

**PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
SPINY DOGFISH MANAGEMENT BOARD**

**Crowne Plaza Hotel  
Alexandria, Virginia  
August 21, 2008**

**Board Approved: October 2008**

**TABLE OF CONTENTS**

**CALL TO ORDER .....1**

**APPROVAL OF AGENDA AND PROCEEDINGS.....1**

**PUBLIC COMMENT.....1**

**INTERSTATE FISHERY MANAGEMENT PLAN FOR COASTAL SHARKS .....1**

**INITIAL SPECIFICATIONS FOR COASTAL SHARKS.....12**

**TECHNICAL COMMITTEE RECOMMENDATIONS.....12**

**SPINY DOGFISH FMP REVIEW.....13**

**SPINY DOGFISH DRAFT ADDENDUM II REVIEW & DISCUSSION .....15**

**COASTAL SHARKS TECHNICAL COMMITTEE NOMINATION UPDATE .....24**

**ELECTION OF VICE-CHAIR .....24**

**SPINY DOGFISH ADVISORY PANEL NOMINATION .....24**

**FEDERAL SHARK AMENDMENTS 3 AND 4 .....24**

**ADDENDUM III REVIEW & DISCUSSION.....27**

**ADJOURN .....37**

## INDEX OF MOTIONS

1. **Approval of agenda by consent** (Page 1).
2. **Approval of proceedings of May 6, 2008 by consent** (Page 1).
3. **Motion to approve the FMP for Atlantic Coastal Sharks. Motion reworded on Page 12 as follows: Spiny Dogfish and Coastal Sharks Management Board moves to recommend approval of the Interstate FMP for Atlantic Coastal Sharks to the Commission** (Page 4. Motion carried on Page 12. Augustine/Himchak
4. **Move to amend Section 4.3.2 to allow the transit of non-sandbar large coastal sharks legally caught in the EEZ through Virginia, Maryland, Delaware, New Jersey from May 15<sup>th</sup> through July 15<sup>th</sup>, provided that the fisherman notifies the state enforcement agency and/or NMFS prior to transiting and gear is to be stowed. Specific provisions for implementation will be part of the state implementation and must be reviewed by the Law Enforcement Committee prior to approval of the state plan** (Page 10). Motion by Vito Calomo; second by Pat Augustine. Motion passes (Page 11).
5. **Move to amend Section 4.3.2 to allow the transit of sharks legally caught in the EEZ through Virginia, Maryland, Delaware, New Jersey from May 15<sup>th</sup> through July 15<sup>th</sup>, provided the fisherman notifies the state enforcement agency and/or NMFS prior to transiting and gear is stowed. Specific provisions for implementation will be part of the state implementation plan and must be reviewed by the Law Enforcement Committee prior to approval of the state plan** (Page 11). Motion by Robert Boyles; second by Pat Augustine. Motion carries (Page 11).
6. **Move to accept the recommendation of the technical committee for the initial specifications for 2009 as noted** (Page 12). Motion by Pat Augustine; second by Bill Cole. Motion carried (Page 13).
7. **Move that Delaware, South Carolina, Georgia and Florida be granted de minimis status** (Page 15). Motion by Pat White; second by Pat Augustine. Motion carried (Page 15).
8. **Move to approve Draft Addendum II to move forward for the public review** (Page 20). Motion by Pat Augustine; second by Pat White. Motion carried (Page 23).
9. **Move to nominate Dave Simpson as vice chair of the Management Board** (Page 24). Motion by G. Ritchie White; second by Pat White. Motion carries (Page 24)
10. **Move to accept Eric Brazer, Jr. for the Spiny Dogfish Advisory Panel** (Page 24). Motion by Bill Adler; second by Pat Augustine. Motion carried (Page 24).
11. **Move to remove Option H from the Draft Addendum III** (Page 31). Motion by G. Ritchie White; second by Dan McKiernan. Motion carried (Page 32).

## INDEX OF MOTIONS (CONTINUED)

12. **Move to add an option basing allocation on landings between 2000 and 2007** (Page 33). Motion by Jack Travelstead; second by Bill Cole. Motion carried (Page 33).
13. **Move to average all the options, A through the new H, which is the 2000 to 2007 option, and average those up as a mean percentage over the entire fishery timeframe from 1981 to 2007** (Page 33). Motion by Rep. Abbott; second by Pat White. Motion failed (Page 35).
14. **Move for consideration that any state that has less than 1 percent be given a 1 percent allocation and however the math works for the rest of it would be fine** (Page 35). **Motion reworded on Page 35: Move to add to Issue 1 an option to allocate 1 percent to Delaware and Connecticut each.** Motion by Pat White; second by Roy Miller. Motion carried (Page 36).
15. **Move to approve Draft Addendum III for public hearing** (Page 36). Motion by Bill Cole; second by Pat Augustine. Motion carried (Page 36).
16. **Motion to adjourn by consent** (Page 42)

## ATTENDANCE

### Board Members

T. Stockwell, ME proxy for George Lapointe (AA)	Bill Goldsborough, MD (GA)
Pat White, ME (GA)	Tom O'Connell, MD DNR (AA)
Sen. Dennis Damon, ME (LA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Doug Grout, NH (AA)	Steve Bowman, VA (AA)
Ritchie White, NH (GA)	Catherine Davenport, VA (GA)
Dennis Abbott, NH (LC)	Louis Daniel, NC (AA)
David Pierce, MA, proxy for Diodati, (AA)	Bill Cole, NC (GA)
William Adler, MA (GA)	Jimmy Johnson, NC, proxy for Rep. Wainwright (LA)
Vito Calomo, MA, proxy for Anthony Verga (LA)	John Frampton, SC (AA)
Mark Gibson, RI (AA)	Robert Boyles, SC (LA)
James Gilmore, NY (AA)	Malcolm Rhodes, SC (GA)
Pat Augustine, NY (GA)	John Duren, GA (GA)
Peter Himchak, NJ, proxy for David Chanda (AA)	Bill Orndorf, FL (GA)
Erling Berg, NJ (GA)	Bill Johnson, FL, proxy for Mitch Needleman
Roy Miller, proxy for Patrick Emory, DE (AA)	Wilson Laney, USFWS
Bernie Pankowski, DE, proxy for Sen. Venables (LA)	Margo Schulze-Haugen, NMFS

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

### Ex-Officio Members

Dr. Jack Musick, Technical Committee Chair

John Tulik, Law Enforcement Committee Chair

### Staff

Chris Vonderweidt

### Guests

Jack Travelstead, VMRC  
Red Munden, NC DMF

Louis Daniel, NC DMF  
Harold Mears, NMFS

The Spiny Dogfish and Coastal Shark Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, August 21, 2008, and was called to order at 10:35 o'clock a.m. by Chairman Louis B. Daniel, III.

### **CALL TO ORDER**

CHAIRMAN LOUIS B. DANIEL, III: Good morning. I would like to convene the Spiny Dogfish and Coastal Shark Management Board.

### **APPROVAL OF AGENDA AND PROCEEDINGS**

You have got an agenda in front of you, as well as the proceedings from May 6<sup>th</sup>. I think we can move through this fairly straightforward. The proceedings are your materials. Are there any corrections to either the agenda or the minutes? We have an "other business" addition. We have an AP nomination from the Commonwealth of Massachusetts we will deal with at the end of the meeting. Anything else? Pete.

MR. PETER HIMCHAK: Mr. Chairman, I have a comment or a piece of information under other business. I will save it for later; a Garden State Seafood Association sponsored workshop on spiny dogfish in Philadelphia in September.

CHAIRMAN DANIEL: Anything else? If not the agenda and the minutes are approved by consensus of the group.

### **PUBLIC COMMENT**

CHAIRMAN DANIEL: There is some interest in public comment today on both the shark plan and dogfish addenda. I'll take those as we get there. Right now I would offer an opportunity for the public to comment on any items that are not on our agenda. I see no interest at this point and recognize that there are several that would like to speak on other issues as we progress.

## **INTERSTATE FISHERY MANAGEMENT PLAN FOR COASTAL SHARKS**

What we're going to do first is Chris is going to go over the Interstate Fishery Management Plan for the coastal sharks for us to take final action. I would like to go through all of those. Those are the alternatives that we selected; and if we can handle it in one motion, great; if not, we can handle them one by one, whichever you prefer.

What I would like to do is go through the document first and then we'll start at the beginning. If we get a blanket motion, great; if not, we'll go through them one by one. Then Dr. Musick is going to go over the technical committee recommendations to set the specifications, trip limits, that type of information, and then we will move on through the agenda. Just to give you an idea of what we're doing first, we're going to deal with Coastal Shark FMP, and so with that I'll give it to Chris.

MR. CHRISTOPHER VONDERWEIDT: Thank you, Mr. Chairman. Staff just handed out a state compliance report from the Commonwealth of Massachusetts. We're actually going to deal with that under Agenda Item Number 6; so if you want to just set that to the side for now, and there is not going to be any action taken on it right now or even today, so it's not that pressing an issue.

The Final Draft Interstate FMP for Atlantic Coastal Sharks, it has been kind of a long road since 2005, before I was working here when the public information document was developed. It was taken out for public hearings and all the stakeholder input, and then a draft went out for public hearing, and here we are in 2008 on track to possibly approve the final FMP and get complementary regulations on the Atlantic Coast for the first time.

I'm just going to kind of go over and recap what the board voted on at the last meeting. The recreational measures include a seasonal closure from May 15<sup>th</sup> through July 15<sup>th</sup> from Virginia to New Jersey. This is intended primarily to protect pupping sandbars. It also includes a bunch of large coastal shark species because of bycatch concerns.

You can catch any species that is not prohibited by the National Marine Fisheries Service. This includes smooth dogfish, which are not managed by the National Marine Fisheries Service. The fins must remain attached to the carcass. There is a four and a half foot size limit for all permitted species except for smooth dogfish, Atlantic sharpnose, finetooth, blacknose and bonnethead.

You will notice that finetooth and blacknose are in italics because that is different in federal waters. They have a four and a half foot size limits. There is a rod-and-reel and handline restriction. The possession limit basically is one of any permitted species plus one bonnethead, plus one sharpnose, plus one smooth dogfish for shore and vessel fishermen. Shore fishermen must follow the more restrictive vessel fishermen guidelines while on a boat.

The commercial measures; the fishing season is January 1<sup>st</sup> through December 31<sup>st</sup>. There is an identical seasonal closure as with the recreational fishery to protect the pupping sandbars. There is research, which is essentially sandbar and prohibited species groups. This is consistent with Amendment 2 of the HMS Plan. We have a smooth dogfish species group. We'll be the first people to manage smooth dogfish consistently along the Atlantic Coast.

There are small coastal shark, large coastal shark and pelagic species groups, consistent with NMFS as well. As far as the specifications for the various groups; smooth dogfish, the board has the ability, but is not required to set a quota and/or possession limit annually for smooth dogfish. For small coastal sharks, large coastal sharks and pelagic species groups, the fishery opens and closes with the National Marine Fisheries Service.

However, the board can set the possession limit annually to control the catch rate if they wish, but they are not required to. The research and prohibited species groups, you can only harvest with a state display research license or permit. "License" was added to the language after the last meeting because not all states use the word "permit".

There is also an option to distribute the National Marine Fisheries Service Quota seasonally through a landings' restriction if the board wishes to in the future. There is a state

commercial license or permit requirement in order to harvest sharks commercially. Exemptions are granted from quota, seasonal closure, trip limit, size limit, pretty much everything contained in the plan. There is a list under that provision in the FMP with a state display or research permit system.

Federal permits are required by all dealers. This was intended to get the landings in a timely manner into one database in order to close the fishery and not have the large overages that we have had in the past if the possession limits don't spread the quota out as intended, so it is kind of a fall-back thing.

Rod and reel and handlines, gill nets, trawl nets, shore lines which are 50 or fewer hooks on I believe 500 feet maximum length, pound nets, fish traps and weirs are all permitted gears. Commercial measures, number four, bycatch reduction measures were included for shortline fishermen. They must use circle hooks and attend a safe workshop which teaches you how to release marine mammals and sea turtles caught while longlining.

Large-mesh gill nets greater than five inches have to check their nets every two hours. The fins must remain attached to the carcass through landing. There are no specific de minimis guidelines. They will be handled on a case-by-case basis because the board deemed all the provisions in this plan necessary to rebuild the shark stocks.

Moving forward to the plan development team recommendations, we thought that the plan generally achieved comprehensive shark management for the entire Atlantic Coast. One thing that was discussed at the last meeting is there is no measure to protect pups when they're in the nursing areas in state waters, in the bays and estuaries.

As far as recommendations, we kind of kind of came up with two. The first one is just to allow the flexibility for five-year specifications. If you look at the Spiny Dogfish Plan, there is an addendum that you had to spend the staff time and money for public hearings and all that. Basically, all it did was say that the board can offset specifications up to five years and change them as new data becomes available; and if they want to revisit them year, they're allowed to.

We would recommend, because the assessments only come out every three to five years, to do five-year specifications. Also, in the discussion of the seasonal closures, the board wanted to prohibit possession of any large coastal sharks off the states of New Jersey to Virginia; and what this does is it keeps all federal fishermen from transporting the large coastal shark species through state waters and essentially closes the area off those states to commercial harvest unless they want to drive their boats around, which we felt was an appropriate and a good thing to offer protection for these pregnant sandbars coming in and out of the spawning closure area or the spawning areas.

The only thing is that there is a federal shark research fishery, which includes 116.6 metric tons of sandbar and 50 metric tons of large coastal sharks which was allocated as part of the actual large coastal shark assessment, so there is an optimal yield for the sharks and then a number that would be allocated to the actual research fishery.

What prohibiting transport for those fishermen specifically in the research fishery may do in the future is if there is a research proposal where they need to fish off the coast of those states and then transport it through, this will not let them do that. They would still need a state exemption to actually conduct research in state waters.

They have their own quota, so it wouldn't affect the commercial fishery one bit. They may need to transport to achieve their research goal, so we would recommend allowing this. We don't think it is going to have any kind of burden on state or federal commercial fishermen, but it may help to achieve research goals.

Moving ahead to the suggested timeline, the dates that are up there to try and get this implemented by January 1<sup>st</sup> of next year, which was the original goal, would be that October 1<sup>st</sup>, 2008, the states would submit their proposed rules to the plan review team and we would hopefully turn that around by the annual meeting and let the board know if these regulations were in fact consistent with what is written in the plan, and then January 1<sup>st</sup>, 2009, the states go ahead and implement their actual programs.

Then as far as the compliance reports, it seems like August 1<sup>st</sup> might be good time as far as landings are concerned, and it also coincides

with the spiny dogfish, so states could kind of get their shark state compliance taken care of in one fell swoop. That concludes the presentation.

CHAIRMAN DANIEL: Excellent job throughout the whole plan development, Chris. Any questions for Chris on the presentation? Pete.

MR. HIMCHAK: Chris, thank you, again. I had no problems with any of the measures in the FMP. In fact, it was one of the nicest public hearings we ever had in New Jersey with the sport and recreational fishermen. We have taken all the measures that were approved at the May meeting and drafted up regulations to include all the management requirements of the FMP.

January 1<sup>st</sup>, you know, I was all on board until – implementing these regulations by January 1<sup>st</sup> is an impossibility for us, honestly. We have all these regulations drawn up in what we call our annual multi-species regulatory proposal. It includes everything from bluefish to the black drum reef complex.

We have a draft that hasn't been reviewed by the lawyers yet. That gets a 60-day comment period and then a couple of months to come up with an adoption document, so January 1<sup>st</sup> to us is way out of reach. It's impractical, but all on board with the measures. They are all drafted up. It just hasn't moved yet.

CHAIRMAN DANIEL: I'm not sure how you deal with that. Ritchie.

MR. G. RITCHIE WHITE: Pete, what is practical?

MR. HIMCHAK: These are two of our council members surrounding me here so they understand the dilemma. I would think sometime in the spring, being ambitious, yes. We've gone through this the last couple of years where it just gets longer and longer, and I don't want to give any false hopes. We're not going to meet this January 1<sup>st</sup> deadline or the implementation date, rather, but hopefully by this spring we would have our adoption document finished.

MR. ROBERT E. BEAL: Thank you, Mr. Chairman. We have handled this two different ways in the past. The board can select a date of January 1, recognizing that some states may have

difficulties implementing by that date. The boards in the past have provided leniency for those states if they're working through the system as New Jersey has indicated.

The board could select a date, May 1<sup>st</sup> or whatever seems reasonable for New Jersey. I realize they have some uncertainty in their date. It is really up to the board on how they want to handle, but even if January 1<sup>st</sup> is selected, the board does have the ability to provide leniency to a state if they feel comfortable that the state is making every effort to come into compliance..

CHAIRMAN DANIEL: Jack, you had a comment on that?

DR. JACK MUSICK: Yes, for these northern states, this is kind of a moot point, anyway, because the sharks won't show up until May sometime, so there is nothing to manage there. The winter implementation will affect states from North Carolina south.

MR. ROBERT H. BOYLES, JR.: Thank you, Mr. Chairman. Just for the record, I just want everyone to know that we do not have the authority in South Carolina to make these changes via regulation. We will have to seek legislation with our sharpnose fishery in the recreational limit, which is a political process, but will not happen prior to January.

CHAIRMAN DANIEL: I'm comfortable with a January 1 implementation date with the understanding that some of those states that have to go through longer processes, as long as you're moving forward in a positive direction towards implementing those and with the comments from Dr. Musick, if the board is comfortable with that, I am. The other option would be to delay to June 1, which is I guess the second option. Pat.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. I thought Bob handled that very nicely by saying we can allow states to move as quickly as possible, and they're given that opportunity to – if they can move faster than dragging it out for another six months, it just seems to me we ought to move forward and you accept a motion to approve this FMP for Atlantic Coastal Sharks. I'd make that motion, Mr. Chairman.

CHAIRMAN DANIEL: Motion from Pat Augustine to approve the Coastal Shark Plan. Is there a second? Seconded by Pete Himchak.

Discussion from the board on the plan? David Pierce.

DR. DAVID PIERCE: I just wanted to highlight one particular point. I am not going to dwell on it, but it needs to be mentioned at least for the record, and that is with regard to smooth dogfish. At our last meeting we talked about smooth dogfish extensively, of course, and I attempted to have the board agree that it would make sense for us to include so-called tub trawls as one of the allowable gears.

There was a great deal of discussion about that. It is merited; however, the board was hesitant to go along with that I think in large part because it didn't understand the nature of the gear. I'm not going for it to be included now, but I will point out we do have a letter of authorization issued for a small number of fishermen in our waters who will be using tub trawls.

Our objective is to perform that experimental fishery and to better document the nature of the gear for the benefit of this board, so that we can, subject to board approval, use the adaptive management approach to include that as a gear that could be used to take smooth dogfish.

CHAIRMAN DANIEL: Thank you, Dave. Before I take anymore comments, if we could get that recommendation from the PRT up there because I don't know if Pat intended to include that in his motion, but for the plan there were two recommendations from the PRT, the five-year specifications and the transfer. We will get those up on the board, but those are included in the approval. I have got hands going up now. Margo.

MS. MARGO B. SCHULZE-HAUGEN: It was that point that you just said, whether the adoption would include those two recommendations.

CHAIRMAN DANIEL: Okay, Bob.

MR. BEAL: Just a procedural technicality on the motion; since this is a new FMP it probably should read, "The Spiny Dogfish and Coastal Shark Management Board recommends to the Full Commission approval of the FMP." We will get that in there. It is a two-step process, The business session will have to deal with later this afternoon.

CHAIRMAN DANIEL: We do this less frequently than many others. Anybody else from the board? Roy.

MR. ROY MILLER: Thank you, Mr. Chairman. Chris, would you review for me the recreational measures that are in this plan with regard to smooth dogfish and what that means if we vote to approve this plan. Thank you.

MR. VONDERWEIDT: Basically, the only two measures that would actually impact smooth dogfish fishermen, one would be that a recreational fisherman can only catch smooth dogfish using a handline or rod and reel. The second one is that recreational smooth dogfish fishermen could only keep two smooth dogfish maximum.

MR. MILLER: If I may, Mr. Chairman, I recall reading in some of the documents that was a discussion topic among the technical committee, whether to include smooth dogfish and did we have sufficient data to justify that. I wonder if Chris could quickly summarize – perhaps you will get to this later in the agenda – what the TC’s comments were in that regard. Thank you..

MR. VONDERWEIDT: I think, basically, the technical committee thinks that until there is an assessment done, it’s not fair and you don’t have any metric to set a quota with. We will actually get into that in the specification requirements. But the other thing that they said is recreational anglers, why are they taking more than two? It seemed like a fair possession limit for a recreational angler to have two smooth dogfish.

One of the main concerns with smooth dogfish is that primarily females are being intercepted and kind of tried to cap landings right now before they get into the same kind of contentious – we get into the same contentious skewed sex ratio atmosphere as we do with spiny dogfish. I think regardless of what you feel about the science, you would agree that the skewed sex ratio is kind of the source of all the problems with spiny dogfish. So, setting the two smooth dogfish possession limit is a way to allow recreational anglers to catch what they would use without having adverse impacts on the stocks.

MR. MILLER: Just my general observation, I don’t have a problem with the suggestion for two smooth dogfish, recognizing that it is kind of in the absence of technical justification as a

proactive conservation measure presumably that everyone is suggesting two smooth dogfish. Smooth dogfish in my area are something that you catch when nothing else is available. Lately that has been nearly all the time. Nothing else has been available, no weakfish, croaker have late showing up, so smooth dogfish seem to be, by default, what people catch. My only concern is that the principal use for smooth dogfish in my area appears to be to reduce it to bait to use for flounder and something else. At least if you can keep two, you can make some baits out of some smooth dogfish, so I guess I’m comfortable with this. Thank you.

MR. PETER HIMCHAK: I had a question for Chris. Unless I developed my matrix wrong based on the 60 motions we passed at the last meeting, I have down the possession limit under the recreational fishery, it would be a maximum of one from the large coastal, one small coastal and pelagic plus one bonnethead, one Atlantic sharpnose, and one smooth dogfish. This possession limit of two, how do you get a maximum of two?

MR. VONDERWEIDT: Because it actually reads one non-prohibited federal species because our groupings are any species that is not prohibited in federal waters; so being that smooth dogfish are not managed in federal waters, they’re not prohibited. So then you’re allowed one non-prohibited shark, so that could be a smooth dogfish. Then in addition to that you can have the others, which includes a second smooth dogfish. You could bring home four sharks if you wanted, and two of those could be smooth dogfish.

CHAIRMAN DANIEL: Anything else from the board on the motion? I’ll go to the audience. Dewey.

MR. DEWEY HEMILRIGHT: Dewey Hemilright; I’m a former shark fisherman from North Carolina. I haven’t really kept up with this a whole bunch about the inshore fishery. Well, I have but not recently here about the inshore fisheries. Something I just looked at up there was about the smooth dogfish. I don’t know why the Atlantic States Marine Fisheries wants to take up the smooth dogfish when most of the dogfish are being caught in the EEZ and there has been no stock assessment done.

The presenter there, Chris, was saying about how the data could be skewed to catching all females. How do you know that? Has there been any data shown that you're catching nothing but females? It is kind of like, you know, these fish are being caught in the EEZ, why don't the National Marine Fisheries Service – the majority of them off of North Carolina are being caught in the EEZ.

When I look at your landings data here by states, I don't see where it shows – it just shows they're being landed. Well, if you catch them, you've got to land them somewhere, so that is going to show up, but where are actually the fish being caught? You don't see a whole bunch of times of the dogfish and the smooth dogs running together.

I would say that I don't see why the Atlantic States Marine Fisheries Commission should have anything to do with smooth dogfish. Maybe they want to pick up and do a stock assessment. Something else, because it should be handled – if most of the fish are being caught in the EEZ, it should be handled by the National Marine Fisheries Service.

Could you turn back up to your thing about where you can't go around an area or you can fish an area or something like that, about your boat, you were saying it's closed off that area. You said something from Virginia, Maryland and New Jersey, about boats having to go around the area; did I hear that right or something?

CHAIRMAN DANIEL: The transfer if you have coastal sharks?

MR. HEMILRIGHT: Yes. What does that mean if you are –

MR. VONDERWEIDT: Okay, Dewey, I believe you've called this the "guinea pig fishery" at previous meetings, and that's roughly the 11 boats that will be allocated a federal shark research permit through the HMS Office. Basically, this is independent of any commercial quota for boats that are outside of that research fishery.

They have to submit research proposals to where they're going to go, what they're catch and it's pretty highly controlled to get data, to fill in datagaps, if I understand it correctly. We're recommending that the catch in federal waters

can transport their sharks through the state waters during the seasonal closure. It's pretty simple.

MR. HEMILRIGHT: I've got you. Well, how about the people that are fishing for large coastal sharks that are non-sandbars; are they able to transit these areas, also?

MR. VONDERWEIDT: Well, it was discussed at the last board meeting in length, and the board wanted a prohibition on possession, so, no. The idea behind the discussion was that they could intercept these pregnant sandbars as they're coming in and out of those areas from the three miles. That's where it comes from and that is how we got to where we are. To answer your question, no, they can't transport.

MR. HEMILRIGHT: I was talking about the non-sandbars. I know that only the research, the guinea pig fishery, can catch sandbars. I was talking about the ones where you're allowed 33 sharks outside of sandbars, and I was wondering if you're allowed to transverse these areas with your non-sandbars?

MR. VONDERWEIDT: Well, the short answer is no; that being the idea behind this closure is bycatch of sandbars while catching the other large coastal shark species. In order to prevent that, the board voted to restrict possession, specifically possession. The question was thrown out to the board. They discussed it and that is what the regulation is as it stands.

MR. HEMILRIGHT: So, given that the National Marine Fisheries Service in the EEZ has decided to give you 33 sharks based on their best available science; so I go off the state of Virginia that is in the EEZ and not in state waters, catch 33 sharks, I can't go to Virginia, Maryland or New Jersey to land these sharks?

MR. VONDERWEIDT: That's right.

MR. HEMILRIGHT: That's just total asinine, and that's probably not the word to use. So you're taking away a fisherman's right to go catch – the National Marine Fisheries Service says you can go catch these sharks, but you can't go land them from Virginia northwards, and you're worried about catching the sandbars.

Does that make sense to any of you sitting around here; that here you've got a fishery that

they say you can go catch these sharks, 33 sharks you're given, but you can't go into Maryland, Virginia or New Jersey?

CHAIRMAN DANIEL: We're taking comment.

MR. HEMILRIGHT: I just think that ain't right. Because they're worried about catching the sandbar sharks – I mean, why doesn't North Carolina choose that option or why didn't the rest of the states, you know, choose that option? I don't understand. I guess it doesn't really matter but I wish that some of you around this table would really think about that. Here you're given a federal fishery to catch these sharks, albeit just 33 sharks, and now you ain't even got a place to land them. Suppose your boat breaks down or something like that; what are you supposed to do? I guess it really doesn't matter. Thank you.

DR. MUSICK: I want to clarify something about the distribution of smooth dogfish. Smooth dogfish are migratory as almost all of our sharks are. In the wintertime Dewey is right, those fish move offshore when there is cold water off North Carolina, and they're in the EEZ, but after that they migrate up the coast.

There is a significant amount from Virginia, from our fisheries-independent surveys, that go back to 1973 that show that these fish in fact are concentrated in state waters. Those fish, when they come past us from the end of April to the beginning of June, are 90 percent pregnant females that are in the process of pupping.

The trawl survey data from other states in the summertime show the same thing that these dogfish are concentrated in state waters to the north. They spend the summer primarily from New Jersey up to Massachusetts. In fact, they go past us except for the juveniles that are there in the nursery ground.

MR. SEAN McKEON: Sean McKeon, North Carolina Fisheries Association. Rusty Hudson could not be here. He got caught in that weather down in Florida and was unable to get his flight yesterday, so he asked me if I would make some comments on behalf of the Directed Sharks Fisheries, and also I would state that we concur with Rusty's comments, and they're quick.

Speaking of that word, you sometimes wonder what to say when you hear these plans come

forward. We've been at this for a few years. I think, Chris, you summed it up best when you said this was going to be quick and dirty, because it is exactly what it was. This process has been quick and dirty.

Our comments are this is purposely, obviously, a duplicate, almost verbatim of the National Marine Fisheries Plan. The National Marine Fisheries Service has destroyed the commercial shark fishing industry in this country; first being the proponents who once established and asked the fishermen to come into it and to do many of the things that they now due. They have done it wholly through advocacy-driven science.

I don't think I have ever seen a process that has been purely driven by an advocacy such as the one I've been involved in here. There is no economic relief built into this management package at the federal level or here at the state level. They have put these people out of work. Dewey raised one point, a comment that shows you just one area where it is flawed, but there are many, many other areas. What you all will be voting on now is a rubber stamp of woefully and purely advocacy-driven FMP at the federal level, and they are asking you to rubber stamp it here, and we think that is the wrong thing to do. Thank you.

CHAIRMAN DANIEL: Anybody else from the audience? I'll throw it back to the board. Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. Dewey does raise an interesting question that turns into a dilemma. I am on the HMS Advisory Panel and a part of where we are and where we're going with this. I want to see us duplicate what the National Marine Fisheries Service does in this shark plan, but there is a dilemma when we end up allowing commercial fishermen to harvest X number of fish in the EEZ, no matter what kind they are, and what we are saying is they can't land them, or are we just saying they can't land sandbars?

The question is can we, at ASMFC, come up with either a method for developing an MOU, a memo of understanding with these commercial fishermen? Could that be done through the National Marine Fisheries Service? It just seems we have dilemma. We're creating a problem that goes beyond what we're trying to do.

We're trying to protect these sharks, what we have left, and work toward rebuilding, but by not allowing them to transit state waters with legally harvested sharks, that they're permitted to do, we've created a dilemma. What do they do with them? I think Dewey put it very bluntly, and I am trying to be a little more subtle, but there is still an issue here that I think we, the board, have to address. Am I missing a point, too?

CHAIRMAN DANIEL: Well, I think I have, too, because we had a lot of discussion about this –

MR. AUGUSTINE: I know we did.

CHAIRMAN DANIEL: -- but the issue I thought was that if somebody was participating in the exempted fishery, the research fishery that is going to allow you to retain prohibited species, we needed to be able to come up with a transport mechanism in order to keep them from getting in trouble when they come into state waters.

North Carolina has listed sandbars as a prohibited species, so you've got to allow them to come in with their research sharks. It was not clear to me that if Dewey goes into federal waters and catches 33 large coastal sharks, that he can't bring them home or land them, you know, if he decides to go into Virginia because it's blowing.

DR. MUSICK: He can bring them into North Carolina.

CHAIRMAN DANIEL: He can bring into North Carolina, but he can't bring them into another state. That's where we are, if you're fishing off your state and you catch your legal 33 fish, you can bring them into your state, but you can't bring them into another state. Jack.

DR. MUSICK: If I remember the discussion on this, there is an enforcement problem. That is the only reason this is in here, because there is overwhelming consensus that area should be closed during the pupping season to protect the adult females from Virginia up to New Jersey. The question is if a boat comes through there and they're not supposed to be longlining or fishing or using any kind of gear in there, gill nets primarily, during those months and some enforcement agent boards that boat, how does he know where those fish were taken? That is the dilemma.

MR. AUGUSTINE: So maybe somewhere within in our document we have to say that fisherman who legally catches those animals out in the EEZ under his allowable quota to do that must either store his gear or his gear must be stored in such a fashion as to make it inoperable so there would be no doubt in the enforcement person's eyes that this person was not fishing illegally.

Now when you cross areas in the EEZ that are closed to fishing by commercial fishermen, the understanding is your gear has to be stowed if you're going across that closed area. I just think we have to clearly state that in this document or we're going to create a monster for ourselves for the states that do not have the allowance that you have in North Carolina to allow these folks to come in. I would offer up a statement of some sort that we include in this document before it is finally voted on.

MR. VITO CALOMO: Thank you, Mr. Chairman. I need a little clarification, please. When this gentleman that spoke just recently and talked about 33 sharks, are they all sandbar sharks?

CHAIRMAN DANIEL: No, they can't be sandbars.

MR. CALOMO: So he is catching 33 legal sharks in federal waters and can't transit his own state waters; am I correct in this?

CHAIRMAN DANIEL: No, he can come into North Carolina. He just can't transport the fish through the pupping area closure during that season, which is from Virginia to New Jersey. If you have got fish that are taken off of North Carolina and you transport into Virginia that is the closed area, you wouldn't be able to do that. You'd have to bring into North Carolina based on the current –

MR. CALOMO: Mr. Chairman, I may not be the one to fully set up the plan here, but there should be a way that this man that is fishing legally that he should be able to transit that area. I heard Pat and that we have fishing trawlers back home that transit closed area and they have to have their nets stowed, they have to have a tarp on it, and it has to tied, and all of the above.

I'm sure that the few fishermen that do this legal fishing should be able to store their gear or call

in and tell them, “I’m coming by the area. This is Fishing Vessel Josie,” or whatever the case may be, “and I have my 33 legal sharks and I’m coming into port and transiting the closed area” or something to that effect.

We all do call-ins whether it be groundfish call-ins and outs. We can’t leave our dock in Gloucester unless we call the National Marine Fisheries Service, NOAA, and tell them that we’re leaving the dock to go fishing, and so that don’t seem so farfetched for a small group of vessels to call a law enforcement agent and tell them they’re coming in.

The other thing is that you have a real safety problem with a vessel – I don’t think these are reallarge vessels, anyhow, that we’re talking about – a real safety problem in months when the winds come up and he has 33 sharks aboard and he wants to go into a harbor, any port in the storm, they say, you need to be able to come in. I mean if he is doing something illegal, hang him, I don’t mind that, but if is legal we should be able to work with them somehow and use our management tools here to let these people fish and come into the port. Thank you.

CHAIRMAN DANIEL: Thank you, Vito. Yes, let the board know that.

MR. VONDERWEIDT: If you’d like to read about the discussion from the last meeting, it is on Page 6 of the Proceedings that were on the CD. That might be a good place to look

DR. PIERCE: In listening to this I’ve become a bit confused. These sharks that would be taken legally in federal waters, are they part of a research effort? Okay, beyond that, okay.

MS. SCHULZE-HAUGEN: I was just going to mention that we do have a VMS requirement associated with the federal closed area. I don’t believe it would encompass state closed area, but it is just something to think about; and if you’re interested in pursuing options to allow transit, that a lot of these folks probably have VMS already. I don’t know if that would work, but I just want to get it out there.

CHAIRMAN DANIEL: I’m going to go back to the audience for one more comment from Greg.

MR. GREGORY DiDOMENICO: Thank you, Louis. Greg DiDomenico, Garden State Seafood

Association. I also need some clarification, and then I have just a quick comment. Can I assume that under this provision a federally licensed fishing vessel from New Jersey operating under the 33-shark possession limit can only land those sharks in the vessel which he is home ported; is that correct?

MR. VONDERWEIDT: I’m sorry, could you repeat that please.

MR. DiDOMENICO: If a vessel who is properly federally licenses and in possession of the 33-shark possession limit, whose vessel is home ported in New Jersey, he can land those 33 sharks only in his home port or state?

MR. VONDERWEIDT: No, that is incorrect. The regulation, as it reads right now, is they cannot possess any of those species during the closure; so in order to get to the port to actually land them, he would have to possess them through the state waters and that is impossible. That was the way it was designed during the discussion the last time.

CHAIRMAN DANIEL: You’ve got a pupping season closure that runs from May 15<sup>th</sup> through July 15<sup>th</sup>, so basically you’ve got a pupping sanctuary, for lack of a better term, in state waters May 15<sup>th</sup> through July 15<sup>th</sup>. During that time period, you cannot be in state waters and possess large coastal sharks. That is where we are right now.

MR. VONDERWEIDT: Can I just read the regulation?

CHAIRMAN DANIEL: Read the regulation.

MR. VONDERWEIDT: Okay, I’m just to read the regulation as amended after the last meeting. This is on Page 105 of the document, 4.3.2, commercial seasonal closure: “All commercial fishermen are prohibited from possessing silky, tiger, blacktip, spinner, bull, lemon, nurse, scalloped hammerhead, great hammerhead and smooth hammerhead” – basically all the large coastal shark species – “in the state waters of Virginia, Maryland, Delaware and New Jersey from May 15<sup>th</sup> through July 15<sup>th</sup> regardless of where the shark was caught. Fishermen who catch any of these species in federal waters may not transport them through the state waters of Virginia, Maryland, Delaware and New Jersey during this seasonal closure.”

CHAIRMAN DANIEL: And what the transport thing does is it allows those folks that are participating in the research fishery to do that transport, but only those folks.

MR. DiDOMENICO: And during this particular closure the federal waters fishery is open and they can have a possession limit of 33 individual of the sharks that you're talking about?

CHAIRMAN DANIEL: Yes.

MR. DiDOMENICO: Okay, so then what is being accomplished and what is the enforcement concern, that someone is going to longline for sharks in state waters during the nursery closed area for 33 head of sharks?

CHAIRMAN DANIEL: The concern was a law enforcement issue. Have we got him here?

CAPTAIN JOHN TULIK: We don't have a concern about that. Some discussion was brought up about how it could affect quotas landing in one state if taken in federal waters legally. We have no problem with transiting a closed area as long as the gear is stowed properly. Vito brought up a good point, if you could let law enforcement know, that is up for discussion, but as long as the gear is stowed properly we don't have a problem.

MR. DiDOMENICO: Okay, so then somehow I think the law enforcement issue was mischaracterized because we're not talking about worrying about illegal fishing. You've made it perfectly clear what your concern is, but that rule is not addressing his concern, so what is the intent and what are we accomplishing instead of perhaps making a discard problem or stopping people from going fishing?

MR. AUGUSTINE: To that point, Mr. Chairman, that was the point I was trying to make. I distinctly remember your concern when it was stated that law enforcement didn't have a problem as long as the gear was stowed to transit that area. I don't know why we just don't write that in as a statement and that completes the process.

I understand your comment, Jack, about we don't want the pupping area to be disturbed at all. We don't want any possibility of anyone fishing in there, but if these commercial

fishermen are at risk of losing their federal license in that research – being one those 11 research vessels, I doubt anyone would be dumb enough to do that. I was under the impression that the way this was set up, that if you were catching fish legally, wherever it was – and it would have to be in the ocean, in the EEZ – that you should be able to transit them and land them in any state.

In my mind it was implied and I should have asked the question, but I did not. My recommendation would be that we include – at this late date – include a statement in there to meet the enforcement needs and/or requirements that gear must be stowed according to whatever protocol is outlined by the enforcement group in order to transit state waters during that period. And if you want to be really critical, you could have them have their gear stowed anytime they're working on that research program in federal waters as they transited state waters.

MR. BOYLES: Thank you, Mr. Chairman, something has just occurred to me that gives me a little of pause. May I call for a five-minute recess and let's huddle about this one, please.

CHAIRMAN DANIEL: Recess for five minutes.

(Whereupon, a recess was held.)

CHAIRMAN DANIEL: All right, let's all take our seats after our break. Vito.

MR. CALOMO: I have a motion; do I need to read it? I move to amend Section 4.3.2 to allow the transit of non-sandbar large coastal sharks caught in the EEZ through Virginia, Maryland, Delaware, New Jersey from May 15<sup>th</sup> through July 15<sup>th</sup>, provided that the fisherman notifies the state enforcement agency and/or NMFS prior to transiting and gear is to be stowed. Specific provisions for implementation will be part of the state implementation and must be reviewed by the Law Enforcement Committee prior to approval of the state plan. Motion by Vito Calomo; seconded by –

CHAIRMAN DANIEL: Pat Augustine.

MR. R. WHITE: Vito, I think you missed one word that you wrote in there, and that was "legally caught".

MR. CALOMO: Please add that. Thank you.  
CHAIRMAN DANIEL: Add “legally caught in the EEZ”. Any discussion on the motion? Seeing none, all those in favor of the motion, signify by raising your hand; opposed; null votes. The motion passes 16 in favor, no opposed. Now we will move back to the main motion. Yes, Mr. Calomo.

MR. CALOMO: I just want to make a little comment, please. It is to our advantage that now and then, even though is not a public hearing, that we listen to a little public comment. If I didn’t hear that fisherman speak what he said about fishing and a couple of others, I would have never known what we done. For some reason we missed it. I wasn’t alone on this, so we thank you.

CHAIRMAN DANIEL: All right, we’re back to the main motion to recommend to the Policy Board approval of the Coastal Shark Fishery Management Plan. Clarification.

MR. VONDERWEIDT: This previous motion makes the ability for the research fishery to transit completely moot so the plan development team won’t add that, but it was mentioned before that we will include five-year specifications. I just want to make this perfectly clear, so that is the way that it is being interpreted right now.

CHAIRMAN DANIEL: Thank you, Chris. Is everybody clear on that? Pat.

MR. AUGUSTINE: Clarification on the five years; but we can revisit it every year if we wanted to had to?

CHAIRMAN DANIEL: Yes.

MR. AUGUSTINE: Okay, as long as it is clear. Thank you.

CHAIRMAN DANIEL: Any further discussion on the motion to approve? Vito.

MR. CALOMO: One more comment, and on the same breath, if they cheat and do something wrong, I hope they lose their license. Thank you.

MS. SCHULZE-HAUGEN: Just to point out that the amendment that we just adopted was for non-sandbar large coastals where the research history is for sandbars as well. I don’t know if

you want to continue with the PDT recommendation that had allowed the straight exemption for the research boats or roll it into the one we just adopted.

CHAIRMAN DANIEL: Well, if they have the federal permit, they’re legally caught.

MS. SCHULZE-HAUGEN: Sure, but it was specific to non-sandbar, just to let you know.

CHAIRMAN DANIEL: Yes, if we scratch “non-sandbar”, then that will cover the research guys, and it will cover the non-research guys. Can that be considered a friendly amendment to an already approved motion?

MR. CALOMO: Yes.

CHAIRMAN DANIEL: I don’t know if that’s legal or not.

MR. VONDERWEIDT: Can I just make a point on that? Sandbar is not a large coastal shark is the only problem; so getting rid of “non-sandbar” I guess is half the issue, but they are in the research fishery now, so if you just got rid of “non-sandbar large coastal” and it just reads “allow the transit of sharks legally caught in the EEZ” I think that you have simply taken care of the problem.

MR. BOYLES: Mr. Chairman, I was prepared to make a motion in the form of a substitute if you wanted to make it formal.

CHAIRMAN DANIEL: I prefer that.

MR. BOYLES: Mr. Chairman, I would move to amend Section 4.3.2 to allow the transit of sharks legally caught in the EEZ through Virginia, Maryland, Delaware, New Jersey from May 15<sup>th</sup> through July 15<sup>th</sup>, provided the fisherman notifies the state enforcement agency and/or NMFS prior to transiting and gear is stowed. Specific provisions for implementation will be part of the state implementation plan and must be reviewed by the Law Enforcement Committee prior to approval of the state plan.

CHAIRMAN DANIEL: A motion from Mr. Boyles; second by Mr. Augustine. Is there any discussion on this motion? Are we sure? All those in favor, raise your right hand; all opposed; null votes. Sixteen to nothing, the same vote, good. All right, now we’re back to the main

motion. Is there any further comment on the main motion? Do we need to caucus?

### **INITIAL SPECIFICATIONS FOR COASTAL SHARKS**

The main motion is the Spiny Dogfish and Coastal Sharks Management Board moves to recommend approval of the Interstate FMP for Atlantic Coastal Sharks to the Commission. All those in favor of the motion, signify by raising your right hand; opposed; null votes. Sixteen to nothing; approved. Spiny Dogfish and Coastal Sharks Management Board moves to recommend approval of the Interstate FMP for Atlantic Coastal Sharks to the Commission. All right, now we need to set the initial specifications for coastal sharks; and with that, I will ask Dr. Musick to go over the technical committee's recommendations on that topic.

### **TECHNICAL COMMITTEE RECOMMENDATIONS**

DR. MUSICK: As everybody is well aware by now, the technical committee wanted to put together a plan that would dovetail very well with the federal plan so that things like quota overages no longer occur. Smooth dogfish aren't included in that federal plan, but they need management.

We don't have an assessment so we didn't think it would be proper to set a quota although the data are available and in fact are being analyzed by Michael Frisk up in New York. Assessments by NMFS should be a top priority. We decided that a precautionary approach with trip limits was the way to go with this.

Our concerns that the major landings in this fishery are the adult females that are pregnant or pupping. We have seen a decline in the CPUEs, the smooth dogfish per trip, from 1994 when the average trip landings were between 3,000 and 3,500 pounds per trip to 2007 when those landings were about 300 pounds. We don't know why this decline has occurred, whether it is because of market forces or if in fact the availability of smooth dogfish has gone down, but these data are a cause for concern.

We did an analysis of the trip data from '94 to 2007, and the mean landings per trip since 2001 have been less than 500 pounds per trip. We

couldn't pull out the incidental trips so there could be some skew there. The frequency of landings, we considered two options for our catch limits here. One of them was a 500 pound possession limit; the other was a thousand pound possession limit.

Between 88 and 90 percent of recent trips have been less than 500 pounds. Between 93 and 95 percent of the trips have been less than a thousand pounds, so only 5 percent of the fishermen with this more liberal landings level would be impacted by this minor impact. We have decided that a thousand pounds seemed reasonable and was sufficiently precautionary to protect the stock until we are able to get a full assessment done.

The possession limits for coastals and pelagics follow the exact same recommendations or the regulations that NMFS has already adopted here. The small coastals and pelagic quotas haven't been fully harvested and the federal quota is not likely to be harvested now. At the present time we don't see any biological reason for possession limits.

Large coastals, again I'll repeat what I said. This is just the same regulations that NMFS has adopted. The problem, if we adopt something different, will be one of enforcement. There is no telling where those fish were taken, whether in federal waters or in state waters.

Smooth dogs, then to recap, we don't feel we have the information to recommend a quota at this time so we recommend a thousand pound possession limit; small coastal sharks, no possession limit; the pelagics, no possession limit; the large coastal sharks, a 33-fish limit. Any questions about this?

CHAIRMAN DANIEL: Questions for Jack from the board. We have the ability to set these specifications on the large coastals for consistency and for the smooth dogfish as a precautionary approach as we await a stock assessment. If the board is interested in pursuing these limits, we need a motion.

MR. AUGUSTINE: Mr. Chairman, I move that we accept the recommendation of the technical committee for the initial specifications for 2009 as noted.

CHAIRMAN DANIEL: Motion from Mr. Augustine; second by Mr. Cole. Is there any discussion on the motion? The motion, if approved, would then complement the 33 large coastal sharks, non-sandbar large coastal sharks in state waters and implement a 1,000 pound trip limit on smooth dogfish. Any discussion on the motion?

Seeing none, all those in favor of the motion, signify by raising your right hand; opposed, same sign; null votes. Sixteen in favor; none opposed; approved. Thank you, Dr. Musick.

### **SPINY DOGFISH FMP REVIEW**

CHAIRMAN DANIEL: Now we will move into the annual the Spiny Dogfish FMP review. Chris.

MR. VONDERWEIDT: Thank you, Mr. Chairman. What was handed out before was a state compliance report from the state of Massachusetts. It sounded like there weren't enough copies for everybody. I apologize; that was what was provided to me. There will be sufficient time to review that between now and the next meeting. It will be on the CD, so you didn't really miss anything if it is not in front of you.

The Spiny Dogfish FMP Review, the 2007-2008 specifications, there was a 5.6 million pound quota after overages in 2006-2007, and possession limits could be set up to 3,000 pounds. The spawning stock biomass has been updated by the New England Fisheries Science Center, Paul Rago. He is the same person who runs the assessment.

As you can see, the 2006 number is up. The way the estimate works is it takes the year before and the year after, so it is using 2007 data. As you can see the 2005 number was actually correct and the spawning stock biomass is above the threshold, but it has not yet hit the target. Once it gets above the target, the F-rebuild goes from 0.11 to 0.39, so it will substantially increase once it gets to that level.

The status of the fishery, this is from the last stock assessment as well, but it hasn't been updated so this is just kind of to show that it was mostly females that were being caught from 1988 to 2005. Then the average weight of

females has declined since earlier in the time series, since about '92 back. Again, this hasn't been updated but will be updated at the next stock assessment.

Looking at 2007 and 2008 landings, they were available through the weekly quota monitoring archives. It is a little bit tricky because you're doing half of one year and half of another year, but this is a good way to get them. As you can see, Massachusetts and Virginia were the major harvesters. Overall the commercial landings were about 5.8 million pounds, which is almost a 200,000 pound overage from the 5.6 million pounds, which was reduced from 6 million because of overages. The recreational was about 80,000, very insignificant.

Biomedical harvest is part of the plan. States are allotted 1,000 dogfish for biomedical research. I think they use squalamine which has potential as a cancer drug. The only state to actually harvest dogfish under this provision was Maine. They harvested 565 dogfish; 144 were female; 421 were male. The DMR Aquarium took 17 dogfish, 14 which were female and 3 were male.

There was a CITES Proposal in 2007 and it proposed to put controls on the trade of spiny dogfish. It is an Appendix 2 listing. It did not receive the necessary votes, but I think it is going to be reconsidered in 2008, so we will have to keep an eye on that. All states who submitted reports are compliant with all elements of the FMP. There is a table at the back of the FMP Review that was provided to the board that lists out the different regulations and where each state is with.

Massachusetts, New York and Rhode Island status are unknown. Massachusetts handed in their report on Tuesday. The plan review team has not had a chance to review it, so the status is still unknown. De minimis, there were four states requesting de minimis, Delaware, South Carolina, Georgia and Florida. All of those states met the requirements for de minimis, which is less than 1 percent of the coast-wide fishery.

To review, Maine, New Hampshire, Connecticut, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia and Florida are all compliant. Delaware, South Carolina, Georgia and Florida request and meet the requirements for de minimis status.

Massachusetts, New York and Rhode Island status is unknown at this time. Thank you.

CHAIRMAN DANIEL: Thank you, Chris. David.

DR. PIERCE: Not so much a question, but I'd like to provide some information regarding our compliance report. It is a bit late because it took us some time to figure out the cause of the overage of last year. If you recall, at the last board meeting there was some discussion about the overage. Vince O'Shea made a very important point regarding how did that happen. He thought that Massachusetts, in particular, would be on top of this, that we would be closely monitoring this fishery; therefore, there should not be any overage.

At the time I disagreed with Vince. I thought it couldn't be Massachusetts' problem. Well, indeed, after we had our statistics people investigate this, it turns out that we did have a problem that we have uncovered. Part of the problem relates to the way in which dealers report. They reported to SAFIS, but some of them actually report in a different way through SCBI Software that involves their reporting their landings directly to the National Marine Fisheries Service, that then has to take a look at those landings, determine if they're okay, get back to the dealers if there is a problem.

That creates a bit of a delay in our actually accounting for how much landings have actually occurred. That was news to me. To make a long story short, that caused a problem for us with our projections as to the rate of landings, and the rate of landings went up rather significantly after we accounted for those dealers' reports that didn't get into the system until late, because, again, they're using that specific software.

Therefore, in order to prevent a reoccurrence of this problem, we're going to closing earlier this year. We're going to be using projection rates that will account for the fact that it is very likely we will have a similar software problem and a similar delay in getting all of those reports of landings. We will close earlier in order to not create the problem that we had last year.

In addition, our statistics people are working with National Marine Fisheries Service to try to fix this problem on their end, because it is a problem shared with the National Marine Fisheries Service to some extent. I did find out

from our statistics people that they actually had tried to fix this problem a few years ago, but it wasn't fixed.

Now, of course, it is raised to a higher attention level by the National Marine Fisheries Service. Apart from that, the only other thing I need to mention is that Chris did give a fine report on where we stand right now. One thing that was not in the presentation, I believe, are the data from 2007 in terms of where we stand with the stock, the SSB for the large females.

In 2007, if you recall from our last get-together, we, according to the National Marine Fisheries Service, are at about 155,000 metric tons for the large females. Is it up there? That's through 2006 or 2007? That's through 2006, right? That's through 2006, so 2007 data are missing there, and it's about 155 and our target is about 165 or thereabouts.

Consequently, we are extremely close to our target and we all anxiously await the 2008 data. The National Marine Fisheries Service has not worked that data up yet for very good reasons, and those reasons relate to the fact that they've had to devote their entire staff, almost, to the GARM, for the groundfish assessments.

I am hopeful that by the end of September, when this workshop that was noted by Peter is held, that the Center will actually have the 2008 data, and we will have a better idea as to where we stand with our rebuilding and if, indeed, we have gone above our target. That is some information for the board's consideration.

MR. VONDERWEIDT: Thank you, David, just an update on the SSB, including the spring 2008 data, right now myself; Jim Armstrong, who is in the front row back there; and Paul Rago, who is the person who does the analysis, are working hard to try and get that completed in time for the annual meeting, which is when we usually set the dogfish specifications.

One thing is that now the SSC has to review the data, which means there is a three-week window where they have to review it before the monitoring committee and the technical committee can have a joint meeting with them. It is a little bit trickier but we're hopeful that we can get it taken care of. The only other thing is that Paul Rago is incredibly busy, but we're working pretty hard to try and get it done by the

annual meeting, so hopefully we'll have that for you in time to set the specifications.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Thanks, Mr. Chairman. I appreciate that update. I just hope that the strategy of going forward perhaps includes engaging the resources of the experts at ACCSP, who are in the business of helping the states develop fishery-dependent data collection systems that are timely and accurate. Thanks you.

DR. PIERCE: Just a quick point to Chris' comment about the SSC. I find it rather interesting that ASMFC now has to wait for the SSC, the Federal SSC to provide us with information. I guess that is the way the system works, but I do want to – well, I'm concerned about that because it is not our SSC. It is the council's SSC, yet we're now going to, it appears, be obliged – not just for spiny dogfish but for everything else be obliged to wait for the SSC to do its work. I object to that, but I guess you know how my objections don't have any weight on this issue.

MR. PATTEN D. WHITE: Not a question; I just had – well, I do have a question. Do you need a motion for de minimis status for the four states?

CHAIRMAN DANIEL: I need a motion on de minimis and I need a motion to accept the FMP review.

MR. P. WHITE: Do you need them separately?

CHAIRMAN DANIEL: Okay, we don't have all three states' reports so we won't be approving the FMP review, but we do need a motion on de minimis.

MR. P. WHITE: I make a motion that Delaware, South Carolina, Georgia and Florida be granted de minimis status.

CHAIRMAN DANIEL: Motion by Pat White; second by Mr. Adler. Discussion. All those in favor, signify by raising your right hand; all those opposed, same sign; null votes. Sixteen to nothing approved. Mr. Abbott.

REPRESENTATIVE DENNIS ABBOTT: Thank you, Mr. Chair. Regarding compliance reports, Massachusetts explained where they were. Rhode Island was non-compliant, and we've had no comments about that, and I was

wondering where we stand and what is going to happen regarding that. I know he has manpower issues, and it's probably the same case here, but I think we should hear from Rhode Island.

MR. MARK GIBSON: You said it more politely than I probably would have. Yes, we're running out of bodies and this stuff is starting to fall through the cracks. What I have left, I have to put on boats and make sure the counting and measuring of fish still happens. Reporting to the commission is just falling behind. We will provide the reports as soon as we can. I guess that's all I can say.

REPRESENTATIVE ABBOTT: As a matter of process I think there is an obligation to the commission to report. In the old days or whatever, I think we'd be looking at finding them out of compliance. I'm not suggesting that we find Rhode Island out of compliance, but it is part of the process.

CHAIRMAN DANIEL: I agree. New York has the same issue?

MR. JAMES GILMORE: Thank you, Mr. Chairman. It's pretty much the same issue, and I don't want to get into the woes of us, but we're looking at programs that we had five biologists and we're down to one. It is just getting harder and harder to do the – and on top of that, as I mentioned a couple of days ago, our vessels are all breaking, and that's becoming another issue. So even if we get the bodies, sometimes getting the information to do some of the reporting is not there. We'll do the best we can with what we have.

CHAIRMAN DANIEL: Thank you, Mr. Gilmore. Anything else on the FMP Review? All right, we will now move into the review and consideration of two dogfish addenda. The first is Addendum II. Chris.

## **SPINY DOGFISH DRAFT ADDENDUM II REVIEW & DISCUSSION**

MR. VONDERWEIDT: Thank you, Mr. Chairman. Staff is going to hand out an amended page five of Addendum II. It's actually quite amazing. The group of reviewers in this room and just how good they are at finding mistakes, if you look at page five, Table 1 is

percent of coast-wide landings by state, and what is are National Marine Fisheries Service landings.

They don't include weigh-out data from 1990. This includes landings that were included in the FMP. What I did was I just updated the numbers and it changes the graph a little bit. As far as the intent of this addendum to separate or to move the seasonal into the regional, it really shouldn't impact anything, but I just wanted people to have the most recent version so we can move this along.

The introduction, this was initiated at the last board meeting on May 6, 2008, and the intention is just to remove the seasonal split and use a regional allocation of quota. As just a little background there, initially the FMP was designed with a semi-annual quota allocation. The idea behind this was to preserve the seasonal and geographic distribution of landings prior to the implementation of the FMP in 2002, using the seasonal migration pattern of spiny dogfish.

There is Period 1 and Period 2 and they're intended to allow 57.9 percent to the northern states and 42.1 percent to the north/south. This worked pretty well for the first few years when the possession limits were 600 pounds and 300 pounds simply because the season never closed. Fishermen weren't allowed to land enough dogfish to get 4 million pounds total.

Then in 2006-2007 and 2007-2008 larger trip limits were implemented, allowing the full quota to be harvested, and that's when this allocation became an issue. The summary of the problem is that basically northern states get the first opportunity to intercept the dogfish on May 1<sup>st</sup>, because they're found in the waters off these states May 1<sup>st</sup>. They're also available to the northern states well in Period 2.

There are states in the southern-most dogfish region who don't really get a chance to intercept any dogfish until November/December. Because of this, the north/south percent shift has changed from the 57.9 and 42.1, as the plan intended, to favor the north a little bit or to have the north's percentage be larger than 58.

If you look at historical landings – and this has been updated using the weigh-out data so this is exactly what the landings are – you can see when the emergency action was taken to close when

federal waters closed, the percentages changed pretty dramatically. The options here are pretty straightforward.

Basically, it would just be 58 percent of the quota goes from the states of Maine through Connecticut; and if they go over, that region has to pay back rather than paying back by season. Forty-two percent is from New York to North Carolina. You can pretty much just remove "seasonal" and put in "regional" in the plan and achieve this. Option B would be status quo; you keep the semi-annual quota allocation, Period 1 and Period 2, and you keep the paybacks by period.

CHAIRMAN DANIEL: Thank you. Questions for Chris? Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. Did you mention, Chris, what the preliminary report was for 2007 on the screen, north and south; do we have any of that information yet?

MR. VONDERWEIDT: No.

MR. AUGUSTINE: Okay, Dr. Pierce was suggesting that when they did the overage check; was that for 2006?

MR. VONDERWEIDT: No.

MR. AUGUSTINE: Okay, it just seems that we know there is a problem here in terms of distribution and harvest as to when the fish are available and when the fish are not available, but, again, we don't know whether, again, the north sector took 81 percent or 95 percent or took a hundred percent. My sense is that they took close to a hundred percent and there was no fishery at all in the south. That's definitely a major problem. Thank you.

CHAIRMAN DANIEL: There is definitely a problem. Harry.

MR. HARRY MEARS: Thank you, Mr. Chairman. Notwithstanding that we're talking about a draft document to go out for public comment, which I usually endorse, obviously substitution of the word "regional" for "seasonal" further polarizes our intent as we started back several years ago to be as complementary as we can between state and federal fishery management plans.

At the very least, because we're working by and large with a substantive portion of constituency that are dual state and federal permit holders, I would like to request and encourage that where we talk about background and summary of the problem, that we not ignore the problem that we take a lot of time talking about at spiny dogfish board meetings about impacts on dual permit holders.

I think it should be up front and center as we go out to the public for public comment in terms of what this would mean as a further diversion of state from federal regulatory measures and what, at least in general terms, the impacts of seasonal closures would be on a state-managed resource that is no longer seasonal based but now is regionally based.

So, once again, I don't necessary object going to the public for comment, but I think we're doing a disservice in not fully explaining or airing what the associated issues would be and what the impacts would be on the primary core of who our constituency is in harvesting this resource, which is, in many cases, primarily dual state/federal permit holders. If anyone agrees with me, I would hope that there be some agreement to have staff include an additional paragraph to explain the impacts on dual permit holders and at least solicit comment from that constituency. Thank you.

DR. PIERCE: I certainly would not object to that, but then, again, it is 4 million for the feds and 8 million for the states, and there is no way to get on the same page with our being at different quota levels and potentially being at different quota levels in the years to come. We decided to go in that direction for reasons that we've stated at previous meetings. This addendum is basically a stopgap measure to address a problem that we had last year, but the ultimate resolution to this problem will be – well, there is no real resolution, but the state-by-state quota system.

That's the next addendum where we get away from the regional allocations that have problems and we get away from seasonal allocations that don't work; and, certainly, when you have regional and seasonal, the seasonal does damage to the regional and in particular causes great grief for the states to the south.

That's why we're trying to get rid of the seasonal and go to the regional, which is this addendum, which, of course, we support. Then we'll go to the next addendum, which is the state-by-state quotas, but, frankly, we still we have this long-standing problem that I really don't know how is going to be addressed, and that is we just have different quotas.

So with the different quotas – and they will be different for very good reasons – state permit holders, federal permit holders, that inequity will always be with us until we can somehow get the National Marine Fisheries Service to respond to the resource conditions that we see and get on the same page as the ASMFC.

CHAIRMAN DANIEL: Thank you, Dave. I guess I'll bring up a couple of point; one being this is a critical issue for many of us, especially the folks in the southern range. The intent here was, as David suggested, as a stopgap measure to ensure the 42 percent made it to the southern region and that the northern states got their 58 percent. We're moving forward right now with Addendum III, which we'll talk about in a few minutes.

And if and when those state-by-state quota shares go into place, it will render Addendum II moot. So, really, the sense that I have gotten from discussions around the board is – and I know we can't have discussion on this, but those state-by-state quotas are probably the best way to go, so it is probably going to be moot after this one year.

So, I want some board discussion about the possibility of adding into Addendum II, before we approve for public comment, that the 58/42 is retroactive to May 1 of '08; so that if there is an overage by the northern group this year, it will not come off of the 42 percent dedicated to the southern states. Otherwise, there is no sense in having Addendum II unless you feel that the state-by-state quotas are probably not going to make it through. I hope that everybody understands what I'm trying to explain, but that seems to me to be the crux of the Addendum II issue. Pat.

MR. AUGUSTINE: How has the overage been handled this past year? I think I know but maybe the public and other board members need to be refreshed. What happened in the first go-round when we ended up with 71 – well, back to 2003,

the north had 99, 98.8, then 98, then in 2004 it was 71, then in 2005 it was 97, and here we are in 2006 at 81. What has happened in terms of trying to address those issues in the past three or four years, anything?

CHAIRMAN DANIEL: That's a good question. My understanding – and staff will correct me if I'm wrong or other board members – is that it's simply a seasonal allocation; so if the fish are still available during the second period, Massachusetts, Rhode Island and Connecticut, they're not doing anything wrong by continuing to fish because the season is open. But the 58 percent, that was what was supposed to happen in the original plan was that this would fairly and equitably distribute the quota to the historical participants in the north and the south, and that is not what has happened.

It is not that we've gone over as much the quota as the northern group has had access to the fish for longer and had more opportunities which has left fewer fish available for the southern region, and in some instances that has been as much as 95 to a hundred percent of the fish were caught before the southern states had an opportunity to catch the fish.

So, being disadvantaged by geography is the problem, and that is why, really, Addendum II only solves this one-year issue because as you look at the progression of the fishery, you look at the ease of the fishery, you look at the desperate condition that many of our coastal fisheries are in, the ability to go out and catch quantities of dogfish and bring them back is becoming more and more important for other and newer players, historical participants that are not fishing now as well as the traditional fisheries. By maintaining just a seasonal split or a regional split, you're going to be dealing with these geography problems in perpetuity with just Addendum II.

MR. AUGUSTINE: A follow-on, thank you for that information, Mr. Chairman. So, if the board were so inclined to include in this addendum a retroactive date of May 1<sup>st</sup>, it wouldn't make any difference for this year if in fact the north – well, by the time this is put through the process, we're talking about three months before it finally becomes effective maybe at the annual meeting, which would be October, you would have November and possibly December to harvest some fish. But then the overage, quote, quote, the overage that the north has taken, when would

you be able to get that? You wouldn't get that until 2009; am I correct?

CHAIRMAN DANIEL: Well, the way I've got it worked out in my brain may not be the way it is going to work out, but my thinking is, is that if it is retroactive to May 1 and this addendum is approved at the annual meeting, then actually the 42 percent for the southern states that starts November 1 is sacrosanct. They will be assured of 3.7 or 3.8 million pounds for this fall fishery, this year.

Then if we approve Addendum III at the same annual meeting – you know, we'd like to see it in place for this year, but we know that is possibly impractical, so what we're trying to do is work within the system to ensure that the northern states get their fair share, the southern states get their fair share, and that's the only way I can see that it will work and how Addendum II will have any utility to us at all. Vince.

EXECUTIVE DIRECTOR O'SHEA: Maybe another way to get at Pat's question, I think the effect would be if there is any overage going forward into November, that overage would not be applied into the period after November, but would be applied back to the northern states in the next fishing year. That's where the difference would be.

CHAIRMAN DANIEL: Correct. Bill Cole.

MR. BILL COLE: Mr. Chairman, please clarify for all of us that we understand what we're doing. If we move the status quo option, what happens if we're going to look at the next addendum, anyway?

CHAIRMAN DANIEL: Well, if we move the status quo option, then there is no assurance of the 42 percent being available for the November 1 season. That's my understanding of the crux of the problem. Dave.

DR. PIERCE: Well, this is how I see it. In Massachusetts, and I assume in the other New England states as well, but certainly in Massachusetts where the majority of the landings of dogfish occur in the New England Region, we have been attempting to live within that 58 or so percent regional share. We have not been living with the seasonal aspect of it.

It is the regional aspect that is most important in order to preserve opportunities for the southern states. There was a bit of an overage last year because of the reporting problems that I have identified, but this year we're closing early to do whatever we can certainly in Massachusetts to make sure that we're not responsible for disadvantaging any states in the southern region.

The problem lies with, as we all know, there are not any state-by-state allocations, so in the New England Area we have Connecticut and Rhode Island and Massachusetts, New Hampshire and the state of Maine, so they are obliged to do whatever they can to live within the regional allocation, too.

But to simply matters for ourselves, we're going with this addendum to get rid of the seasonal aspect of it so it makes it very clear. Now, what you're asking, Mr. Chairman, I believe is should this be retroactive to May 1 of 2008. I had assumed it would be because, once again, we're already living with the regional aspect of this, and we intend to do whatever is necessary to shut our fishery down early to not create problems.

So, this is kind of a moot thing or a moot point from my position in that we're going to live with the regional aspect of this and hopefully and quickly get to – assuming the whole board agrees or the majority of the board agrees – get to these state-by-state shares so we can rid ourselves of this problem.

MR. TERRY STOCKWELL: Thank you, Mr. Chair, a process question. We intend to take both of these addendums out to the same public hearing, so in one night we will be doing both Addendum II and III?

CHAIRMAN DANIEL: That's my plan, my hope.

MR. STOCKWELL: Okay, that's what I was thinking, so we're going to be asking for the comments on both of them from the public; so assuming we get it together to have it done by the annual meeting, can we mix and match and come up with one plan between the two of them to satisfy all our issues, or are we going to have to do them together or separately?

MR. BEAL: The board has the flexibility to do whatever what they want with the document in

the sense that if both documents note that there are two tracks going on simultaneously and we may take aspects of II and aspects of III, the board has the ability to do that. I think back at the last meeting when this whole thing was started, the idea was that dealing with the regional issue is it is going to move quickly, it's going to be, frankly, easier to deal with.

The concern was that dealing with state shares may take more analysis and be a longer process than the regional approach. The board separated these two issues for a reason, which they expected or anticipated the speed may be different between the two. So far they are going along simultaneously and I can't predict where they are going to go at the annual meeting. There may be some value in keeping them separate but note that they're both going on simultaneously and some provisions may be taken out of one and put into another.

CHAIRMAN DANIEL: Yes, I think that is excellent advice because there is a possibility that we could get into the state-by-state quota discussions at the annual meeting and it falls through or not happen; and then if we combine the two, then we don't have the Addendum II issues moving forward quickly and that could disadvantage us again. I think keeping them separate but having them on the same track, that's probably the best approach. Terry, followup.

MR. STOCKWELL: Yes, thank you. There is also the possibility we might be able to get it done and marry them together at the annual meeting as well.

CHAIRMAN DANIEL: If we can do that, that would be great. Doug.

MR. DOUGLAS GROUT: Mine is just a process question, too, Mr. Chairman, and I assume there is no charter problem with us adopting something that has a retroactive provision?

MR. BEAL: The charter is silent on that I think is the short answer. The longer answer is probably that the management board has already established the regional split, 58 to the north and 42 to the south, so I think the only new functional provision – there are two of them. One is doing away with the seasonal split. The

other is the way an overage from the north would be accounted for.

In other words, the way it stands now is if the northern states go over, the southern states are negatively impacted; and under Addendum II that wouldn't happen. The southern states would be negatively impacted. You could probably develop the argument that the northern states and the southern states already understand that they're expected to fish within the 58 to 42 percent allocation that the board has established.

MR. AUGUSTINE: Thank you, Mr. Chairman. Then would it not be logical to go ahead and develop an option in there that encompasses your thoughts on doing the retroactive to May 1<sup>st</sup>, that would close that loop so the public would be aware of the fact that if they do go over in the northern section, that there will be, if you will, a payback for the following year. It is not a given now.

CHAIRMAN DANIEL: That is correct.

MR. AUGUSTINE: Vince has got his hand so you might want to address that.

EXECUTIVE DIRECTOR O'SHEA: Well, I think there is a nuance here. It is not the public going over; it's the state going over. So, the fact that you're having this discussion right now I think may put you at some ease that the states are aware that the accounting – the importance of managing those fisheries are based on how you're anticipating dealing with the overage, so folks are on notice through this discussion that this is in play.

MR. AUGUSTINE: I assume, Mr. Chairman, that it was a given, that it would alert the states that, hey, be aware and let your fishermen know accordingly, so if a motion is in order to include that, Mr. Chairman, you tell me when you want to do that and I'll move that motion forward.

CHAIRMAN DANIEL: Well, I think we should have that implicit in the document – and maybe Vince will disagree and we can talk more about it, but the concern is whether – I mean, I have full faith that the New England states are committed to staying within the 58 percent, but if they don't the southern states are disadvantaged. I think we need to at least, for the public comment, have that provision in there so that we can make certain that the southern states are not disadvantaged.

MR. AUGUSTINE: Yes, Mr. Chairman, it could actually show up as a statement of fact that this is the intention of the board in the future in case that happens. I do think we need to have a sentence in there that does talk about it is retroactive back to May 1<sup>st</sup> so that there would be some guarantee that will happen.

EXECUTIVE DIRECTOR O'SHEA: To make it clear, I do not disagree that this should be included clearly in the addendum if that is what you want to do.

CHAIRMAN DANIEL: Well, then, is there any objection – if it seems to be a universal agreement that is our intent, is there any objection from the board for the staff to just clarify that in the addendum before it goes out to public comment? Is there any concern from anybody about that? Okay, we'll make that happen; that is done. Then we're ready for a motion to approve Addendum II for public comments. We'll have a 30-day comment period. Folks will need to tell us who wants public hearings in their states. Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. I would move that we approve Draft Addendum II to move forward for the public review.

CHAIRMAN DANIEL: Motion by Pat Augustine; seconded by Pat White. Discussion on the motion. Is there public comment on Addendum II?

MR. KELLY SCHOOLCRAFT: Yes, thank you, Mr. Chairman and everybody of the commission. My name is Kelly Schoolcraft. I'm a full-time commercial fisherman in the state of North Carolina. I've been in the business 34 years; own and operate the Fishing Vessel Country Time.

First of all, I want to thank you for the reasoning that you did in passing the addendum to letting the fellas bring in in your states the research fishery that NOAA has established. That showed a lot of good judgment on your part. I don't participate in the large coastal shark fishery. I'm not permitted, but guys do and that was a great move on your behalf and I thank you for it.

Back to the spiny dog shark issue, North Carolina at one time was number two in this

resource and now we're down to number five. This issue of state by state, that is something that North Carolina need. North Carolina, you need to realize one thing about this state. In management we are in a very unique situation. We're at the southern end of the northern migratory fish and the northern end of the southern migratory fish.

For us to be disadvantaged the way we have been this last six years in respect to dog sharks is just unacceptable. You all have been dealing with this issue for six years. We need to go fishing. This is something that is a seasonal fishery that our months are basically December, January and February. This is something that we have depended on for many years.

And now because of the way these regional management plans are, we have not been able to get our share, and the fishermen in our state are hurting very, very much, and we need to reclaim this. The way the system is set up there is no reason why it can't be a state-by-state. We have four fisheries that are managed by you that we do have already, bluefish, southern flounder, black sea bass and striped bass, so the precedent is there.

It is up to you to recognize this and give North Carolina the share of the fishery so we can work. And it don't matter what species it is, who is regulating it, whether it be the South Atlantic, the Mid-Atlantic, the bottom line is when you have a TAC, a hard quota, if there is a fishery for that, each state needs a portion of that quota. The regional just isn't working.

We're going to soon be facing this deal with king mackerel in the South Atlantic for what is happening in those issues. I implore you to put things on the right track, give us a piece of the fishery. I would like to see something where we can go to work this year, and we need it very much, not 2009. This has been on the table for six years. We need it this year, 2008.

You need to get the infrastructure in place. All of that takes a little bit of time and we're running out of time. We need something for this year. That's all I've got to say, but I would, in closing, like to read two paragraphs from the Magnuson-Stevens Act, and I would like very much for you to keep this in mind:

"The Magnuson-Stevens Fishery Conservation and Management Act sets the congressional standard by which all management decisions are made by eight regional fisheries management councils in the United States. Under the MSFMCA, National Standard 4 addresses allocation in the following language.

"Conservation and management measures shall not discriminate between the residents of different states. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be fair and equitable to all such fishermen, reasonably calculated to promote conservation and carry it out in such a manner that no particular individual, corporation or other entity acquires excessive share of such privileges."

We need a part of this fishery, ladies and gentlemen. We need it very bad, and the fair thing to do would be to act on it in any way possible at this session to go ahead and allow us to have a season starting this year. Thank you very much.

MR. HEMILRIGHT: Thank you, Mr. Chairman. North Carolina was a major player in dogfish. I don't there is any dispute about that. Since the inception of this plan in 2002, North Carolina hasn't been able to go dogfishing, basically. This plan from the beginning was skewed the way it was set up. It should have been state-by-state quotas from the very beginning.

The reason for the plan I would think is that – one of the reasons is to allocate this resource equitably to all fishermen. When you go looking at the data – and I don't know why it has taken five or six years to get this figured out. I know bureaucracies are slow, but they shouldn't be this slow when the data is this alarming. When you look at the period of references of one and period of two, in 2000, and three and four, period one, the 58, it looks like 83 percent was landed; period two it was 17 percent.

When you look at period four and five, it was 83 percent; period two it was 17 percent or thereabouts. I might be off a little bit. When you look at '05-06, it was 94 percent, give or take a few tenths; period two was 6 percent. When you look at '06-07, it was 66.5 percent; for period two it was 33 percent.

Now, how long does it take to figure out that there was a problem with this? When I made some calls, well, who checks on this, who is looking, who is keeping count? I talked with Bob Beal. I guess, basically, nobody really knew who was keeping count. It's the Atlantic States Marine Fisheries that is supposed to be looking out. I guess once the plan is accepted, for North Carolina we've just basically been at the mercy of whatever and we haven't got nothing.

We're losing our fisheries, we've lost shark and snapper grouper and different things, and it's time for us to have a fishery. You tell the people you rebuild the stock you go back fishing. Well, we ain't going back fishing. Our state has had dogfish caps, to decide whether to go out of compliance and for two or three years we would meet and look at this stuff and thinking, well, something is going to change, but I guess nobody was counting or looking or nobody was in charge; or if they were, they were asleep.

We need to have a dog fishery in 2008 and 2009. Five or six years of mismanagement and inequities is way too much for a state that has been a historical player in this to go without. Not only that, our fishermen, we need to go fishing. We're down a lot of people. There are just a few fisheries left. I don't think, when you look at North Carolina's historical share, somewhere around 14 to 16 percent, given from '88 to 2002 a 1.3, 1.4 million pound quota isn't too much to ask for.

When you look at this addendum up here, this does nothing to guarantee my state of North Carolina a fishery. All it does is guarantee the southern end to get 42 percent, but it does nothing to guarantee me a fishery. We're not asking to sit here and ask for special privileges or something.

I mean, it is kind of hilarious or funny for me is this thing is going on for five years now. And as managers of these fish that is supposed to look out not only for the resource but the fishermen, somebody has done a slack job. I could probably keep going on but that is not going to help. We need a fishery in '09 and '08. We deserve one.

We have been at the short end of the stick ever since this management plan. You know, when you look about how it was made from New York

south and Connecticut north and the different things, it's almost like, you know, this whole scheme was set up – not scheme but just the schematics of it was we were going to be at fault to begin with.

I don't know how we got there, but we need a fishery and I don't think it would hurt to have a historical share. Fair and equitable are some of the things that I think Atlantic States look at in its fisheries, and this is one that has been going on for this amount of time and it's not fair and equitable. I would hope that other fisheries aren't managed like this when these numbers come out and who is looking at what is the compliance with the areas, the references that are set up. It's been pretty much you hear nothing out of staff or out of the management level from Atlantic States Marine Fisheries on this.

CHAIRMAN DANIEL: I need you to wrap it up, Dewey.

MR. HEMILRIGHT: Okay, I will, thank you. We need to go dogfishing in '09 and '08, and there should be no reason why it shouldn't. Everybody would see fit, we would appreciate that, and also look at state-by-state quotas, and this travesty shouldn't happen again maybe not in other fisheries. Thank you.

MR. McKEON: Thank you, Louis, I appreciate it. Sean McKeon, North Carolina Fisheries Association. My comments are brief. Dewey and Kelly said pretty much most of what I was going to say. I would hope you all are really listening to these guys. I think this addendum is moving in the right direction. I think state by state will solve the problem. I think, as you said, it will be a moot point.

But I also hope that as you're forward you understand that in fairness to North Carolina and in fairness to the folks that have been disadvantaged, that you all move to make this happen this year. The retroactive provision of this particular addendum is good, but if you go to state by state, I think that the commission and the board has the ability to take action at the annual meeting and I hope that you really encouraged to do that by what you're hearing here.

This is not something that just occurred this year or happened a month or two ago. This has been going on and on; and as I said to the Policy Board yesterday, North Carolina has I think bent

over backwards to try to put different provisions and different things on the table. This is a fishery that is extremely important; and mostly from the standpoint like any business, there has to be continuity in order for that business to project what they're going to do in the future.

Right now, as you all know, North Carolina fish in this fishery have to be transported to New Bedford, for example. It is the only place we can bring them that has a cutting house. There are people in North Carolina who would like to open up a business and perhaps get into that business, but they're not going to put anything. No businessman would put a dime into an effort that is not guaranteed at some point of a return on that investment.

If you could keep in mind the fact that while these addendums, both them are moving in the right direction, I think the most important consideration for us is that we have a fishery this year. And as Dewey said, based whatever number you end up using, a 1.2 or 1.4 range for North Carolina is not asking for a lot. We're asking for an average amount that we have.

I will have probably a comment or two when you address the next addendum, but I just hope that you understand it is this year we're talking about. As I said again to the Policy Board last night, there is an easy way, a cooperative way, a way that I think would do justice to the mission of this body, and that is to cooperate and extend this consideration to the state of North Carolina.

The hard way is going to create all kinds of problems for everyone. It is not anything any of us want to go through, and we hope you understand that, that we're trying our best to put something on the table here that will be fair for all of us. We support this, but we really think that the state by state will do far more. Thank you.

CHAIRMAN DANIEL: Thank you. Any further discussion on Addendum II.

MR. AUGUSTINE: Call the question.

CHAIRMAN DANIEL: The question has been called. The motion is on the table. Do we need to caucus? All those in favor, signify by raising your right hand; opposed, same sign; null votes. Thirteen to nothing, approved.

MR. MEARS: One abstention.

CHAIRMAN DANIEL: One abstention, sorry; two abstentions. Vince.

EXECUTIVE DIRECTOR O'SHEA: I have just a clarification, Mr. Chairman, to make sure everybody understands. You have already received consensus on including the retroactive feature. The staff will add that to this document. It is our understanding that then the document will go out with that modification and that you will not see it again.

CHAIRMAN DANIEL: I think that should be the understanding of the board. Great; I'm seeing nods in the affirmative.

EXECUTIVE DIRECTOR O'SHEA: Okay, the second point is we are getting to the lunch period. I was wondering if you would consider doing the TC nomination first. It may make sense to take a break before you get into Addendum III, but while we're doing that, you might be able to knock off the TC nomination on your agenda. It's just a suggestion.

MR. R. WHITE: Thank you, Mr. Chair. For the public that came and talked, I would like to have staff go over the timeline of what we just passed so that they clearly understand how fast this could be implemented.

CHAIRMAN DANIEL: Right, and I was going to do that after Addendum III since we're going to do the hearings together, but there is a 30-day period for which we will have public hearings. You will also have 30 days to submit written comments. Then the board will take up both of these addenda at the annual meeting in October in Delaware.

Addendum II can be implemented immediately. I think there is going to be a lot of discussion from this board as far as implementing Addendum III outside of the start date of the fishing year, which is May 1. You will be receiving a request from North Carolina between now and the annual meeting with a strategy to come up with a way to assure North Carolina has 1.3 million pounds for this upcoming season.

That is going to be an issue that we need to discuss at the annual meeting, but I'm not prepared to do that and don't want to do that today. I think we need to get these to public

hearing and get the state-by-state show rolling down the road. That's where we are right now, Mr. White.

### **COASTAL SHARKS TECHNICAL COMMITTEE NOMINATION UPDATE**

This is just an update for you that the state of Delaware requested the designation of Mr. Scott Newlin as Delaware's representative to the Spiny Dogfish and Coastal Shark Technical Committee. He is going to replace Jeff Tinsman. That is just an FYI. Chris said he is really smart and Roy is nodding affirmatively. All right, what is your pleasure? We will break for lunch.

(Whereupon, a recess was taken.)

### **ELECTION OF VICE-CHAIR**

CHAIRMAN DANIEL: All right, folks, it has been 30 minutes. If you don't mind and if there is no objection, I would like to go ahead and reconvene and get moving. One thing is Pat was up here lonesome with menhaden, I'm up here lonesome without a vice-chair for the Spiny Dogfish and Coastal Shark Board, so I need to look for a nomination for – Ritchie.

MR. R. WHITE: Thank you, Mr. Chair. I would like to nominate Dave Simpson.

MR. P. WHITE: Second.

CHAIRMAN DANIEL: I've got a motion for Dave Simpson; seconded by Pat White to nominate Dave as the vice-chair. Pat.

MR. AUGUSTINE: Move to close nominations and cast one vote, Mr. Chairman. Welcome, David, congratulations.

CHAIRMAN DANIEL: Thanks, David. All right, that was the most important item and that is done. The Massachusetts AP member, do we need to take care of that?

MR. VONDERWEIDT: Yes, I've got handouts.

### **SPINY DOGFISH ADVISORY PANEL NOMINATION**

CHAIRMAN DANIEL: Staff is passing around right now a nomination for the Spiny Dogfish

Advisory Panel. What you're getting is a nomination to the Spiny Dogfish Advisory Panel, Eric Brazer, Jr. with the Cape Cod Commercial Hook Fishermen's Association replacing John Pappalardo on the panel. Mr. Adler.

MR. WILLIAM A. ADLER: I make a motion to accept the applicant.

CHAIRMAN DANIEL: Motion by Mr. Adler; second by Mr. Augustine. Is there any discussion on the motion? Is there any objection to the motion? Seeing none, that motion is approved. Thank you. I don't think there is any other business to take care of. All we have got left is our update and Addendum III. Could I get a show of hands of the states that would like to have hearings on Addendums II and III? Thank you.

MS. KARYL K. BREWSTER-GEISZ: Thank you, Mr. Chairman, and thank you all for approving the state-wide shark FMP. That's very exciting news. Now that you're done with that, you might want to sit back because we're about to start an amendment for small coastal sharks that could affect what you just put in place.

### **FEDERAL SHARK AMENDMENTS 3 AND 4**

We've started the National Marine Fisheries Service scoping for small coastal sharks an Amendment 3. The purpose today is to just listen to your ideas about what we might want to do. The comment period ends October 31<sup>st</sup> so you have plenty of time to think about what you want to tell us. We're not proposing anything at this stage. It's just all the brainstorming session right now.

I am here to talk a little bit about the status, and I'll just go quickly through everything else. I am also going to give you a little bit of information about Amendment 4, which is mainly based in the Caribbean. It is really just for your information, but some of it might, depending on what we do, affect sharks as well.

The status of small coastal sharks, the stock assessment was run through the SEDAR Process, and I believe the technical committee here also looked at it. Blacknose sharks are considered

overfished with overfishing. It will rebuild in 11 years under no fishing mortality and 18 years with a little bit of fishing mortality.

This chart just shows you where the main mortality comes from for blacknose sharks. Most of it comes from the Gulf's shrimp fishery, 45 percent. There is some from our commercial gill net fishery, 22 percent, and then some from the recreational fishery as well. As you can see from the average weights on this chart, these sharks are much smaller than the large coastal sharks.

Because of the overfished/overfishing status, we do need to rebuild blacknose sharks, which is why we started this amendment. The timeframe we're hoping to have this effective by is January 2010, so there is still some time left. That would be to prevent overfishing and rebuild blacknose sharks along with maintain a sustainable fishery for small coastals.

I am not going to spend too much time on this slide as it pretty much goes over what you just approved in your FMP. We were pretty complementary there. There is no trip limit on small coastals. There is the quota that is one region and one season. We do have limited access permits in federal waters for commercial fishing, and then there are the reporting requirements and the dealer permits.

Recreational fishing, you have the minimum size and the authorized gears. We also have display quotas and exempted fishing permits. We have received a few comments so far on this amendment, and that's what these are, people who are not certain of the science and say it is not overfished. People say that it could be overfishing in some areas but not all the areas; people who believe that small coastals are being reported, even though they were actually landed as large coastals, that we should consider species-specific regional management, gear restrictions or prohibiting blacknose sharks will put gill net fishermen out of business.

There is a wide range here. For rebuilding blacknose sharks, we are putting out right now a number of options. As I said, we're not proposing anything. This is all just putting things on the table for everybody to think about, removing blacknose sharks from the small coastal quota and setting its own quota; establishing bycatch caps; working with the Gulf

and South Atlantic Fishery Management Councils to reduce blacknose in shrimp trawls and other fisheries; establishing individual fishing quota systems; considering time area closures; revising the trip limits for incidental commercial fishermen; maybe some sort of gill net endorsement – we really only have five true directed gill net fishermen for sharks, but they do catch small coastal sharks in other gill net fisheries – commercial gear modifications. We're always looking for other ideas as well.

For recreational fisheries, considering outreach to recreational anglers; revising the bag limit; not allowing possession of blacknose in the recreational fishery; creating seasons and closed areas; require reporting; and any others you might think of. Besides rebuilding blacknose sharks, we're looking at a number of other issues.

One of them, especially now that you all approved adding smooth dogfish into your plan, is adding smooth dogfish into our management unit. We have had requests for adding ragged-tooth sharks into our management unit and putting them on the prohibited species list. Very few ragged-tooth sharks are caught in U.S. waters. Adding deep water sharks to our management unit – if you all remember, we had deep water sharks on a few years ago, but once the Finning Prohibition Act went into effect, we took them out of our management unit.

We have had fishermen come to us with concerns about common thrashers. ICCAT, the International Commission for the Conservation of Atlantic Tunas is also doing some quick assessments on some of the pelagic shark species; and depending upon what they come with, we might want to take additional measures for the pelagic sharks.

And then if there is any other shark issue you want addressed, now is a good time to bring them up. There has also been some issues with the VMS, vessel monitoring system, whether or not we want to establish electronic vessel reporting. Right now it is when you have left the port, once an hour, whether we want to increase that frequency; require vessels to call enforcement or call somebody to say, "Hey, we're going out fishing now and we're coming back in now"; so the hail-in and hail-out requirements; and another issues you think we

might want to address with vessel monitoring systems.

Improving our ability to monitor and implement appropriate quotas, so this could go for more than just small coastals. It could be for all shark species. Establishing regions; establishing electronic dealer reporting; modifying dealer reporting time – if you remember we have dealers must report to us every two weeks. I believe this board discussed having real-time quota monitoring, and I know the technical committee and the AP for ASMFC have also talked about modifying the dealer report time.

Requiring that all shark products be offloaded to a dealer – right now a lot of the fishermen offload and then bring it by truck to a dealer. This would require them to actually have the dealer there. As I said, this is more of brainstorming session; so if there are other issues – and this is being driven by the fact that under Magnuson we need to rebuild blacknose sharks, but if there are other issues related to shark fishing, we can try to work it in.

The scoping meetings, if you're interested these are meetings open to the public. We're also trying to get on the schedule for the councils. Thank you again for having us here. The tentative timeline, as I said before we want to have this in place in January 2010, so scoping this summer and fall; a pre-draft for the HMS Advisory Panel; and then a draft environmental impact statement and proposed rule next summer, followed by the final rule.

The comment period ends October 31<sup>st</sup>. We do have an e-mail box or you fax and mail them. For the Caribbean, this is going to be Amendment 4. We do have some issues with Caribbean fisheries. It's mainly an artesinal fishery, but they do land an awful lot of HMS, but we don't have very many permit holders. We are trying to work the Caribbean to figure out how to address Caribbean issues, unique Caribbean issues that other areas don't have. This is sort of giving you just the background, but unless is specifically interested in Caribbean, I am just going to let you read and move on.

We're trying to address vessel permitting, dealer permitting, reporting issues and authorized gear issues. The timeframe is about the same as what we have for Amendment 3. The comment period closes on October 31<sup>st</sup>. This is the information

on how to submit comments for the Caribbean Amendment. That's all I have.

CHAIRMAN DANIEL: Thank you, Karyl. Questions for Karyl? Robert.

MR. BOYLES: Thank you, Mr. Chairman. Karyl, have you all considered a more liberal bag limit for Atlantic sharpnose in the recreational fishery?

MS. BREWSTER-GEISZ: We aren't against it necessarily, and we do have a pretty liberal one right now of one sharpnose per person per trip as opposed to per vessel, which the other trip limits are.

MR. BOYLES: My reason is we've got some fairly significant data that shows that we're up to our waists in them in South Carolina, so we have a current bag limit of two, which we will, of course, switch through legislation to be consistent with the soon-to-be-implemented Small Coastal Plan, but it is something that we'd like the Fishery Service to consider. Thank you.

MS. BREWSTER-GEISZ: Thank you, we can definitely consider that.

CHAIRMAN DANIEL: Anything else on the next HMS Shark Plan? I have some. I would agree with Robert's request. I think that would be a nice thing because we're seeing a similar thing in North Carolina with sharpnose. I've got a real problem with the blacknose stuff. One of the big problems that I have is the average size is only 1.5 pounds, which is suggesting to me that we know where the problem is and that's in the Shrimp Trawl Fishery and not in the directed commercial fishery.

I think it is incumbent upon us to come up with regulations to reduce the shrimp trawl bycatch as opposed to penalizing the commercial fishermen. With that said, it is also clear that the recreational component is really playing no role in the mortality of blacknose based on the numbers that I'm seeing, and so actions directed towards the recreational fishery would appear to me to be unfair.

I will also ask that the closure off North Carolina be reconsidered once again to eliminate that closure. Now that we have complementary regulations, North Carolina has shown it to be a good player in this game. I think it's time for

our guys to be able to go back into that area with the much restricted trip limits.

It minimizes the need for that area now that we have complemented everything in state waters. North Carolina has already issued a proclamation implementing what we just approved 30 minutes ago. Anything else on that? Thank you, Karyl; thank you, Margo, for having that.

CHAIRMAN DANIEL All right, home stretch, Chris, if you'll us through Addendum III, that will be our last item of business.

### **ADDENDUM III REVIEW & DISCUSSION**

MR. VONDERWEIDT: Thank you, Mr. Chairman. Before they realized that we were going to go out of order, staff handed out Revised Page 12 of Addendum III. I would just like to acknowledge one small typo on Page 8. Under Option B it says, "Prior to 1998"; it should say, "Prior to 1988". Thank you to the person who pointed it out to me, but it will be corrected. It doesn't really impact the actual option.

The introduction, background and statement of the problem are exactly the same as Addendum II, so we can just kind of go right on to the actual management provisions. The historical landings are up there by state, 1990 to 2006, and you can look at that – it's in the addendum – and just see how the state landings have gone since the emergency action closure in 2000.;

Issue Number 1 is minimum threshold. This was an idea that was brought forth by both North Carolina and by Delaware. Basically, it just wants to assure that all states will have a minimum amount of the catch regardless of their historical landings so they don't get shut out. Option A would 1 percent of the quota would be divided equally amongst all states, and so basically 99 percent of the quota would go to state quota allocation after this 1 percent was granted.

Option B is 1 percent to all states with a declared interest; so, if a state wants to be de minimis, it keeps them from having to trade their quota or quota possibly going to waste. Option C is exactly the same as Option A except it offers 25

percent instead of 1 percent; and Option D, the same thing, 25 percent but only if you have a declared interest. Then Option E is status quo. Are there any questions on that?

MR. P. WHITE: You said 1 percent to each state, but then you said 99 percent balance, so is that 1 percent for all states included?

MR. VONDERWEIDT: It would be 1 percent would be divided – actually I'm going to have to check the document to see if it's 1 percent divided. I think it's 1 percent divided to all the different states, so 99 percent of the quota would actually go to the state allocation, but it would guarantee whatever states don't have historical landings. But, yes, I think that's 1 percent divided equally under Issue 1.

Yes, each state gets 1 percent; so if there are 15 states with a declared interest under that, you would be going with 85 percent of the quota would be divided to all the other states. Thanks for that clarification, and that is how it was brought forth because I've double checked it with the state that asked me to include it as an option.

All right, moving onto state quotas – and all of these options were developed specifically from state recommendations, and that also includes the reasoning behind each option. If you don't agree with the reasoning behind using the particular time series, it was included because the state asked for it specifically that way.

Option A would be using data from 1981 to 1999, which is the entire period of the unregulated fishery. These options are actually from North Carolina, and what they are is they are from a 2002 draft, which was right before the board decided to pull state quota allocation out of the document because they felt it was too contentious and it wasn't ready to go forward, so this is what was developed the last time when the FMP was being developed, just for reference.

With that being said, Option B is 1988 to 1997, and this includes the most accurate early landings data, early landings being the major point here. Option C is 1988 to 1999, and that's the accurate available data. Also, if you want more information you can read each option. Then Option D, 1994 to 1999, the most accurate data at the peak of the unregulated fishery.

Moving forward to Option F, this was added by the plan development team simply because these are the years that were used to devise the seasonal allocation when the actual FMP was used or put in place, so these are the numbers that were considered and that's how we got to the 58/42. It's because of the '90 to '97 data being used.

Option G and H were brought forth by New Jersey, just for reference, and Option G would be using the reference period of 1990 to 2000, representing the time period when the unregulated directed fishery existed. Then Option H would be using the same set of data, but splitting it into a three-tier system. The initial annual quota would be split 58 percent to the northern states, Connecticut north; 42 percent, New York south.

And within that, Tier 1, 70 percent would be divided to the states with average landings around 3 million pounds, and I think it is worded that way because if you look at the data it's not exactly 3 million pounds, but those are states that are much higher in their landings. Tier 2 is 28 percent is then divided to states with average landings between 100,000 and roughly 3 million pounds.

Tier 3 is the remaining 2 percent is divided to states with average landings less than 100,000 pounds. For this option there is nothing for the southern states in there; so it is said that southern states, it would be suggested to come up with an allocation scheme similar that of a Tier 3 approach. Then Option I would be status quo.

Then moving forward to allocation – and this is important and this goes to Page 12 that was handed out, and I would like thank actually three people who brought this to my attention. It is pretty impressive that they caught it. I wish they were on the plan development team. But, Option A, it was averaged – that should be 81 – it was actually average '81 to '89, but the option is supposed to be '81 to '99.

It has since been corrected and all the percentages that are listed up there are with the actual data that you want to use. That's on Page 12 and there is also a graph of how much each state would get under each allocation scheme. Then the final issue here is quota transfer. Option A is to allow the transfer of quota. Option B is do not allow the transfer of quota.

I just want to note that the addendum needs a language update on Page 13. It says to go with the 58/42 is status quo, but that wouldn't be status quo, so it will specifically be changed to “do not allow transfer of quota between the states”; just keeping in mind that the board hopes to move these along, that would be incorporated as well. Questions?

CHAIRMAN DANIEL: Thank you, Chris; questions for Chris. Red.

MR. RED MUNDEN: Chris, on your Table 3, which is for Option H, could you display Table 3, please? The bottom right-hand block indicates that North Carolina gets 23.3 percent, but that is 23.3 percent of 42 percent; is that correct? It's not 23 percent of the full quota; it's 23 percent of the quota that's allocated to the southern area?

MR. VONDERWEIDT: That would be 23 percent of the total quota because you're taking 70 percent and dividing it amongst the states that have landed around 3 million pounds. Three states fall into that category, New Jersey, Maryland and North Carolina, so then that 70 percent is divided three ways and hopefully it comes up to 23.3 percent. That would be, at the end of the day, what North Carolina would get, I believe.

MR. HIMCHAK: Red, what you would get would be 23.3 percent of the 42 percent of the coastal quota. That's how the tiered system would work. It's built on the 58/42 percent. I mean, instead of taking a straight percentage and multiplying times whatever the coastal quota is, I tried to come up with a tiered system where a state like Delaware would get a significant share, a share to accommodate its bycatch fishery issues.

Looking at the dataset, there are some high harvesters, a medium and, of course, low harvesters. I only did it for the northern states because where it says – what does it say up there, “TBD”, to be determined; I don't want to make any suggestions for the northern region, but obviously Massachusetts would be in the Tier 1 all by itself. Connecticut would be in a Tier 3 and maybe everybody else would be lumped.

I just came up with the concept. The numbers are debatable. Some could argue that North Carolina should be in a Tier 1 for the southern region and then other states at two, three and

four. I mean, that's okay, but the concept was to recognize levels of harvest and not just do a straight blank percentage allocation.

MR. MILLER: Thank you, Mr. Chairman. Chris, with regard to the narrative concerning Option H, the tiered system, it says in the last paragraph under sub-paragraph two, "The remaining 2 percent will be allocated evenly to the states who have average less than a hundred thousand pounds."

Do I understand that to mean exactly what it says; namely, the 2 percent will be split among those states that have less than a hundred thousand pounds; because if so, the table is somewhat misleading in that regard, then, because, for instance, under the corrected table that you handed out, Table 3, it shows 2 percent for Delaware. Delaware wouldn't get the whole 2 percent, I gather; it would only get a share of that 2 percent; am I right? Would I get the whole 2 percent?

MR. VONDERWEIDT: You're the only Tier 3 state, so you would get the full 2 percent. If there was another Tier 3, then it would be split.

MR. R. WHITE: Thank you, Mr. Chair. It might be less confusing if under H those percentages were converted to percents of the whole, and then that way it would equate to the overall chart a lot better.

CHAIRMAN DANIEL: Well, one question would be do we want to continue with this 58/42 or just go with straight allocations and not deal with the historical regional splits, but that is something we can decide later, I'm sure. Any other questions for Chris on Addendum III? Dan.

MR. DAN McKIERNAN: Chris, what is the rationale to not allowing a transfer between states if we had state-by-state quotas; could you explain that?

MR. VONDERWEIDT: Just including a bunch of options for public comment so that we don't have to bring the document out a couple of times. That's it.

CHAIRMAN DANIEL: Okay, it's the alternative option of allowing it. We've had a lot of success, though, with transfer of quotas in

bluefish and various other species. This one lends itself very nicely to that. Jack.

MR. JACK TRAVELSTEAD: Just another question; did the advisory panel get a chance to look at this addendum and offer up any suggestions for alternatives?

MR. VONDERWEIDT: Not yet; that would be the next step after approving it for public comment would be the technical committee and advisory panel look at it and give preferred options.

MR. TRAVELSTEAD: Suppose they come up with an option that is agreed upon amongst that group but it's not one of these; how does that get into the document?

CHAIRMAN DANIEL: Well, let me just take maybe a minority view of that, but my view would be that this a management issue. I mean, it's really not a technical committee issue. It's how do we distribute the quota fairly and equitably amongst the various jurisdictions. Now, the advisory panel, you know, we come up with the options and then give the advisory panel an opportunity to discuss those things. I certainly wouldn't want that to delay moving forward with this amendment. Bob.

MR. BEAL: Well, I was just going to comment that if the advisory panel came up with an alternate set of state quotas or state shares and that alternate scenario falls within the range of what is already in the document, I think the board is covered. I think the public record and public comment would address that and give valuable feedback as to what the public's interest in that would be.

I think in that scenario you would be covered, but if it was something completely outside the range, we may have to go back out to public comment. But if it's conceptually similar and within the range, I think you would be covered. The decision of whether it's within that range is the comfort level of the board; does the board feel they have adequate public comment on the range of options that would give them the feedback they needed on the alternate scenario the advisors or whoever brought up.

MR. AUGUSTINE: Thank you, Mr. Chairman. No one has talked about another regional approach. Where we were talking about

mandatory regions for summer flounder, we have talked here about only two options. One would be go to north and south or now to go to state by state. What if the public came forward or the advisory panel came forward and said what if two states or three states decided they wanted a different scenario where they wanted to combine quotas or do some other thing?

In listening to what Bob said, as long as it doesn't show up here, it has to go out to the public again. I don't know if there would be any interest in looking at as an outlier, considered but not further developed, or put it on the document so that it is at least covered. I would like to hear other board members comments on that, because there is the possibility a couple of those states may decide later on, as this stock is fully rebuilt, they may want some other scenario as opposed to just the state by state. I know we have the option to only go north or south. I would like other comments around the table.

CHAIRMAN DANIEL: I guess Bob will correct me or Vince if I'm wrong here, but since we're allocating the resource and we're not going to be more restrictive in any feedback we get from the AP because we're divvying out a quota, so nothing that we come up with is going to be more restrictive because it's just an allocation amendment.

I mean, even it's outside the realm of what we go out with, as long it's not more restrictive, it would seem to me that we could consider those options. If somebody comes up with some crazy idea, the general consensus that I've heard from talking to board members is that we're interested in looking at sort of a straight state-by-state quota allocation. I mean, I would hope that folks would have submitted some of those other alternative schemes during the 60 days that we have had to submit those various ideas. Did you have your hand up, Bob?

MR. BEAL: Louis, just to clarify, hopefully I didn't say that if any scenario is not included in this document it would have to go out for public hearing. I think there is a lot of leeway within the ranges that are in there. If the board wants to put another catch-all comment in there something similar these, the public is welcome to comment on different scenarios. We'd prefer comment on the scenarios that are in there, but if there are other scenarios, we'd welcome that comment as well from the public. I think it

provides more of an umbrella for the board to work under.

CHAIRMAN DANIEL: Sure, and I don't want to squelch ideas because the public may come up with a better scenario or a better way to manage this.

MR. AUGUSTINE: Well, I'd like to see a statement on there that would allow people to think along those lines that you could come up with a different scenario, but then I guess in line with that if it is presented could that be handled under adaptive management, of all the elements that we have in adaptive management, if we decided to go in that direction at a later date?

In other words, the amendment finally gets passed with whatever elements we have in it; what items within the – all of the ability that we put into a management plan where we have the flexibility – adaptive management – within the adaptive management scheme; would something like this cover it? I don't know whether it's Vince or Bob or who would answer that.

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, just to make it clear here, there are really two issues on the table. The first is the issue of state-by-state quotas is provided for in the adaptive management features within the plan that would allow the board to take that action through the addendum process.

The issue, and I think it is the one that was being discussed, is what flexibility does the board have for new features, to adopt new features that may come in as a result of public comment. The answer that has been given to that is I think it would be up to the board to evaluate them and see if they're within the range that has gone out to public comment and whether or not the board is comfortable saying they're within the range.

And if it is not, then the board would make a decision to take it back out again. As a reminder, our boards have done that from time to time, have decided that this action is so much different than went to public comment that they want to do it again. That would be the same situation here. You always run that risk of something new coming in.

MR. TRAVELSTEAD: I think this dialogue has been helpful. It is going to be very difficult for Virginia to support this addendum. If you look

at recent landings in Virginia, they have been quite high, so recent history is high while our earlier history not nearly as much. We're certainly sympathetic to the situation that North Carolina finds itself in, and certainly state-by-state quota-based management would go a long way to solving North Carolina's problem.

That same solution is very likely to put Virginia fishermen into a situation that North Carolina currently finds itself in. We have enjoyed some of the benefits in recent years in the fishery. We have had a number of fishermen make an investment into the fishery. It has proven to be somewhat of a savior for some fishermen who have been displaced from our blue crab fishery that is now fairly heavily regulated.

To lose this opportunity now overnight through a state-by-state quota system would be difficult for Virginia to support. But if there is enough wiggle room based on what Bob Beal and Vince and you, Mr. Chairman, have said that allows for some tweaking of these percentages after we get back from public hearing, I think that might help us to some degree. Where we will end up on this in the end I can't say at this point, but I would not want to be locked into the specific options that are listed here at this point.

MR. HIMCHAK: Thank you, Mr. Chairman. My comment was to ease Pat Augustine's anxieties on his regional issue and he just left the room. But, anyway, going back to the regional approach, I mean, if you had state-by-state quotas, you don't have any disparity on size, season and possession limits from what I can see. If you have two neighboring states that want to cooperate regionally, sharing its allocated quota, would that not address Pat's concerns about adding another layer of listing regional management strategies and then having to go out to public hearing on it?

CHAIRMAN DANIEL: I think so. I mean, if states wanted to get together and combine them, as long as they don't go over the quota, I think we're cool. It's just maintaining the quota shares. If that is something that would help the Virginia situation or a Mid-Atlantic situation – I think the range of alternatives in here are pretty varied to where I don't think we're going to do anything far outside of these existing percentages that exist. I think we will have covered the alternatives that will give us the opportunity, to

use Jack's word, tweak these options at the annual meeting.

EXECUTIVE DIRECTOR O'SHEA: Thanks, Mr. Chairman. There has actually been board precedent, not this board but other boards, and one example that comes to mind is black sea bass. That board took out a range of alternatives and actually selected something in the end that was somewhere in between as a result of deliberations by the board. That is an example where that has happened.

CHAIRMAN DANIEL: Anybody else? Dan.

MR. MCKIERNAN: We have concerns about Option H because as Ritchie mentioned the six southern states' percentages probably should be reflected as being 14, 23.2, et cetera, of 42 so those actual numbers should be reflected as 5.9, 9.8, 1 percent, et cetera, but I'm more concerned that I don't think the public in Massachusetts would be able to comment intelligently about what it would mean for the Commonwealth to have a TBD. It might reflect that five states would get an equal share of the 58 percent. It just seems that option isn't fully cooked yet. It is not articulated. I mean if you think it's fair, then maybe it should be –

CHAIRMAN DANIEL: Well, I talked with Dave Pierce before he left, and we were looking at all these options. There are an awful lot of options for consideration. Maybe that's good; maybe it's not. Certainly if there are some we absolutely know that we're not going to do, then this is the time to make the recommendation to take them out. Otherwise, right now we're slated to take all of them out for public comment. Ritchie.

MR. R. WHITE: Thank you, Mr. Chair. I agree with Dan. At a New Hampshire hearing, no one is going to speak in favor of "to be determined". I mean, that will get negative.

MR. GIBSON: I was not going to wade into this, but I have to go back to Jack's concerns about the lack of an option that recognizes more recent data and the investments, if you will, some of the states have made in this fishery. I hadn't thought an awful lot about that. I like the state-by-state idea or concept, but all of these options currently structured will substantially reduce Rhode Island's exposure in this fishery or opportunity in this fishery.

CHAIRMAN DANIEL: We need a motion to move forward or a suggestion to whittle. Ritchie.

MR. R. WHITE: Do you want motions or just suggestions?

CHAIRMAN DANIEL: I'd like a motion.

MR. R. WHITE: A motion to remove Option H.

CHAIRMAN DANIEL: A motion by Ritchie White to remove Option H; is there a second?

MR. McKIERNAN: Second.

CHAIRMAN DANIEL: Discussion on that motion? Dave.

MR. DAVID SIMPSON: I'm just wondering about the prospects of filling in those TBDs for the northern half of the states. I'm not familiar enough with the option to know why they're not filled in or if they could be in time for the hearing.

MR. VONDERWEIDT: Well, initially I actually ran the tier system with the options for the northern states, and there were just kind of some problems with the roughly 3 million to 100,000. I think there was only one Tier 2 state or something along those lines, and I sent it to Mr. Himchak and he wanted it just "to be determined" so that the northern states could work it out for themselves. That's how we got here.

MR. STOCKWELL: Thank you, Mr. Chair. Are you going to be able to determine those numbers between now and the public hearings, Chris?

MR. VONDERWEIDT: Yes, I can probably pull them up right now if you give me a second.

MR. STOCKWELL: I'd be inclined to agree with the motion if we're going out to hearings with "TBD" on it.

CHAIRMAN DANIEL: Pete, did you want to speak to the motion?

MR. HIMCHAK: Yes, Mr. Chairman. Again, I didn't want to get into their turf up there, but if you look at the 11-year mean, of course, Massachusetts has 20 million pounds and

nobody is even close to them in terms of the mean for the 11-year period. There are three states that are at a much lower level at 1 to 1.5 million pounds, and then you have Connecticut at less than 180,000 pounds.

Of course, they get the lion's share of the 58 percent. I didn't do the math to say exactly what it is, but maybe you could agree amongst yourselves prior to the public hearing. The idea is to ensure that Connecticut gets a threshold-level share that they can live with in their bycatch fishery or whatever. Massachusetts would get – I don't know, I'm just guessing just from looking at the numbers – 80 percent and you have it all to yourselves as a Tier 1 state.

CHAIRMAN DANIEL: I don't want to get too deep into North Carolina issues here, but the tiered system, if you look at that, it sort of makes New Jersey, Maryland and North Carolina on equal footing where, clearly, North Carolina has been the dominant player in the southern range or at least was. Then it sort of pushes New York and Virginia together and then Delaware off to the side, and that's not really a fair – I don't really see that to be the historical distribution that I think we were looking to achieve in this plan.

I think what North Carolina submitted was based on some concerns that we heard at the last meeting from Delaware where they needed to have a percentage for their bycatch fishery, and we tried to accommodate that with the 1 percent. Everybody gets a percent or splitting up to 25 percent was the other option. By getting into tiers, you sort of lose a lot of that historical participation, kind of lumping instead of splitting, and I think in this situation we probably will want to do more splitting than lumping.

MR. AUGUSTINE: Mr. Chairman, there is another question that hasn't been asked let alone answered. Why does Massachusetts have the highest percentage of landings? Is it just so happened that is where the processing plant is? Golly!

REPRESENTATIVE ABBOTT: Thank you, Dr. Daniel. I would urge everybody to support this motion. My support was heightened when I heard there were problems with coming up with these figures and everything else. Seeing the difficulty we have had around the table initially in understanding what we're talking about and

seeing the difficulty we would have in explaining it to the public, it is really, I don't think, worthy of being in there. It's worthy of the board's consideration, as we did, but I think the discussion has proved that this isn't worthy of going out for public comment.

CHAIRMAN DANIEL: Thank you, sir. Any additional discussion or comment on the motion? Seeing none, all those in favor of the motion to remove Option H from the Draft Addendum III, raise your right hand; all those opposed; null votes; abstentions. The motion passes 8 to 3 to 4. All right, H is removed from the draft. Jack.

MR. TRAVELSTEAD: I am going to go back to Vince's comment when he reminded us that we did some tweaking when we were considering black sea bass. He reminded us that we were able to do that tweaking because we ended up somewhere in the middle of a range of options that were advertised to the public.

I think to allow us to do the same thing here, we need to add an option that looks at the most recent years in the fishery, much like Rhode Island has suggested. I don't know what those years should be; you know, perhaps something like 2000 to 2007. I think if we include that, that then allows us perhaps to end up somewhere in the middle. I will so move.

CHAIRMAN DANIEL: '01 to '07 would be a discrete block of time.

MR. TRAVELSTEAD: Yes.

CHAIRMAN DANIEL: So you've made that a motion?

MR. TRAVELSTEAD: Yes, sir.

CHAIRMAN DANIEL: With a second by Bill Cole to add an option basing allocations on landings between the period of 2001 and 2007. Does that capture it, Jack? Discussion on that motion? Roy.

MR. MILLER: Thank you, Mr. Chairman. Obviously, I hope that this particular option doesn't end up being the preferred option because it allocates nothing for Delaware. It does not address bycatch issues or fairness issues. Thank you.

MR. P. WHITE: I don't have a suggestion right now as to what the fair years are, but what I'm concerned about picking these kind of years is most of that was controlled by trip limits, and it wasn't a free and open fishery.

MR. MUNDEN: Thank you, Mr. Chairman. I would ask the maker of the motion to consider 2000 as the starting point because that is when the federal plan went into effect, May 1 2000, so we're eliminating one year that we've had to operate under trip limits if we use this time period. It has also been pointed out that we will not have data available for 2007 when we take this thing out for public comment.

MR. TRAVELSTEAD: I have no objection to changing '01 to '00. When will the 2007 data be available?

MR. VONDERWEIDT: I can pull that from the SAFIS database, so I'll be able to get that. I just have to go through the ACCSP warehouse. Now that I know that it should be included, I'll get it in there.

CHAIRMAN DANIEL: I think certainly my intent of including this into the document would be to provide us with that extreme end of the range of alternatives so that we do have the room that we need to get this thing done. Any other discussion on the motion? The motion is to include an option basing allocation on landings between 2000 and 2007. All those in favor of the motion, raise your hand; opposed; abstentions; null votes – 11, 3, 2, approved.

REPRESENTATIVE ABBOTT: Would you like another option?

CHAIRMAN DANIEL: Sure.

REPRESENTATIVE ABBOTT: Everyone wants to listen carefully and look at the graph. As I was looking at this, I was considering the idea of adding up every state's average from Option A through G. Just adding the numbers up, totaling all the numbers of the state, dividing it into making it a percentage and using that as an option. Do you follow that? I don't know what the numbers would be but it would be more of an averaging for everybody.

CHAIRMAN DANIEL: The suggestion is to remove – Option H is gone, but that would be to average all the options, A through the new H,

which is the 2000 to 2007 option, and average those up as a mean percentage over the entire fishery timeframe from 1981 to 2007.

MR. VONDERWEIDT: I can do that.

REPRESENTATIVE ABBOTT: And the interesting part of it is if you all voted for this, you wouldn't know your numbers until you did all the math, so you would be more unbiased.

CHAIRMAN DANIEL: Do I have a second to that motion? Pat White, thank you. Roy.

MR. MILLER: Thank you, Mr. Chairman. I feel compelled to state Delaware's case one time for the record so you understand my apprehension about any scenario based on the past 18 years of data, if you will, is that I think it has been since 2000 Delaware has been totally closed. We have had moratorium in our state on the harvest of spiny dogfish at least since we've gone into the recent management scenarios.

Therefore, any scenario based on the last ten years or something like that really disadvantages Delaware fishermen. Our fishermen are gill net fishermen. The spiny dogfish is largely a bycatch to be landed probably when they're fishing for striped bass or other species. It is just not fair to say by a lot of these scenarios that they get zero allocation. They had no opportunity to fish for and land spiny dogfish during many of the years of record. Thank you.

REPRESENTATIVE ABBOTT: I surely wouldn't want to disadvantage the gentleman from Delaware, and he would be disadvantaged in obviously every option. Could there not be a set-aside for someone in his position in Delaware of a certain poundage or whatever outside of the percentage?

CHAIRMAN DANIEL: Well, that's the point I wanted to bring up. I mean, you've basically got two states that are below that 1 percent threshold, Connecticut and Delaware. There really would be no need, in my mind, to give Massachusetts 1 percent, North Carolina 1 percent, Virginia 1 percent and then divvy it all up.

But if you were to say from get-go that 1 percent would go to Delaware and 1 percent go to Connecticut off the top and then the remaining 98 percent would use these various scenarios, then that way everybody is going to drop a

fraction, but you'll make certain that those two states that would like to have some fish for a bycatch fishery or whatever would have that alternative free and clear.

That may be a simpler arrangement than all the 1 percent and 25 percent options that we've got in it. It could make it even simpler if we could all agree that those two states would get 1 percent, then the rest would go 98. I don't know if we can do that apriority like that, but it certainly would address Dave and Roy's issues in Connecticut and Delaware. Pat.

MR. P. WHITE: Well, I hope you have that in writing and I second it.

MR. HIMCHAK: I just want to continue on the same thing that Roy had. I mean, essentially since 2001 we haven't had any fishery. We went from, you know, gold rush days until like zero because of the regulations were in the emergency action. Anything within current years is not reflective of when we had a directed fishery.

CHAIRMAN DANIEL: Well, let's get this right and not rush. If you go to Page 7 of the document, Addendum III, it would be possible to have Issue 1, minimum threshold, simply indicate that 1 percent is going to be allocated to any state that isn't projected to get at least 1 percent of the total quota share, and that's all you'd have for that management option and status quo. Ritchie.

MR. R. WHITE: I'm certainly supportive of the concept. I wonder is the 1 percent the right figure. When I look at Connecticut, they are a half a percent basically, and Delaware was one-tenth at the top. So, would a half a percent be more accurate than what actually – a half a percent each?

CHAIRMAN DANIEL: What is 1 percent of eight? I have got Pat first.

MR. AUGUSTINE: I'll go to the defense of Delaware on this one. Unless we have some idea of what the historic landings were before that period where they showed one-tenth of 1 percent, unless it was for the whole period from 1981 to 1999. To go to half a percent just kind of arbitrarily, I mean it's an observation of looking at numbers and saying, you know, half a percent would work. I think we have got to be more discrete than that. Just pulling numbers out

of the air without substantial backing doesn't cut it. I don't think it's fair and equitable for anybody that way.

MR. MILLER: Well, I'm not entirely sure what is fair and equitable, but if I look at the table on the back of this document for Delaware, the peak landing year was 1995. It had 62,900 pounds, which is approximately 1 percent of today's quota, so there is some justification. In other words, the potential is there to harvest up to that level anyway, it would appear from the historical landings. Thank you.

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, maybe to review this, these numbers went out about a month ago for folks to look at and go over, and I think people gave careful consideration of them. Obviously, we've added a few things this afternoon and I think that's great, but just to put people a bit at ease I don't think it was just totally – I think people did put some thought into them and have looked at them before this board meeting.

CHAIRMAN DANIEL: We've actually run over this motion and moved on to a separate discussion, so we do need to go back to our averaging option from Representative Abbott. Is there any further discussion on that motion; move to include an option basing allocation on an average of the allocations in Options A through amended H. All those in favor of the motion, signify by raising your hand; opposed, same sign. Five to eight, the motion fails. Pat.

MR. P. WHITE: Are we going to, as long as it was, consider an abbreviated version of your motion that I seconded?

CHAIRMAN DANIEL: I'm not going to make motions; I'll get in trouble.

MR. P. WHITE: Well, I would like to make a motion for consideration that any state that has less than 1 percent be given a 1 percent allocation and however the math works for the rest of it would be fine. I think that is something that would create comment in the public hearing process.

MR. VONDERWEIDT: Issue 1 is kind of to address what you just said, and that is giving each state 1 percent or giving each state 1 percent that has a declared interest or dividing 25 percent equally amongst all states or dividing 25

percent equally amongst all states with a declared interest. You'd be taking a different piece of the pie and allocating it, but what those are intended to do are to give every state kind of a base amount of 1 percent or 25 percent divided by however many states want a piece of that pie.

CHAIRMAN DANIEL: Right, what we talked about when you left the room was instead of giving all 15 jurisdictions or however many there are a percent, just give the two states, go ahead and just say up front if you have less than 1 percent total, you get a percentage, and that's two states. That is Connecticut and Delaware. Then the remaining 98 percent will be used to generate these allocation schemes based on the various periods of reference. That way you get out of all these options – that way you basically eliminate all the options under 4.0 and just have that one.

MR. VONDERWEIDT: Do we have a motion on that?

CHAIRMAN DANIEL: We're trying to come up with a motion. Ritchie.

MR. R. WHITE: You're going to include that as an additional option with the options that you had on the top?

MR. P. WHITE: Right.

MR. R. WHITE: In other words, this is going to be an – go back a slide if you could. So in there it would be Option F, so Option F would be the 1 percent to Delaware and Connecticut.

CHAIRMAN DANIEL: Well, it's either add another option or just make that decision. I don't know if we can do that or not, but if that seems the reasonable approach – I mean, are we considering the 1 percent to each state or the 25 percent split amongst the states now or do we prefer to just go that direction in terms of making sure that everybody gets at least something? I'm looking at trying to simplify the document, but, I mean, certainly, if we're going to – we can do it either way, whatever the board prefers. Pat.

MR. P. WHITE: My motion I think was intended to replace because I think it simplifies everything to go to 1 percent for all 15 states and then going into all the other percentages seemed to be self-defeating. I will modify it further, if you want, to just include it to include those two

states of Connecticut and Delaware that would get a minimum of 1 percent and the 98 percent to be divided up as we have been talking about.

CHAIRMAN DANIEL: Discussion on this motion? Roy Miller seconded the motion. Doug.

MR. GROUT: Part of this motion that I object to is that it replaces all the other options in there. I have no problem adding it as a fifth option, but I think we need to consider, when we go to public hearing, the other options in Issue 1 here. I'll be lobbying to vote against this.

MR. GIBSON: Yes, I would oppose it. It doesn't make any sense to me because it deals with an allocation to two states and it doesn't tell you what to do with the rest of them. It makes more sense to me to deal with this problem in Issue 1 in a sequential fashion when we make the final decisions. Then all the other options here float from that one. As you stated earlier, there will be 98 percent – if you pick in Issue 1, 1 percent to these states, there will be 98 percent to run through these other decision options.

CHAIRMAN DANIEL: Any further discussion on the issue. The option is to approve this and only have the one option or to modify this to just simply add that one issue to the other four options. Any further discussion on the motion? Roy.

MR. MILLER: Mr. Chairman, I don't want to see the motion defeated. It would appear that it would engender more support to retain the other options under Issue 1, and I recommend that we do so. Therefore, maybe I could perfect the wording on this; just move to add to Issue 1 the option to allocate 1 percent to Delaware and Connecticut each – move to add to Issue 1. I wonder if the maker of the motion would consider that a friendly amendment.

CHAIRMAN DANIEL: He does, and that should satisfy the concerns of the two speakers. Is there any further discussion on the motion? The motion is move to add to Issue 1 an option to allocate 1 percent to Delaware and Connecticut each. All those in favor of the motion, raise your hand; opposed, same sign; null votes; abstentions. Thirteen to three; approved.

Okay, in that option we will need to have the – we do need to take into consideration in any of these percentage options that we need to have the various allocation percentages generated in such a way that we're not overspending our bank account. If we've already got 1 percent distributed to 15 states or 2 states or 25 percent, we need to make sure that we're covered on all those variabilities. All right, are there any other modifications or changes that we want to make to Addendum III. Bill.

MR. COLE: Mr. Chairman, I'm ready to move approval for public hearing.

CHAIRMAN DANIEL: Motion by Bill Cole; second by Pat Augustine. Is there any further discussion from the board? I think there may be some audience in the audience. Is there interest in the audience to speak to the motion? Seeing none, all those in favor of the motion, signify by raising your hand; opposed, same sign; null votes; abstentions. Approved unanimously. Dave.

MR. SIMPSON: Yes, just so the record is clear, it should say "approve the draft addendum as amended to public hearing", just so we don't lose track of it. We are incorporating changes.

CHAIRMAN DANIEL: Thank you for that clarification. Pat.

MR. P. WHITE: Could I ask if staff could also include that Table 3 – could staff add that Table 3 to the public hearing document because I think it really helps explain those options, modified Table 3.

CHAIRMAN DANIEL: We will do that. Ritchie.

MR. R. WHITE: I know it may get complicated but I think having those tables showing the first part as well, the 1 percent, the 1 percent to all states; I mean, I really think you need a table that shows each of those options of what it does to overall percentages.

CHAIRMAN DANIEL: Thank you. Vince.

EXECUTIVE DIRECTOR O'SHEA: What the board has done here is you've amended this document and you're leaving it up to the staff to incorporate the changes discussed this afternoon, and we will go out to public review with that

revised document, and the board will not see it before it goes back out; that's my understanding.

CHAIRMAN DANIEL: That's mine as well and the board.

MR. JIM ARMSTRONG: Just a comment for everybody's information, once this is resolved, whatever the final shoe is that drops, assuming it is Addendum III, the regional allocation or state-by-state allocation is a frame workable option in the federal plan, so we wouldn't have to go through a prolonged amendment process.

I'm pretty sure that the councils would be interested in having complementary allocations in the federal plan as well. Once this is done, that won't take too long, relatively, considering the federal system.

CHAIRMAN DANIEL: Relatively. Thank you, Jim. Ritchie.

MR. R. WHITE: I guess I don't understand why that would go through the federal process. This is state waters.

CHAIRMAN DANIEL: For the federal quota.

MR. R. WHITE: But this quota doesn't match up with the federal quota.

CHAIRMAN DANIEL: I guess we're just getting more. Jim, you have confused us.

MR. ARMSTRONG: I'm sorry. The thing is that the federal system is still operating under a seasonal allocation system so we need to relieve that problem. That's the issue.

## **ADJOURN**

CHAIRMAN DANIEL: Now we get it, thank you. All right, there shouldn't be any other business. The motion to adjourn is accepted. Thank you very much.

(Whereupon, the meeting was adjourned at 2:40 o'clock p.m., August 21, 2008.)

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