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

February 22, 2006
Alexandria, VA

Board Approved August 16, 2006

ATTENDANCE
Board Members

George Lapointe, ME DMR
Sen. Dennis Damon, ME Leg. Appte
John Nelson, NH F&G
G. Ritchie White, NH Gov. Appte.
Dennis Abbott, NH, proxy for Rep. Mary Ann Blanchard
Ritchie White, NH Gov. Appte.
William Adler, MA Gov. Appte.
Paul Diodati, MA DMF
Vito Calomo, MA, proxy for Rep. Anthony J. Verga
Mark Gibson, RI DFW
Jerry Carvalho, proxy for Rep. Eileen Naughton
Eric Smith, CT DEP
Dr. Lance Stewart, CT Gov. Appte.
Pat Augustine, NY Gov. Appte.
Gordon Colvin, NY DEC
Erling Berg, NJ Gov. Appte.
Tom McCloy, NJ DF&W
Roy Miller, DE Div F&W
Bernard Pankowski, DE proxy for Sen. Robert Venables
Eugene Kray, PA Gov. Appte.
Frank Cozzo, PA proxy for Rep. Curt Schroder
Leroy Young, proxy for Douglas Austen, PFBC
Howard King, MD DNR
Russell Dize, MD, proxy for Sen. Richard Colburn
Bruno Vasta, MD Gov. Appte.
A.C. Carpenter, PRFC (Vice Chair)
Jack Travelstead, VMRC (Chair)
Catherine Davenport, VA, Gov. Appte.
Kelly Place VA, proxy for Sen. John Chichester
Preston Pate, NC DMF
Jimmy Johnson, Proxy for Rep. William Wainwright, NC Leg. Appte.
Damon Tatem, NC Gov. Appte.
Tom Meyer, NOAA Fisheries
Wilson Laney, USFWS

Ex-Officio Members

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

Staff

Vince O'Shea
Robert Beal
Nancy Wallace
Lyida Munger

Guests

Tom O'Connell
Alan RisenhooverTerry Stockwell
Bob Ross
Harold Mears
Beth Versak
Lynn Fegly
Carrie Kennedy
Elizabeth Warner
Phillip Flannery
Tom Fote
Forbes Darby
Ed O'Brien
Alexei Sharov
Dick Brame
Bill Goldsborough
Rick Cole
Sean McKeon
Bill Windley
Richard Novotny
Margaret McBride
Paul Caroso
Steve Doctor
Joe Shelton
Carmela Cuomo

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ATLANTIC STATES MARINE FISHERIES COMMISSION
WINTER MEETING

ATLANTIC STRIPED BASS MANAGEMENT BOARD

DoubleTree Hotel Crystal City
Arlington, Virginia

February 22, 2006

The meeting of the Atlantic Striped Bass Management Board of the Atlantic States Marine Fisheries Commission convened in the Washington Ballroom of the DoubleTree Hotel Crystal City, Arlington, Virginia, on Wednesday, February 22, 2006, and was called to order at 8:30 o'clock, a.m., by Chairman Paul Diodati.

WELCOME/ CALL TO ORDER

CHAIRMAN PAUL DIODATI: If board members will take their seats, please, we're about to start the Striped Bass Board meeting. Members of the audience, try to settle down, please. Thank you and welcome. This is the meeting of the Striped Bass Management Board.

APPROVAL OF AGENDA

You have an agenda before you. I will ask Lydia if there are any changes to the agenda. Okay, there are a couple. One will be a nomination and motion for election of a vice chair. And the other will be a National Marine Fisheries Service update on the draft EIS for the EEZ reopening initiative.

APPROVAL OF PROCEEDINGS

Are there any other changes or comments about the agenda from board members? If I see no objection **we'll approve this agenda**. You should have proceedings from our last meeting which was on October 31st and there should be minutes for that meeting and comments? Seeing none, I'll **move to approve that without objection.**

PUBLIC COMMENT

I'll take some public comment from the audience at this point. But we'll certainly allow some time for comment subsequent to any actions or votes on actions later on. So at this point are there any comments from the public? Anything we need to know from the public?

Okay, it looks like we're ready to move into our first agenda item which is a review of the draft Addendum I that may be ready for public comment. We're going to need an action on this if we're going to bring this out to the public. I'll ask Lydia to do the overview.

REVIEW DRAFT ADDENDUM I FOR PUBLIC COMMENT

ADDENDUM OVERVIEW

MS. LYDIA MUNGER: Thank you, Mr. Chairman. I'm going to run through a brief overview of the draft addendum just to refresh everybody's memory. And then that's going to be followed by a presentation by the technical committee regarding some additional analysis the board had asked them to complete.

As most of you remember, Amendment 6 requires development of a mandatory data collection program for striped bass discards to increase the accuracy of data on striped bass discards. And this addendum is supposed to cover commercial and recreational fisheries.

In the draft addendum it states that the issue is that discard mortality is estimated to account for nearly 35 percent of the overall fishing related removals in 2002. And concerns over the impacts of this discard mortality led the board to include a provision in Amendment 6 to develop an addendum to establish this data collection program.

This addendum is to address discards in all sectors and defines discards as striped bass discarded while targeting striped bass as well as striped bass discarded while targeting other species.

The goals of Addendum I include for the commercial fishery at-sea observer coverage on commercial vessels, including vessels targeting striped bass and vessels that may encounter striped bass, and discusses determining the discard mortality

associated with all the commercial gear types currently encountering striped bass.

For the recreational fishery the goals include determining the proportional use of gear types and fishing practices and determining the fishing mortality associated with each of the gear types and fishing practices used and documenting the level of bycatch in problem fisheries in annual state reports.

There are three components of the bycatch data collection program outlined in the draft addendum, including mandatory data collection for states, studies needed to determine post-release mortality rates, and analyses that should be conducted by the technical committee.

Under the commercial data collection program there is a number of data collection elements listed in the draft addendum including at-sea observer coverage on 5 percent of total trips in state waters as defined in the ACCSP standard.

This would be implemented by all states that have commercial fisheries that encounter striped bass in coordination with NMFS to ensure coverage in state waters.

Also under the commercial data collection program discard mortality studies that would be conducted to reflect all the fishing activities that currently encounter striped bass and specific studies to determine release mortality associated with the various gear types such as trawl, gillnets, fixed nets and hook-and-line.

Also under the commercial data collection program are technical committee analyses such as analyzing existing NMFS observer data to identify any discarding hot-spots. This is part of what Doug is going to discuss in the technical committee presentation.

For the recreational data collection program, similar data collection elements, continuing collecting data on finfish bycatch as reported by interviewed fishermen through existing recreational intercept surveys. Again, that's the ACCSP standard.

And this also includes the potential for developing add-on questions for interview surveys to collect information on the gear and terminal tackle used. And this would be done in conjunction with the technical committee and ACCSP.

Also developing surveys to estimate size composition of discarded fish, working with the technical committee and considering volunteer angler surveys, additional questions for intercept surveys, and expansion of data collected in for-hire fisheries.

Under the recreational data collection program discard mortality studies to conduct additional studies on post-release mortality at a range of different temperature salinity and gear types and conducting an analysis of existing studies so that effort is not duplicated.

Technical committee analysis under the recreational data collection program includes developing estimates of the proportion of discards based on water temperature and salinity and applying existing post-release mortality rates to determine the effect on estimated discard mortality.

And then the final component is the for-hire data collection program and includes elements such as continuation of collecting quantitative data on finfish bycatch as reported through existing intercept surveys, again, the ACCSP standard and again developing add-on questions to collect information on terminal tackle used. And that concludes the overview of the draft addendum and I will take questions.

CHAIRMAN DIODATI: Pres.

MR. PRESTON P. PATE JR.: Thank you, Paul. Lydia, the reference in there for additional studies on hook and release mortality from recreationally encountered stripers, does that mean new studies or can we rely on recently completed studies?

We did a fairly extensive analysis of catch and release mortality in the Albemarle Sound a few years ago under varying temperature and salinity conditions that I'm pretty sure was sent to the technical committee for their use. And I'm wondering if there is any benefit for having to duplicate that just two or three years later.

MS. MUNGER: That's a good question. I apologize if I didn't mention that but part of what that component includes is a review of existing studies and then my understanding is if any holes are identified then new studies could be outlined to fill in those knowledge gaps.

CHAIRMAN DIODATI: A.C.

MR. A.C. CARPENTER: Lydia, do you

have any estimated cost of collecting all this additional data? Has anybody looked at that, either the technical committee or staff?

MS. MUNGER: At the annual meeting the technical committee presented an analysis of cost per trip for observer coverage. I believe -- and Doug can correct me if I'm wrong -- that that was the only component that the technical committee identified any cost information for.

MR. DOUGLAS GROUT: If my memory serves me correctly I think that cost was somewhere between $700 and $1,000 per trip, sea sampling trip.

CHAIRMAN DIODATI: Any follow up, A.C.?

MR. CARPENTER: Is there any additional source of funding for us to try to do that?

CHAIRMAN DIODATI: That's a rhetorical question? I would assume that a lot of the work we're talking about would take place on vessels that are participating in fisheries in the EEZ.

And I imagine that we'd be looking at some of the federal observer coverage to account for a good deal of this. So I don't know if anyone from the National Marine Fisheries Service wants to comment on that but offhand that would be my first guess. George.

MR. GEORGE LAPOINTE: And if that's your assumption, haven't the funds for the observer program in the Northeast been reduced?

CHAIRMAN DIODATI: That's also my understanding.

MR. LAPOINTE: Thank you.

CHAIRMAN DIODATI: Okay, I'll ask Doug to give the technical overview of this.

TECHNICAL ANALYSIS OF VTR/OBSERVER DATA

MR. GROUT: Thank you, Mr. Chairman. A couple meetings ago you asked us to look at the NMFS at-sea observer program and VTRs and to develop an estimate that we could compare with our current method of estimating discards in the, commercial discard mortality in the commercial fishery. And we've done that. Excuse me.

And I'll give you a brief overview of the analysis that we did. What we did was we took the catch per unit effort from the sea sampling trips and then took effort from VTR data. For trawls we used days absent as the effort. For gillnets we used days of soak time.

We limited the estimates to trawls and gillnets that we produced in this analysis because they accounted for almost over 99 percent of the striped bass discards that were encountered in the NMFS observer program and also accounted for almost 80 percent of the total trips that occurred.

We stratified this by gear type, by mesh size -- you will see the four categories we broke it out into -- and by NMFS statistical area and by month. Then there were some cells we had missing data for, particularly from sea sampling trips. And what we did was we took the average within a month area cell and applied it to all the missing cells there in an area.

The months were then aggregated into a triennial format: January to May, June to August and September to December. And the areas were grouped according to this map. We had, up in the green we have Gulf of Maine area. The dark blue was Georges Bank.

The red is Great South Channel; the aquamarine area, Southern New England. Then we had inshore New Jersey area, a little bit offshore and then way offshore New Jersey, and then we had the southern area around the Delmarva Peninsula and North Carolina that we used as a grouping. That's in the light blue there.

There were some limitations with our data. There was no data for fisheries in state waters not requiring a federal permit. And to be quite frank with you, with striped bass that's a major chunk of the fishery.

We did not use marine mammal sea turtle observer data because their main focus is on looking at protected species discards and so their fisheries' collection is not consistent within those things because they're just, they're supposed to be looking for sea turtles and marine mammals but they do catch, collect a little bit of fisheries' data but it's not complete.

Sometimes we ran into trips that used multiple mesh sizes which made it, gave us a little problem with breaking it out into which mesh size category we put them in. And there were also some trips that fished in multiple areas. But overall those last two categories were very, a minor component to our analysis.

This is sort of an overview of the VTR and sea sampling methods. As you can see in the first two columns we give the effort, the VTR by trip efforts. And as you can see, the vast majority of the effort came in the otter trawl and anchor gillnet.

The next largest effort was in scallop dredge but they virtually had no striped bass discards. And, as I stated earlier, as far as the striped bass discards, if you look all the way over to the far right there, under the percent of total weight observed, these are striped bass discards.

The lion's share was in the otter trawl fishery. And the anchor gillnet was second. Drift gillnet had a very small percentage, .2 percent. Scallop dredge was essentially zero and mid-water trawl accounted for only .4 percent of the total observed striped bass discard.

This is what we came up with for estimates. I guess the big picture is way over in the right-hand columns. The sum of total pounds and total numbers of discards based on our analysis showed that about 721,000 pounds of discard occurred in the trawl fishery.

That equated to about 76,000 fish that had an average weight of about 10 pounds. The anchored gillnet fishery, because the majority of the effort was in the extra-large and large meshes, had an average weight of 20 pounds and 115,000 pounds total and about 6,000 fish were discarded using this analysis within the VTR sea sampling methods.

Now that, as you'll see, the totals are about 800,000 pounds and about 82,000 fish. And that is considerably less than what we report in our analysis in our stock assessment. And that's because this does not account for a lot of the inshore gears.

There is no NMFS sea sampling trip information on the inshore fisheries. This is all EEZ and a little bit of inshore fisheries if they happen to occur, if they happen to be permitted National Marine Fisheries Service vessels with National Marine Fisheries Service permits.

What we did, those numbers I gave you before were discards. They were not discard mortality. What we do is we take either studies or our best guess I guess you would say to apply fishing mortality rates to the discard estimates.

And for anchor gillnet and trawl, which are the two main things that you're looking at for this analysis, we use a 43 percent rate for the anchor gillnet based on some work done by Seagraves and Miller. And the trawl discard mortality rate is 35 percent based on some work done by Crecco.

This is a comparison, a direct comparison of what we got from the NMFS VTR sea sample data with what we developed using tag estimates, our tag data. This is the stuff that is in an assessment is based on using tag ratios. And I'll be glad to go through that method if anybody has a question.

But as you can see, the NMFS VTR sea sampling data from our standpoint is not, does not cover the breadth of the fishery or the lion's share of the fishery. As you can see, the largest share according to the tag data of discard mortality comes in Chesapeake Bay where there is no NMFS observers.

As you can see if you look all the way over under the trawl column our estimate using NMFS VTR sea sample data of roughly about 26,600 fish that were killed is comparable to what we came up using tag data for the coastal area. That's about 31,000 fish killed.

Using the NMFS VTR sea sampling data our anchor gillnet mortality estimate was considerably less than what we get from the tag estimates. So our conclusion is the NMFS sea sampling VTR data will provide some information but there are a lot of gaps in it. Are there any questions?

CHAIRMAN DIODATI: Go ahead, Bill.

MR. WILLIAM A. ADLER: Could you possibly go back to that slide where you had the trawl was 89 percent and then we went down to mid-water trawl at .4 percent or something like that?

MR. GROUT: This slide?

MR. ADLER: Yes. Right. Now, did you just not take the seine, no studies on the seine in this case?

MR. GROUT: There weren't any NMFS observer trips or sea sampling data on seines.

MR. ADLER: Okay, and so what you're looking at here was in the mid-water trawl was .4 percent?

MR. GROUT: Right.

MR. ADLER: All right, thank you.

MR. GROUT: What we're saying is four. What we were saying is there was only 112 pounds of striped bass that were observed discarded on mid-water trawl data. And if you took all the sum total of that next to the second column from the right that accounted for only .4 percent of the total observed striped bass discards on all NMFS sea sampling trips.

CHAIRMAN DIODATI: John.

DR. JOHN I. NELSON, JR.: Thanks, Paul. Doug, on the graphic or the table that shows the mortality by gear type, the otter trawl was 35 percent and Vic apparently had done some work, published some work in the '90s. Was that inshore or offshore type of trawling?

MR. GROUT: I'm not familiar with it, to be honest with you. I'd have to find out. But it's based on trawling, otter trawl data. And if you want I can come back and get you that information.

DR. NELSON: Okay, yes, sometime I think I'd like to take a look at it. I thought that might be a little low, the mortality.

CHAIRMAN DIODATI: Any other questions for Doug by members of the board? Before I -- I'll go to the public in a moment but just so that we understand what we're trying to do with this addendum, this is a compliance issue of Amendment 6.

And it's my understanding that we're trying to develop the framework for a program that will identify discards in the various fisheries. It doesn't necessarily mean we're going to implement all those programs.

I understand the concern about costs when we get to implementing those programs. But I think at this point Step 1 is to develop a program and that's what this addendum does. So any more questions for Doug? Go ahead, Ritchie.

MR. G. RITCHIE WHITE: Thank you, Mr. Chairman. On Page 7 it says mandatory data collection for the states. And then below that it says an at-sea observer program should be implemented by all states. That seems that if it's mandatory then isn't the at-sea observer mandatory?

CHAIRMAN DIODATI: Well, I guess that there is some clarifications needed. I don't have the answer for that right now. If we get the answer we'll get back to you on that, Ritchie.

MR. LEROY YOUNG: Are we talking about an annual sampling program for the recreational fishery here or is this just up in the air, we just don't know?

CHAIRMAN DIODATI: Yes, I think the addendum would do that. It would basically develop whether or not these should be annual or otherwise. So, you know I think we're talking about annual programs for the most part. Start down at the end.

UNIDENTIFIED: Thank you, Mr. Chairman. On the trawl mortality discards, the chart stated 35 percent but that was in 1990. Nineteen ninety was a long time ago. Is that the latest data that we have?

MR. GROUT: Yes, it's the only data we have.

MR. CARVALHO: I think attitudes on discards and care for fish for discards has certainly changed.

CHAIRMAN DIODATI: Roy.

MR. ROY MILLER: Thank you, Mr. Chairman. Just to follow up on Ritchie White's question, if Lydia could outline for me so I understand which are mandatory compliance requirements for the states in this addendum it would be helpful because as long as that wording is in there it implies that some parts of this are mandatory. And my, after having read through it I can't determine in my own mind which are mandatory for each state to comply with. Thank you.

MS. MUNGER: That actually needs to be determined by the board which elements of this the board wishes to see as mandatory compliance requirements.

CHAIRMAN DIODATI: Pat.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. Back to Mr. Pate's comment asking Lydia about the search of the existing studies that have been conducted on various hooks and so on, you indicated that that was inferred.

Could we make a note in here so it is picked up by the average person out there who sees it and who will think, well, there are 4,250 studies that have already

been done on hooks, on circle hooks, for instance. Could you somehow clarify with a one-liner that the existing research will be reviewed in addition to their comments and suggestions? Thank you.

CHAIRMAN DIODATI: More questions from board members. Seeing none I'll take any brief questions or comments from the audience before we propose a motion. Go ahead, sir.

MR. PHIL KLINE: Phil Kline from Oceana. I wanted to thank the commission for taking up this issue and as far along as you've gotten. You've done a really good job. The striped bass discard in some of the federally-managed fisheries have been an issue for us for a couple of years now.

And as you know you're dealing with this because the New England Council declined to take action on addressing a couple years ago the identified hotspot in the Southern New England multi-species bottom trawl fishery late in the fall where there has been anecdotal reports and now some data coming in on striped bass discards.

Being a jointly managed fishery where you manage the striped bass fishery and the Mid-Atlantic and the New England Councils manage fisheries that interact and have these bycatch rates, it is going to continue to take cooperative action between all of you to move forward and address the bycatch.

I'm here today to ask you to, now that we've seen more data and 80,000 fish, 800,000 pounds, is kind of what it looks like that we know about, to write letters to the Mid-Atlantic and New England Council asking them to address this issue. It is their responsibility.

The New England Council recently passed a herring amendment that had a bycatch cap on haddock which if it was reached would shut the fishery down. And we believe there are other practicable solutions for addressing the striped bass bycatch issue in those fisheries, including things like bycatch caps and tide and area closures if they're reached and undoubtedly other management tools that could be developed.

But it will take some pushing on everyone's part to get this to the level of attention that the Mid-Atlantic and the New England Councils will seriously take some action.

So we encourage you to continue with the analysis that you're working on but in the meantime we're hoping that you'll be able to write a letter urging these councils to live up to their Magnuson-Stevens responsibilities in minimizing bycatch. Thank you.

CHAIRMAN DIODATI: Thank you. Yes. If there is no one else from the public I'll go back to the board. Pat.

MR. AUGUSTINE: If there are no further comments from the board and we're ready for a motion I would like to --

CHAIRMAN DIODATI: I think Roy did have one more comment.

MR. MILLER: I'd like to follow up on my previous question that Lydia answered. It seems reasonable to assume that the mandatory portion of this would be for the states to supply whatever information they have on bycatch and discard mortality.

But I don't think it's prudent at this time until that is done to make additional data collection elements mandatory for all the states. That's how I view this. I wondered if that was the general understanding.

CHAIRMAN DIODATI: It's not my understanding that that is the case. I think what I do understand here is that the addendum offers an initial framework and some of the things are listed as mandatory; others are not.

And I think once it goes out to the public and then it comes back to the board you'll have an opportunity to fine-tune the mechanisms and compliance issues as you see fit. And naturally cost and other things I think would be considered at that point. That's my view of this. I'll go to Mark and then Jack.

DR. MARK GIBSON: Thank you, Paul. My sense is that Pat is getting ready to make a motion so to head off my need to amend it I'm concerned about the dated nature of the stock status information in here.

It refers to a stock assessment from 2002. We have much more timely information than that and it's important because the last resource assessment we had which I think went through 2004 showed the fishing mortality rate was much closer to the threshold than is indicated here.

And the reason that's important is because it plays into the statement of the problem section of the report where if fishing mortality two years later than this information is much closer to the threshold then estimation of discards and the influence significant of

discards is elevated.

So I think the thing needs to be re-written to reflect the most up-to-date stock status and information through 2004 I think is available. And the statement of the need section needs to be re-written to reflect that. So I'm hoping that that could be incorporated in the motion when it comes out.

CHAIRMAN DIODATI: Jack.

MR. JACK TRAVELSTEAD: Thank you, Mr. Chairman. I thought your response to Roy's question was good and it's the kind of thing that I think we need in the addendum. Your response to Roy's question was that we'll send this out to public comment and then come back and decide what pieces of this should be mandatory, what should not.

I think that kind of language needs to be reflected in this document so that the public knows upfront that you know there are either options in here or those kinds of questions that will be debated once it comes back to this board.

I wouldn't want to send something out that says all of this is mandatory and then we come back to the board six months from now and decide none of it is mandatory. So I think that option needs to be presented clearly to the public.

A couple of other comments. On Page 7 where we talk about observer coverage on 5 percent of the total trips in state waters, off the top of my head I don't have any idea how many total commercial trips there are in Virginia. I have a feeling most of us don't have that number handy.

But I think it would be helpful if there were a table in the document that described that information for each of the states. I think it is information that we could make available. But I think it would be nice for the public and us to see exactly the types of numbers that we're talking about for at-sea observer coverage.

And over on Page 8 under the recreational fisheries data collection and elements it talks about developing add-on questions for the MRFSS survey and it talks about the management board will need to work with the technical committee and ACCSP staff to determine the most efficient way to collect this data.

And when I read that I worry a little bit that maybe this document isn't ready to go out for public hearing. I think it would be better if we could have that information in the addendum for presentation rather than simply saying, well, we have this idea but we're not sure how we're going to go about collecting it.

And then we're going to be coming back here in a few months and expected to vote on something we're not sure how it's going to be collected. So, I just have some uneasy feelings about the addendum going forward at this point.

And I mean ultimately the big question is, does any state sitting around this table have the funds to implement this? And my guess is there is not a single state in that position right now. And in fact, some of us are in -- I can tell you Virginia operates on a biennial budget.

Our General Assembly is right now in the process of within a few weeks of adopting a budget that will carry us forward for two years. And so if we came back and made significant portions of this document mandatory I suspect the cost to each state is going to be at least $100,000 if not more.

And so you're looking at three years from now before Virginia would have an opportunity to get that kind of money available to us to implement it. I just want people to know that upfront, that there would be no way Virginia could comply very quickly with mandatory provisions that we see here.

CHAIRMAN DIODATI: George.

MR. LAPOINTE: Thank you, Mr. Chairman. My comments were along the lines of Jack's, primarily about the cost, just trying -- if we go out to public hearing, giving people reasonable expectations or estimates about what the costs might be for our individual states.

I was just talking to Rich White. And here is a case where New Hampshire and Maine are probably in a better spot than others because we don't have a commercial fishery and so it would be just the cost of an add-on question.

But there will be built into this an expectation that you be able to follow through. And I think Jack's comments about budgets and staffing and whatnot are very pertinent bits of information to have you know before we go out and try to talk to the public about this.

CHAIRMAN DIODATI: Okay, I think I'm getting a sense. A.C., something different or on those lines?

MR. CARPENTER: Well, one other concern that I would have from our perspective is a question of liability with the at-sea observer program because we would not be covered under an existing program with NMFS.

These are, we have no at-sea observers. And who is going to be liable for accidents? And is that something that it would be this commission, my commission, that would be liable? Or would the fishermen?

I'm going to need some guidance and some carefully thought out details to present to my commission in addition to the question of cost. I was sitting here doing some back-of-the-envelope calculations on the number of gillnet trips alone that we have in the Potomac.

If we're talking $700 per trip, that may come damn near exceeding the value of the fishery for us. So I think that there is an awful lot of questions here that I don't have answers to and I'm not ready to support taking this out to public hearing yet.

But I do think getting an idea of the numbers of trips, the cost of this in hand before we go to the public is definitely something that we need to look at, and particularly the liability issue of the states that are going to be hiring these at-sea observers that we don't currently have.

CHAIRMAN DIODATI: Okay, let me just make a few comments at this point. You know the way I see it we've already identified a need in the amendment to do this type of work, so the need is there. It has been established through the management framework.

Certainly there is concern about cost, updating the stock status and qualifying what the states would be mandated to do. But I think we do have some options given that the stock condition, the current stock condition, is good. There is no extreme need to move forward expeditiously here to get this done immediately.

I'm not opposed to sending this back to staff to make some of the changes. But I think we need to move this forward. It has been I think on the table for about a year now. And did you want to say something about this, Vince?

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Yes, thanks, Mr. Chairman. I think you did a good job of recapping where we are and how we got here. What I look at in listening this morning is that you've had the plan review team and the technical committee take a second attempt to develop an addendum for you.

And listening around the table there is a number of policy concerns that are being raised now that weren't perceived by the technical folks. And I'm wondering, Mr. Chairman, if one approach might be to convene a small group, informal group, of policy level folks, state directors, a handful that would be willing to provide some guidance and oversight of this thing.

That would keep the project going and it would get some of these issues, make sure these issues are incorporated into the document, rather than just give it back to the staff and say sorry, we don't like this, try it again. It's a thought.

CHAIRMAN DIODATI: And I think that's a good suggestion. And unless there is an objection to doing that I'll ask for a working group. Some volunteers I hope will see me right after this meeting.

And we'll talk about an agenda to lay out that work. Is that agreeable to everybody? So we won't be looking for a motion to move this forward today. Tom, is it related to this? You want to add something? We'll go to the audience.

MR. THOMAS FOTE: Tom Fote, Jersey Coast Anglers' Association. Years ago when you would go out to public hearings with a document like this all of us would jump on it and say, yes, we need to do this; we need to do this; go ahead and approve it. The fishermen are getting more sophisticated and understand the problems that most of the agencies are under.

And when we see things like going out of compliance on weakfish because we don't have the samples and things like that, we're going to ask for an -– and I can tell you the Jersey Coast will ask that we want to see a cost analysis when things come out of here, some idea of what the figures are, some idea of where this is going to be funded from.

So when you come out with this amendment, we're asking for those questions upfront because we've seen the consequences of not doing that. I mean even if there was a slug of money put into certain states because of the governors' and legislators deciding that all agencies needed to be downsized, where is the personnel coming?

So even if you threw 100,000 or 200,000 and say we've got to give you know New Jersey $200,000 to do that, they might not be able to hire the personnel to do that because of the freezes that are happening in most states right now.

I mean Florida, I was talking to Kent yesterday who has a huge budget and actually has a flush of money yet they have to do a certain amount of reduction every year because that's what's mandated by the governor.

So, again, we're going to be looking at these questions so I wish when this document is ready to go out to public hearing that that information is included in the document: where the funding is going to go, how much is it going to cost, and what are the states expected to do, and how much the commission is going to do. Thank you very much.

CHAIRMAN DIODATI: Go ahead, Jim.

DR. JAMES GILFORD: For the advisory panel I just want to make the point that the panel has been concerned about this question of bycatch for some time, even when we were discussing Amendment 6.

And in Amendment 6 the board did create the impression, did create the feeling in the public that something was going to be done about it. So it's dragging on. And I think the panel's position is that we recognize the major issue of who is going to pay for it and specifically what has to be done and who is going to do it.

Recognizing those things, the panel still feels that there needs to be more emphasis and more of a priority given on settling this issue. If it's too expensive to do, the board should come out and specifically say we can't do this.

If it's not too expensive to do, if it's a question of getting everything in a row, that's fine. There needs to be more information going out to the public with respect to where this addendum stands. Thank you.

CHAIRMAN DIODATI: And last comment on this, Pat, and then I'm going to move on to state proposals.

MR. AUGUSTINE: Thank you, Mr. Chairman. It just seems that we now have delayed taking action on this. And it appears the earliest time we could have a decision on it would be for the next meeting which is in May. And it just seems, it seems foolish. And I think Dr. Gilford hit it right on the, or Jim hit it right on the head.

If the need has been identified, and we've got most of the elements of what we need in this document, and in fact the states who were interested in adding, clarifying, changing, and maybe directing, redirecting some of these items in here, are going to meet shortly thereafter this meeting, it would almost seem appropriate that we collectively as a board should agree to put a motion on the board and pass it with the understanding that the result of this group after this meeting, they will tweak up this document and get it ready to go out to the public.

Yes, there are a lot of tough elements in here. And we do say mandatory. And I agree. If we are going to get on with the job that we are told we have to do and must do and committed to do, I think this is another one of those hard decisions.

We in New York are strapped for money like everybody else. I'm concerned when we say mandatory in any one of these line items we're putting a real burden on. We're back to unfunded mandates again. So maybe the word mandated should be changed to recommended and then during a certain period or daytime go forward with you have to do it as mandatory.

But to have come this far with this document and now delay action on it again with the hopes of getting it back on the table in May is just, I think it's out of the question. So, if you would entertain a motion, fine; if you will not entertain a motion, let me know, Mr. Chairman.

CHAIRMAN DIODATI: Yes, I'd prefer not, Pat, to entertain a motion. I think there is a strong commitment here to work with staff to put something together for the board to look at, at our next meeting. And I think we will have a much better document at that time so I think that's the way to go.

MR. AUGUSTINE: Fair enough. So then we're assuming that at our next meeting we will be at this point again.

CHAIRMAN DIODATI: I hope so, yes.

MR. AUGUSTINE: Well, I think we should commit to it. I really do. Thank you, Mr. Chairman.

STATE PROPOSALS- MARYLAND

CHAIRMAN DIODATI: If we're going to have a board meeting then we'll be back with this issue at the next meeting. Okay, state proposals. I am only aware of one. The state of Maryland has a proposal. And I believe that the state of Maryland would like to make a short presentation relative to the proposal or to at least introduce it. Who would like to do that?

MR. KING: Thank you, Chairman Paul. I believe Lydia wants to present the technical committee's report on the Maryland options. Is that correct?

CHAIRMAN DIODATI: Okay, Lydia.

MS. MUNGER: Thank you, Mr. Chairman. Just to brief the board I'll run through the Maryland proposal and the components in it and then Doug has prepared a presentation on the technical committee's review of this proposal.

There are three main aspects within the Maryland proposal, all dealing with modifications to the spring migrant trophy fishery. The first aspect is the calculation of the 2006 spring trophy season based on adjusted quota.

The second is a series of size limit options and in the proposal it states that these are designed to keep the harvest under the cap. And then the third aspect of the proposal is the proposal to eliminate the quota for the Chesapeake Bay spring trophy fishery.

So the first aspect is the calculation of the 2006 quota. And in this calculation Maryland used the approved methodology that has already been approved by the technical committee to calculate the quota.

They based that calculation on the 2005 VPA estimate of abundance of Age 8-plus fish. And the number given in the proposal for the 2006 base quota is 55,208 fish. The second aspect is a series of size limit options and depending on how the first issue with the 2006 quota is decided there are actually two different sets of options.

This is just one of them, just to give you an idea of the various size limit options that Maryland has proposed for the various parts of the spring trophy fishery season. And I think it is probably more appropriate to come back to these after the first issue is decided. And then the third aspect is the proposal to eliminate the quota for the spring trophy fishery.

And there is a number of justifications provided in the Maryland proposal including that VPA-based estimates of Age 8-plus fish are at record high levels, that effort in the trophy fishery has varied without trend in recent years according to the MRFSS data, that harvest fluctuates in response to population size, that overall impact of fishing mortality of migrant fish on fishing mortality is negligible, and that the F in 2005 for this portion of the fishery was rather low.

And also Maryland states that if the quota were eliminated that the current regulations and reporting requirements would remain in place which are currently one fish at 28 inches from April to mid-May and then one fish between 18 and 28 inches and one fish greater than or equal to 18 inches for the remainder of the season.

And the last aspect provided by Maryland in this proposal is that should the coast-wide fishing mortality on Age 8-plus fish exceed the threshold, actions would be taken to reduce fishing mortality to the target in coordination with other states. And at this time I will take any questions for clarification and I can pass it off to Doug for the technical committee review.

MR. LAPOINTE: I'm missing Lew Flagg because this was his baby. There was a statement on one of the, I think it was on the last slide. And it said the impact on F is negligible and that the F -- I think Lydia said -- from this portion of the fishery is rather low.

And I've had conversations with some board members just about what I see as kind of the F creep in our overall program. And I have a concern about that and these are the last guys in the door so that's why I'm expressing the concern but that in fact over the course of the last number of years we've edged up and edged up and edged up.

I mean the idea of saying, gee, we'll add another proposal then we'll go over and if we go over it we'll use the state process to correct doesn't sit well with me now.

So I guess I don't need -- I guess I would like the technical committee's views on just on my concern, whether in fact that we are adding incrementally each time and the total amount of the increments should be of -- should it be of concern to the board?

MR. GROUT: Certainly any time you

increase harvest you have the potential of increasing F but as long as your stock continues to grow at an equal rate then you're not going to be really increasing F because you're still taking the same percentage of the fishery. But we point in our comments that, yes, this has a potential to result in a slight increase in F.

MR. WHITE: Thank you, Mr. Chairman. Could someone go over the history of this fishery, when this was instituted and what was the basis of the 30,000 pounds.

CHAIRMAN DIODATI: Risking to be the historian I won't do that but, Howard, do you plan to give some type of history in your presentation of this or could you?

MR. KING: I wasn't but I can.

CHAIRMAN DIODATI: I think it would be appropriate for Maryland to do that. We'll get any more comment from Doug or the technical committee on this and then we'll move into Howard's presentation. Howard, do you want to?

MR. KING: Yes, Doug, you recall a calculated average harvest for the Maryland spring fishery if we had the cap removed. Was that presented to you?

MR. GROUT: Are you talking about a projected harvest or historically what the harvest has been?

MR. KING: Well, it would be both, actually. It's based on historical catch. I believe that the harvest in Maryland during the spring without a cap with existing regulations, I believe the estimated average annual catch was in the low 40,000s. Do you recall that?

MR. GROUT: To be honest with you, off the top of my head I don't recall what that was. You know, Alexei might have something on that.

CHAIRMAN DIODATI: All right, anything else, Howard? We can take Doug's presentation now? Okay, Doug.

MR. GROUT: The technical committee reviewed the proposal. What I wanted to do first is sort of to give a refresher to the board of what our comments were on the first proposal because some of the things are applicable to this proposal.

I wanted to remind the board that the technical committee agreed that the way that Maryland calculated their 2005 harvest was appropriate. We did have some concerns that we mentioned before about using the log books instead of MRFSS estimates and also that the MRFSS did show some substantial increase in harvest but the log books did not.

But we did approve the way that they calculated their harvest. We also approved that the way that they calculated the 2005 and 2006 quotas were calculated according to the approved methods, that would have been approved a couple years ago.

We did, however, recommend to Maryland some more appropriate ways of calculating the quota in the future. We didn't feel it was appropriate to suddenly come in at that time and say we have some better ideas so we want you to make the changes right now because they had a good faith effort to calculate the quotas the way they had been approved by the board in the past.

Anyway, we've given them those recommendations and if we still continue to have a quota they've indicated that they will come back with these exploration of these ways that we were suggesting that might be more appropriate.

We also said that there were policy issues with these. One, the 2005 quota was recalculated after the fishery has occurred. And if the board was going to allow this to occur we asked the board to develop some policy guidelines for when a quota could be recalculated. And of course we felt that this quota was an allocation issue for the board.

Just briefly, these are the three things that we recommended for changes to the spring quota. We felt that Maryland should explore using the Maryland spring spawning stock survey instead of the VPA Age 8-plus.

That's because their fishery is on Maryland, primarily Chesapeake and Maryland spawning stock and the VPA calculates, the VPA Age 8-plus includes Delaware. It includes Hudson fish in there. So we thought it might be a little cleaner if they would at least look at the possibility of Maryland looking at their spring spawning stock survey as a way of calculating the quota.

We also, a comment was made by several committee members that the target F used for quota calculation is actually, should be lower than .27. The original

target was calculated based on the assumption of the fishery almost exclusively occurring on Age 3 to 8 fish and there is a shifting fishery.

This fishery is shifting fishery onto Age 8-plus fish in Chesapeake Bay. We also recommended using a flat top PR calculation. And actually at this meeting Alexei did present, did do a flat top PR calculation and compared to what we use now which is the PR out of the VPA and there wasn't that much difference in the overall quota calculations so that's probably one of the items that we'll take off the list.

Concerning the Maryland's proposal, current proposal, it was the consensus that we approved all the size limit options; however, we did have a couple concerns that we brought to Maryland that they were not taking into consideration the concept of recoupment.

That is, if you close an area, a season, or a size limit fishermen tend to try and catch fish outside the season, outside the area into the allowable size limit. So your savings aren't always 100 percent if you close off a certain size limit grouping like they're talking about right now.

We also had concerns about increased discard mortality with these proposals. But the bottom line is we did approve all the options. But we did have preferred options that we felt would be limit the recoupment and limit the discard mortality.

They are the 37-inch minimum size option. That's one fish a day from April 15th to May 15th and then they go to their current regulations from May 15th to the 31st. The other one was the 36-inch size limit with a one fish per day from April 15th to May 31st. And that's for the options where you use the original way of calculating the quota before -- this is without taking into consideration the new VPA.

The one option that we preferred if you allow them to recalculate the quota afterwards using the latest VPA was the 33-inch minimum one fish a day from April 15th to May 15th and then current regulations for the rest of the spring season.

Concerning eliminating the quota, our opinion on this was that it's an allocation issue for the board. We do provide some comments to you. But, yes, eliminating the quota might result in a slight increase in the coast-wide F.

We were concerned that there is no mechanism for determining the effect of the increased catch on the Maryland portion of the Chesapeake Bay stock. And our final comment is that the regulations right -- as things occur right now the regulations appear to be driving the harvest and not the quota. And that's because it's not a hard quota, it's a pay-back quota. A real quota that would control the harvest would be an in-season adjustment. Are there any questions?

CHAIRMAN DIODATI: Yes, I have one. At the start of this agenda item staff did hand out a public comment letter that expresses some concern about dealing with this quota. The individual -- Doug, I imagine this just came in, you know, on 2/20 so the technical committee hasn't seen these concerns but I'm wondering, has the committee ever looked at the time and place that the fishery takes place?

MR. GROUT: It was my understanding from an historical perspective that this was all supposed to be on post-spawn fish. That's the way Maryland had originally proposed it, that the location of the fishery, from my memory back many years ago, that they were saying that this was all on post-spawn fish. Is that still the case?

MR. KING: It's variable depending on the season, depending on the weather, water temperatures, fish behavior.

CHAIRMAN DIODATI: Okay, any questions for Doug?

MR. KING: I have one for Doug. Doug, when you talked about increased mortality I think you said that potentially there could be an increase in mortality but it's not necessarily absolute.

MR. GROUT: Yes, it depends on how much you end up harvesting. But given what we've seen recently that there has been an increase in the actual harvest numbers over the recent years clearly that has a potential as long as it outpaces the growth in the stocks.

CHAIRMAN DIODATI: Go ahead.

MR. KING: And then, Chairman Paul, since you brought up the letter from Ronald Mattson, we hadn't see this prior, either. I just want to reiterate to the board that in Maryland there is no fishing, not even catch and release, in the spawning reaches.

I hope everyone is noticing the juvenile recruitment index remains excellent, a lot of small fish coming out of the Maryland estuary as a result of good

reproduction and the maintenance of pretty good water quality in those areas.

And I wanted to mention, also, that in Maryland we have a depressed summer fishery. And we aren't attaining the commercial quota, that we're always maintaining a reserve, allowing a number of those fish to escape and swim away. Thank you.

CHAIRMAN DIODATI: Okay, Howard, I think we're ready if you're willing to present your request to the board.

MR. KING: I'm willing. Thank you, Paul. And good morning and thanks for the opportunity. And I believe Doug mentioned earlier the term good faith, that Maryland has calculated these options in good faith and we're working in good faith with the board.

And I was at the dentist Monday morning before I came to the commission meeting. I hope that's not the highlight of my week but it could be. But Maryland is faced with a situation that can range from hardship and sacrifice this spring to one of a partial collapse, particularly of the charter boat and recreational fishery in Maryland.

I don't want to understate that. Our annual fisheries in Maryland is either propelled by our spring fishery or perhaps in this coming year it could be retarded by what our spring fishery is.

It's the fishery that gets people thinking about fishing and it gets them out there on the water. And as a result of that, then there are later license sales; there are more bookings on charter boats. And so it really is the engine that drives our annual fishery, this spring fishery for striped bass.

I'm going to ask Nancy to put a slide up on the board and not to go over this time and time again but Maryland was saddled with a status quo quota in 2005 that was carried over from 2004 based on a VPA estimate that was in the same fishing year later revised but the Maryland status quo cap was not revised upward.

We requested that and our request was narrowly rejected at the fall 2005 meeting. The top graph there shows Maryland's performance in managing the spring quota, the spring harvest, actually, based on what a VPA estimated quota would be. And really we're under each year in terms of fishing the fraction of the stock.

It was only in 2005 that we exceeded that. We believe that the basis for that was that we did have an abundance of fish in the bay, weather conditions were all in alignment, the spring was cool, the upper Chesapeake Bay, the mid and upper bay held more fish longer and so there was a protracted opportunity for anglers to catch fish.

Can you scroll down a little bit, Nancy, please so that we might be able to see one through four. And you all probably can't read that. Okay, thank you. And also Doug has mentioned that we do have a charter boat log book reporting system where every charter boat -- and the number of charter boats is capped in Maryland.

You can't go out and get a charter boat license anymore. The captains and the boats report to us on their daily catch. And we have a lot of faith in that reporting system. And we have our own biologists out on the docks in the spring looking at fish coming in, biological sampling it and also looking at the charter boats.

So we have a lot of faith in that reporting system and that's why we use that system. The MRFSS estimate is an estimate that we all have to abide by but I really have some concerns about the estimate for the recreational catch in Maryland in 2005.

By observation and also from the MRFSS estimate of effort the estimated harvest on the recreational side just seems out of line to me. We have to live by it, I know. But we've got some serious questions about that.

And later you will see that Maryland is willing to impose a striped bass fishing permit for the spring fishery in future years. And if that is put in place then we will conduct our own annual estimate, not to argue the MRFSS estimate but to give them something else to look at as well.

I intend to go through a process here where I'll ask for three things. And I'm going to take them one at a time. Doug mentioned that -- and I said earlier we asked for a recalculation or re-visitation or revision of the cap in 2005.

The plan does require a state to pay back in the next year an overage of the prior year so I would prefer to look at this as Maryland providing a payback. It's just the way in which we do pay back that overage.

And so could I have the next motion or the first motion, please. Before I read this are there any

questions about my previous statement? Thank you. All right, can you increase the font size? And you can move up, up, up, up, up.

All right, my first motion is that I would **move to allow a payback for the 2005 spring overage of 29,720 fish through a combination of direct payback of 13,720 fish through increased minimum size and payback the remainder in kind through the future additional Maryland effort controls including the Maryland striped bass fishing permit, limiting the number of Maryland spring recreational striped bass fishing permits, maintaining the cap on the number of charter boat licenses, no increase in spring fishing season days, no liberalization of creel limits for the migrant fish in the spring fishery, and elimination of possession tournaments prior to May 1st.**

I believe that beginning in 2006 and in future years this would result in more than a payback than what is due as a result of the 2005 overage. I'd like to have some consideration on this alternate payback resolution to get us through the 2006 fishing season in Maryland. Thank you, Mr. Chairman.

CHAIRMAN DIODATI: Can you maybe scroll that down again, please Nancy? Pat, go ahead.

MR. AUGUSTINE: Thank you, Mr. Chairman. I think it's a lot of food for thought here. I would like to second it for debate purposes but to second it for the content so that we can get into some of the specifics.

CHAIRMAN DIODATI: I'd like to just scroll down and take another look at the beginning of that motion. I guess I have a -- I'll ask one or two questions, Howard, and then I'll go to the other board members. The direct payback of 13,000-plus fish, it's really not a direct -- are you going to reduce the quota by that amount?

MR. KING: My next motion if this is approved would be to increase the minimum size on striped bass during the spring season to account for that direct payback.

CHAIRMAN DIODATI: Okay. John, did you have a question on this?

DR. NELSON: Thanks, Mr. Chairman. I was wondering what, if Howard had done the calculations or his staff had done the calculations on the future, the controls that they were putting in place. How long did it take to pay back the remainder of the overage? How many years?

MR. KING: Can't answer that question. We don't have that information. We would report back to the technical committee and to the board each year on what we calculate the savings to have been.

CHAIRMAN DIODATI: Pres.

MR. PATE: Thank you, Paul. Howard, can you explain a little bit more about what process you would use to limit the number of permits that would be allowed in this fishery? I'm not suggesting that Maryland would propose something they can't do but I'm intrigued by the idea of limiting entry into a recreational fishery.

MR. KING: Yes, let me mention, also, that in Maryland, as in a number of other states likely, the number of recreational fishing licenses for our saltwater side, the Chesapeake Bay, are decreasing 3 to 6 percent a year.

Last year, in 2005, and this is incongruous with the MRFSS estimates perhaps, but we lost an additional 15,000 individual recreational fishing licenses issued for the Chesapeake Bay.

We can and will, if this is approved, issue a spring striped bass recreational fishing permit at the point of sale where licenses are issued. When that number is reached that is required to cap that fishery, to limit that fishery, then no more would be issued.

CHAIRMAN DIODATI: Mark, did you have a question?

DR. GIBSON: I don't know if it's a question. It's a statement. As I understand it this is the elimination of the quota management model with the substitution of the indirect fishing effort control program.

So this is a modified version of Item 4 on the Maryland proposal or a fleshed out version? There is no cap associated here. There is a proposal to control fishing effort in the future through a permit system but the cap is gone. Any direct payback provision in terms of pounds of fish subtracted from a future quantity is gone.

MR. KING: Not as a result of this motion directly. That would be a follow up motion, if we get that far. But in terms of this motion there is a 2006 cap in place of I think 55,000 fish. Do you remember, Doug? Yes, it's 55,208 fish, I believe.

CHAIRMAN DIODATI: Pat.

MR. AUGUSTINE: I was going to ask how -– thank you, Mr. Chairman. I was going to ask how that related to the proposal. And within the document it is stated that you would have, we have an option of allowing a 25,000-plus quota versus a 41,000-plus quota.

Where does that come into play? In other words, what we're trying to do -- I think I understand what you're trying to accomplish here but how would one relate to the other?

MR. KING: Are you asking me or are you asking Doug?

MR. AUGUSTINE: Well, I'm asking Mr. Chairman if he would ask you. Thank you. Or Doug.

CHAIRMAN DIODATI: Howard, would you respond, please.

MR. KING: Yes. There is for 2006 in place a 55,208 fish cap. If this motion is approved then Maryland would have an adjusted cap of 41,288 fish. We would have paid back 13,720 directly and through implementation of the control measures over time payback the remainder. The implementation of the control measures would be, though, in 2006 which is the next fishing year.

MR. AUGUSTINE: Thank you, Mr. Chairman.

CHAIRMAN DIODATI: And Ritchie.

MR. WHITE: Thank you, Mr. Chairman. Could you elaborate on the tournaments prior to May 1st, how many presently are being held and what kind of numbers of anglers?

MR. KING: There are currently four tournaments prior to May 1st in the Maryland portion of the Chesapeake Bay. The number of boats and anglers, the number of boats would exceed 1,800; the number of anglers, 8,000 to 12,000.

CHAIRMAN DIODATI: Go ahead, Roy.

MR. MILLER: Thank you, Mr. Chairman. Howard, I'm a little confused. If I could jump ahead for just a second to the proposed size limit, you're proposing to save 13,720 fish with an increased minimum size in '06. Am I correct in that? Would that size limit continue beyond '06 or would it go back to the 28-inches that was, I thought I saw in the previous discussion?

MR. KING: It would go back.

MR. MILLER: So if I may follow up, Mr. Chairman, that's a one-time size limit, a one spring size limit?

MR. KING: It's a penalty related minimum size increase.

CHAIRMAN DIODATI: Before I take any more questions I might have one for staff here, that what I don't want this motion to do is create future turmoil for the board and especially particularly as it deals with other quota managed components of our fishery.

That is if -- it sounds like this motion creates an opportunity to rather than payback a direct overage to modify the performance of the fishery in future years to reduce the potential of that fishery to catch fish.

We have had plenty of circumstances where commercial fisheries have gone over quotas and we just directly take them off in the following year. So I want to be careful about the precedent nature of this and how we deal with quotas in the future. Otherwise we're going to get bogged down. As long as we understand that.

Also, that eliminating the quota setting methodology that has if not, if it does not exist in the amendment it at least has become institutionalized in this board's eyes and I think the eyes of the public given that it's been used for such a long period of time. I thought it was part of the amendment. Perhaps it's not.

But if we're going to derail from that, then I think we might need a fuller discussion and understanding of that. Those are my concerns immediately. I'm not opposed to moving this motion forward certainly for more discussion and a potential vote. But, those are my concerns. Howard.

MR. KING: Maryland has not proposed the elimination of the cap at this point, Mr. Chairman.

DR. GIBSON: Thanks. Paul, I agree with the points the chair just raised and I think there is another one. This motion seems to presume that the board has accepted the revision to the 2005 quota based on updated information. And I don't know that

that has happened.

Otherwise, Option A is obsolete and meaningless in the material on the CD. And that seems to be an important policy question as to whether we can go back and adjust quotas after the fact with new information. Many of these assessments display retrospective patterns.

Information changes. And it can change direction sometimes. So I agree there are some important policy ramifications here as to how this could happen, that individual states could go back and say after a few years we updated the information and we should have gotten more fish so we're making a correction. That's a dangerous place to be and we need to think through that.

CHAIRMAN DIODATI: And furthermore I think the board has already acted on that issue at a previous meeting. I'll go back to you, Howard, and then Eric.

MR. KING: I would only add for Mark that, no, we do view this as a payback. Otherwise, we wouldn't be proposing the effort control measures. We would just be asking for a recalculation.

MR. ERIC SMITH: Thank you. The thing I find intriguing about this, although in part I agree with a lot of the points that different people on different sides of this have said, this reminds me why I don't like quota management in recreational fisheries.

And it's why if nothing else I applaud Maryland for trying to find a way out of the thicket, because we're all stuck in these things, whether it's fluke, scup, black sea bass, in this case for Maryland striped bass.

And at least they're making a good faith effort to try and find a way to do it differently so that they don't get hung on what happens with fish biology or uncertain data or variable data that comes back to haunt you. So I kind of say good for them in that respect.

I don't see the technical committee signaling that this creates any great problem for the resource. There are -- it's really the policy implications and how we feel about them. And, frankly, I agree.

It is an unconventional one but it is a payback because it's an offering of different types of measures trying to salvage as much fishing opportunity as they can, which all of us do at various times.

So, you know, on balance I think it's an approach that if nothing else we ought to look to do for this year and see how it works out, see if -- you know, we may have to do a course correction in the future and maybe we don't.

But if nothing else we get to a different way of managing that doesn't include a quota management for a recreational fishery for one species and one state. That will be a model for the rest of us to try and use in dealing with the other problems we have.

Now having said that there are two concerns I do have with this but I think they're things we have to be thinking about for the future. One is it does tend to rearrange fishing opportunities up and down the coast because the original way the stock was managed or the fishery was managed ten years or so ago was small fish bay fisheries, certain fishing mortality rate, big fish coastal fisheries, different fishing mortality rate.

And as this transition has occurred to change the nature of the bay fishery, that has an implication for rearranging fishing opportunities up and down the coast. We ought to watch that. I don't see it as a huge, big problem overnight but it's something we ought to watch.

The other thing I got as technical advice from my own staff was inevitably this means the technical group has to effectively recalculate what the whole target fishing mortality rate issue is because when you start to change the nature of the fishery that repositions what the fishing, target fishing rates are.

And we ought to be tasking them to do that and looking at that. And I'm happy to say I managed to say everything there without using the "A" word which I'm beginning to really dislike a whole lot. So, reposition and rearranging fishing opportunities, my euphemistic approach there. Thank you.

CHAIRMAN DIODATI: Bob Beal.

MR. ROBERT E. BEAL: Thank you, Mr. Chairman. Just a couple comments to hopefully clarify where we are and what this motion seems to mean. Mark Gibson made the comment that this motion assumes that, or if this motion is passed it assumes that we're going back and recalculating the 2005 quota based on the updated VPA results that were presented at the annual meeting.

Actually, what this motion does, it does not do that.

It acknowledges the 29,720 fish overage which is the overage based on the existing 2005 quota. So this motion doesn't contain or doesn't back calculate it.

And it doesn't raise the policy questions of can we go back and recalculate quotas in previous years or should we do that. I think the policy question that's contained within this motion is that the plan, as Howard mentioned in his preamble, the plan includes the provision that any recreational overage of a quota is taken off the following year's quota.

This motion proposes or presents the policy question of we've got, you know we've got a 29,720 fish overage. Maryland is proposing to pay 13,720 of those fish back directly and then the remainder of that they're making up through the, I don't know, four or five different provisions that are included in this option.

So that's really the policy decision here rather than going back and looking at previous years' quotas. So I just wanted to make sure we're all on the same page. That's my interpretation of it.

CHAIRMAN DIODATI: I'll go to George and then I'd like to move this question along because I understand that you have three other, two other components. George.

MR. LAPOINTE: Thank you, Mr. Chairman, and thank you, Bob, for that clarification because that was a concern of mine. Paul, you had mentioned I believe the policy issue on how we handle overages and that's one of my big concerns.

You know Eric Smith called it a one-time adjustment and it is in this case but if it works, I can see –- we don't have summer flounder in the state of Maine but advance yourself two hours and think of recreational overages and think of how the precedent could be used.

And you could say it's a federally-managed species and not a state-managed species but I can imagine people being pretty creative about that so I think we've got to be pretty cautious about how we wade into this issue from the policy perspective.

CHAIRMAN DIODATI: I'll take one or two comments from the audience. Go ahead. Is this in favor of the motion? I'd like to take one or two in favor and one or two opposed.

MR. DICK BRAME: It's really neither, a comment.

CHAIRMAN DIODATI: Go ahead. That's a good one.

MR. BRAME: I'm more than intrigued by limiting the recreational effort. I'm kind of stunned at the proposal. And I just -- Dick Brame with the Coastal Conservation Association. And I wonder if it has been run by the tourism people and the recreational fishermen in Maryland.

And I would like to see, if we're going to do this, and it would set a precedent, how Maryland decides which fishermen are more equal than other fishermen. Thank you.

CHAIRMAN DIODATI: Next.

MR. BILL WINDLEY: Thank you, Mr. Chairman, Bill Windley, the Maryland Saltwater Sport Fishermen's Association and Maryland chair of Recreational Fishing Alliance, a group of over 10,000 people in Maryland.

I also share some of the concerns that Mr. Brame expressed until I would see how this particular plan would be implemented. As for other parts of the motion, there are a couple of things that Maryland anglers seem to be on the same page with and that is that the past couple of years have been somewhat anomalous in our fishery.

Climatological factors have been such as to keep the fish in the bay significantly longer than they have been in years and years past so that's presenting us with more, you know, more option, more access to the fishery.

And we really feel that to have to do a whole lot here may be almost a moot point when we feel like that mother nature will smooth that out pretty much in the end. The other thing is please remember that this fishery provides probably hundreds, at least dozens of small towns in Maryland with a spring income after a long, long, hard winter.

And the recreational fishermen of Maryland get out there and get that start and get that money moving. So if you can help us here a little to ease out of this problem we'd appreciate it. Thank you.

CHAIRMAN DIODATI: One more, Ed.

MR. ED O'BRIEN: And vice chairman of the National Charter Boat Association. Ed O'Brien. And as a matter of fact my chairman Bob Zales and I

are in town just to talk about this subject relative to Magnuson when it comes to overages and the next year penalties.

Howard I think has presented a very good plan. There is a lot of people that want to tar and feather him for it because he is talking about going from a 28-inch to a 33-inch fish. But based upon the situation here, the Maryland Charter Boat Association totally supports that.

Now I am a little bit of a historian and probably a very fallible one. But I remember when we came up with this 30,000. And I remember how the people on the board really saw the situation as necessary and really helped us out there on this trophy fishery.

The number was rather arbitrary. And we don't feel that the recovered fishery which was subsequently declared and the general conditions of the fishery in the country that, you know, the number has gone up enough. The situation last year was an anomaly. It was an anomaly because of the weather.

And it was an anomaly because of the difference between the charter boat reports, which we really push our people to make accurate because it keeps us a credible seat at the table -- and I hope it gives us a credible seat at this table -- the charter boat curve goes like that, very gradually with a slight increase, some increase in 2005.

The MRFSS data in this case went zoom, like that. Now there is probably good reasons for that, again the weather. But I think the main reason is the way that the recreational fishery is being looked at.

The recreational fishery on the Chesapeake Bay has gone down, as Howard has described. They're there on weekends and they're good fishermen. But during the week the pressure is just not there anymore.

When we came out of the moratorium and as we took the steps to make it a recovered fishery, adaptive, gentlemen, that's what you've been is adaptive. The pressure has declined. And we certainly would appreciate you being adaptive here to what could be potentially a disaster for us if we had to payback the total penalty right now.

And we welcome the day when we could get to a situation where we don't have a cap. I don't know how many other caps there are around but it seems to me our situation on the spring fishery is rather unique.

The answer has always been that the reason it has to be watched so closely, and I understand that, is because Maryland has a fishery where we go to 18 inches from there on out. And I'd just like to make a comment on that.

You know, you've heard me expound before that we wish it was a 16-inch fish because then we wouldn't be catching 200 fish and throwing them back trying to catch six we could keep. So that fishery is not what it used to be but it's not what it used to be because of good news.

And that's because our nursery has created an unbelievable number of small fish, 8, 10, 12, 14, 16, 17 inches. And I think those fish are driving out the keeper size fish that my captains along the shore tell me they're seeing smaller fish than they've ever seen out there before.

So we do have some unique circumstances at the head of the bay. Striped bass is everything to us. We don't have the flounder, the bluefish. We don't have the sea trout which we used to have. And the croaker are doing a different migration pattern. So 2006 is a vital year for Maryland sport fishermen and charter boats. And thanks for hearing me out, gentlemen.

CHAIRMAN DIODATI: One, Pres, I'm sorry, I'm going to go back to the board and then I'm going to move this question. Pres, did you have something?

MR. PATE: Just a point of clarification, Paul, to Howard. Howard, are you saying that the increase to 33 inches will decrease landings by 13,000 fish? Is that decreasing it below what was harvested last year or below what the approved cap is?

MR. KING: Below what the approved cap is this year.

MR. PATE: Okay, and the other measure that you're imposing past that one year size increase are intended to over a longer period of time payback the total overage from last year?

MR. KING: That is correct.

MR. PATE: Have you considered –- may I continue, Paul?

CHAIRMAN DIODATI: Go ahead.

MR. PATE: Have you considered extending

the 33-inch size limit for another year?

MR. KING: Not as part of this motion but that's always an option.

MR. PATE: Thank you.

CHAIRMAN DIODATI: Ritchie.

MR. WHITE: Thank you, Mr. Chairman. In thinking about Eric Smith's comments as to a different way of handling overages in the future for the recreational fishery I think that has some merit.

But my concern is that I think the way to accomplish that is to do it through the policy board and to come up with a policy that would be useful for all fisheries and, you know, not just striped bass in this instance.

So I have a concern that we haven't thought that through carefully and that this would set the precedent to start that ball rolling. So unfortunately I'm going to have to oppose this motion.

CHAIRMAN DIODATI: We are running out of meeting time. I'll take a few more. John, did you want to say something and then Roy?

DR. NELSON: No, I'll pass.

CHAIRMAN DIODATI: Roy.

MR. MILLER: Quickly, Mr. Chairman, I just wondered -- if memory serves and I apologize for having an incomplete memory in this regard -- aren't Virginia and the Potomac River Fishery Commission also governed by a cap in the spring as well? And what would be the implication for those two jurisdictions of passing this particular motion?

CHAIRMAN DIODATI: Bob Beal.

MR. BEAL: Thank you. The cap that we're discussing, the Chesapeake Bay spring trophy cap is just that. It actually applies to the landings from Maryland, Virginia and the Potomac River Fisheries Commission.

The history is that, I don't know, over 90 percent I think there may have been I don't know 2,000 fish out of the 65,000 that were landed this year came out of the other jurisdictions. So Maryland controls the vast majority of this quota, not controls it but lands it.

CHAIRMAN DIODATI: A.C.

MR. CARPENTER: To answer Roy's question, our commission is holding up announcing the spring trophy season rules until after Maryland has gotten approval and finalized theirs. And we do intend to adopt the same minimum size limit for 2006 as Maryland, whatever Maryland gets approved. So we would be in part of this quota and contributing our ability to control the harvest.

CHAIRMAN DIODATI: Mark, you'll have the last board comment.

DR. GIBSON: Thank you. I guess I still differ with Bob Beal, respectfully, with Bob Beal's interpretation of what this motion does. Howard stated there is a 41,000-plus fish cap in effect for 2006. And that number flows directly from the revisions to the 2005 quota based on the 2004 stock estimate adjustments.

Now they have the original overage number up there but to get to that, that's finessed with a 13,000 payback through a minimum size and the remainder to come from some kind of in-kind effort controls down the road. So I still think we're operating under the same assumption that the board has gone ahead with that, along with that calculation.

So I'm still a bit troubled by that. And the other part of this is there are more motions to come and I don't really know what they are. This is kind of like leading a horse to water but I can't quite see the water yet. I can smell it but I can't see it so I'm still having some problems.

CHAIRMAN DIODATI: Do you have to, Howard? Go ahead.

MR. KING: I feel like I do. The only other motion to follow would be to establish a minimum size to meet that 13,720 fish reduction.

CHAIRMAN DIODATI: I'm going to go back to this gentleman in the public, the last comment very quickly, sir.

MR. RICH NEVATNI: My name is Rich Nevatni. I'm with the Maryland Saltwater Sport Fishermen's Association. And we certainly do need this fishery in the state of Maryland. Economically it's a real boost for us in the springtime.

And furthermore I go back a long way. And I was there originally when you all put the cap on the Maryland fishery. And that number was basically taken out of the air by Pete Jensen. And it was never

expelled upon any more. And furthermore I don't know of any other state that has a cap on their fishery.

CHAIRMAN DIODATI: Okay.

MR. NEVATNI: I just don't think it's right. Once again, let's stop and think about how would you like to have a cap on your fishery or how would you like to have a limited entry?

CHAIRMAN DIODATI: Okay, thank you.

MR. NEVATNI: So once again I hope you all take that in accordance with the vote.

CHAIRMAN DIODATI: Thank you. I think we need a two-minute caucus here. I have a sense that the board is going to want that. All right? Okay, two minutes. Go ahead, Wilson.

DR. WILSON LANEY: Paul, I may be in the same position as other board members on this but I'm sort of facing a dilemma here in that I hear Bob saying with regard to the numbers that that doesn't incorporate a revised 2005 quota.

And I hear Mark saying that there is an implicit assumption that that revision has been made. And I would vote differently on this motion depending on which one is correct. So could somebody clarify that for us?

CHAIRMAN DIODATI: I'll go back to Bob. I was going with Bob's description of the motion but I'll go back to Bob.

MR. BEAL: The last thing I want to do is debate with a commissioner but –- and my comments were going from or based on Table 2 in the proposal that Maryland has put together, the size limit options for the Chesapeake Bay, Page 7 of that document.

So, as I was saying Table 2 contains the rationale that I was using to make my statements. During this caucus I'll go down and talk to Mark Gibson and see where he and I are differing and then we'll try to give an opinion when we come back.

CHAIRMAN DIODATI: Two-three minutes. Board members take your seat. If we can get back to our seats, please. Thank you. There was a question that Wilson Laney presented before the break and I'll ask Bob Beal if he has a response to that question and then I'm going to call for a vote on this motion. Bob.

MR. BEAL: Thank you, Mr. Chairman. As I mentioned, I went down and talked to Mark Gibson and we have both decided that we're either both right or both wrong. The motion is really, as I mentioned earlier, it directly gets back to the, or it acknowledges the 29,720 fish overage.

The direct repayment that's included in the motion, the 13,000-plus fish, gets you to the higher quota that's presented in Maryland's proposal which is the 41,288 fish. And the additional measures move you in the direction of the 25,488 fish.

However, as Maryland said, you can't directly calculate what the effects of those additional measures are going to be but they move you in the direction of the smaller quota which is the 25,488 fish. So it's kind of a combination of Tables 2 and 3 that are included in their proposal.

CHAIRMAN DIODATI: All right, we're now ready for a vote. You don't require a roll call, Howard, or do you?

MR. KING: I think, yes I do.

CHAIRMAN DIODATI: Okay, Lydia, do you want to do that?

MS. MUNGER: The state of Maine.

STATE OF MAINE: Null. N-u-l-l, null.

MS. MUNGER: New Hampshire.

STATE OF NEW HAMPSHIRE: No.

MS. MUNGER: Massachusetts.

COMMONWEALTH OF MASSACHUSETTS: Abstain.

MS. MUNGER: Rhode Island.

STATE OF RHODE ISLAND: No.

MS. MUNGER: I'm sorry, was that no or null?

STATE OF RHODE ISLAND: N-o.

MS. MUNGER: Thank you. Connecticut.

STATE OF CONNECTICUT: Yes, y-e-s.

MS. MUNGER: Thank you. New York.

STATE OF NEW YORK: Yes.

MS. MUNGER: New Jersey.

STATE OF NEW JERSEY: No.

MS. MUNGER: Delaware.

STATE OF DELAWARE: Yes.

MS. MUNGER: Pennsylvania.

COMMONWEALTH OF PENNSYLVANIA: Yes.

MS. MUNGER: Maryland.

STATE OF MARYLAND: Yes.

MS. MUNGER: The District of Columbia I don't believe is here. No. Potomac River Fisheries Commission.

P OTOMAC RIVER FISHERIES COMMISSION: Yes.

MS. MUNGER: Commonwealth of Virginia.

COMMONWEALTH OF VIRGINIA: Yes.

MS. MUNGER: North Carolina.

STATE OF NORTH CAROLINA: No.

MS. MUNGER: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: No.

MS. MUNGER: U.S. Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: No.

CHAIRMAN DIODATI: The motion carries, seven to six, one abstentions, one null. Howard.

MR. KING: I'd like to thank the board. The next **motion will be for Maryland for the 2006 season to increase the minimum size on the spring striped bass fishery from 28 to 33 inches from April 15th through May 15th.** And you can eliminate the rest of that motion.

CHAIRMAN DIODATI: Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. I second the motion.

CHAIRMAN DIODATI: Okay, any discussion on this motion? This is simply bookkeeping to follow up with your previous motion, I take it. You have to do this, right? Ready for a vote? John.

DR. NELSON: Mr. Chairman, thank you. This mic seems to have better luck than on a lot of things, Mr. Chairman, so I'll use this. This motion doesn't have a, oh, it does have '06 in there.

Is it the sense of the motion or that it will only be for the one year or does that provide or can they provide some flexibility to have the more direct payback occur in a more timely timeframe?

Those indirect measures that were voted on don't, they leave I think everyone in limbo. And I would be much more comfortable if the state of Maryland was making a commitment to payback via this size limit over the course of my calculation would be at least two and a half years, so a definite timeframe for making that commitment to payback that overage so that it's not a nebulous situation.

My concern is that we are setting up an issue where when we ask for paybacks for other fisheries, as we've discussed, either we're going to provide that flexibility of doing it over a timeframe or we're going to say you have to cut it, you have to do that, payback right away. So I would ask the motioner to provide that type of clearance not just for the '06 season.

CHAIRMAN DIODATI: So would we be looking for an amended motion?

DR. NELSON: Well, I was trying to do it as a friendly adjustment, Mr. Chairman.

CHAIRMAN DIODATI: Howard.

MR. KING: Well, I would personally commit to a payback over three years but depending on the weather conditions this year we're as likely as not probably to satisfy that full payback provision with this motion.

Following the closure of the spring period we would come back to the board and make a proposal for 2007. But I'd like to wait and see what the outcome of this season is before I do that.

CHAIRMAN DIODATI: Pres and then Roy.

MR. PATE: Thank you, Paul. I agree with John's assessment of the certainty that I need to cast a positive vote for this. Had that certainty been more apparent in the previous motion I could have supported it.

The reductions that are achieved by this change are empirical. And we know with some certainly at least theoretically how quickly the payback will occur. The uncertainty of the other measures, like the limited entry on the permit system, were not great, were so great that I couldn't support the last motion.

But were Maryland to amend this to extend it to a period that is more empirically apparent and justified, then I'd be willing to support their request.

CHAIRMAN DIODATI: Roy.

MR. MILLER: Mr. Chairman, I'd be willing to offer an amendment to this motion just for a slight wording change. Let me just phrase it before you write anything down.

If the motion were amended to read that the 33-inch size limit would be in effect for at least one year, with subsequent year adjustments to be determined based upon the information from their fishery, would that get at the gist of John Nelson's concerns and Pres' concerns?

CHAIRMAN DIODATI: Howard, you may want to perfect that.

MR. KING: Well, yes, I would like to offer an **amendment to this to increase the legal minimum size of striped bass in the 2006 Maryland spring fishery from 28 to 33 inches for the period April 15th through May 15th with subsequent future year provisions to payback the remainder of the 2005 overage subject to approval by the Striped Bass Technical Committee.**

CHAIRMAN DIODATI: Does the seconder accept that?

MR. AUGUSTINE: Yes, Mr. Chairman.

MR. KING: Yes, I would also like to remind the board the period April 15th through May 15th is the only change in the Maryland striped bass spring fishery that we're proposing. The rest of the season remains the same. I just hope that's clear to everyone. Thank you.

CHAIRMAN DIODATI: George.

MR. LAPOINTE: I guess a point of **clarification, the approval should be by the board with technical committee review and not by the technical committee.**

CHAIRMAN DIODATI: Can we make that change? And procedurally this is, we're capable of being able to do that. All right, unless there are any other questions about this I think we can move to a vote. It will be read. Ritchie.

MR. WHITE: The intent is to payback the total amount, to continue regulations, a change in regulations until the total amount is paid back. Is that the intent?

MR. KING: Yes.

CHAIRMAN DIODATI: Howard, would you please read the full motion as it reads now.

MR. KING: The motion currently reads: move to increase the legal minimum size of striped bass in the 2006 Maryland spring fishery from 28 inches to 33 inches for the period April 15th through May 15th with subsequent future year provisions to payback the remainder of the 2005 overage subject to approval by the Striped Bass Management Board. That's the way it reads right now.

CHAIRMAN DIODATI: Vince.

EXECUTIVE DIRECTOR O'SHEA: I'm sorry, Mr. Chairman, I didn't hear the answer to Commissioner White's question.

CHAIRMAN DIODATI: The answer was yes, that these provisions would remain in place until the payback is, the overage is paid back.

EXECUTIVE DIRECTOR O'SHEA: Thank you.

CHAIRMAN DIODATI: Okay, I think we're ready for a vote. All in favor of the motion raise your hand, please; all opposed; abstentions; null votes. The motion passes. Howard, do you have a

final discussion here or a motion?

MR. KING: Maryland won't be nearly this entertaining the next board meeting.

TECHNICAL COMMITTEE RESPONSE TO BOARD REQUESTS

CHAIRMAN DIODATI: So you're through. Okay, we're going to move quickly to the technical committee update and I think there was a response to some request of the board.

MR. GROUT: Okay, the first thing that I wanted to talk about very briefly was a request to change the compliance report date deadline. Just to give you a very brief background, originally it was May 15th.

Last year it was changed to July 15th to give states sufficient time to get all the information they needed in for the stock assessment. We were finding May 15th to be problematic for a lot of states.

But when we made it July 15th we found it problematic on the other end. We weren't getting the information in time enough to incorporate it into the assessment. **So we've made a request to the board that we move the compliance date back to June 15th**.

CHAIRMAN DIODATI: Is there just acknowledgement that we'll go along with this? I think I don't see this as a reason for a motion to approve unless there is an objection. Seeing no objection.

MR. GROUT: Okay, our next request, we were tasked by this board with coming up with an action plan for our 2007 peer review. One thing that the Striped Bass Technical Committee felt was very important is that we need time to prepare for this.

And the first thing that we would like to request of the board would be that we not conduct a full assessment in 2006. We would provide you with what we call a metrics update. That is recreational and commercial harvest estimates, young of the year index updates and other indices of abundance that we provide.

But we would not provide you with a point estimate of F or SSB. That's what takes the lion's share of the time. Our justification behind this is that we would use the time normally used for the assessment to explore ways to improve the assessment.

We want to look at evaluating the fishery's dependent data collection system. We did that for the fishery's independent data collection system over the past three years. We want to take a review of that, of the commercial and recreational fishery's data collection systems in each state.

We also want to explore other models to the VPA. This came out of one of the things in the MRAG report. We want to look at the ICA which does not assume that the catch at age is measured without error which is what the VPA has as an assumption.

We also are going to explore statistical catch at age models, etcetera. We want to refine the tag-based estimates, look closer at the catch equation which we presented to you for the first time last year.

We also want to explore integration of the catch at age and tagging data into a single assessment model and then in general provide, give us time to prepare for that 2007 peer review. Further justification, there is a commission guidance policy that was adopted several years ago that annual updates are generally not needed for species that are not overfished and overfishing is not occurring.

In our 2005 assessment striped bass are not overfished and overfishing is not occurring. There is also within that same policy it says the timing of updates should be based on life history and management needs and assessment scientist workloads.

Striped bass are a long-lived species. They live to be 25 to 30 years old. So they are very resilient to short periods of overfishing. Basically we don't think that if we're overfishing by one year that it will be critical to the stock status.

I think I'll leave it from there. I have a timeline of items that we're going to work on and what we're going to prepare but it all depends on whether you give us the approval not to do a complete assessment, a full assessment this year.

CHAIRMAN DIODATI: Bob or Lydia, I take it that the current amendment does allow for a shortened assessment?

MR. BEAL: I think, the plan does state that the assessment will be updated every year; however, I think that you know given the, I mean the management board is still going to get a read on what the status of the stock is this year through the

landings and some of the survey information that the technical committee will be working up.

So I think that addresses the, you know the requirement within the plan. And this is just a one-time deferment to allow the tech committee to work on the 2008 stock assessment.

CHAIRMAN DIODATI: Questions, John.

DR. NELSON: Mr. Chairman, I think that the technical committee has stated their case very well and they've got a lot of things they need to do and I think we ought to give them the opportunity to do all the work we want them to do.

CHAIRMAN DIODATI: That puts them on the spot to provide an outstanding assessment in 2007. Pres.

MR. PATE: Thank you, Paul. I'd like to raise a question of the bearings that this deferment will have on the compliance measure in the plan for North Carolina to do an annual stock assessment on the Albemarle Sound stock.

And for the record, that does establish a cap on the landings for North Carolina so we know what that's like. If this -- historically we have used the annual stock assessment to make a determination on the size of landings, our commercial and recreational harvest for the next year, either reduction, status quo or increase.

My preference if we are going to extend the timeline for the coast-wide assessment would be to give North Carolina a one-year grace period on that compliance requirement to give us more time to work on the assessment and make a determination of whether or not we would come back to the board with a request for an adjustment in our quota for next year.

So, take the pressure of meeting the compliance deadline off but maintain the option of coming in with an assessment should we decide to do one this year and discuss the quota changes.

MR. BEAL: I think it's the same situation as for the coast-wide assessment. If North Carolina wants to defer this and put together some kind of general characteristics of what's going on in the fishery, rather simply landings and some survey numbers out of North Carolina, and report that back to the management board, that would provide the insight that the board needs to determine the status. But that doesn't preclude North Carolina from the flexibility of doing a full stock assessment and requesting an adjustment of the quota this year.

CHAIRMAN DIODATI: **Does the board feel that they want a motion on this or could we just agree that we'll allow a deferral of the full stock assessment in 2006**? Okay, as long as that's well documented in the proceedings. Doug, consider yourself deferred.

MR. GROUT: Thank you very much. We greatly appreciate this time. And we will come back with an outstanding assessment for you. You may not like the answer but it will be outstanding -- only what you've asked us for.

Here is the timeline that you asked us for. In March through June we're going to look at the fishery's dependent data collection methods and do some evaluation. We, depending on what we get from our initial e-mail response and our initial look through it we might want to even do a full-fledged data workshop.

We're also going to begin an internal critique of the VPA tagging methods and reference points. Basically we're going to send something out to our assessment committees and tagging committee asking in general what are we happy with, what would we do to improve both the tagging VPA and the reference points.

In the summer the two committees will get together and address the issues that come up by this e-mail exploration. In the fall -- excuse me, that's when we're going to have the joint committee go over both of the responses to it.

The technical committee will review that in the late fall and also review the fishery's dependent data collection methods. At the annual meeting we'll provide you with the metrics update for the, of the 2005 data.

In the winter we plan to put together a subcommittee that will explore integration of the tag data and the catch at age data into a single model, see if that's something that is feasible or not.

In the summer of 2007 we'll have a full assessment workshop. That includes both the tagging data and the modeling data that we use. In the fall of 2007 the technical committee will review and approve the assessment.

The peer review from what we understood is scheduled for November-December 2007 but you folks at the board have to make that decision as to whether it's going to a SARC or an external but that's yet to be done. And then we would present the peer review results to you in January at your January-February 2008 meeting. Any questions?

CHAIRMAN DIODATI: Final questions for Doug? Seeing none, Dr. Laney, I believe you want to give an update on the tagging cruise.

UPDATE ON 2006 COOPERATIVE WINTER TAGGING CRUISE/PLANNING UPDATE FOR 2007 CRUISE

DR. LANEY: Yes, Mr. Chairman, a very brief update, if Nancy will push the buttons for me up there. Okay, the 2006 cooperative winter tagging cruise was conducted. This was the 19th cruise in the time series, conducted January 19th through the 28th on the NOAA research vessel Oregon II.

We did 302 sets -- I can't see my own numbers here -- and processed 295 of those. We had a few of them that were full of non-target species that were dumped. We had multiple records set on the cruise this year. And we had a scientific party of 12 people. Go to the next one, Nancy.

These are our partners. And I would like to point out here and express a special appreciation to the states of Maryland and North Carolina in particular who have staffed the cruises for all 19 years. And at some future meeting I'll give you more details about how much that is in terms of dollars and cents. But pretty much the usual suite of partners. Next slide.

And there our intrepid crew is. Many of you will recognize some of those individuals. Go on to the next one. One of our target species is Atlantic sturgeon. Next slide. This year we caught six on one tow which is a record.

We caught 29, also a record. We tagged and released 24 of those. We didn't tag and release the other five because the pit tag reader gave up the ghost on us. And you can see the size range there.

We did have one recapture of a previously tagged animal. Next slide. We also tagged horseshoe crabs again this year. Next slide. Tagged and released 12 mature horseshoe crabs. We caught a lot more than that but we don't tag the immature ones. Next slide.

We also did spiny dogfish tagging this year under the auspices of the Fish and Wildlife Service and NOAA and the Mid-Atlantic Fishery Management Council who put $8,000 into the spiny dogfish tagging program this year. Next slide.

We processed 12,000-plus spiny dogfish; tagged and released 9,555 of them; caught 3 of them back; sacrificed some for a fecundity maturity study. Once again this year we aren't seeing the small fish out there. We didn't see any below 631 millimeters total length. Next slide.

And finally striped bass, this one was the largest one we caught this year, 48.5 pounder. Next slide. We caught 5,545 of them; tagged 4,445, a pretty good size range from one that was 311 millimeters all the way up to 1,214, the big one.

And let's see, go on to the next slide. We also do summer flounder measurement and this year we measured -– next slide –- 743 of them. A pretty good size range on those. We caught 10 percent of the ones in one tow that we measured.

And finally a special word of appreciation to Lydia Munger who was out with us for the third year this year. And we will miss her sorely on future trips.

CHAIRMAN DIODATI: Any questions for Wilson?

DR. LANEY: Well, Pres wanted me to mention that we did do dietary analysis. We had a graduate student from East Carolina University with us who is doing the maturity fecundity study on the female dogfish. And so the ones we sacrificed, we kept those guts also. And many of the guts, I didn't mention it but you noticed VIMS is up there as a partner.

We are partnering with them in the Chesapeake Trophic Interactive Laboratory Services -– Jack, I never get that name right –- program with Dr. Rob Latoure and looking at the diets of a lot of the species from the Chesapeake Bay when they're on the wintering grounds offshore in North Carolina. So we did take a lot of diet samples and those all go to VIMS for analysis.

CHAIRMAN DIODATI: Thank you, Wilson. Go ahead, Vince.

EXECUTIVE DIRECTOR O'SHEA: Thank you, Mr. Chairman. I'm not, I appreciate Dr. Laney giving us an update. And I would just like to highlight for the board that you know there is, we

often talk about state-federal partnerships.

And I think this cooperative tagging cruise is probably one of the best examples that I can think of in this commission of that state-federal partnership. It was a NOAA research vessel. The senior scientist was a Fish and Wildlife Service doctor and it was staffed by or helped staff by commission staff and others as well as representatives from the states.

So, I really want to comment the Fish and Wildlife Service and Dr. Laney for doing such a great job with this cruise. So many times we look at things that go wrong and this is a great example of something that is going right so thank you, Mr. Chairman.

ADVISORY PANEL NOMINATIONS

CHAIRMAN DIODATI: I believe we have two nominations to the advisory panel. Lydia, do you want to run through those.

MS. MUNGER: There are two nominations that have been submitted to the management board for the advisory panel and those individuals are: William Donovan, a recreational fisherman from Pennsylvania, and J. Edwin Cook, a recreational fisherman from Rhode Island.

CHAIRMAN DIODATI: Someone want to start with Pennsylvania? Does someone want to speak on this? Gene.

DR. EUGENE KRAY: Thank you, Mr. Chairman. Bill Donovan is the owner and publisher/president of the New Jersey Angler Magazine. He also hosts a fishing show called New Jersey Angler Video Magazine. I've known Bill for about five years. He's an avid striped bass recreational fisherman.

He fishes from the surf as well as from the boat. And I've fished alongside of Bill on a number of occasions and I always wonder why he catches more fish than I do and I finally figured it out. He's smarter than I am. So I would nominate, **it's my pleasure to nominate Bill Donovan for the advisory panel**.

CHAIRMAN DIODATI: Pat.

MR. AUGUSTINE: Second, Mr. Chairman.

CHAIRMAN DIODATI: Okay, maybe we could do both together. The other is from Rhode Island. Mark.

DR. GIBSON: Yes, thank you, Paul. **It's a pleasure to nominate Ed Cook for the panel**. He's an enthusiastic fisherman, a member of the Rhode Island Saltwater Anglers and a frequent attendee at our marine fishery council meetings, with a lot to offer, so we'd like to see him added to the panel. Thank you.

CHAIRMAN DIODATI: Is there a motion? That is a motion, right, Mark?

DR. GIBSON: So moved.

CHAIRMAN DIODATI: Seconded by Vito Calomo. Go ahead, Gene.

DR. KRAY: I'm sorry, Mr. Chairman. I mean to mention that Bill Donovan would be replacing Michael Doebley who has since moved from Pennsylvania to New Jersey and that's the reason why we're adding another member from Pennsylvania.

CHAIRMAN DIODATI: All in favor of these motions signify by raising your hand; all opposed. Thank you. We also have a nomination for –- the motion carries. We also have a nomination I believe for vice chair of this management board. Looks like A.C. Carpenter might have a nomination.

OTHER BUISNESS

ELECT VICE CHAIR

MR. CARPENTER: I have a nomination. Thank you, Mr. Chairman. **I would like to nominate Mark Gibson.**

MR. AUGUSTINE: Second.

DR. NELSON: Move we close nominations.

CHAIRMAN DIODATI: Mark, congratulations.

DR. GIBSON: I was just going to caution the board, I've been summer flounder board chair for less than a year. You've already had a number of difficult meetings, angry fishermen and you're being sued so if you still want to stick with me that's fine but be careful.

UPDATE ON EEZ ENFORCEMENT

CHAIRMAN DIODATI: Welcome aboard. Some final business, I believe that there are two issues. Andy Cohen is here today. Special Agent Cohen will give an update on EEZ enforcement. Do you want to do that, Andy? And I believe we're going to also have an update on the EEZ reopening initiative by National Marine Fisheries Service. They kind of go together.

SPECIAL AGENT IN-CHARGE ANDREW COHEN: Thank you, Mr. Chairman. Hi, everybody. For those of you who don't know me, I'm Andy Cohen. I'm the Special Agent In-Charge of NOAA Fisheries' Office of Law Enforcement.

And my office also administers the joint enforcement agreements with all the states which have been very productive and continue to be well funded -- knock on wood. We've gotten a lot of good work out of the joint enforcement program.

And I expect that this year will be even better as the program continues to evolve. I've got some good news on EEZ striped bass enforcement. You know, we've always gotten lots and lots of anecdotal information about people poaching in the EEZ.

The problem is that -- and I believe you've heard me say this before -- when we get phone calls saying that everybody is out there doing it, we don't know who everybody is; we don't know where out there is and we don't really know what it is.

We get a remarkably fewer amount of phone calls saying my name is so-and-so and I saw this vessel who I know is owned by so-and-so and they do this habitually in this area and it's usually on a Sunday.

You know, that's the kind of information that we can and we do take action on. And when we get information like that we're pretty successful. And admittedly in this day and age of cell phones and radios and coordinated action in what's a pretty small segment of the fishing community it's hard to catch these people.

We know it's going on but we, I think that we have attained an acceptable amount of compliance. We've been making about 30 cases a year. We also have some things in the works that should make a bigger splash and one was supposed to take place prior to this meeting. It didn't occur because of weather. But things are in the works.

I've also heard complaints for years about the summary settlement or ticket amount, the fine that's issued at $50 a fish. I, again anecdotally -- I haven't gotten a ticket myself but I've been told that people who like to fish consider this part of their fee. And $50 if you get caught is not a whole lot of a threat.

We've doubled that amount. It should be effective by the spring. It will be $100 a fish up to ten fish. Anybody taking more than ten fish who gets caught will not be fined the $100 summary settlement.

That will result in a civil prosecution with a NOVA, a notice of violation and assessment which can go much higher than $100 a fish, depending on the circumstances. And a reminder for you on what a summary settlement means.

Let's say that there is a penalty, a written penalty in the penalty schedule developed by general counsel of $1,000. If you get a summary settlement it's kind of a deal. It's a plea bargain.

And it's agreement, if you pay $100 of this $1,000 fine we, the government, will call it good. Don't make us go through the hassle of a hearing and we won't make you go through the hassle of paying $1,000.

Admittedly $100 is not a lot of money to some people. But it's a bargain. Everybody gets a bargain when someone pays a summary settlement. The respondent can end the process; the government can move on to something else. So it's a balancing act. That's all I have to report on. While I'm here I'll field any questions that you've got.

MR. WHITE: Thank you very much for that presentation. One question, if a charter boat is fishing in the EEZ and the anglers onboard have fish in possession, there is a fine obviously to the anglers. Is there any penalty to the charter boat captain?

SPECIAL AGENT IN-CHARGE COHEN: Yes, there is but that is not a summary settlement violation. If we make a case against a captain and put that forward to general counsel, that, depending on the circumstances that would be subject to the full penalty by NOVA.

CHAIRMAN DIODATI: A.C.

MR. CARPENTER: You said there is a $100 pre-payable essentially. Do you confiscate the fish as well?

SPECIAL AGENT IN-CHARGE COHEN: Absolutely.

MR. CARPENTER: Thank you.

SPECIAL AGENT IN-CHARGE COHEN: Absolutely. The fish are released if they are alive. They are documented and a representative sample would be kept as evidence if they are not alive. But the poachers do not profit from their activity.

MR. CARPENTER: Thank you.

CHAIRMAN DIODATI: Vince.

EXECUTIVE DIRECTOR O'SHEA: Thanks, Mr. Chairman. As a follow up to Commissioner White's question, it's my understanding that one of the conditions of the Coast Guard license that the charter boat operator has is that he conduct his business in compliance with federal law.

And if he or she did have a federal violation then that would be an issue to consider action against the Coast Guard issued charter boat operator's license.

CHAIRMAN DIODATI: Final questions for Andy. Thank you, Andy. Tom.

UPDATE ON EEZ REOPENING INITIATIVE

MR. TOM MYER: Thank you, Mr. Chairman, we're nearing completion of a draft analysis of the various options of opening up the EEZ to striped bass fishing. And in order to be open and transparent we would like to make available that draft analysis to this board at the May meeting.

What we're hoping for is are we heading in the right direction? Do you have any comments on how we can improve the document? And essentially mainly comments. And I would take those comments back to Bill Hogarth and present those comments from the board. Thank you.

CHAIRMAN DIODATI: Thank you. Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. The original document that was being prepared I understood did not have a sunset clause in it. And I think part of the concern that some of our fishermen in New York have had is once it's open it's open and it literally takes an act of Congress or several years in order to close it again.

It would just seem to me because there is such a possibility of fishing out a lot of very big fish in specific areas along the coastline that having it open is one thing but having a sunset clause with yearly assessments as to what the impact has been on the fishery would be it would seem most appropriate to be a part of that document. And I was wondering if that was being considered as a part of this to go out to the public in May.

MR. MYER: It hasn't been considered but I'm considering it right now. Also, this board can also make another recommendation to the National Marine Fisheries Service to close the EEZ if we start seeing problems. So, thank you.

CHAIRMAN DIODATI: Gene.

DR. KRAY: Mr. Chairman, could I request that we try to get these materials in our briefing CD so we could see it before the meeting?

CHAIRMAN DIODATI: Staff has heard that and I believe --

MR. MYER: Yes, I'll make those available early.

CHAIRMAN DIODATI: Thank you, Tom. Any other questions for Tom on this issue? If not, I'll entertain a motion to adjourn.

ADJOURNMENT

DR. KRAY: **So moved.**

CHAIRMAN DIODATI: Thank you.

(Whereupon, the meeting was adjourned at 11:02 o'clock a.m. on Wednesday, February 22, 2006.)

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