

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

**The Westin Alexandria**  
Alexandria, Virginia  
**May 9, 2017**

**Approved August 3, 2017**

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1. **Approval of Agenda by Consent** (Page 1).
2. **Approval of Proceedings of January 2017 by Consent** (Page 1).
3. **Move to remove 70% probability of achieving F target throughout the Draft Amendment 1 document** (Page 19). Motion by Mark Alexander; second by Jim Gilmore. Motion carried (Page 19)
4. **Move to approve Draft Amendment I for public comment as amended today** (Page 26). Motion by Emerson Hasbrouck; second by John Clark. Motion carried (Page 26)
5. **Motion to adjourn by Consent** (Page 26).

**ATTENDANCE**

**Board Members**

Dan McKiernan, MA, proxy for D. Pierce (AA)  
Raymond Kane, MA (GA)  
Rep. Sarah Peake, MA (LA)  
David Borden, RI (GA)  
Mark Gibson, RI, proxy for J. Coit (AA)  
Eric Reid, RI, proxy for Sen. Sosnowski (LA)  
Sen. Craig Miner, CT (LA)  
Mark Alexander, CT (AA)  
Jim Gilmore, NY (AA)  
Emerson Hasbrouck, NY (GA)  
Russ Allen, NJ, proxy for L. Herrightly (AA)  
Tom Fote, NJ (GA)

Adam Nowalsky, NJ, proxy for Asm. Andrzejczak (LA)  
Roy Miller, DE (GA)  
John Clark, DE, proxy for D. Saveikis (AA)  
Craig Pugh, DE, proxy for Rep. Carson (LA)  
Rachel Dean, MD (GA)  
David Blazer, MD (AA)  
Michael Luisi, MD, Administrative proxy  
Joe Cimino, VA, proxy for J. Bull (AA)  
Cathy Davenport, VA (GA)  
Kyle Schick, VA, proxy for Sen. Stuart (LA)  
Peter Burns, NMFS  
Mike Millard, USFWS

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

**Ex-Officio Members**

Jason McNamee, Technical Committee Chair

Jason Snellbaker, Law Enforcement Representative

**Staff**

Bob Beal  
Toni Kerns  
Mike Schmidtke

Jeff Kipp  
Katie Drew  
Ashton Harp

**Guests**

Bob Ballou, RI DEM  
Colleen Giannini, CT DEEP  
Nicole Lengyel, RI DEM

Jack Travelstead, CCA  
Arnold Leo, E. Hampton, NY

The Tautog Management Board of the Atlantic States Marine Fisheries Commission convened in the Edison Ballroom of the Westin Hotel, Alexandria, Virginia, May, 9, 2017, and was called to order at 11:15 o'clock a.m. by Chairman Adam Nowalsky.

#### **CALL TO ORDER**

CHAIRMAN ADAM NOWALSKY: All right, good morning everybody we are going to convene the Tautog Management Board. I ask everyone who is here today to take your seats. Any other sidebar conversations, I appreciate if you can keep them to a dull roar. I am Adam Nowalsky; this is the Tautog Management Board.

#### **APPROVAL OF AGENDA**

CHAIRMAN NOWALSKY: The agenda has been provided. We'll start out with the agenda itself. We are going to make a couple of changes to the agenda as it was presented. Essentially what we're going to do with Agenda Item 4, Review the Consistent Management Measures, is we're going to insert that to after the bullet point of Review Management Options in Item 5.

The intention there is allow us to get started with discussion on the document, look at Section 2, which is some of the overarching items; such as goals and objectives. Then we can move into the meat, which is those management measures that will have a separate presentation for. With that modification, is there acceptance of the agenda as modified? Seeing no objections it will be modified and approved as such.

#### **APPROVAL OF PROCEEDINGS**

CHAIRMAN NOWALSKY: Second item of business would be the approval of the proceedings from the January, 2017 Board meeting, I believe. We met in January. We started the last Board meeting in January. Any objections to approving those proceedings as presented? Seeing none; they stand approved.

#### **PUBLIC COMMENT**

CHAIRMAN NOWALSKY: Next item of business is Public Comment for any items that are not on the agenda here today.

I don't believe we had any sign-ups for that. Is there anyone in the audience that wants to speak on anything not on the agenda? Okay seeing none; we'll move ahead. Before we get into the presentation from staff on the draft amendment, Just let me take a couple moments to kind of set the framework for what we're going to try to do today.

First I'll go through, we've got a 144 page document that most of us just got our first look at last week. I understand that's a heavy lift. I want to extend my thanks to staff, Ashton and everyone else, for putting the document together. Everyone involved has certainly been working very hard to get that document presented to us for our review here today.

In terms of paths forward, Ashton is going to present the timeline, the initial presentation of that would contemplate us releasing the document for public hearings today; and then taking final action on that at the August meeting. As we go through the document, if there are substantive changes that people want to make, or if there are other options that they want to have reviewed by the TC, we would need to develop those specific tasks today, get them on record, and have any preliminary discussion. We could potentially have the TC review those, bring a revised draft back to us in August for then final approval at the annual meeting; which should still provide for implementation for most states for the 2018 fishing year. I just wanted to lay those couple of paths out there, and we'll get through as much as we can. With that I will turn the presentation over to Ashton to begin the discussion of the document.

**CONSIDER DRAFT AMENDMENT 1  
FOR PUBLIC COMMENT**

MS. ASHTON HARP: I would like to give a big thank you to the Tautog Technical Committee, Stock Assessment Subcommittee, and the PDT. This is a very meaty document, and going into four different regions, it's almost like creating an amendment for each region. We put a lot of thought into this, and look forward to your feedback today.

Let's start with the timeline for this document, so we're in the third year of creating this document. This all started in 2015 with the benchmark stock assessment that evaluated the species across three regions. The Board looked at that and saw that the stock was overfished and overfishing was occurring in some cases, and directed the Tautog PDT to develop the public information document, which went out for public comment in September of 2015.

It was a scoping document asking the public for feedback on regional management, a commercial harvest tagging program and goals and objectives moving forward. After that happened the Board then directed the PDT to develop Draft Amendment 1, which is presented to you today. But before that was fully developed, there were some changes regarding the regional breakdown.

Pretty much all of 2016 was spent reevaluating the stock status for tautog across four regions. To evaluate a four region scenario the Stock Assessment Subcommittee had to complete a benchmark stock assessment for Long Island Sound and New Jersey/New York Bight, which was presented last August.

Given a significant amount of time had lapsed between the first benchmark assessment the Board requested a stock assessment update of all four regions; which included 2015 data for all four regions. After stock status was evaluated the TC and the PDT worked on management measures and they were presented in February;

this February, but they were state-specific reductions. Not regional reductions.

At the February Meeting the Board decided to use a more regional approach, so if the TC could go back and create regional options to the best of their abilities, then that should happen. The regional management measures are what is being presented here today, and Jay will present that section when we get to that section within the document.

Like Adam said, if the document is approved for public comment today then public comment and public hearings will happen over the summer and it could be approved as early as August.

Each person should have a handout in front of you that shows all of the options for consideration. There are 22 different issues and many different sub-options within each issue in front of you. It provides an overview of what we're going to look at, as well as the corresponding pages in the amendment to where you can find the full text for each option.

This is just an overview of the presentation. I'm going to review issues and options in Section 2.0. Then we're going to move into Section 4.0, which really gets into the regional management measures. This is where I'll present some of it and then Jay will present the regional management options. The regions that have to take harvest reductions are the Long Island Sound, recreational/commercial; and New Jersey/New York Bight, recreational/commercial.

The DelMarVa region is presenting regional options because they would like to propose regional options, although they don't have to take specific reductions. Lastly, I will move into the last part of Section 4.0, where we'll discuss the commercial quotas and the commercial harvest tagging program.

We'll start with Section 2.0. As you know this is Draft Amendment 1. The goals in this document

are from 1996. That is when the FMP was first implemented. There are a lot of goals, A through E. The PDT looked at this and tried to pick out what are the main goals that we're trying to achieve for this species, and then summarized them into a revised goal statement; which is presented to you today.

The goal of Amendment 1 is to sustainably manage tautog over the long term, using regional differences in biology and fishery characteristics as a basis for management. Additionally the amendment seeks to promote the conservation and enhancement of structure habitat to meet the needs of all stages of tautog's life cycle. We were really trying to hit on the regional aspect of this fishery, as well as how important habitat is for the life cycle of tautog.

Originally the objectives were A through J, which was also a bit lengthy, and some of them overlapped. The PDT presented ways that we can modify the objectives, and we showed the revisions one-by-one. Options B through G outlines how we modified each objective or eliminated that objective or combined objectives.

Option H applies all of revised objectives. For example, an objective is to achieve regional management. There is also an objective to encourage EEZ management, as we know there is not a federal FMP for this species, but it's included as an objective to strive for in the future. There is an objective that acknowledges the importance of monitoring, so we can continue to do stock assessments to manage this fishery appropriately. An objective to diminish the illegal harvest as much as possible has been added.

Next we move into the biological reference points. Option A is status quo. Reference points can be modified via a management document; usually it has been done via an addendum. Option B says that reference points can be modified via Board action, so the Board can

review the stock assessment and approve it for management use, and say these are the new reference points that will be used for management. There is a bit more text in the document as well that basically says that the reference points would have to come from a peer reviewed document, it couldn't just come out of nowhere. It will need to come from a TC recommended peer reviewed document.

For the fishing mortality target, right now the fishery has gone back and forth on the target that it wants to meet. Most recently it's been 0.15, and that is equal to natural mortality, which was the original F Target for this fishery.

But now that we are proposing regional management there is different F mortality targets for each region. The sub text actually gets at more of the timing of when would the Board initiate a document and when would the Board begin implementation of the document if overfishing was occurring.

If the current F exceeds the regional threshold, that means there is overfishing, the Board must take corrective action via a management document, amendment or addendum, within an X year of receiving overfishing stock status. Right now there is no time requirement. As you this amendment timeline, this whole entire thing started in 2015. We're now in 2017 and still discussing whether or not, or how we want to move forward.

Sub-Option B2 is Board action within one year and then implementation the following year. Sub-Option B3 is Board action within two years and implementation the following year. It is just kind of constraining, so the Board knows when they need to make management decisions, and how quickly this process needs to move forward.

There is also the probability of achieving F target in this document. Right now there are no guidelines as to what the probability would be. When Jay starts going over the regional management options, you'll see there are

regional management options that meet a 50 percent probability of achieving F target in 2021, and there are regional management options that have a 70 percent probability. Clearly the 70 percent options include more conservative measures.

There are options in here to streamline this approach. If the Board feels like one would be better than the other then they can codify that in this document, and there wouldn't be so many options for the TC to evaluate or for the public comment to evaluate. The probability options are really getting at what is the Board's level of risk with this species. We wanted to present options for the Board to consider that would codify the risk tolerance in this document.

For the F reduction schedule, right now the timeframe with which you have to initiate a harvest reduction management response is unclear. For this document a three-year timeframe was applied. Right now it says that the F must get back down to the target within three years. The management measures that are presented today have a 2018 through 2021 timeline. If states implement these management measures within this three-year timeline then we should meet the F target. The timeframe could be codified within this document, so it doesn't have to be a point of long belabored discussion. Option B is the management measures must meet the regional F within three years. Option C is within five years.

The stock rebuilding schedule. The Board very explicitly stated in, I believe it was February that they do not want to move forward with a stock rebuilding schedule for this species, but they would like to have it as of course an adaptive management tool.

There is Option B; stock rebuilding schedule can be developed to be an addendum at some future time when the Board designates it. Option C, is the same thing it can be developed to be an addendum, but putting a timeframe on it. When

this addendum is created the rebuilding schedule cannot exceed 10 years.

It gives a little bit of guidance as to what the future PDT will have to work with if the stock rebuilding schedule was initiated. That was based on initial discussions for the TC just considering the life history of the species. That's where the ten year kind of came from, as well as what is the standard operating procedures for federal fisheries as well. That is the end of Section 2. Are there questions on the goals and objectives of this FMP?

CHAIRMAN NOWALSKY: Okay, so thank you, Ashton. We're going to go through, we'll ask any questions. Again, we do not have to select any preferred options here today. The goal is to get this document out for public comment at some point either this meeting or next. If there are requested changes to something, we can try to do those by consensus. If we don't have that then we'll take motions and votes on those items.

But we'll start with questions on those items that were presented by Ashton in Section 2. I'm going to take the liberty of asking the first one. For Section 2.7.1 with the timeframe for the Board actions, when we talk about the Board must take corrective action via a management document within a timeframe. Are we talking about initiating a management action or finalizing that management action in those Sections; understanding that it allows for an additional year for those measures to actually be put in place by the states?

MS. HARP: This was a point of discussion whenever we were putting this in. It currently says the Board must initiate corrective action within a year of receiving overfishing stock status, and then it must be implemented the following year.

CHAIRMAN NOWALSKY: Okay, so I would say we ought to clarify that in saying that it's initiating those management actions for Sub-Options B2



and B3 in the document. Additional questions on Section 2. Any comments, things people would like to see changed in Section 2 before a document went out for public comment, or are they comfortable with these? The one item that I will bring up, so one of the things that staff's had to do a lot of work with is developing the options under the 50 and the 70 percent probabilities.

When we started out this discussion we had a number of different regions, we had a number of different probabilities. I think staff has been pretty consistent in their encouraging us as a board to try to minimize those options to as few as possible. Part of that being just clarity for the public's sake. This item here, the second part of 2.7.1, Options A, B, and C, status quo 50 percent probability of achieving F target, 70 percent probability of achieving F target. When we get into the perspective measures with Jay's presentation, we have those developed for presentation; but it has been staff's ask for consideration about taking either of those out of the document; which would then take those range of measures out of the document in the next section.

I'll just ask, is the Board willing to entertain any discussion about keeping both of those options in there, the 50 and the 70 percent probabilities or is the desire to keep them in, keeping in mind we'll see those perspective measures if you want to hold off. But if you want to have any discussion about it now, now would be a good time to do so.

Okay, seeing none; what we'll do next is I'll also ask if anybody, we're not specifically having a presentation related to any other sections in the document besides Sections 2 and Sections 4. There is a wealth of background information in Section 1 primarily. There is a lot of additional information in other sections, monitoring and other items.

I'll ask at any point during the day today, if somebody has questions about one of those

sections or suggestions for revisions before the comment goes out, to please jump in and make those suggestions as well with those other sections. With that we'll go on to the discussion regarding Section 4, and a presentation from Jay.

MS. HARP: I was going to start out with just the regional part and then I'll turn it over to Jay. Regional management is new for the species. We've previously been managing tautog on a coastwide basis, so Option A is status quo, coastwide management. Option B is regional management.

This basically says the regional management option here is a four-region scenario. That could change in the future if there is new data to suggest that the regions should change, then the TC can evaluate that and bring new recommendations to the Board; although that would require a new management document to change the regions for tautog.

As they're listed now, the first region is Massachusetts-Rhode Island, the second one is Long Island Sound, the third one is New Jersey-New York Bight, and the fourth one is Delaware, Maryland, and Virginia, and all of the management options that Jay will review are based on this regional structure.

There have been considerable discussions around the Long Island Sound boundary lines. The Law Enforcement Committee met earlier today to discuss it, and Jason will review their feedback at the very end of this presentation, so I just wanted to present to you the two options that we're presenting for Long Island Sound here today.

Option B1, as you can see is also Long Island Sound Option 5 up there, is the one we were originally proposing, which is Montauk Point, New York to Watch Hill, Rhode Island. This boundary line includes the area of water that was assessed as part of the Long Island Sound stock assessment. New York staff had to go through and clearly separate the data in MRIP for

Long Island Sound and the New York South Shore part. MRIP folks confirmed the MRIP data for Long Island Sound includes Peconic Bay. This would be how the stock assessment was done.

This second option, B2 is Long Island Sound according to the COLREGs line. This goes from Orient Point, New York, over to again, Watch Hill, Rhode Island. As you can see, it excludes Peconic Bay. That would now go into the New Jersey/New York Bight region. The Long Island Sound includes more restrictive management measures versus the New Jersey/New York Bight area. That is one thing to always keep in mind. This could be a contentious line.

### **REGIONAL MANAGEMENT OPTIONS**

MS. HARP: With that we will move into the regional management options.

MR. JASON McNAMEE: Thank you, Ashton. My name is Jason McNamee; I work for the Rhode Island Department of Environmental Management. I've got a series of these options. This just gives you a look at what the various conceptual options in the document look like by way of management in your state.

There are a lot of them. I'll do my best to; Ashton did a great job of trying to put them into forms that are kind of understandable, and I'll do my best to fumble my way through them. I'll look to Ashton to save me if I start messing anything up. But you'll see as we go through how they're broken up, and I'll do the best I can to explain them.

Just to start off, you've heard this already a couple times. We've got overfishing occurring in two of our areas; that's Long Island Sound and in the New Jersey-New York Bight Regions. In each case what you're going to see is a set of recreational options, and in those recreational options you're going to see two risk probabilities that we looked at.

There is a 50 percent probability of achieving your F target, and then a 70 percent probability of achieving your F target; the same for the commercial in these two areas. Overfishing is not occurring in the Mass/Rhode Island or the DelMarVa regions, but there are still some options to take a look at.

Even though there was no requirement to take reductions, there was still interest from the Board originally, and also amongst the Technical Committee to take a look at some options to see what consistency looks like in those regions. We thought that would be informative for the Board. All right quick, we'll call them rules of engagement here.

You're going to see, you've got recreational and commercial options. What we are asking is to not choose separate risk probabilities when doing this. You're going to see, it gets confusing enough to keep track of everything. In particular, the way the analyses are done, the logic would not follow through if you chose different risk probabilities for the two different sectors. Just to continue on here, this would be the way to go, so just be consistent across both of your selections on that.

There is a slide here that says methodology; but really I'm not going to go into that. We don't have time. But even before we knew we didn't have time, I had gone through it last time we all met. It's pretty standard stuff. It's the same types of things you've seen in summer flounder and black sea bass; you know those same types of approaches. There are two differences though, and that is we've got some slot limit options in here. Those were done in two ways. The Long Island Sound version, Jacob, who is from the University of Connecticut, PhD student, was up here with me; if not last time the time before. He did a nice analysis; it is part of his dissertation work, actually. But his is based off the assessment.

He does a nice job. We could sit here all day and talk our way through that. We won't do that.

But the Technical Committee did review it, and appreciated the work, and vetted the work. I also think the New Jersey-New York Bight, I know they have a slot limit option in there. I think their analysis is slightly different, didn't use that modeling approach; used more of a standard approach to determine those.

I just wanted to make sure that's clear. I'm happy to try and answer any questions you have, but there are not a lot of slides, or any slides with equations or things like that; which you probably appreciate. Okay so here's a legend for some of the stuff you're going to see in the following slides. If you see this, the big box at the top there is just kind of – I'll call it gray.

If you see that in the table, you'll know that that is a closed, no fishing period of time. Then you've got these shades of – I'm going to call it purple. The reason for the different colors, are if a bag limit changes or something like that. You can see where that happens, the color will change. But basically any shade of purple means that that's a season that's open with a bag limit of some sort.

We're starting off; we're going north to south here, Massachusetts, Rhode Island. Again, no reductions are needed here. But we did put forward a couple of options to look at what consistent regulations might look like. Here is the structure you're going to see moving forward. We're going to have a table up front.

In most cases what you're looking at with the table is some of the changes that kind of move forward, not in a regional approach, but more in a standard approach; meaning each state just takes the reduction in the way that makes sense for that state alone. Here it didn't matter for Rhode Island, so what you're looking at in the first row of Option A that's our status quo regulation.

Massachusetts and Rhode Island each have 16-inch minimum size. We have different seasons, different bag limits; and again we don't need

necessarily to take a reduction. We looked at one that matches up our seasons, and then Rhode Island is the one that has a split bag limit. Massachusetts has three fish all year.

What we've done here is we've matched our seasons up. Massachusetts would implement a spawning closure, which Rhode Island has. Then Rhode Island would drop its fall bag limit from six down to four, and that would be an increase for Massachusetts in the fall. Then there is a final option that just makes everything really consistent, three fish with matching seasons.

This is the next type of table you're going to see for all of the subsequent stuff, and that is, I think it was Alexei from the DelMarVa region who had put together a table with these kind of shading, and it gives you a good visual look at the information, and so we carried that forward here. The A again that represents for the Mass/Rhode Island region that is our status quo measures. That's what it looks like. You can see that Massachusetts is open all year at three fish, so it's purple across the whole row with the three there designating that bag limit Rhode Island has two seasons with a spawning closure, so you can see that there as well. Then part of the season we have three fish, and then the tail end of the season we have six fish. That's what that Option A looks like in our little colored version here.

Then the next two rows show those consistent regional approaches. All right, so now we're going to jump into Long Island Sound. Here overfishing is occurring, because we still have both a 50 percent and a 70 percent probability of achieving the F target on the table, the range of needed reduction goes from 47.2 percent up to 52.6 percent.

Here are the recreational measures for Long Island Sound, so in this case, in this table, what you're seeing is a stand-alone set of options. It says status quo, but that's a trick. It's not really status quo. It's just using status quo idea of just taking the reductions within your state without

consideration for the other members of the region, and that's what this table represents.

You can see Connecticut has a 17-inch fish; they've got two different periods of different bag limits, one period with one fish, one period with two fish. You can see the seasons there, so that one- fish bag limit period is broken up into two; and then they've got that fall season at two fish. That first one there achieves a 48.1 percent harvest reduction, and this is the option with the 50 percent probability of meeting the target.

For New York, same type of information. They have a 16-inch fish, they have a one-fish possession limit in this option, and one season that basically is only in the fall; Option 2, same idea, but in this case to meet the 70 percent reduction. That is kind of the stand-alone state-by-state version of the options.

Here is an attempt at trying to implement some ability to be a little more regional, and so the idea here was just to get the options as close to each other as possible, because of the magnitude of the restrictions here we weren't able to sync up completely here like you saw for Mass and Rhode Island. I'll just walk you across the top one there.

Again, we're still in recreational measures. You've got in the first three rows you have a 50 percent probability of meeting your F target. The bottom three rows is a 70 percent probability, and let's take Option B1. As you walk across there you have Connecticut and New York. They would sync up with a 16-inch fish and a one-fish bag limit.

Then Connecticut would have a spring season in the month of April. Then they would have a spawning closure, a really long spawning closure, and then they would open back up in mid-October through about mid-December. Then the New York version of that again, I am not able to shoehorn in that spring season, so they would open up at the beginning of October, and extend to about mid-December.

You can see, hopefully that makes sense, and then B2 and B3 are just different versions, just to give you a sense of if you go up in minimum size, you can get a little bit more of a season, particularly in Connecticut, and you can up that bag limit to another fish. The very last one there, not the very last one but B3, what you see is that would be an option that syncs them up. That would be the only one that you could have consistent regulations; and that's what that looks like. Then the bottom B4, B5, B6 that represents same concept, but trying to meet that 70 percent probability of meeting the target. I'll try to go a little quicker from here on out. I just wanted to make sure folks can follow along. Now what we're getting into is a set of commercial measures. Again, here are the options where we're just operating in a state-by-state version, taking the needed reductions.

There is minimum size, bag limit, and open season. One note I'll make here is there was not a lot of information to work with for the commercial fisheries, and so we're doing a lot of borrowing of information from the recreational fishery from MRIP, and applying it over. Just keep that in mind. That's one of the reasons, as I mentioned it would be problematic to choose different risk probabilities, because there is a lot of conflation between how the methods were calculated.

You have status quo to meet the 50 percent probability of reaching your target is A1, and A2 is to meet that 70 percent probability. Here is the more regional approach. A nuance on this slide is you've got, under the 50 percent probability what you have is a quota. In Connecticut you would have a 2,700 pound quota, and then a 39,000 pound quota for New York.

Instead of trying to manage it like we do the recreational fishery, turning the dials of size, bag, and season here, you would put in a quota to manage that fishery. Down below under the 70 percent probabilities, you have both versions. You've got a version that manages more like the

recreational fishery, and then one that again manages with a quota to meet those targets.

You can see this was as good as they could do with trying to sync up the seasons. Here you have Long Island Sound still, and now we're looking at recreational and commercial; recreational on the top and commercial on the bottom, I think. Is that right, Ashton? Oh that's right. It would be the same for recreational and commercial.

You're looking at different pieces of information of the same management in the top and bottom tables there. Here you would have a two-inch slot limit, so you would get some level of reduction from the slot limit; and then these are the seasons and the bags that you could have in Connecticut and New York.

Moving on to the next region, now we are in the New Jersey-New York Bight region. That is the outside of Long Island down through New Jersey. In this region overfishing is occurring. It's not as severe as was the case in the Long Island Sound. The needed reduction here, again because we have a 50 and 70 percent probability of reaching the target, you can be anywhere from a 2 percent to an 11 percent reduction needed.

This table again is your status quo state-by-state version of taking those needed reductions. The top table there shows what it looks like for a 2 percent reduction, and the bottom shows what it would look like for an 11 percent reduction. You've got in New Jersey a bunch of different, at this time several bag limits, kind of switched through the season.

In the New York Bight region you've got more consistent measures, 16-inch fish, four-fish bag, and then that fall season again. Here is an attempt at providing some consistency between the regions. Up on the top there you've got single contiguous seasons, this is recreational by the way, and so you can see each state would have a four-fish bag and the seasons do overlap, although the New Jersey season would be a little

bit longer. Then the 70 percent probability is that set of three options down on the bottom, and you can see there are different size limits as well that are coming into these options. Here is a slot limit analysis for this same region. This gives you a look at what those look like. You can see for instance, in C2, it kind of increases in consistency as you go down here.

Just so folks are aware, C1 would get you a 2 percent reduction, C2 would be an 11 percent reduction, and then C3 where they are completely synced up, would actually be a little bit more, a 13 percent reduction. Here is the commercial side. You've got again New York Bight and New Jersey, and the two variations, a 2 percent and an 11 percent.

This is just looking state specifically how those reductions could be met. New Jersey does not have a possession limit noted. There is no possession limit, what they have is, I'll call it, you guys can correct me if you call it something else, but it's sort of a soft quota. They've got a backstop, where when they get to a certain level of harvest they would potentially stop their fishery or curtail their fishery in some way. But there is no bag limit for them at this time for the commercial sector.

Then again looking at the region, here what you can see is what they're attempting to do here is to implement that spawning closure; and so that's why the seasons are split there. They are trying to get at different variations where they take their closure, and that closure would occur during the spawning time for tautog.

Then this is a variation that does a commercial slot limit, just like we had for recreational. I'm sorry if I neglected to say this here. This slot is a little bit larger; it is three-inches, 15 to 18 inches, so part of the reduction is coming from that slot limit. Then C4 and C5 are different in that C4 meets that 2 percent reduction, and C5 meets the 11 percent reduction.

You can see not a lot of variation there, a little bit more, a longer closure for New Jersey. We are now down the coast here in DelMarVa, no reductions are needed here but again this region, some options were put together just to get a look at what consistent, or as consistent as possible management would look like.

Here are your current measures. These are status quo in Delaware, Maryland, and Virginia. Maryland and Virginia have that 16-inch size, 15-inches in Delaware. Then there are different variations of bag limit and season combinations for the different states. This is what it looks like. This is not now any new scenario; this is just a visual representation of your status quo measures.

Then here is a version that syncs everything up exactly. Let me walk you through what each of them represent. Option B would actually be a liberalization by about 8.5 percent, so that would be an increase in harvest. C and D represent reductions. C would be an 11.9 percent reduction, and D would be an 11.6 percent reduction; pretty close to each other there.

That is the end of the management options. I'm going to flip to the next slide, I'm not sure if I'm exactly supposed to, but just to reiterate, I think Adam offered the question very overtly. I was going to do more of a Jedi mind trick kind of thing, but in any case it would be, you saw how convoluted, how many options there are here for this. A lot of that has to do with you've got two versions of risk. I guess my personal opinion, not a statement from the Technical Committee. I don't know what kind of feedback on your risk policy you would get from public feedback. Maybe you think you will. But I offer that it would cut down the many options that we just walked through, if you were to select one of these 50 percent, or 70 percent probability of reaching the target; rather than going out with two. I think trying to indicate that nuance to the public would be difficult, and with that I will pause for any questions.

CHAIRMAN NOWALSKY: Okay, so Jay you did a wonderful job. That took us through 20 pages of the document; that was impressive. Before I take questions, okay, I'm going to break just slightly from how we typically do this.

What I'm going to do is I'm first going to turn to Law Enforcement, who has got comments on boundary issues, enforcing regulations within a state where there are different regulations, consistency of state measures; to comment on some of those items.

Then what we're going to do is we're going to go through each of these items 4.1 and then each of the ones, 4.2 and all of the sub-options in there, bring them up one at a time and have questions and discussion about each of them as we go through, so we're not all trying to remember 20 pages back.

#### **LAW ENFORCEMENT REPORT**

CHAIRMAN NOWALSKY: Let me first turn to Captain Snellbaker, and we'll get a Law Enforcement Committee report on some of these options, and then we'll start getting into questions and discussion, about how we want to move forward with the document for this section; Captain.

CAPTAIN JASON SNELLBAKER: The memo dated March 28, 2017 is based on March 17, the Law Enforcement Committee met to talk over the issues with the Long Island Sound. The Law Enforcement Committee members were briefed on the possibility of two sets of management measures for tautog in the state of New York. A split would provide the different management measures between Long Island Sound and the ocean shore of Long Island.

The LEC discussed a number of concerns and difficulties enforcing such a management plan. I'm going to pull out some of the highlights of that discussion. As far as defining a boundary line between areas, the Law Enforcement

Committee had concerns where there were no clear markers or references.

A boundary line over the water without clearly visible landmarks or demarcations is almost completely unenforceable. We also see an increase of accidental navigation in these areas. We prefer boundaries such as a COLREGs demarcation line. From an enforcement standpoint too, we also have to do verification, you know e-Navs, to make sure that the officers are in fact where they are, to be able to prove beyond a reasonable doubt in court.

That's a little more effort on our part. As far as enforcing different regulations in close proximity, the Law Enforcement Committee as a whole, we've seen a shift in anglers; anglers will shift their efforts and go where there are less liberal regulations, which sometimes causes a problem with strict possession and enforcement.

It's not always clear to people that we apply the regulation where in fact that inspection occurs. It just creates a lot of confusion, and again we do see a significant shift in fishing effort, depending on where there is more fish to be caught, because the regulations are less restrictive. We also discussed the establishment of a buffer zone, or a safe zone as it was put. Such a zone would simply add to the confusion for the fishermen and enforcement officers on the water. We felt that a buffer zone would not provide any significant benefit, it would just add to the confusion. We also had a concern of in that buffer zone we would hesitate to go check other people taking the resource, because you may run into a situation where there is an egregious tautog violation, and we wouldn't be able to enforce it because of the buffer zone.

Like I said, it would prohibit us from potentially checking other types of people partaking of other fisheries. The Law Enforcement Committee strongly recommends consistent regulations amongst the states. The Law Enforcement Committee particularly stresses the importance of uniform size limits.

Again the issues, when somebody gets back to the dock, it makes the issues with size and bag limit less enforceable, because we don't really know where those fish were caught. With the limited resources we have, it just makes enforcement very difficult. Again, we stress the consistency amongst the states.

Also when it comes to commercial enforcement, remember if we're at a market or an inland area, we don't know where those fish came from. Again, consistency makes our job a lot easier. We also had a discussion this morning. It was noted that Option 5, I don't know if you have the map up there. We thought Option 5 would be better for compliance for fishermen coming from Connecticut.

I think we would get buy-in from our Connecticut fishermen. But at the same time Option 6 was a clear and concise boundary, which would actually be better for Rhode Island fishermen. Like I said before, we do like where there is a clear boundary. Our COLREGs demarcation line is actually on most GPS chart plotters, versus not having a clear definitive boundary where it just adds to confusion and less enforceability. That's all I had, if anybody had any questions I would be more than welcome to answer them.

#### **NEW YORK LETTER TO THE BOARD REGARDING THE LONG ISLAND SOUND BOUNDRIES**

CHAIRMAN NOWALSKY: Okay, thank you very much, Captain. That takes us to questions and discussion. I'll just begin with first presenting the concerns of New York. As many of you know there was a letter that was sent to the Board, reiterating some of New York's concerns with a lot of the items that are included in this section, including the demarcation line, and including the separate regulations within the state.

Staff was generous enough to devote some time to a phone call, with myself, Jim Gilmore, Steve Heins, John Maniscalco from New York. As an outcome from that call, were the sub-options for splitting the Long Island Sound line at the

COLREGs line. Additionally what came out of it was some additional feedback from enforcement on that as well as getting staff from New York in touch with ASMF staff, to answer some additional questions about the calculations.

I'm sure Jim will have some more comment about that. But I just wanted to let the Board know where we stood with that. What I'll do, I'll ask staff to go back to the beginning of the Section 4 presentation. We're going to roll through each of the items here; questions about them or any comments or modifications to these options.

The first item we've got is the regional boundaries, which presents two options, the coastwide management that we've used in the past, status quo if you will, as well as the new regional management with the four regions that this Board previously agreed to utilize; and also incorporates the two options for dividing the Long Island Sound and New York Bight areas. Are there questions for Jay, staff, or Law Enforcement, or comments, discussion on this section of the document? All right, seeing none; those options will remain in the document. Those options will remain in the document as they presently exist.

Apparently you all got wind that we get lunch when we're done here. I will tell you that the schedule said we're done at 12:30. I have had that negotiated to 12:45, so you're going to be stuck here for a little bit longer. The next section is regional management measures. We've got the options that were presented for both, what was referred to in the document as status quo, then with 50 and 70 percent reductions those don't apply for a couple of the regions.

What I asked staff to do was to update the document. Instead of using the term status quo, which doesn't refer to status quo measures, but refers to the same mechanism of state specific regulations that differ from neighboring states;

to refer to that in the document as state-specific as opposed to status quo.

Do we have any questions or discussion for the Mass-Rhode Island proposed management measures that are in the document? Okay, seeing none; that section will remain as is with the modification from the status quo term to state-specific. Section 4.2.3 is Long Island Sound, proposed recreational and commercial regulations, as well as the options for 50 and 70 percent reductions.

Jay made another attempt to have some discussion about having only one of those in the document, I'm getting the sense we're fighting an uphill battle there, or I think I'm ready to throw in the towel on that one, unless somebody else feels otherwise. But let's go ahead and turn to questions and comments on this section. Mark.

MR. MARK ALEXANDER: I have two questions. The first is the Genesis of this amendment predates my time on the Board, so pardon if I'm missing some information here. But how were the commercial quotas derived for Long Island Sound?

CHAIRMAN NOWALSKY: I'll turn to Jay for that.

MR. McNAMEE: What I believe they did or Jacob did, was just to take the average harvest that has been occurring under the commercial sector, it was the average for the last three years, and then make the adjustment from that average harvest level.

MR. ALEXANDER: I just want to comment that Connecticut took some very conservative management measure changes following the 2011 assessment. I think we've been penalized for that and I would appreciate an opportunity to maybe reconsider how those quotas were determined. Katie, do you have a response to that?



DR. KATIE DREW: Yes, The quota that is being proposed here under the commercial regulation section is basically based on how much of the cut the region needs to take to come down to the F target. For the overall commercial side, we're not saying these are set in stone, but there are a couple things you would have to consider, which is number one, do you want to split the reduction equally between the commercial and the recreational side? Our direction was, yes we want the recreational to take the same percent cut the commercial does. That limits how much, the amount of fish you can actually take out, in order to reach your F target; which is therefore that's the commercial quota that is shared with Connecticut and New York. Now that doesn't mean that you guys can't negotiate how much goes to Connecticut and how much goes to New York. But there is a limit on sort of the upper bound, if you want to make that target and if you want to keep the allocation between commercial and recreational the same.

That average of the three years was the amount that went into the projections to come to how much of a cut you need to take overall, to meet your target by that time point. There is kind of an upper limit on the amount of the quota that can be attributed to the commercial, unless you want to make some of these allocation decisions here at the Board level.

MR. ALEXANDER: Thank you Mr. Chairman, I have one more question.

CHAIRMAN NOWALSKY: Please go ahead, Mark.

MR. ALEXANDER: Given the small quota that we have in Connecticut, our interest would be in maximizing the value of that quota; and given that there is a premium on small fish in the live market, and there is a premium on large fish in the spawning population.

Was any consideration given to having a small minimum size, say 12-inches or something like that in the commercial fishery; especially if we're going to be under quota management, where a

limited number of tags would be issued? I'm just wondering if something like that the feasibility of something like that was discussed?

CHAIRMAN NOWALSKY: Jay, Katie, tag team?

MR. McNAMEE: I guess the way I will answer is to say, the closest we got to what you're interested in is that slot limit analysis. That does account for, in particular because Jason was using the stock assessment information and projecting from that. It is considering things like the yield loss from taking that smaller fish.

But to get all the way to 12-inches, we did not consider that in our analysis. Were that to be something that the state of Connecticut or whoever wanted to see, we would have to go back and redo those analyses, because it would cascade through all of the other metrics that we used. Keep in mind that even though it's commercial, at this point it's being managed very much like a recreational fishery, so we're operating under a lack of a lot of solid information.

CHAIRMAN NOWALSKY: Just also, Mark touched on a couple items, quota and tagging. We have those items for discussion after these sections as well. Next on the list I had Emerson.

MR. EMERSON HASBROUCK: I had two questions, one was the same question that Mark asked about quota, and my second question was relative to the tagging program; which you said will be discussed a little bit later, so I pass.

CHAIRMAN NOWALSKY: Okay, do I have any other questions or discussion on this? Mark, did you have any specific requests you wanted to ask the TC to review? Obviously again, those tasks would result in delay of sending this document out for public comment. Was there anything you wanted to have jotted down here at this point?

MR. ALEXANDER: I wouldn't mind having the feasibility of a smaller possession limit in the commercial fishery under a quota situation be

examined, just to see if that's even possible, or how it would impact the magnitude of the quota.

DR. DREW: Just a quick comment on that. The projections in these calculations are done in terms of number of fish, and then for a commercial quota translated into weight, based on the average size of the fish in your fishery, so the number of fish probably will not change, although there are certainly considerations to be given to the fact that how close 12-inches is to a mature fish versus 15-inches.

But what would happen is the quota would probably go down, because you would be catching a smaller average fish. If you multiply that through the quota might come down. But understanding that it's also a market consideration, and I think it's something we could look at.

CHAIRMAN NOWALSKY: Any other discussion on this section? Okay seeing none; we'll move on to New Jersey/New York Bight, 4.2.4; questions for Jay, Katie, Law Enforcement, discussion? Okay, seeing no hands up; we'll move on to the DelMarVa region. I believe I saw a couple hands up for that Section 4.2.5, John Clark.

MR. JOHN CLARK: A clarification and a question. Jay, do you have the options up for Options B through D on there, because what you showed on the screen the closed seasons for B and D are identical, yet in the document they are off by a month. Option D has a closure from June 1st through July 31st, while Option B is May 1st through June 30th. I was just curious as to which is correct.

MS. HARP: Sorry about that. I did mean to explain that. The presentation is correct. What's in the document is not, and that was an oversight on my part. Alexei did send the options which included proposed spawning closures in May and June, and it just wasn't adjusted. Status quo crept back in, but now this is correct. All options have a May and June spawning closure in them.

MR. CLARK: Then the only, the second question I had there was just because I'm sure the question would come up in Delaware. If we go to a 16-inch Option D, results in a reduction in landings. Do you know what the result would be if the closed season was one month instead of two months there? Is that something that could be calculated? I'm just curious; because I'm pretty sure the question would come up.

MR. McNAMEE: Off the top of my head I can't give you a number. But we can certainly calculate that, John.

CHAIRMAN NOWALSKY: Okay, so just to confirm that change is, has been made in the electronic document, but wasn't in the document in the meeting materials. Okay, are there any other questions or discussion about that section? I'll give them a moment to discuss what they're doing here.

Let me turn to Jim, just with regards to the letter from New York. We had the call. Hopefully that was informative, you got some of the information you were looking for. I'll turn back to Toni here in just a moment. Understanding your position and New York's previous voting history was there any other discussion or anything you wanted to have before the Board, with respect to the letter. We went through that section, didn't have any more comment here, so I'm assuming that you're okay with the options that we have in here; at least as okay as you're going to be. I wanted to give you that opportunity, and just for the Board's edification, let you know where we stand with having responded to the letter with a phone call.

MR. JAMES J. GILMORE, JR.: Yes, I think probably that's a way to characterize it, as good as I'm going to be. I think I went from what started out as a headache is turning into a migraine, because now after I saw Jay's combinations with different percentages, and then remember when you're looking at those regional things that's within the region, and then again you get to the east end of Long Island; and now you've got the border

between two regions, three states, four water bodies.

I think the only thing I'll maybe summarize in the letter there we're very concerned about, and kind of it was a summary of it. It's like; you know we can make this work on paper. That will be great, and we'll all go home and pat ourselves on the back and say we've got a great plan. But it's not going to work on the water.

I think the reality is that when you get to the east end of Long Island from the LEC report, is we're going to have what's probably the best way to characterize it, the least restrictive rule. Whatever the best set of limits are is what they're going to be fishing for, because law enforcement's going to throw their hands up and go, we can't figure out where they caught these fish.

Just so you know the courts in New York in particular are very, very supportive of fishermen over enforcement. A lot of cases just get thrown out, with black and white arguments from law enforcement, just because they just tend to side with the fishermen. I just see a state where they're going to take the best set of limits they can get, and if they get a ticket they're just going to get it defeated.

We're going to have to be able analyze this based upon the least restrictive rule. Assume that if say for arguments sake it was a 15-inch size limit, and the longest and the highest bag limit. That is what everybody's going to be fishing. I think we need to factor that into the landings, which gets to the last part. Then we're using MRIP.

Now we've been using MRIP for summer flounder and black sea bass, and we've been having headaches in the sampling size, it's dramatically much larger than what we're going to be doing for black sea bass. Now we're taking MRIP, and we're about to do this again. We're going to take MRIP and extend it well past what it was designed to do, to try to manage this fishery.

As I said, I've gone from a headache to a migraine as I see this going forward. I think what Ashton had said before. We have that option that when we get down the road that we can tweak these regions and make a new addendum or new amendment to try to get regions that actually work. I just want to emphasize that. Because I think we're going there after we implement this thing. I'll stop.

CHAIRMAN NOWALSKY: If I understood Captain Snellbaker with regards to Option 1 being the line for Montauk Light House northward versus Option 2. You're kind of on the fence with that; because Option 2 provides the benefit of the COLREGs line, but Option 1 presents more of an obvious line for Connecticut fishermen, if I heard you correctly. There's not clear winner out of those options for Law Enforcement.

MR. SNELLBAKER: That's correct. It was mentioned that this is where public comment is going to weigh in heavily.

CHAIRMAN NOWALSKY: All right so with that I am going to close the book on the 4.2.4 discussion. Toni wanted to address something with the DelMarVa discussion.

MS. TONI KERNS: Actually two clarifying questions, and one for the DelMarVa. It is my understanding that the May and June are spawning closures, and the Board had asked for spawning closures to be included in these options. Spawning closure is the way it's written out in the document as you read on further.

Those are sort of non- negotiable closures. You asked for them to tell you what we need to open up one of those months; but if it's a spawning closure that would be problematic. For curiosities sake, do you want them to run those at values for you, or?

MR. CLARK: No that's all right. I don't know how closely it corresponds right now to when tautog are actually spawning off of DelMarVa, but anyhow, I was just curious.

CHAIRMAN NOWALSKY: Well Toni, let me ask you this. Is there more flexibility given to modify those if we don't specifically reference spawning closure in the document? I mean are we hamstringing ourselves by using that term, and that those then become fixed months of closure with no opportunity for modification, and some equivalency? Are we better off just leaving those as closed months, possibly referencing spawning, but not specifically calling it a spawning closure?

MS. KERNS: The spawning closures were based off of scientific information. We referenced where we got it from in the document. I can't remember off the top of my head, but Katie might be able to tell me. She's looking at me like yeah. Yes, you are allowed to change those through the addendum process; but you are not allowed to change spawning closures through the conservation equivalency process, because they were based on the scientific information. If you don't want to say your rationale is spawning closures then you would need to change that direction.

The more changes you're asking for, the more we will probably come back and tell you you're going to end up delaying this document for public comment. Because in the document there are several sections that are sort of tied to this being spawning closures, and the way we presented it to the public. My other question, because I'm not clear is did Mark ask specifically for us to create an option in the document for both the 50 and the 70 percent risk for a smaller size limit?

CHAIRMAN NOWALSKY: I was definitely going to come back to that one. Well since you ended with that I'll just go back. Mark, after what you heard from Katie, are you looking at something specific being changed there?

MR. ALEXANDER: Actually what I was thinking of doing, since that would heap more work upon the TC, I thought I would throw you a bone and offer up an option under Section 2.7.1 that we

eliminate Option C, the 70 percent probability of achieving the F target from the analysis and from the document.

CHAIRMAN NOWALSKY: Okay, so let's try to deal with the DelMarVa question then first on the spawning closure; and then we'll come back to that. Let me turn to DelMarVa and their thoughts about, are you interested in removing the spawning closure references to gain the benefit of the flexibility of conservation equivalency. I've got John Clark and Mike Luisi. John.

MR. CLARK: Yes, I just brought that up just because I saw the reduction there. But if we explain it as the spawning closure, I don't think there's a problem there. It was just more of as I said curiosity there. But given the explanation, we can leave it alone.

MR. MICHAEL LUISI: I was going to suggest to be able to have a little flexibility is always nice, specifically for Maryland. We currently have an open season during that time period, and the thoughts from our fishermen; they're suggesting that we do not. Black sea bass opens on the 15th, I believe of May.

There was a hope that any closure period would allow for the tautog fishery to run up to the beginning of the black sea bass fishery, so there wasn't a two week period of time where the headboats that fish for both of those species would have nothing to fish for. Having a bit of flexibility to modify the dates, I'm not suggesting we eliminate the first 15 days of May, and not add into July. That's something we may want to talk as a region about, to make sure that we're not causing some problems with the business end of the charter headboat fleets.

CHAIRMAN NOWALSKY: Well, do you have a specific request for modifying the document? You basically heard that if we keep all of the labels in as spawning closure and associated sections, it would likely be limiting in that flexibility. The option would be to modify the

document to remove those specific references and labels as calling them that and giving you that flexibility. What's your pleasure? If we get none then the document will stay as is.

MR. LUISI: Well I would suggest removing those labels, and I don't know if you can specifically do that just for our region. I'm not trying to cause any problems here. That's the last thing I want to do is to create a problem that finds its way weaving through all the different regions and the entire plan. But I was just hoping for a little added flexibility. I'll look to you, Mr. Chairman as to, I don't think it's going to be a big deal one way or the other, but I'm not trying to cause problems here.

CHAIRMAN NOWALSKY: No problem at all. From my perspective this is 21 years in the making. This is Amendment 1 from the original FMP, 1996. We spent three years on it. I made the comment on another species. Let's do it right. I think that's what the important thing is, as opposed to going back and saying wow, we could have done this, because then what do we wind up with?

We spend another two or three meeting cycles going through some addendum process. I'll turn to staff and get their thoughts on are you clear on the request from the Board, and my recommendation would be not just limit this to DelMarVa, make it for all the regions that we have these proposed closures; but not specifically label them spawning closures, provide some reference to we're using spawning as guidelines for recommending these closing periods. But we're not specifically closing these time because of that. Is that enough direction? Toni.

MS. KERNS: It's enough direction, but I would ask the Technical Committee Chair. These spawning closures in some of these areas are put in place because of the need for the stock to rebuild. Interrupting spawning has the potential to affect rebuilding. My question would be to the TC Chair. For the areas that need rebuilding,

by allowing us to alter the spawning closures to allow fishing to occur. How is that going to impact the rebuilding of the stock?

CHAIRMAN NOWALSKY: Jay and specifically I think I would like to hear an answer with regards to any calculations that have been done; if they're going to be affected by that.

MR. McNAMEE: No calculations. The way that I understand Toni's question is, if you interrupt or impact a portion of the spawning period. You know that's difficult to know, the spawning period does change year to year. Not shockingly, meaning it might be a week earlier or a week later that sort of thing.

Could I offer one other thing though, Mr. Chair. It is just for consideration. I mean when we were going through this, we were talking about spawning closures. But at no point was there ever really specific guidance. In other words, no one ever said, and we want you to capture 85 percent of all of the spawning that is in the scientific literature or 50 percent or we want you to bound the maximum peak by a month on each side.

We did the best we could to capture what looked to be the spawning period going back, looking at ichthyoplankton data and egg data and stuff like that. But we're not working under very specific guidelines in that case. My thought is I wonder if there is already flexibility inherent in the fact that we didn't have a strong definition for spawning closure.

CHAIRMAN NOWALSKY: Well, I'll go one step further in that I think this Board has made clear in past discussions, discussion today, development of this document that spawning periods are clearly important. Any regulation that comes forward that is modified for conservation equivalency is ultimately going to have to be approved by this Board.

This Board is going to have that final say, and if a state brings forward a proposal that we look at

and simply say, this conflicts with what our goals have been, our discussion has been. I think it would then incumbent on the Board to go back to the state and say, no this doesn't work and here's the reason why.

I think we have that backstop. I think it wouldn't be completely true to simply say, if we took out the spawning closure designation that all states could just freely open during spawning. If they do so, I don't think that's necessarily the case. But I appreciate those comments. I'll turn to Toni for one more comment on it.

MS. KERNS: That's fine, Adam. I think that if the Board is still stressing the importance of spawning and spawning closures as a tool. But you're okay with having them altered through conservation equivalency, and then we could just remove that reference that you can alter spawning closures through conservation equivalency. Then that gives Maryland and Delaware the flexibility to alter their season closure through a conservation equivalency plan. Does that work?

CHAIRMAN NOWALSKY: I'm seeing thumbs up from that side of the room, and heads nodding, so I think the answer to your question is yes. That works. Okay, where we are just to frame up where we are is we've got a number of other options to get through for Section 4.3, but Mark Alexander brought up after seeing these options that he's now reconsidering; and I'll turn to him for your comments and potential motion about the 70 percent reduction options in the document.

MR. ALEXANDER: Yes, I offer up that motion. I think that 50 percent is conservative and not unprecedented as a probability of achieving an F target like that. I know in particular in Long Island Sound the harvest reduction that we're contemplating here is large with either of those two options. Based on that I would like to offer a motion that Amendment 1 to the Tautog Fishery Management Plan; consider only a 50 percent target of achieving F.

CHAIRMAN NOWALSKY: I think that could be clear by saying in Section 2.7.1, remove Option C, the 70 percent probability.

MR. ALEXANDER: Yes sir that's fine with me.

CHAIRMAN NOWALSKY: A second by that by Jim Gilmore. To be clear for the Board, what that would then also do is that would remove all of the 70 percent reduction options, both recreational and commercial across all the regions from the final document. Let's try to get that up on the board and then we'll have discussion. Do I have any discussion, any hands up for further discussion on it? Okay, I got one hand up. I'll turn to you in just a minute, Joe. Give me just a moment to sidebar. Okay, Joe.

MR. JOE CIMINO: I guess this question would be for maybe Jay or Katie. When we were looking at the reference points and Long Island Sound decided to go with MSY reference points. My recollection was, were they more conservative than the SPR reference points that were being proposed? Do either of you recall?

DR. DREW: For the Long Island Sound the MSY reference points were very slightly less conservative than the SPR. They were almost indistinguishable for Long Island Sound. The big difference was in the Massachusetts, Rhode Island region, and we already picked that option. But for the Long Island Sound region there was practically no difference in terms of the numbers or the reduction that needed to be taken.

CHAIRMAN NOWALSKY: **Okay so the motion that's up on the board, Motion to remove the 70 percent probability of achieving F target throughout the Amendment 1 document. That would again just to be clear, remove Option C from 2.7.1 and then throughout Section 4, remove all of those options;** any further discussion? Okay, I'll give you 15 second to caucus.

Okay times up. **The motion before the Board, all those in favor please raise your right hand.**

**Keep your hands up for another moment. All those opposed, abstentions, null votes, the motion carries by a vote of 7 to 3 to 0 to 0.** Okay so next we'll continue with Ashton's presentation for the remainder of Section 4. I believe your presentation covers all of the additional decision points that might need to be made. Ashton.

MS. HARP: Okay, we will pick up again with the commercial quota. The document doesn't mandate a commercial quota for any of the regions; it just says that a state may consider a commercial quota and it gives procedures within which to do that. There are two different options.

You could have a regional quota, and basically if a quota decision is made moving forward it would involve a regional working group among those states within the region to decide if it is state specific and how are you going to carve out the state specific quota within that larger region?

If it's a regional quota, how are you going to allocate it such that the states gets a certain percentage of it or is it just whenever the quota gets hit then its closed? Those are all decisions that will be made at a future point in time. This document gives a decision making process. The section also includes quota rollovers and quota transfers, and any quota overage.

For the commercial harvest tagging program, Option A is status quo, which is no tagging program. Option B would be to implement a commercial harvest tagging program; whereby all states would have to be included in this program.

De minimis status does not preclude a state from the requirements of the commercial harvest tagging program. It would be a single-use tag. The tag would include the year of issue, the state of issues, and a unique number that would be linked back to the permit holder. States would

distribute the tags and the cost for the tags would be whatever the state wanted to decide.

It would be on the onus of them to decide if that would be the harvester bears the cost or the state, and it would be unlawful to sell or purchase commercially caught tautog alive or dead without a commercial tag. There is a Sub-option within the tagging program, and the LEC Subcommittee has had significant discussion on this; which is when do you actually apply the tag to the fish?

Right now there are two options in the document. Option A is harvester application would be at harvest or upon landing. This was seen as a kind of a compromise. The LEC would very much prefer that tautog is tagged immediately upon harvest. This really reduces any loopholes or funny business, as to where the fish goes and when the tags are applied.

When we did commercial interviews with some fishermen, they discussed that there is a stress that occurs with some of these fish when your catching the fish, and they didn't want to tag immediately upon harvesting the fish; because they wanted to make sure the fish stays alive, so they can get the better price for the fish.

This option also allows the harvester to apply the tag upon landing the fish. Option B would be application by the dealer. All commercially caught tautog will be tagged by a licensed dealer. We had a discussion about this. There are a lot more dealers in some cases than harvesters, and not for every state; but in some cases there are a lot more dealers, so this would be possibly a little bit more difficult to implement, so the tag would be applied to the fish immediately after the dealer buys the fish from the harvester.

Then the rest of the commercial harvest, it is a long section. It does go over, you know what the reporting process is like, there would be an annual tag compliance report within there.

When should the tag be given back? If there are extra tags, how should they be given back, so there is kind of a lot of guidance within this commercial harvest tagging program; which is kind of just one lump section to really consider, and there are multiple subsections in there for you guys to review and to make sure that you're comfortable with all of the language in there.

In general there is, I would say for a lot of this document, includes guidance for the states. There is a lot of flexibility for the states to then decide how they want to implement a program. Like right now this doesn't say how the allocation of tags would be implemented. It does say that there is a quota that is presented in this document.

The quota could be used to determine what the cap would be for the tags. The states wouldn't necessarily have to implement the quota, but the quota would be used to derive the commercial tagging cap. We just had a lengthy discussion on spawning closures, so I'm just going to really quickly go through this.

At the regional working groups there was a request for spawning closures to be included in this document, so when the TC prepared all of those options, they already had these very specific spawning closures within it. The Massachusetts, Rhode Island, and New Jersey-New York Bight, tautog fisheries will be closed from June through July.

The Long Island Sound would be closed from May through July, and the DelMarVa region would be closed from May through June. But as was previously mentioned, that there is a request for, it says the spawning closure intended to reduce disruption on tautog pairing, to protect spawning females in perpetuity, meaning that these spawning closures are kind of fixed in time; unless an addendum has been created as Toni went over.

There is one sentence in here that says the measure is not subject to conservation

equivalency. We just heard that that is not the preference of the Board, so we can just delete out that sentence. If any state does want to allow fishing during what would be termed a spawning closure, then that can be done.

Those management measures will be brought before the Board, and the Board can decide if they want to move forward with that. It could be done via conservation equivalency.

This conservation equivalency option that is linked to spawning closures will be completely removed from the document, because we've heard that it is the will of the Board. This would be just one less option in the document; it will only be 21 options.

The last part is this is not necessarily an option, but it is something that was discussed at the Law Enforcement Committee earlier this morning; it was that there is, in Addendum 6 there was inclusion of language about states need to really use the term possession when regulating tautog, not the landing of tautog. There was some PDT discussion about possibly including, in federal waters a vessels possession limit is respective to the home port. Jason can chime in here, and there was feedback over what does home port mean? How do you define that?

Do recreational fishermen really have a home port, or is that really more geared at commercial fishermen? Whether or not this one sentence should stay in there, because that's an addition, it's up for debate. It can be removed.

It would be all right within the document, but it could be explicitly stated that if you're fishing in federal waters, whenever you come into land that fish you will need to abide by the possession limit for the state in which you're landing. That is already what fishermen should be doing, but it could just be more explicitly stated that that is what needs to be done.

Some thought does need to be taken when fishing in federal waters, it's not just a free for



all, and then we're not sure where the fish goes when you land. There is a limit on the amount of fish you can take in federal waters, and that is the possession limit of the state waters in which you will land. That can be adjusted.

That is all the options in the document. If you have any questions on the quotas or the commercial harvest tagging program, please let me know.

CHAIRMAN NOWALSKY: We're going to go through this the same way we did the other sections is we'll hit on each of the 4.3 through 4.11 items, take any questions or discussion about those. We'll go back to 4.3, the commercial quota. We've got the two options that are in the document right now; including elements of quota within region, rollover, transfer, and overages; any questions or discussion about that section? Okay seeing none; that will remain as is.

The next item is Section 4.4, which is the commercial harvest tagging program. Option A is status quo of no tagging program. Option B would be to implement a harvest tagging program. Then with there, we've got a handful of other items that would also include the options for tag application as well; so questions, discussion in this section? Dan McKiernan.

MR. DAN MCKIERNAN: This is just a subtle issue, but I think the word landing might need to be clarified. If a fisherman brings in a holding car full of tautog, and he puts it over the side of his boat, has he landed it? I look at Jason, and this is always a sensitive issue for when you enforce some rule. I would ask that maybe we clarify that a little bit more if we can. But I don't want to delay this issue or the amendment.

CHAIRMAN NOWALSKY: You would be looking at that clarification in the title of Option A for tag application 4.4.3?

MR. MCKIERNAN: Yes that's right. When does one have to tag the fish upon landing?

CHAIRMAN NOWALSKY: LEC is suggesting changing that to offloading; Captain.

CAPTAIN SNELLBAKER: It could be land or it could be offload, but you have to make a choice.

MR. MCKIERNAN: No doubt in Massachusetts we'll be enacting our regulations for the Commonwealth, so we'll probably be clarifying it then. But I just want to point out that that is always an area of debate.

CHAIRMAN NOWALSKY: Is there any Board objection to, for 4.4.3 the harvester application option of the tag referencing offloading in lieu of landing? Okay seeing no objection, we'll go that route; Captain.

CAPTAIN SNELLBAKER: I don't know what each individual state's definition of land is. In New Jersey it is enter port. From a New Jersey perspective, I'm okay with land. But not knowing the other definitions for land in the other states, then I would say to answer your question, it would have to be prior to offloading. If you don't have a definition for land, i.e. enter port. I don't know if that needs more discussion or a clarification.

CHAIRMAN NOWALSKY: Does prior to offloading work in our state as well, where we have that definition?

CAPTAIN SNELLBAKER: Either one would work in New Jersey. But I'm not sure about the other states.

CHAIRMAN NOWALSKY: Okay, so I didn't see any objection to prior to offloading, so I think we'll go with that. Okay that brings us to Section 4.5, which has no options in it, 4.6 is spawning closures. What I would suggest we do here is just make this informational; and not actually make these options here. Toni.

MS. KERNS: Adam, from what we said before that we were going to hold onto these, but they could be revised through conservation

equivalency. But if you want to change that then we can do that. Because these are, it's spawning closures that are based on the scientific information that's out there.

We would revise them through conservation equivalency to allow for flexibility in how much percentage that you're capturing during a time period, or if the science shows that there is new spawning closures. But if you don't want us to have them at all then we would just delete the section.

CHAIRMAN NOWALSKY: I guess I'm just wondering, what's the benefit of having it in here as another option, another decision point. I think that is what I'm asking here at this point.

MS. KERNS: Because it's based on the direction that we received from the working groups that were developing the management measures.

CHAIRMAN NOWALSKY: I'll turn to the Board. Our options here are to leave the two options; boy it gets hard when people bring food in front of us here. Our two options are to leave this section as is, but change the first paragraph to remove the line that says this measure is not subject to conservation equivalency. We would just strike that line. Where the other alternative is to just simply turn them into an informational paragraph, and I need direction from the Board about which way they would like to go. I would love to see a hand. Eric Reid.

MR. ERIC REID: I'm good with the informational paragraph.

CHAIRMAN NOWALSKY: Okay, we have a suggestion for informational paragraph. I have another thumbs up, do I have any objection to just making that informational in nature? Okay seeing none, 4.6 will reduce us to 20 decision points in the document; and will become informational in nature. I threw in the towel on some of this. That's great. All right, 4.7 was the last slide Ashton had put up, which referred to possession limit, regulatory language. We've

had a lot of discussion over time about complementary measures in federal waters.

We have this line in the document highlighted, in federal waters a vessels possession limit is respective to the home port. That brings up the question of definitions of home port. I believe the Summer Flounder Plan goes into some detail about how this actually works. Let me first turn to staff, to see if they have any thoughts after hearing from Law Enforcement about how best to proceed, and then I'll turn to the Board about concerns about this.

MS. HARP: My initial thought, after the very informative feedback this morning from the Law Enforcement Committee was to strike that sentence from the document, and just reiterate that when you're in federal waters you have to land according to the states restrictions upon which you're landing; that there is some kind of cap that one should acknowledge when in federal waters, but to strike the sentence currently in the document.

CHAIRMAN NOWALSKY: Is there any objection to striking the last sentence from 4.7? Go ahead, Captain.

CAPTAIN SNELLBAKER: Again, I think we all know there is no federal regulations for tautog, which kind of makes enforcement difficult when you go to check a sea bass boat and all of a sudden there is a huge number of undersized black fish, you know laying on the deck of the boat or in a hold, or in a live bag; and there is nothing you can do from an enforcement perspective.

I think the home port issue is really, again reiterating that we do enforce strict possession, so if you're in the EEZ, you may not be in violation of any state regulations, but wherever you come back and there is the regulation that is the regulation that is going to be enforced. To me it's not a home port issue, as much as it is a strict possession issue.

I would also say that as far as home port is concerned, many boats are transient boats. Like I said before, most people will shift to where the regulations are more liberal. You basically have a New Jersey or a New York or a Massachusetts or Rhode Island registration. It doesn't mean that's where you're going to be going back to. Also, as far as on the commercial end, we do have vessels that aren't documented vessels. They don't have a home port; they just have a state registration. To me this is more of an issue of, again strict possession.

MR. REID: Possession in federal waters is a different animal. But of course if the harvester is actually going to be the one that tags the fish, they will have onboard, I would hope the tags of their point of sale. There is a lot of discussion in my mind, in my own head, about how many states tags can you have and all this other stuff, which we can I suppose work through public comment. I think you have to take that line out.

CHAIRMAN NOWALSKY: Peter Burns.

MR. PETER BURNS: Just a question and clarification for my own benefit. I just want to make sure that this would allow state enforcement to enforce possession limits in federal waters; is that correct?

CHAIRMAN NOWALSKY: Well, I think this section just highlights that the enforcement is going to occur where possession is, and couldn't actually occur until that vessel was in some state waters, where some regulation applied. I think the section is highlighting the fact that right now there is no possession limit in federal waters; recreationally or commercially.

When a vessel is inspected in federal waters, no enforcement can occur, because there is nothing to enforce; and enforcement isn't sure where that vessel is going to go back to. I think it's an ongoing issue. I don't think we've clearly fixed it here. But I think it is something that we need to continue to work on moving forward. Follow up.

MR. BURNS: Yes thanks for that clarification. This would not be a recommendation for any complementary federal regulations, as far as this section is concerned.

CHAIRMAN NOWALSKY: I don't believe there is anything in this document that has specifically highlighted that.

MS HARP: One point of clarification. There is a section, it's later on, and it's not an option, because it's just carrying forward language from a previous addendum. It does recommend federal management, and that the federal government applies the minimum size and possession limits in federal waters. That was just a recommendation.

CHAIRMAN NOWALSKY: That was in Section? Give us a minute to find it.

MR. CLARK: It's 4.15.

CHAIRMAN NOWALSKY: Okay, so thank you, so 4.15, recommendations to the Secretary for complementary action in federal jurisdictions. The ASMFC recommends the federal government promulgate all necessary regulations to implement compatible measures in the EEZ. Specifically the Commission recommends that the Secretary fully implement regulations of tautog in the EEZ that are in accordance with state minimum sizes, possession limits, closed seasons and other possession requirements.

Okay, any other questions on that? No objection to removing the last sentence from 4.7, okay. Then the last item we have here is in Section 4.11, we're removing that entire section or we're leaving the paragraph but eliminating the options?

MS. HARP: Yes, we're just eliminating the options. We'll still have a paragraph in there to describe the conservation equivalency for this plan.

CHAIRMAN NOWALSKY: Okay, so let me run down the list of modifications that we've discussed here today. Then I'll have two questions after that. One, throughout Section 2.7.1 we'll use the term initiate, referring to the timeline for management document. Throughout Section 4 in the options that reference status quo, we'll clarify that those are the state specific options with the reductions. In the DelMarVa options, the document was clarified with regards to May and June. We'll remove the spawning closure references there, or labeling them as such. In 4.4.3 we'll change the term landing to prior to offloading. Section 4.6 will become informational in nature without an option, 4.7 will remove the last seconds, and 4.11 will become an informational paragraph without an option.

Those are the list of changes that I have. The two questions that I have is first, I'll turn to Mark from Connecticut, with the – oh and then we also went ahead and moved to remove all of the 70 percent reduction options. Let me first turn to Connecticut, moving to remove those 70 percent options. Does that eliminate your need for any other measures to be evaluated by the TC, and inserted in the document before you would vote for it going out to public comment?

MR. ALEXANDER: No, I wish to explore the possibility of a smaller minimum size in the commercial fishery under a tagging program.

CHAIRMAN NOWALSKY: I think I heard that analysis could be done, but without a doubt that would certainly delay this to at least the next meeting. Do we have some level of confidence that we could get that analysis for our next board meeting?

MR. ALEXANDER: Katie, is that something that could be considered under conservation equivalency?

CHAIRMAN NOWALSKY: Toni would like to jump in on that.

MS. KERNS: I think Katie wants to add something after I'm done. But I think that if we can work with Jarred to do the analysis, to make it feasible. It potentially could impact both the commercial and recreational, because I'm assuming we're holding the 50/50 percent, 50 percent reduction to the commercial, 50 percent reduction to the recreational.

You're just asking for in that sense, but maybe Katie can clear that up for me. If we can get Jarred to do the analysis relatively quickly, then we can just add it as an additional option in the document. However long it takes him to do that analysis, if it doesn't delay into our timeframe that we have.

You know there are very specific timeframes that we have to have the document out before it goes out for public comment. If that fits into the schedule still, then we can bring you public comment back at the August meeting. If it doesn't fit into the schedule, from how much time it takes him then it would delay us.

DR. DREW: Also, I would want to clarify. Is this only for the Long Island Sound region, or are other states interested in our other regions, would want to see that lower size limit? I mean I don't really want to open up that can of worms, but I also don't want to get here to be like, well why did they get a 12-inch minimum size and we have to do a 16-inch minimum size.

MR. ALEXANDER: I guess I did open a can of worms. My interest was only for Long Island Sound. I'm not even sure that New York is interested in it yet. I would like to proceed with this in the most expeditious and simplest manner though. I mean if it's something that we could develop on our own as a conservation equivalent to the commercial option that's been submitted already, then there is no need to prolong the publication of the amendment.

CHAIRMAN NOWALSKY: Okay, so let me jump to my second question. The Connecticut issue notwithstanding, all of the other changes we

talked about could be made in a timely enough manner. Maybe just send the document around to everybody for 48 hours, or maybe not even necessary. I can review it and it could go out.

MS. KERNS: That's correct, and I think if Mark wants to do conservation equivalency and he works it out with New York, because it is a regional approach, then we can do that.

CHAIRMAN NOWALSKY: Okay, so with the Connecticut issue, what I'm hearing is two potential paths forward. One, that this Board would either have to agree by consensus without objection, to have the additional item put in the document; and it couldn't be done by consensus. We're not without objection, then we would need a motion from Connecticut, a second and be voted on; or what I'm hearing the second path is that that option could be forward in the future, for Connecticut's commercial fishery under conservation equivalency. How am I doing?

MS. KERNS: Good.

CHAIRMAN NOWALSKY: Mark.

MR. ALEXANDER: Mr. Chairman, I'll proceed with your second option there, to make things simple.

CHAIRMAN NOWALSKY: Okay, so we've got recorded discussion of that and that option would be considered, looked at under conservation equivalency, and wouldn't need further Board action as an inclusion in the document. Okay, so at this point is there any other discussion on the document? Seeing none; **what I would need is a motion to release the document for public comment, with the changes made here today.** I have a hand up from Emerson Hasbrouck.

Do I have a second? John Clark. Okay while we're getting the maker and seconder up. I would just ask that you reflect that motion to include with the changes made here today. I'll quickly just ask, is there any public comment on

this motion? Seeing none; I'll come back to the Board. You have five seconds to caucus.

Okay, is there any objection to the motion? Okay, I've got an objection, so given an objection I'm going to go ahead and ask for a show of hands then as a vote. **All those in favor of the motion to approve Draft Amendment 1 for public comment as amended today, please raise your right hand, all those opposed, abstentions, null votes; motion passes 7 to 0 to 2 to 1.**

One more digit and we'd have a zip code. Okay, are there any other items to come before the Board today? All right, thank you everyone. Again, I have to extend a great deal of amount of thanks to staff for their work on this. I'll also ask do you want to see a show of hands for states that want public hearings? No, not needed. I'm sure that will get addressed.

#### ADJOURNMENT

CHAIRMAN NOWALSKY: All right, having concluded the business of the agenda, we stand adjourned. Thank you everybody.

(Whereupon the meeting adjourned at 1:12 p.m. on May 9, 2017.)