delaware. For Maryland, the panel supported Maryland's proposal. For Virginia, the panel concurred with the technical committee's majority opinion to support Virginia's catch-curve analysis, which suggests that the fishing mortality in Virginia is well below the target in the plan.

The panel recommends that the ASMFC fund further tagging studies to corroborate the catch curve findings presented by Virginia during the technical committee meeting. North Carolina is something that is going to come up later. That's the advisory panel report.

CHAIRMAN FREEMAN: Questions?
Tom.

MR. FOTE: Our advisors might not be aware of the reason we have the one fish for the summer, and I would basically enlighten the board on that. That really has to do with our divers. Since most of them don't dive in the wintertime, the only available time they have really to take tautog is

during the summertime, because that's mainly when most of them dive.

We thought one fish, since we didn't want to discriminate entirely against the divers since they are an important part of the recreational fishery industry in New Jersey. Thank you.

CHAIRMAN FREEMAN: Other comments? Let's get into the enforcement report. Rob, are you prepared to give that?

REVIEW STATE PROPOSALS: LAW ENFORCEMENT REPORT/RECOMMENDATIONS

MR. ROB WINKEL: Thank you, Mr. Chairman. Last spring the Law Enforcement Committee was tasked to make a determination of the unreported landings of tautog.

There have been several high-profile cases related to the live market and the expansion of the live market, so this board asked that a survey be conducted. Mike Howard, our coordinator, did a survey of the states.

A copy of the table, the results of that survey, and his letter are included in your packet. Essentially what was determined is that the majority of the tautog catches are reported, that the regulations are enforceable, that the Law Enforcement Committee members are well aware of the expanding live market and the problems it presents, and that we are aware of it, we aggressively pursue these violations and prosecute.

Coincidentally, the cases that brought this to light are ones that were made in New Jersey, and just a little information on that. About two years ago, our field officers started to encounter folks with aerated live tanks that were violating some of our regulations; that is, bag limit, size limit, closed season.

We were able to develop information on some particular people that were doing this, so we set up a covert officer to participate in the live market and he was successful in doing that.

One particular party boat vessel was targeted because they were not just providing transportation to the fishing grounds, but they were actually participating and coordinating the illegal harvest.

Most of these fish were going to New York; and so after about an eighteen-month investigation, we were able to apprehend about twenty individuals, and so

far fifteen of those individuals have been prosecuted with penalties in excess of \$24,000.

The owner of the vessel, the captain of the vessel, and the mate of the vessel, those cases have not been settled, and also against three of the main participants, because we are pursuing criminal charges against them in the hopes that a criminal conviction in New Jersey would allow us to seek forfeiture of the vessel, which would send a pretty clear message to other people that might be inclined to do this.

But for the most part, the other states have not had the problem to the extent that we have had in New Jersey and probably because of the ease of catching the fish. That's our report. Mike Howard did an excellent job surveying the states. If you have any questions, I'll try to answer them.

MR. FREEMAN: Any questions or comments on the enforcement report? Dave.

DR. PIERCE: Just a clarification. In your table showing the survey results, the question "is there significant illegal marketing or unreported catches of tautog", and in New Jersey it's yes, in New York it's yes, in Connecticut it's yes.

It's unclear to me how you were able to assess that the extent of this problem is not severe enough so that we should be alarmed at our strategies for dealing with the commercial fishery for tautog being undercut by illegal fish. Can you elaborate a little bit more about that?

MR. WINKEL: Sure, I'll let Mike answer that.

MR. MIKE HOWARD: Mike Howard, Law Enforcement Coordinator. In conducting the survey, Heather Stirratt and myself sat down to establish some questions, and the questions aren't merely what you saw here.

They were further in-depth personal discussion with the law enforcement personnel in the states. We can use Massachusetts for a state where they do have a live market and they have recognized some of the issues that New Jersey has, but it's to a very small extent.

The cases they've made, in percentage of the overall harvest of fish, are very low. So if you have a hundred boats and one is violating, and they've been caught or charged with some minor violation or

they're taking home four or five fish and it's only a very, very small percentage, it's not considered a significant problem. So a discussion like that was had with each state to recognize that live market tautog were a problem in New Jersey.

They were being dealt with by those law enforcement personnel. And to assess those areas where tautog were being caught, how many people were fishing there, and to what extent the possibility exists for these fish to be hitting the live markets illegally unreported -- in some areas you can catch them, retain them live, and market them -- and that's reflected in the report.

DR. PIERCE: So you're saying then that in New Jersey, where this problem was first highlighted, the proportion of total landings that might be attributed to illegal fish is extremely small; is that what your -- that's the message you're giving?

MR. WINKEL: Yes. If you look at the harvest numbers, even though the case was significant of the number of fish, I don't think it is significant compared to our harvest.

CHAIRMAN FREEMAN: Other comments? Gil.

MR. POPE: Thank you, Mr. Chairman. At this point, should we include Agenda Item Number 7 at this time, just as a carryover?

CHAIRMAN FREEMAN: Oh, good question. Rob, if you look on the agenda, we asked for the law enforcement report again. Was that different than the one you gave or was the information you provided included?

MR. WINKEL: I'm not sure I understand the question.

CHAIRMAN FREEMAN: Do we have two reports?

MR. WINKEL: I don't think so.

CHAIRMAN FREEMAN: Okay. We repeated it under review of state proposals and we have another item, Law Enforcement Report, but there is no additional enforcement report?

MR. WINKEL: No.

CHAIRMAN FREEMAN: Okay, that answers that question. Tom.

MR. FOTE: I think more of a realistic estimate of how many live fish are being caught is to estimate where they're being sold. There's a dramatic amount of fish in those restaurants that are doing that, and I think it's greater than law enforcement realizes.

I mean, I don't know how the survey was answered, but I know in New Jersey and New York you go to restaurants and they're all in there, and maybe we need some kind of special permit for them to have.

You know, we basically required tuna to have a buyer's permit before they could basically do it, and a lot of these are just going right to the restaurant and being sold, and it's very hard to track.

CHAIRMAN FREEMAN: Other comments? Gerry.

MR. GERALD CARVALHO: Thank you. This report has to do with the live tautog. Do we have a handle on compliance with the recreational fishery?

MR. WINKEL: You mean on each state level?

MR. CARVALHO: Well, state level and coastwide.

MR. WINKEL: I can only answer it for New Jersey. When I first heard of this survey, I sort of thought if we know that there are violations going on, then we will apprehend and prosecute people.

But if you want to know if we have control of the fishery, the only way I can explain this to you, from New Jersey's perspective, is that we've just done a needs' proposal for the state of New Jersey's fisheries management.

And since we have a million recreational fishermen and we determined that we should inspect at least 10 percent of those people, we would need 57 officers to do that and we presently have 10.

Now we do the best we can. We target areas, such as this case points out. But realistically, I would say, no, that we're not doing an adequate job and we're not inspecting enough of the fishermen.

I have 50 officers that work for me. Forty are assigned and funded to do the inland work; freshwater fish, wildlife,

endangered species. We have 100,000 hunters, we have 200,000 freshwater fishermen.

We have a million marine recreational fishermen and we have 10 officers to do that. So if I was going to rate us, I would say we're not doing an adequate job. Now as far as the other states go, you would have to talk to the chief of each one of those states.

MR. CARVALHO: What you're saying then is this investigation that you did on these live fish may be nothing compared to what takes place in the million people that you can't seem to have an adequate ability to police?

MR. WINKEL: Absolutely.

BOARD DECISION ON STATE PROPOSALS

CHAIRMAN FREEMAN: Any other comments, questions? All right, we need to go back to the individual states for board approval of the state proposals for 2003.

Let's walk through each one of those and make our determination; and then based on that, the issue is where do we go from there. So what I'll do is start, again, from north to south, and I'll ask Lydia to just go through each one, briefly indicate again what the - - yes, just indicate the technical committee's opinion.

MS. MUNGER: For Massachusetts, the technical committee came to a consensus to endorse the proposal presented by Massachusetts and recommend to the board for approval.

CHAIRMAN FREEMAN: All right. Now let me just preface, you recall the report that Lydia gave on the advisors, they were specific to an individual proposal.

Most of the states gave several options that met the technical criteria. I assume the states will go back, if all of those options were approved, go back and pick the one they believe best fits their needs.

I'm not asking for specific options to be approved, simply the package as the state proposed them, and then the state will be given the opportunity to determine which one of those it wants to implement. All right, in this instance, Massachusetts I believe gave six options. We'll simply be asked to approve or disapprove those options. Bill.

MR. ADLER: Can I move that the board approve Massachusetts' options?

CHAIRMAN FREEMAN: All right, the motion has been made and seconded by Gordon Colvin. All those in favor, signify by raising your right hand; those who oppose, please, same sign; abstentions, Fish and Wildlife and National Marine Fisheries Service; any null votes? The proposal has been approved, the package has been approved. Okay, Rhode Island.

MS. MUNGER: Again, for Rhode Island the technical committee presented a majority and minority opinion regarding the scientific soundness and leaves it to the board for consideration.

CHAIRMAN FREEMAN: All right, is there a motion? Najih.

MR. LAZAR: The technical committee had gone through these proposals one by one, and there is a summary or recommendation in bold for each state. I would ask for each state just to read that recommendation as was done by the technical committee.

MS. MUNGER: Najih, may I clarify that you're asking to read the recommendation given in the report?

MR. LAZAR: Correct.

MS. MUNGER: Okay, the recommendation for Rhode Island reads: "Based solely upon the percent reduction required to meet the planned target in Addendum III to the interstate fishery management plan for tautog, the majority of the technical committee recommends approval of the state of Rhode Island's proposal to maintain status quo management in 2003."

CHAIRMAN FREEMAN: All right, there needs to be a motion. David.

DR. PIERCE: I would move that the board approve the state of Rhode Island's proposal to maintain status quo management in 2003.

CHAIRMAN FREEMAN: The motion has been made; second by Maryland. Tom, comments?

MR. FOTE: I would like a minute to caucus.

CHAIRMAN FREEMAN: All right, a minute to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN FREEMAN: All right, has everyone completed their caucus? We'll vote on the Rhode Island motion. All those in favor, signify by raising your right hand; opposed, same sign; abstentions. I've got three abstentions; is that correct; two Service and New York. The motion passes. Connecticut.

MS. MUNGER: For Connecticut, based solely upon the percent reduction required to meet the planned target in Addendum III to the interstate fishery management plan for tautog, the technical committee recommends approval of the state of Connecticut's proposal and all options outlined therein.

CHAIRMAN FREEMAN: All right, any discussion? Tom.

MR. FOTE: I'll move Connecticut's plan since they're sitting in the audience and they didn't want to sit at the table.

CHAIRMAN FREEMAN: Yes, someone said that Doc is shy, which I think is probably true. All right, there has been a motion to accept Connecticut's proposal. Bill Adler seconds. Any need for a caucus? All those in favor, signify by raising your right hand; same sign, those opposed; abstentions, two Services abstain. The motion passes. Okay. New York.

MS. MUNGER: For New York, based solely upon the percent reduction required to meet the planned target in Addendum III to the interstate fishery management plan for tautog, the technical committee recommends approval of the state of New York's proposal and all options outlined therein.

CHAIRMAN FREEMAN: All right, a motion to approve New York's? Pat.

MR. AUGUSTINE: So moved, Mr. Chairman.

CHAIRMAN FREEMAN: And second is Tom Fote. Any need for a caucus? All right, all those in favor, raise your right hand, please; opposed, same sign; abstentions, two abstentions. The motion passes. New Jersey.

MS. MUNGER: For New Jersey, based solely upon the percent reduction required to meet the planned target in Addendum III to the interstate fishery management plan for tautog, the technical committee recommends approval of the state of New Jersey's proposal and all options outlined therein.

CHAIRMAN FREEMAN: All right, motion to accept New Jersey's proposal? Tom, is that a motion to accept?

MR. FOTE: Yes.

CHAIRMAN FREEMAN: All right, second, New York. Any need for caucus? Seeing none, all those in favor, please raise your right hand; opposed, same sign; abstentions, two abstentions. The motion passes. Okay, Delaware.

DR. PIERCE: Mr. Chairman.

CHAIRMAN FREEMAN: Yes, David.

DR. PIERCE: Before you go on to the next state, how do you intend to address the special note by the technical committee regarding some other options that New Jersey is offering up for the commercial fishery?

CHAIRMAN FREEMAN: Bob, do you want to --

MR. BEAL: I don't have the report right in front of me, but I think the additional proposals from New Jersey are with respect to their commercial fishery, and they're proposing to be more restrictive than they currently are.

Obviously, the states always have the latitude to be more restrictive if that's what they choose to do. I think New Jersey asked for the tech committee just to more or less sign off on these proposals, or these options, as being appropriate. You know, if the state is being more restrictive, I don't think the board has to take action in this case.

CHAIRMAN FREEMAN: All right, is there any disagreement? Seeing none, then we'll take that as our position. Thank you, David. Delaware.

MS. MUNGER: For Delaware, based solely upon the percent reduction required to meet the planned target in Addendum III, the technical committee recommends approval of the state of Delaware's proposal and all options outlined therein.

CHAIRMAN FREEMAN: All right, you've heard that; motion for Delaware? Najih.

MR. LAZAR: Move approval.;

CHAIRMAN FREEMAN: Movement for approval; Bill Adler, second. Need for caucus? Seeing none, all those in favor, signify by raising your right hand; same sign for those who oppose, no opposition; abstentions, two abstentions. The motion passes. Okay, Maryland.

MS. MUNGER: For Maryland, you'll recall they only had one option; and based solely upon the percent reduction required to meet the planned target, the technical committee recommends approval of the state of Maryland's proposal.

CHAIRMAN FREEMAN: All right, motion to approve by Eric; second by Tom. Any need for a caucus? Seeing none, all those that support the motion, please raise your right hand; those opposed, same sign, no opposition; abstentions, two abstentions. The motion carries. Virginia.

MS. MUNGER: For Virginia, based solely upon the percent reduction required to meet the planned target in Addendum III to the interstate fishery management plan for tautog, the majority of the technical committee recommends approval of the Commonwealth of Virginia's proposal to maintain status quo management in 2003.

MR. VITO CALOMO: So move, Mr. Chairman.

CHAIRMAN FREEMAN: All right, there has been a motion made; second by Gerry. Vito from Massachusetts made the motion, Rhode Island second. Any discussion? All right, there is a need for a caucus. We'll take a one-minute caucus.

(Whereupon, a caucus was held.)

CHAIRMAN FREEMAN: All right, the motion has been made and seconded for Virginia. I'll call for a vote. All those in favor, signify by raising your right hand; all those opposed, same sign; abstentions, four abstentions. The motion carries.

Pres, we're into North Carolina's indication of removal from the plan.

REMOVAL OF NORTH CAROLINA FROM THE FMP

MR. PRESTON PATE, JR.: Thank you, Mr. Chairman, and that request is for *de minimis* status, I think, or is it total removal from the plan? Total removal from the plan, okay.

CHAIRMAN FREEMAN: You're going the whole nine yards here, Pres.

MR. PATE: I'm still fatigued from my ride up here in the rain yesterday. But, yes, we've looked at our landings over the years, Mr. Chairman, and feel like that they are at such a low level that it's unnecessary for us to be bound by the monitoring and reporting requirements of the plan any longer.

The resource that we have there is so minimal that it's not a lot that we contribute with the efforts that we make currently with our monitoring and sampling. We request that you give serious consideration to our request to be removed from the plan.

CHAIRMAN FREEMAN: I'm going to ask Lydia to just briefly indicate several items that you indicated in your letter to the commission, just for the board's information.

MS. MUNGER: I just have specifics from North Carolina's request. North Carolina noted that they have a minimal fishery, most recently that their fishery added up to 0.1 percent of the coastwide commercial landings; that North Carolina has previously not been included in quantitative assessments; that there are no indications since 1990 of an increasing harvest trend in North Carolina; and that the scope for expansion of the recreational and commercial fisheries in North Carolina is limited by North Carolina's placement along the southern fringe of the tautog range.

CHAIRMAN FREEMAN: And there's some advisory panel comments.

MS. MUNGER: I would just like to point out that the advisory panel noted that -- they reviewed North Carolina's request for removal from the management unit and recommended that if North Carolina wished to remain unregulated, then the state and its fishers should not be permitted to harvest or land tautog. And I think was with regard to impacts in Virginia if North Carolina were removed from the FMP.

CHAIRMAN FREEMAN: Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman, two questions. One is could we vote for *de minimis* status for North Carolina as one step; and, two, would it require an addendum to the plan in order to take them off the management board? It's just a point of information, please.

CHAIRMAN FREEMAN: Bob, could you address that? The issue is --one is *de minimis* as opposed to simply removal from the plan.

MR. BEAL: The board could take a vote today and declare North Carolina *de minimis*, which I think they currently are, anyway, so that would really be no change.

But in order to remove a state from the fishery management plan, we have to go through the addendum process, and there probably wouldn't be a whole lot of public comment on this. I don't anticipate a lot of states would want to hold public hearings on this. I think the addendum process would be pretty straightforward.

CHAIRMAN FREEMAN: I'll ask staff to comment and then we'll get everyone else's comments.

MS. MUNGER: With regard to North Carolina and *de minimis*, North Carolina qualifies for *de minimis* status, but has not requested such status.

CHAIRMAN FREEMAN: Okay, Bill and then Tom.

MR. ADLER: Thank you, Mr. Chairman. I would like another point of information here. If someone is *de minimis*, I understand certainly that it's because of small landings and you're relieved of a lot of the rules, but not all of them.

And yet if you're removed from the plan, I question what do you do with the state then? Do you tell them, as was mentioned earlier, that you can't land them at all or what's the difference here between *de minimis* and lower than *de minimis*? What's the difference?

CHAIRMAN FREEMAN: I think that's a good question, and we're going to direct that towards Bob.

MR. BEAL: I think Gordon may have had a comment on that issue, and then you can come back to me if that is what you would like to do.

CHAIRMAN FREEMAN: Oh, all right. Lydia.

MS. MUNGER: Just to clarify as far as Addendum III is concerned, *de minimis* status would still require the states to perform the monitoring requirements under Addendum III, which is 200 age and length samples. And Addendum I also states that -- I don't know how relevant this is, but that *de minimis* states are required to implement minimum size in the commercial fishery, and there are other requirements related to pot and trap fasteners, and has to keep regulations consistent with those in the recreational fishery. So those are requirements that *de minimis* states still have to comply with.

CHAIRMAN FREEMAN: I had Tom and then Gordon.

MR. FOTE: Pres, you're not asking to be relieved of the minimum size limit that's in the recreational fishery; you're just asking for the reporting relief in the 200?

MR. PATE: That is correct.

MR. FOTE: I mean, when we offer states *de minimis* status, I would have no problem changing that they don't have to do the 200 age. There's a lot of states that don't have fisheries that have stayed on the board because they might have a declared -- Preston, are you asking to get off the board completely; you just don't have to show up?

MR. PATE: Are we even on the board now?

CHAIRMAN FREEMAN: My understanding is you're on the board as a *de minimis* state.

MR. PATE: We're on the board? Okay.

CHAIRMAN FREEMAN: Lydia is indicating that technically you qualify for *de minimis*, but have never requested *de minimis*, so you're on the board. Gordon.

MR. COLVIN: Mr. Chairman, that was the issue I wanted to address. Here's what I heard in the earlier discussion from staff, that the state of North

Carolina is eligible for *de minimis*, but hasn't requested it to date.

I think the first words I heard Pres say were that we would like to have *de minimis* status; but beyond *de minimis* status, we would also like -- and I'm going to paraphrase now -- to have the management unit adjusted such that the waters off of North Carolina are not included in the management unit of the FMP. And what I heard was that would require, at a minimum, an addendum to the FMP.

Now, I think we're supposed to talk about an addendum as a next agenda item. I don't think that anybody is going to put forward a new addendum just to cover that one issue, and so I think that probably we can get to it, and I would suggest that we get to it when we address Addendum IV, and that will be fine.

In the meantime, I think it's appropriate to act, as we can now, on the request for *de minimis* status as a first step; and to that end, I move that the board determine that North Carolina is a *de minimis* state for tautog.

CHAIRMAN FREEMAN: There has been a motion made; Tom, seconds. Pres, do you have any comments relative to that? The motion was made on your behalf.

MR. PATE: No, we may have just made the situation worse, but that's okay. If you look at the technical analysis that has been done on this stock and all of the monitoring requirements, it has not included any information that is being collected in North Carolina, and that was the basis for our request to be relieved from the monitoring requirements.

The plan incorporates North Carolina within the range of the plan, but none of the information has ever been used to evaluate the status of the stock.

CHAIRMAN FREEMAN: Gordon.

MR. COLVIN: Well, I would just point out that last time around the northern indices for weakfish weren't used in the VPA as tuning indices either, Pres, so we've got to be careful how far we take that one.

The bottom line here is where we intend to come from, where the motion intends to come from is very sympathetic to the viewpoint that you're raising. I mean, it's just how do we get from here to there, and it's apparently going to be a multi-step process.

I'm not sure it makes it worse. I think the problem is that the requirements that the state faces today are already there and not all of those requirements go away with *de minimis*.

But by unfortunately confronting the question, it's all laid right out here wide open for discussion on the record. But it's there now, and there will be some pieces of it still there with *de minimis*.

Let me also say that I for one would not waste anybody's time with a compliance discussion of what North Carolina does while the board continues to address the situation through the next step, which I believe is the addendum process. I mean, that is just a total waste of everybody's time, and I don't think any of us wants to go there.

MR. PATE: Yes, and I appreciate your efforts in trying to make this happen, Gordon, I really do. I don't know that we can find 200 tautog to sample, to tell you the truth.

CHAIRMAN FREEMAN: I understand the dilemma, Pres. As you indicated, you may have to sacrifice your entire catch to make 200, and that may be very, very difficult. Gil, did you have a comment?

MR. POPE: Yes. My only concern would be the same as the advisory panel's, which would be how would you handle the commercial landings and recreational landings if you weren't a part of the plan? As to whether landings could come into your state or whether it would be totally banned to even possess tautog in your state, I'm not sure how that would go.

CHAIRMAN FREEMAN: Gordon.

MR. COLVIN: One of the reasons I made the suggestion I did is that we don't need to address all that stuff now. That stuff gets addressed when and if we write an addendum, and I'm trying to save us a little bit of time this morning procedurally.

CHAIRMAN FREEMAN: Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman; and with that, we'll call the question.

CHAIRMAN FREEMAN: All right, I didn't see any other hands and the motion is to have - - the motion is on the board: move that the board determine that North Carolina is *de minimis*.

If there's no other discussion, I'll ask for a vote. All those in favor of the motion, signify by raising your

right hand; any opposition, no opposition; abstentions, two abstentions. The motion passes.

ERRATA TO ADDENDUM III

MS. MUNGER: I do have one errata to Addendum III that I would like to point out for inclusion in Draft Addendum IV, and I have a slide on that. It's specific language, so I just wanted to show everybody.

The error was found on page 14 of Addendum III and the language reads: "Based on the coastwide average fishing mortality rate of F equals 0.41, a 48 percent reduction in fishing mortality is needed to reach the target established in this addendum."

The statement should read as follows: "Based on the coastwide average fishing mortality rate of F equals 0.41, a 29 percent reduction in fishing mortality is needed to reach the target established in this addendum." It's just a change in language.

CHAIRMAN FREEMAN: I need to ask Bob a question. Bob Beal, relative to this difficulty, it's simply a change in one number, but, obviously, it has great implications to the plan.

My understanding was it was a miscalculation and the calculation was corrected. Do we need to go through the addendum process to make that change?

MR. BEAL: No. If this is the only change that the board is interested in making at this time, we can do it through a technical addendum, which is something we have now the ability to do.

However, if we are developing Addendum IV to deal with the North Carolina situation, we can roll this into that addendum to make the record more clean, so we don't have a technical addendum as well as an Addendum IV going on at the same time.

So it's up the board whether they want to just deal with this one issue or deal with this errata, North Carolina issue, and anything else if they are opening up the addendum process.

CHAIRMAN FREEMAN: All right, do you want to pursue the issue, Pres, of simply being dropped from the plan?

MR. PATE: Well, I don't want to make any more of it than is necessary, Bruce. I'm comfortable with *de minimis* status in the interim, until we can get an addendum done, but I don't want to put the

process through the effort of an addendum just for our needs.

That seems a little cost ineffective to me. I'm perfectly willing to maintain *de minimis* status until we come up with a number of reasons to do the addendum and include North Carolina's request in it at that point.

BOARD DIRECTIVE TO STAFF

CHAIRMAN FREEMAN: It seems to me, and I'm just speaking out loud if there is any opposition to move forward with a technical addendum simply to change this number; and then if the plan is to be amended in the future, Preston, include the issue for North Carolina. Gordon.

MR. COLVIN: Thank you, Mr. Chairman. That sounds like a plan to me. I'll move that the board authorize development of a technical addendum to address the erratum issue that the staff laid out for us this morning.

CHAIRMAN FREEMAN: All right, there is a motion made; second by Mr. Adler. Any discussion? Pat.

MR. AUGUSTINE: No discussion; call the question.

CHAIRMAN FREEMAN: All those in favor of this motion, please signify by raising your right hand; those opposed; any abstentions, no abstentions. The motion passes. Peter.

MR. JENSEN: I have a question. It seems to me that whether an addendum would proceed to remove North Carolina or reduce the requirements under *de minimis* status, if in fact the board decided that North Carolina should stay a member of the plan and the only thing to be required would be landings data, if there were any, to keep track of their *de minimis* status, could that be accomplished in a less rigorous change to the plan than an addendum?

CHAIRMAN FREEMAN: I don't think so, but let's ask Bob for his opinion. It would seem to me the board could not make that determination unilaterally. It would require an amendment. And the reason I say that, Peter, I don't think there is any other instances where that occurs.

MR. JENSEN: Well, I agree. It seems to me that we're breaking new ground here whether the board lets North Carolina be out of the plan and

change the boundary of the fishery or break ground in terms of allowing a state to reduce the *de minimis* requirements. So either way, I think we would be breaking new policy ground.

CHAIRMAN FREEMAN: Bob, do you have any comment?

MR. BEAL: I think either way you go, whether moving the borders or the states or the waters that are included in this plan or adjusting the *de minimis* status for one state or all states, I think we have to go through an addendum process to make the record clear.

But as I said earlier, the addendum process on something like that is pretty straightforward. I don't anticipate much public comment on issues like that, so it's up to the states as to how many hearings we have and those sorts of things. It can move pretty quickly if that's what the board wants to do.

CHAIRMAN FREEMAN: Pete, it seems in this instance, since this is the first time, it may be useful to look at a process to change our policy.

The reason I say that is that we're now having so many public hearings, the public can't keep up with what they're commenting on; and an issue such as *de minimis*, where originally this was a new concept, we've set the guidelines on what could be done.

It would seem to me under those guidelines we could then have data collection requirements added to that *de minimis* because now our plan is becoming more data driven. It wasn't an issue five or six years ago, but it's a major issue today.

But I agree with you, it seems like if in any plan we wanted to change what is a requirement for data collection, we need to go through an amendment or an addendum.

It seems like there is a lot of work in there just for something that may be relatively minor, but it seems we should have a policy statement to say we could do that under *de minimis*.

We finished Item Number 6. Other Business; social scientist/ economist nomination to the technical committee. Lydia.

NOMINATIONS TO TECHNICAL COMMITTEE AND ADVISORY PANEL

MS. MUNGER: The board was given information on two nominations to the technical committee; one for a social scientist and one for an economist and also nominations to the advisory panel, and those are up for board consideration at this time.

CHAIRMAN FREEMAN: All right, we need a motion for that. Pat.

MR. AUGUSTINE: So moved, Mr. Chairman, that we accept both -- do you want their names?

CHAIRMAN FREEMAN: Nominees.

MR. AUGUSTINE: Both nominees.

CHAIRMAN FREEMAN: And did I see Jack Travelstead's hand for a second?

MR. AUGUSTINE: If Lydia would read those, it would be helpful.

MS. MUNGER: For the technical committee, the two nominations are Dr. Brian Oles and Mr. Robert Unsworth; and then for the advisory panel, there are four nominations, Robert Rogean, Phil Lister, John Mihale, and Denise Wagner.

CHAIRMAN FREEMAN: Pat.

MR. AUGUSTINE: Point of information, Mr. Chairman; should we list the states after their names, please?

MS. MUNGER: The states for the advisory panel?

MR. AUGUSTINE: Yes.

MS. MUNGER: Robert Rogean is from Massachusetts, Phil Lister is from Massachusetts, John Mihale is from New York, and Denise Wagner is from New Jersey.

CHAIRMAN FREEMAN: There is a motion and Jack, did I see a second to that? Jack Travelstead seconded that. Any comments? David.

DR. PIERCE: Maybe I missed it, but Mr. Robert Unsworth, is there any description of his qualifications, who he is? I only have a one-page sheet that indicates he has been recommended to be on the technical committee.

MS. MUNGER: Mr. Robert Unsworth is recommended to serve as the economist on the technical committee, and that's all I have for him.

Dr. Brian Oles has been recommended to serve as the social scientist. He has a PhD in cultural anthropology and works at Rutgers University as a post-doctoral research associate, is currently working on fishing community characterization and social impact assessments of fisheries regulations on communities in the Northeast and Mid-Atlantic regions.

DR. PIERCE: What state is Mr. Unsworth from?

CHAIRMAN FREEMAN: Paul, go ahead.

MR. CARUSO: Robert is with the National Marine Fisheries Service, I believe also in their New Gloucester office.

CHAIRMAN FREEMAN: Any other questions? Comments? Let's vote on this motion. All those in favor, signify by raising your right hand; opposed, same sign, no opposition; abstentions, no abstentions. The motion carries.

That concludes our business. Any other issues that anyone wants to raise? We have five minutes.

MR. MEARS: Thank you, Mr. Chairman. It's not difficult to imagine we could be having the very same type of discussions we had here today a year from now; and in an effort to try to better inform ourselves an increased understanding and communications between the board, the technical committee, and also the advisory panel, what I would like to suggest is that this board consider asking the staff to put together a synopsis, to do their best to interpret the provisions of how proposals would be evaluated on an annual basis under the provisions of Addendum III; for example, to look at two key areas.

One would be a motion which was approved concurrent with the addendum that the commission would continue using the coastwide assessment until such time a redefined regional assessment method was identified; and, secondly, that the interpretation of the Addendum III language that alternatives to the coastwide protocols would be considered at such time equivalency or equivalent precision were demonstrated.

At least in my own mind, there's some confusion here whether that means on a state-by-state basis, a

region-by-region basis, or as an entirely new approach in order to review the status of the resource.

So with that, Mr. Chairman, I would suggest that the staff be asked to use their discretion and flexibility to put together whatever might be appropriate to remove some of the confusion in the type of the discussion we had here today. Thank you.

CHAIRMAN FREEMAN: Comments on Harry's proposal? Does everyone concur? David.

DR. PIERCE: In the same vein, it would be very beneficial to the board if the technical committee would spend some more time on this catch-curve analysis issue. We have a well put together report from Dr. Hoenig and Hepworth.

I'm still unclear as to the extent to which the technical committee critiqued that particular report; and if they have not yet critiqued it, that would certainly be helpful.

We need more guidance from the technical committee as to how we should respond as a board to future catch-curve analyses that are presented to us.

If the technical committee can provide states with some guidance as to the minimum criteria for a catch-curve analysis to be worthy of our consideration, then that would be appreciated too.

This issue will return again and I'm uneasy now with catch-curve analysis as presented to us by Virginia, and in the past by other states. So any further advice that can be provided, any criteria that will be provided will be extremely useful to us.

CHAIRMAN FREEMAN: David, would you want to expand that into various analyses? You mentioned catch curve, but there may be something else some state may come up with that would replace or provide the same information; just expand that to simply give guidance on how a state would -- what information it would use and how it would provide it.

DR. PIERCE: Certainly, the technical committee can feel free to give us any guidance along those lines. Right now the hot button is catch curve-analysis, and I assume the committee will put more time into that, but just as a matter of emphasis, I would like the board to make it clear that is a very important issue and subject for further technical committee review.

CHAIRMAN FREEMAN: Okay, and I think our policy now requires any charges to the technical committee to be in writing. I'll work with staff to provide that so we will have clear indication to the technical committee. Any other points?

MR. FOTE: Well, I was going to make a point that we could start a good precedence since it's 11:00 on the dot and since it's the first board meeting, that we actually finish on time, but I will bow to Jack before I make the motion to adjourn.

MR. TRAVELSTEAD: I had a housekeeping item.

CHAIRMAN FREEMAN: Well, let's do this. To make our record, let's adjourn this on time.

MR. FOTE: I make a motion to adjourn.

MR. CALOMO: I second it.

CHAIRMAN FREEMAN: All those in favor; opposed. The motion passes.

(Whereupon, the meeting was adjourned at 11:00 o'clock a.m., November 18, 2002.)
