

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

**Loews Annapolis Hotel  
Annapolis, Maryland  
October 29, 2007**

**Board Approved: May 6, 2008**

## TABLE OF CONTENTS

Call to Order .....	1
Approval of Agenda .....	1
Approval of Proceedings .....	1
Public Comment .....	1
Update on the Draft FMP for Coastal Sharks .....	1
Coastal Shark TC Meeting Summary .....	2
Advisory Panel Meeting Summary .....	8
Approval of Coastal Sharks Draft FMP for Public Comment .....	22
Spiny Dogfish Northern States Closure .....	27
Spiny Dogfish Specifications for 2008/2009 Fishing Years .....	28
Spiny Dogfish Assessment Update .....	28
Technical Committee Recommendations .....	30
Election of Vice-Chair .....	34
Other Business .....	34
Adjourn .....	34

## INDEX OF MOTIONS

1. **Approval of agenda by consent** (Page 1).
2. **Approval of proceedings of August 4, 2007 by consent** (Page 1).
3. **Move to eliminate the sentence “gill nets must be shorter than 1,200 feet” of Option C of Section 4.3.4.5 of Issue 5, authorized commercial gear** (Page 17). Motion by Louis Daniel; Second by Roy Miller. Motion Carried (Page 19).
4. **Motion to approve the Coastal Shark Draft FMP for Public Comment** (Page 22). Motion by Patton White; second by John Nelson. Motion carried (Page 22).
5. **Move to set the total allowable landings for spiny dogfish for a three-year period** to be 6 million pounds; Quota Period 1, 57.9 percent, which equals 3,474,000 pounds; Quota Period 2, 42.1 percent of 6 million pounds, which equals 2,526,000 pounds; that the trip limits, Quota 1 Period, May 1<sup>st</sup> to October 31<sup>st</sup>, be 3,000 pounds, as we had last year; Quota Period 2, November 1<sup>st</sup> to April 30<sup>th</sup>, be 3,000 pounds (Page 31). Motion by Pat Augustine; second by Rep. Dennis Abbott.  
  
**Substitute motion: Motion to substitute is to set the spiny dogfish quota for May 1, 2008, through April 30, 2009**, at 8 million pounds. 58 percent of the quota will be allocated to the states of Connecticut through Maine; and 42 percent of the quota will be allocated to the states from New York through Florida. The trip limit is up to 3,000 pounds (Page 31). Motion by David Pierce; second by G. Ritchie White. The motion carried (Page 33).
6. Move to nominate Dr. Louis B. Daniel, III, as vice-chair of the Spiny Dogfish and Coastal Shark Management Board (Page 38). Motion by Dr. Malcolm Rhodes; second by Pat Augustine.
7. **Adjourn by consent.** (Page 34).

## ATTENDANCE

### Board Members

T. Stockwell, ME proxy for George Lapointe (AA)  
Pat White, ME (GA)  
Sen. Dennis Damon, ME (LA)  
John Nelson, NH (AC)  
Ritchie White, NH (GA)  
Rep. Dennis Abbott, NH (LA)  
David Pierce, MA, proxy for Diodati, (AA)  
William Adler, MA (GA)  
Mark Gibson, RI (AA)  
Everett Petronio, RI (GA)  
Eric Smith, CT (AA)  
Lance Stewart, CT (GA)  
James Gilmore, NY (AA)  
Pat Augustine, NY (GA), Chair  
Brian Culhane, NY, proxy for Sen. Johnson (LA)  
Peter Himchak, NJ, proxy for David Chanda (AA)  
Erling Berg, NJ (GA)  
Dick Herb, NJ, proxy for Rep. D. Fisher (LA)

Roy Miller, proxy for Patrick Emory, DE (AA)  
Bernie Pankowski, DE, proxy for Sen. Venables (LA)  
Howard King, MD DNR (AA)  
Bruno Vasta, MD (GA)  
Russell Dize, MD, proxy for Sen. Colburn (LA)  
Steve Bowman, VA (AA)  
Catherine Davenport, VA (GA)  
Louis Daniel, NC (AA)  
Jimmy Johnson, NC, proxy for Rep. Wainwright (LA)  
John Frampton, SC (AC)  
Malcolm Rhodes, SC (GA)  
Robert H. Boyles, Jr. SC (LA)  
Spud Woodward, GA, proxy for S. Shipman (AA)  
Bill Sharp, FL, proxy for Gil McRae (AA)  
Frank Montelione, FL, proxy for Rep. Needleman (LA)  
Margo Schulze-Haugen, NMFS  
Wilson Laney, USFWS

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

### Ex-Officio Members

Russell Hudson  
John Tulik

Dr. Jack Musick

### Staff

Vince O'Shea  
Robert Beal

Chris Vonderweidt  
Toni Kerns

### Guests

Jack Travelstead, VMRC

Craig Shirey, DE F&W

The Spiny Dogfish and Coastal Shark Management Board of the Atlantic States Marine Fisheries Commission convened in the Ballroom of the Loews Annapolis Hotel, Annapolis, Maryland, October 29, 2007, and was called to order at 1:50 o'clock p.m. by Chairman Eric Smith.

### **CALL TO ORDER**

CHAIRMAN ERIC SMITH: Okay, welcome, everyone. My name is Eric Smith; I'm the chairman of the Spiny Dogfish and Coastal Shark Management Board. We have an agenda that runs for three hours, and we will need all of it because we have both the update of the Draft FMP for Coastal Sharks, the comments on the federal rule for Amendment 2, and then spiny dogfish issues, the specifications and so forth, so this will take a while.

I believe we have about everyone represented, maybe one or two missing, but we clearly have a quorum. At the outset of the meeting, let me just, for a minute, describe our rules of engagement that we have been using for about a year now, and this is mostly so the audience understands how we perform.

On issues that have gone out to public hearing, we very likely will take no public comment; however, there haven't been any since our August meeting. On other issues I will reserve the right as chairman to try and parse the comments into pro and con, limit them as much as possible so that the board gets advised on public sentiment on an issue, but that it doesn't delay us in the conduct of our business, because we may need most of the time to do what we need to do.

So, please don't take offense if I say we've heard enough comment and we need to move on. It will just be because I'm watching the clock as well as the agenda items. I also may have to limit the amount of time, but since we have a very light audience here, I doubt that will actually come into play.

The other issue I'd like to make as a couple of announcements, John Tulik is here. He represents the Law Enforcement Committee. We're also well represented by advisory panel and technical committee chairs, so we're in good shape in that regard.

### **APPROVAL OF AGENDA**

The first order of business is to approve the agenda. Is there anything that people would like to add? Okay, there is an item on the new agenda, not the one that was on the CD. It's to add a person to the technical committee. We'll take that up just before other business. Other items people would like to add? Pete.

MR. PETER HIMCHAK: Mr. Chairman, I had asked and Chris had canvassed the states for nearshore trawl survey data providing sex-ratio information on spiny dogfish. We've gotten some spotty returns, so I don't think we have a complete picture. That was something that was supposed to be brought to a head at this annual meeting.

CHAIRMAN SMITH: Okay, so there's probably no need to have an agenda item of other business, but just to remind people that if you could put that information together. The technical staff of the states ought to know by the memo or e-mail from Chris what it is exactly they were asked for, so just please go back and talk to your technical committee people and get that information in. Other items? Seeing none, without objection, we'll approve the agenda.

### **APPROVAL OF PROCEEDINGS**

The next item is approval of the proceedings from the August 4<sup>th</sup> meeting. Without objection, we'll accept the proceedings. Okay, seeing none, the proceedings of the August meeting are accepted.

### **PUBLIC COMMENT**

Is there public comment from the audience on issues that are not on the agenda? Anything with dogfish or coastal sharks that we're not otherwise going to talk about on the agenda, this is the time now for the public to have an opportunity to comment. Seeing none, we will then move on.

### **UPDATE ON THE DRAFT FMP FOR COASTAL SHARKS**

The first item on the agenda is the update on the Draft FMP for Coastal Sharks. Just by way of introduction, if you recall in August, we went through this plan pretty carefully, but we left ourselves the opportunity to consider a few other things at this meeting. Chris is going to go

through the document in sequence or in order of how it presents itself to you.

Try and get your comments on the table as they come up so that we can just avoid bouncing back and forth between the document, which makes it hard for the staff to keep track of things, and also we tend to lose our focus when we go back and forth. So, you know, it's not a hard-and-fast rule, but I would just urge you to try and stay tuned to when we hit the issue that you're interested in, get your comment out there. If I'm not seeing you when I look to my left and you're on my right, just holler, that's fine. Now, Chris, introduction to the update.

MR. CHRISTOPHER VONDERWEIDT: Thank you, Mr. Chairman. All right, so the update is going to kind of go in three parts. The technical committee met and suggested some changes and developed some options, and we'll go through that. The advisory panel met and did the same thing. I'll go back through and have a third presentation which highlights every management change since the last board meeting or suggested management changes.

That's probably the best time to comment. Right now, if you have any specific questions on what the technical committee or advisory panel did, what their motivation was, things like that, that is what would be the most appropriate for this presentation.

### **COASTAL SHARK TC MEETING SUMMARY**

The Coastal Shark Technical Committee met October 19, 2007, and the group reached consensus on all issue except one, where there was an abstention, but I'll note that when we get there. The purpose of the meeting, number one, was to develop recommended spawning closures. As everyone remembers, that was kind of one of the main goals of this plan when it was developed; spawning and pupping closures. The technical committee has developed those, and I'll get into that in a second.

Number two was to go through all the different options contained in the plan and suggest any final revisions or changes or things to make it more appropriate before it goes out to public comment. Once the document goes out to public comment, any significant changes that are made after that means that we have to back out to

public comment again, so, really, to make sure that we had options in there that would satisfy the technical committee.

The protection of nurseries and pupping grounds; the technical committee came up with a two-strategy. One is commercial size limits to protect the pups, and I'll go into more detail about that. Number two was a seasonal closure to protect pregnant sandbar sharks primarily. The commercial size limits; what is suggested by the technical committee is 4.5 feet fork length for large coastal sharks.

This is the same size limit for recreational anglers in federal waters and also suggested as part of our plan. The reason why the technical committee did not come up with closure options was because the whole coast could basically be classified as primary or secondary nursery areas, so you would have to close the majority of the coast for the majority of the year to provide protection to these baby sharks.

That being said, this plan will not protect juveniles without implementing a size limit, so when you think of the seasonal closure, this is strongly tied in with the 4.5 feet fork length commercial size limit. This is the item where one member of the technical committee abstained from commenting. I don't think it was for scientific reasons, so this is the one area where we did not have a consensus, but it was not an against vote. It was an abstention.

The seasonal closure was developed to prohibit harvest of large coastal sharks from Virginia to New Jersey from May 15<sup>th</sup> through July 15<sup>th</sup>. This essentially protects pregnant sandbar sharks, pregnant females of other species don't – sandbars will get in excess of the 4.5 feet fork length. This will offer protection to the sandbars. Sandbars are one of the most depleted species, one of the species that needs the most rebuilding right now, so they are identified as high-priority species.

Going along with this closure is the need to consider these dates and other management issues. In some of the NMFS preferred alternatives, which we will go over in a lot more detail, they talk about dissolving the regions so there is one region. If the fishermen from Virginia to New Jersey don't have sharks available to them until after this closure, the quota may be taken before they're available, so

the start of the fishing season might – it might be beneficial to change that to July 16<sup>th</sup>, but I’ll go over that in more detail later.

Moving on to the recreational fishing license, as people are probably aware – and I think Mr. Colvin is going to give a report that tomorrow, but NMFS, as part of the Magnuson Reauthorization, they’re going to have a recreational registry set up by 2011 if states don’t get one in place by 2009.

So, if the ASMFC required a shark-specific state license or required states to include sharks as part of their recreation license system right now, it might just be unnecessarily burdensome because they’re going to have to have something in place by 2009 or NMFS will do it for them by 2011.

The technical committee recommends changing the wording to recommend rather than requiring a recreational fishing license, and we will go back to that as part of the changes to the management plan. 4.2.4, authorized recreational gear, circle hooks are required except for anglers who are trolling or actively retrieving lures. At the last meeting a suggestion was made to say circle hooks are required with natural bait.

However, there are artificial baits with scent attractions on them which are not natural, and they could be used on shortlines or longlines. The plan development team endorses this, and the technical committee developed it to say who are trolling – except for anglers who are trolling or actively retrieving lures, just as a better definition.

Moving on to a commercial fisherman definition, as of the last meeting there was no definition for a commercial fisherman. This one was surprisingly tricky to come up with, but it established two criteria, and one or more qualifies you as a commercial fisherman. Number one, if you have sold a shark during a given fishing year, so if the fishing season starts January 1<sup>st</sup> and you sold a shark on January 5<sup>th</sup>, you’re considered a commercial shark fisherman until December 31<sup>st</sup> of that year.

Number two, you have sharks on board which you intend to sell commercially, there are recreational possession limits, so if you have ten sharks on your boat, you’re going to be in violation of one of these rules. If you have five

sharks, you can’t keep them recreationally under existing regulations.

4.3.3.3, possession limits, the technical committee just wanted to emphasize how important it is to keep possession limits low. They felt strongly that state waters are essentially pupping areas and nurseries and that we should discourage any fishing that we can, so to discourage directed fishing, have low possession limits. This is something that they really wanted to hammer home.

Smooth dogfish, just an update. We discussed this at the meeting, and Mike Frisk of New York is working on an assessment. The data right now does not suggest that seasonal closures are necessary, and that was just brought up during the seasonal closure debate, so just to kind of give an update on that.

4.3.4.2, display permits, this is something which is completely new. It was brought up by a member of the plan development team. How do we regulate aquariums? Basically state waters are a great place to get sharks for aquariums because they’re small, so they fit in aquariums well. But, at the same time we need to get important information for assessments, so there is kind of three management options that the TC came up with.

That is to require federal permits, so there is a limited access permit, scientific research permit and an exempted fishing permit. Through this permit system, the data would get collected and would end up in the assessments, you know, the documents that management decisions are made with, so it’s important to get this information.

B would be to apply to the Shark TC with a proposal and then the TC would review it and say, “Yes, go ahead”; or, “No, don’t.” The technical committee didn’t like that option at all because we’ve got some very busy people who have given a lot of time, so that may be especially burdensome and also setting up a system where these permits – the landings from the permits will actually end up going into the assessment documents. You’d have to figure out how to do that, but that is also an option.

Then C would be that permits are not required. The display permits, there is a federal display permit. The limited access and exempted fishing does not apply to display. It applies to research

permits. It's basically the same idea as the display permit. This is valuable research in state waters for sharks, and universities and academia are carrying on this research, but the TC would like to see all the information end up in the assessment documents.

In order to do that, we need to regulate it. Option A would be a federal research permit, which is a limited access permit, exempted fishing permit or a scientific research permit. Option B is apply to the TC the same way and say, "I would like to carry out this kind of research," and then the TC gives a recommendation to the board. Option C is that permits are not required.

Shark identification, the TC reviewed the changes that were made by this board at the last meeting, which requires that the head, tail and fins remain attached to the body through landing. The TC endorses that. Their justification is that it's only three miles from shore in state waters, so you could ice the carcass and it will keep the meat from spoiling in that small trip that you'd have to take.

The benefits of proper identification far exceed the inconvenience to the fishermen. Proper identification greatly aids management. We've got a lot of unclassified sharks in the state landings right now. Also, it would remove any debate over the carcass-to-fin percent ratio. Right now it's been at 5 percent in federal waters. There is a debate about that, whether thresher sharks that have a larger tail, it could be like 7 percent, so you might actually have to discard some fins and throw them into the water to be below that 5 percent ratio, so this removes any debate or contention over that.

Authorized commercial gear, if you remember, shortlines were developed based on regulatory language from North Carolina, which is I think 500 hooks. I forget the amount of feet, but basically it was developed to curb effort from longlines but at the same time allow the fishermen in North Carolina, and there is a fisherman in Virginia that use these shortlines or trot lines.

But, we didn't set a limit on the number of shortlines that you could have on your boat, so the technical committee recommended allowing the maximum of two shortlines. If we didn't regulate these, it would essentially – it could have the same effect as having longlines, you

know, depending on what our goal is if we selected that.

What this will do is it will encourage the fishermen to check their shortlines regularly. With the shortlines you have bycatch issues, so if you only give fishermen a couple of them, they're going to check them more frequently. Hopefully, the protected species won't get killed as readily.

4.3.6, alternative management suites, this was developed by a member of the board kind of in response to HMS Amendment. It is to prohibit sandbars, have a bycatch allowance of ten fish non-sandbar, large coastal sharks. The large coastal sharks would not be locked into a quota, and small coastal sharks would be identical to federal waters. Basically, by allowing a ten-fish bycatch, you wouldn't – fishermen wouldn't direct on sharks, but you would still allow them to retain some.

The technical committee did not support this kind of for two main reasons. They feel large coastals should be tied into a quota, and it's also very important to have consistent regulations in state and federal waters.

Logbook requirements, the technical committee recommends removing these simply because most states don't have a system in place, and it's also burdensome to states who don't have a commercial fishery for sharks, to set up a logbook requirement. So we shouldn't include something in the plan that we can't enforce or we don't have the capacity to do or a lot of states don't have the capacity for.

However, the technical committee wanted to point out that if we do remove logbooks from this plan, and generally logbooks are used to double check the dealer reporting data, so if we no longer have logbooks to double check that, it makes requiring federal dealer permits imperative because they have a system in place where the landings get sent directly to NMFS, and you can close the quota quickly and the data gets sent to the assessments in a timely manner.

The technical committee also wanted to recommend three interim measures to the Spiny Dogfish and Coastal Shark Management Board. This is basically because Amendment 2 to the consolidated HMS plan is going to come out probably within the year, and it's significantly

reducing quotas for the various species, so the technical committee is worried about some federal fishing pressure going right in the state waters and having a strong detrimental effect.

So what they would like to see happen between now and when our plan goes into place is close the fishery when the federal fishery is closed for a species group, so whether it's large coastal sharks, small coastal shark, whatever it is, if the federal quota is met, the state waters will no longer allow fishing for that species group or species within that group.

Number two is to adopt federal size limits, so there is a recreational size limit of four-and-a-half feet fork length. Number three is prohibit species that are prohibited in federal waters. I would just like to point out if anybody read the technical committee's summary, there was a typo in that, and it said, "Prohibited species are prohibited in state waters," but it meant "federal waters", so basically you can't catch prohibited species in state waters. Any questions?

MR. BRUNO VASTA: Thank you, Mr. Chairman. Let's go back to 4.3.5 where you were talking about the lines with the various hooks on them. I think that's what it was. Are they going to implement or use circle hooks? We could take unwanted species.

DR. JACK MUSICK: The circle hook regulation is another section in here, but if you want to fish for sharks in state waters, you have to use circle hooks.

MR. ROY MILLER: Thank you, Mr. Chairman. Chris, on the section concerning display permits and research permits, perhaps it's intuitively obvious, but I didn't see the option for state issuance of these permits. I suspect that's a de facto situation that on a state-by-state basis the applicable state agency would issue display permits and/or research permits. Certainly, it's that way in my state at the present, so shouldn't that be identified as an option?

MR. VONDERWEIDT: Well, I guess it could. I guess that would be the same as Option C is that permits are not required or we could put an option that says states have to implement a display permit or a research permit for sharks, but right now we could go with Option C, that permits are required and your state could implement them however they wanted.

MR. MILLER: Mr. Chairman, if I may follow up, I would recommend that it be in the plan thus buttressing present state efforts to issue those permits. I recommend that it be in there as an option. Thank you.

CHAIRMAN SMITH: Is there any disagreement with that?

DR. MUSICK: One of the problems is that not all states are like your state right now, and not all states have permits in place for aquarium takes.

MR. SMITH: Chris, for clarity.

MR. VONDERWEIDT: Just so that I know exactly how you'd like it worded; would this be something along the lines of states are required to implement display and research permits as part of this plan, so this would be something that states would have to set up?

MR. MILLER: If I may, Mr. Chairman, I think that states should have the option of – it should not be mandatory, but the states may issue display and research permits. In other words, Option C – I appreciate what Jack is saying, but I don't think Option C does what I intended. That says sharks may not be taken from state waters for display purposes, so I don't think that encompasses my suggestion. I think if the states have the option of issuing such permits, they should be allowed to continue to do so.

CHAIRMAN SMITH: I think we hit our first confusion point of the afternoon. The issue we think we're talking about are the display permits, but, I think, Roy, you're talking about a different issue. Am I correct or am I mistaken?

MR. MILLER: I am referring to display permits and research permits. It says one option should require a federal permit; Option B, apply to Shark TC – that's unlikely – and C, permits are not required. I would say that there should be an Option D, that it handled on a state-by-state basis.

MR. MUSICK: That's what C says, actually. What we're saying in C is that an ASMFC permit is not required. It doesn't say anything about states. All that C means is that we're not requiring an ASMFC permit for research or for aquaria. The states can do whatever they want.

MR. MILLER: Well, I'm reading from the plan and it doesn't read that way. It says sharks may not be taken from state waters for display purposes.

CHAIRMAN SMITH: Okay, and your position is sharks ought to be able to be taken if we allow it. If we decide to allow it, they ought to be allowed to be taken for display purposes, but there should be a state permit associated with it; is that correct?

MR. MILER: I think it should be optional for the states as to whether they require a permit to take sharks from state waters for display purposes, but there should be some recognition of that as a reasonable avenue. So states should be allowed to permit taking of sharks for display and research purposes.

CHAIRMAN SMITH: But, implicit in that statement is the fact that states, therefore, should be allowed to take sharks for display purposes, and yet the point you just read in the plan says it is prohibited, or did I not hear you?

MR. MILLER: The wording in Option C would prohibit that, so sharks may not be taken from state waters for display purposes. That's Option C.

CHAIRMAN SMITH: Right, and that's why I'm asking this question because there are two issues, whether you can take them, and then what kind of permit is required. Since you have raised the question in combination, we may as well deal with both of them now. Can you clear this up, Chris?

MR. VONDERWEIDT: I think so. The idea here is that for display and research, it kind of gives you an exemption from size limits. It gives you an exemption from quotas. So, the way plan is right now is that you can take – if we decide to go with the commercial fork length of four-and-a-half feet, you could take a shark that was four-and-a-feet as long as the quota was open; and it was four-and-a-half feet or greater, aquariums don't want those fish because they're too big.

So, it's not saying that you can't. It's saying that you can't take juvenile fish, that either the quota has been filled during the year or that don't meet the size limits. So, what you're asking is that states, they set up their own licensing system, they are allowed to take sharks, which the quota

has already been filled or are under the minimum size limit?

MR. MILLER: Yes, I think that should be a state decision; I really do. The states would – all states that issue scientific collecting permits, I would imagine, have some sort of a reporting requirement, so those fish removed for display or research purposes could be reported.

CHAIRMAN SMITH: But you're not at this point suggesting that those fish would be exempt from the size limit?

MR. MILLER: Again, I feel that should be a state decision.

CHAIRMAN SMITH: Okay, so then you want the document to say that potentially for consideration by public comment there should be an exemption from the size limit provision that Chris talked about a moment ago?

MR. MILLER: All right, that's one way of putting it, yes.

DR. MUSICK: That makes sense from the scientist's point of view because you're not – when you're monitoring populations, you're not just taking the big ones; you have to be able to sample the small fish, too, to determine size at maturity and so on. If you do that rather than requiring the federal permit, then the state should have an option to write the permits the way they want. We're not talking a large number of fish here, because the number of research projects is relatively small and the number of aquaria takes is relatively small. That makes sense to me.

CHAIRMAN SMITH: Okay, it makes sense while the take of those fish, the small fish, is nominal. As soon as a market develops for aquariums or research or whatever, it will be one of those laws of unintended consequences, so should we, in this public comment document, make some kind of a point that this will be restricted by the commission to a relatively small amount of fish, just so we don't create a backlash of people worried about the taking of small sharks, even though it's not happening now?

We can't have a four-and-a-half foot size limit and then in the next breath say the states are exempt from it if they want to be. I am just looking down the road and what we're going to get in the public comment process. So, hearing

that, does someone have a solution to this so we can move on? Pete and then Pat.

MR. HIMCHAK: Mr. Chairman, I have the concerns that Roy has. New Jersey gets several requests for sharks for aquarium displays, and we do it through a scientific collecting permit. There has to be a system of accountability for every single shark that's taken within the permit, what is caught, how it is used and its ultimate disposition.

I would suggest that the language in the plan allows this to continue for the individual state, and that the states give an accounting to the board on an annual basis, similar to how we do it for horseshoe crabs. We have to account for what is taken for scientific purposes, so I just want to make sure the states have that latitude.

CHAIRMAN SMITH: All right, maybe to clear up my confusion, the four-and-a-half foot size limit is for commercial and recreational fishing only. Therefore, these things aren't in conflict, so I think the sentiment I'm hearing from two states, anyway, is states should be allowed to take sharks smaller than four-and-a-half feet for scientific and display purposes under an appropriate scientific collector's permit that would be issued by the state. Does that satisfy; no disagreement? Jack.

DR. MUSICK: The other factor here is you have prohibited species that we've suggested that we use the same list that NMFS does. When NMFS sends out scientific permits, they can include the prohibited species on the permits. If the states are going to do this, they should have the same option.

CHAIRMAN SMITH: Everybody comfortable with that? Essentially that sounds like the states would not issue a collector's permit for a species that is prohibited by federal –

DR. MUSICK: They would have that option.

CHAIRMAN SMITH: They would have that option?

DR. MUSICK: Yes.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman, another point. This document suggests that now the technical committee is going to have the say-so or review or evaluation

of a permit that comes to them. Well, it says on 4.3.4.2, to issue display permits, Option B, that a letter must be sent to the technical committee stating which species will be taken and how many will be taken and from where the proposed take will occur. The TC will review the proposal and forward its recommendation to the board for final review.

I'm not questioning why it's in there other than the fact that it sounds that we now have the technical committee being a clearing place in addition to one other organization – in this case, the National Marine Fisheries Service – approves or disapproves. Is this another layer of checking of balancing, or what are they going to evaluate against. I just needed to know whether we're creating another layer of management within this plan by having the technical committee review it? I'm not trying to dun this thing. I just think we need clarification to that point.

DR. MUSICK: We don't want to do it.

MR. AUGUSTINE: Well, it says you are going to do it, Jack.

DR. MUSICK: That's Option B. If you tell us to do it, then we'll have to do it, but we don't want to do it.

MR. AUGUSTINE: Well, then, I would suggest we remove Option B.

DR. MUSICK: That's just an option.

CHAIRMAN SMITH: Okay, I think what I hear Jack saying is there are at least three options there. That's one of them the technical committee has not put forward, and that's one of them the technical committee is not recommending. We could take it out of there or we could go to public comment and then take it out of there.

MR. AUGUSTINE: I would suggest we recommend that we take out before it goes out to the public because it's going to throw up another screen.

CHAIRMAN SMITH: Okay, let's hold that thought for a minute. The chairman just let us get all tied up again, because we're still asking questions on the technical committee's report. We still haven't gotten the advisory panel's report yet; am I correct?

MR. VONDERWEIDT: And we're going to revisit these.

CHAIRMAN SMITH: And we're going to go through these things again and then pick and choose and decide. So, pardon me, but I let us get away from ourselves for a minute. So, let's get back to the reports; questions on the technical committee's report only. And, Roy, that means you're going to have to hold your thought, too, for when we get into making comments. Okay, this is the advisory panel meeting summary.

### **ADVISORY PANEL MEETING SUMMARY**

MR. VONDERWEIDT: All right, the advisory panel met the day after the technical committee, and it's a little bit different than the technical committee, being there are commercial fishermen, recreational fishermen and environmentalists on the panel, so consensus wasn't generally achieved.

At our meeting, unfortunately, we had two commercial fishermen, we had one environmental advocate and our chair who is an advocate for commercial fishermen, as well, and we also had an environmental advocate write in beforehand with written comments. It was about 40 percent environmentalists and 60 percent commercial fishermen. There were no recreational fishermen that showed up.

I don't know if that shows a lack of interest or what, but we're going to try and get people to come to the meeting the next time and hopefully get more input. The meeting summary, just like the technical committee, the point of this meeting was to suggest revisions, before the final draft went out for public comments, other options in the plan, if selected, that would make the advisory panel content. There was little or no consensus and few participants.

The recreational size limits, they did have a consensus on. They agreed with the fork length of at least four-and-a-half feet; no size limits for bonnethead, Atlantic sharpnose or smooth dogfish. They think that recreational fishermen don't know very much about the shark regulations, so just keep it simple, 4.5 feet, stay consistent with the federal regulations.

Authorized recreational gear, they liked Option B, handline, rod and reel, and circle hooks are

required. You'll notice at the bottom it says with the exception of trolling or actively retrieving lures. That goes back to the natural bait change that was made for the previous slide. We will also revisit that in the final presentation. Also, it's mostly a catch-and-release fishery, the recreational fishery, so it didn't seem burdensome to require circle hooks.

They also came to a consensus under recreational possession limits, and you'll see it says 4.2.6 and 4.2.7, so there are shore anglers and there are vessel fishermen. They felt that since most recreational anglers are unfamiliar with the regulations, allowing one large coastal pelagic or a small coastal and in addition one sharpnose, bonnethead and smooth dogfish was confusing, so in order to simplify it, just have a maximum of one non-prohibited shark per vessel or shore angler, so you could have one of any shark that isn't prohibited.

Regions, they felt that two regions was important just because if there is a small quota, which there is likely to be, especially with new regulations from NMFS, and by having two regions it would ensure that the quota is shared geographically and that the states in the south don't get to it first and then it's closed by the time the sharks make it up north.

Possession limits, they recommend that possession limits get set by species group. Management uses species groups, so why not set the possession limits that way. That was generally the idea behind it.

Authorized commercial gear, they would like to restrict the lengths of large-mesh gill nets to 1,200 feet. They said that basically right now there are no gill nets in state waters that are larger than that, and so by setting a regulation on it now it would keep the fishery from expanding in the future. If for some reason that would happen, it is kind of a limited – or there are only a few fishermen who are actually doing it, so they want to keep the fishery to themselves. You know, they feel they have a right to it. And, also, they wanted to prohibit longlines in state waters.

So, shark identification, we probably spent 60 percent of the meeting going over this regardless of how the agenda was just because it was such a highly contentious issue. There are people on the advisory panel who wanted to keep the fins

attached. They feel it's an enforceable regulation. It makes it easy to identify the sharks. You can still gut and bleed the fish and still pack it in ice; and, you're only three miles from shore, so the meat is not going to spoil.

Those people who want to allow the removal of the fins, they said that the meat will spoil, the market is not going to take rotten meat, it's a very finicky market, you have to process the shark twice, so this means you gut the fish and then you cut the fins part way off, then you throw it on ice, and that's processing number one. Then you go to the dock and you take it off ice and then you cut the remainder of the fins off, and that's processing number two.

So, it increases the workload for the commercial fishermen. Then, also, thresher sharks have large tails; and when you've got one of those flopping around on your boat, it can be very dangerous to the fishermen, so they felt that it's going to be dangerous to keep that tail attached. It was extremely contentious and there was no consensus on it whatsoever, but it seemed like it should be something brought to the board's attention one way or another. That's it.

CHAIRMAN SMITH: I have two questions just before – well, one actually, an inconsistency. Go back to the first slide – actually, the slide on the regions. The slide I think talked about two regions, and the document – reportedly, the advisory panel talks about three. The AP thinks the proposed –

MR. VONDERWEIDT: Actually, that document is kind out of order. I just noticed that, but if you go to –

CHAIRMAN SMITH: Okay, never mind. So it is two regions that are recommended?

MR. VONDERWEIDT: Yes.

CHAIRMAN SMITH: So, David Pierce.

DR. DAVID PIERCE: Yes, a comment on the advisory panel meeting. And you noted this, Chris, that the attendance was very low. For all practical purposes this doesn't provide much information. It certainly is not – I can't consider this to be representative of an advisory panel since there were only a few people there.

For example, I know that if someone had been present representing the commercial fishery who had an interest in longlining for smooth dogfish, they would have been quite concerned about the fifth issue, 4.3.4.5, recommending prohibition of longlines in state waters for shark fishermen. I say that because I know that in Massachusetts waters there is some interest in longlining for smooth dogs, and we're in the midst of putting together an experimental fisheries program, limiting the number of permits, research-oriented, to see if, indeed, that is something that we should actually allow. So, again, just a point to make that I'm not sure what to do with this information except to appreciate it as being the perspectives of a relatively few number of individuals.

MR. VONDERWEIDT: Longlines have not been removed from the plan; so, while it would have – you know, it definitely would have been best to have representation from the commercial fishermen who intended to fish for smooth dogfish. The options have not been removed, which won't satisfy them when the document comes around for final action.

So, when it does come around for final action, if the board wanted to include smooth dogfish, the board would still have in its power to allow longline fishing for smooth dogfish. It hasn't been removed from the plan; so to do something like that, we would not have to go out for public comment a second time. It would still fly, so nothing has been taken away with that option.

DR. PIERCE: If I may, Mr. Chairman, to follow up, since Chris just mentioned that, it relates to another item within the document. I'll hold off, really, before I elaborate. I just wanted to make note of the fact that it appears that when we get to the plan development team's presentation, in that document there are restrictions on the size of longline gear, and I'll address that at the appropriate time since there needs to be another option in there to address that concern, which I highlighted for Chris during some e-mail exchanges, and Chris was very helpful in that regard.

CHAIRMAN SMITH: Thank you. Again, remember, this is simply what those members who were on the advisory panel that day had to say, so keep that in context. Jack and then Rusty.

DR. MUSICK: Yes, this is a basic question of how you keep other sharks off the line when you're longlining for smooth dogfish. They occur together in the summertime in the same places.

MR. RUSTY HUDSON: As the chairman of that meeting that day, we did have dialogue about the longline and the shortline. The shortline was to be limited to 50 hooks or less with a 1,500-foot length being utilized. At the same time, smooth dog was a big issue, as well as the fisheries that are drum fishing off of Virginia that have a large amount of sandbar bycatch and stuff like that that would become a regulatory discard.

There was not consensus on leaving the fins on because some of those people knew that they'd have a large volume of sharks to dress, and they wanted to be able to do it in a way that made it one-time handling. The other final thought was the regions, and that had to do with the seasonality of the migrations, so that we were going to have the two regions on the east coast, if I'm correct on that, so that the southern region would be treated a little bit different from the northern region.

MR. AUGUSTINE: Thank you, Mr. Chairman. Mr. Hudson, did you bring forth a recommendation or a suggestion that a definition should be developed for a shortline of 50 hooks or more or 1,200 versus 1,300? I do know the longlines, as reported by Dr. Pierce, was to be 1,300 – I'm sorry, 1,200 feet maximum. Is it appropriate for the technical committee to look at it and consider that as an addition to an option? It seems to me here is another way of controlling mortality or restrict the amount of other sharks caught at one time. Could he address that, Mr. Chairman?

MR. HUDSON: If I may, Pat, we did, and basically the 1,500 foot comes from North Carolina; maximum is the 50 hook. Otherwise, the 1,200 foot with the gill net that had been bantered around a little bit was regards to that, perhaps, being the restriction. But, North Carolina set the example of the shortline.

MR. AUGUSTINE: Thank you for that clarification.

MR. HIMCHAK: Mr. Chairman, a very basic question. I'm sorry I didn't bring this up earlier.

We currently have a 48-inch total length minimum size limit on sharks, and now you're talking about 54-inch fork length. Is there a biological rationale for coming up with the four-and-a-half feet that I can use to address this increase?

DR. MUSICK: Initially that's the length that females and/or sharks mature at.

CHAIRMAN SMITH: Other questions on the advisory panel report? Vito.

MR. VITO CALOMO: Thank you, Mr. Chairman. I heard Chris give the report there about the fish rotting. I don't understand; if they can't fin the fish, they're going to rot? I didn't quite follow that. I need some clarification on that before I make any further comment.

MR. HUDSON: If I may, if a person has a large volume of shark -- like in Virginia, I believe you have a 4,000 pound trip limit. If you have a large volume of shark and you're dealing in 90 degree summer temperatures, because that's when they want to do the opening, you're having to handle the animal twice, you're having to bleed it, you're having to let it warm up, you've got to have a core temperature of 40 degrees or less to be able to make the safety people happy with the food.

So, in order to then bring it to the dock with fins attached and all that kind of stuff for somebody that is able to land 4,000 pounds, like in Virginia, for instance, then you go into the problematic stuff of being out on the concrete, out in the sun, having to handle every one of those animals, hypothetically a hundred or 200 of the animals, and that would wind up overheating, and then you get ammoniation, you destroy the shelf life. If you do it all correctly the first time, you get a two-week fresh market shelf life.

MR. CALOMO: I guess now I'll ask my question. Do they not ice these fish, do they not take the entrails out of the fish, do they not bleed the fish and take one inch or a half inch off the tail? You don't have to fin that fish at that time. I am against fins; I'm against it. I don't mind when you come ashore, you want to sell the fins, fine, but finning the fish and the discard of the whole fish, which they have done in the past, is a sin to me, a travesty, but I'll let you answer my question. Thanks.

MR. HUDSON: Agreed, and we have had finning against the law since 1993. The whole point is that some people have to bleed – we bleed the shark and we have to be able to cut most of that upper tail all the way through as far as just in front of it in order to be able to cut the artery to be able to bleed it successfully to keep the urea from backing into the meat, the ammoniate to the animal.

That's part of the reasoning. It was not really a problem from south of Virginia. The problem was really in Virginia where there is a certain amount of large coastal shark with a 4,000 pound state trip limit. That was opposed in that area.

CHAIRMAN SMITH: Okay, we need to move on now into actually making comments on the plan. Do you absolutely need to comment?

DR. MUSICK: Yes. This will become a moot point because that 4,000 pound trip limit is going to go away if you accept the possession limits that we've recommended. It will be much lower than that.

CHAIRMAN SMITH: Okay, we'll hear those comments as we get into the comment period, so let's move on from question and answer. Chris, take us through from the beginning, and, again, try and keep your comment – make the point when it's going past. There is a document that was on the table and I'm sure on the CD. Chris is going to identify it so we know which one he's working from.

MR. VONDERWEIDT: Okay, basically, since the last time we met and the board approved all the other measures of the management plan, Chapter 4, there have been some changes that were suggested to the board, there have been some changes suggested by the AP, TC, and so I'm just to kind of go through all those.

Those are document changes to the Draft Interstate Fisheries Management Plan between the summer meeting and the annual meeting in 2007. This document clearly shows, with a line through it, things that were suggested to be removed and underlined where things were added. The presentation is going to follow that.

MR. AUGUSTINE: Mr. Chairman, what page are we on in the briefing book, please, on our CD?

CHAIRMAN SMITH: We're coming up with it; I'm not sure exactly.

MR. VONDERWEIDT: Okay, so just kind of a timeline to start out, specifically what we want to do today or consider doing, so August 2005 the plan is initiated; the public information document went out to public comment; and from May to October, the plan development team has taken input from the various groups and made changes.

September 24<sup>th</sup> and 25<sup>th</sup>, the technical committee finally developed the nursery area and pupping ground closure options. September 26<sup>th</sup> the AP reviewed the draft, and that's the presentation that I just gave, which brings us to today. The draft can consider approving the Draft FMP for public comment. I am going to go through all these changes.

Then from November 2007 to May 2008 will be the public comment period. The Law Enforcement Committee will look at the draft and make suggestions. The technical committee will make final suggestions, and the advisory panel will get together and make final suggestions. At the spring meeting in May of 2008, the board will hopefully approve the final FMP, taking everything into consideration. That will give states until January 2009 to implement the FMP.

So, what needs to be done is for the board to review changes and consider approval for public comment. What is left for the plan development team to do, we need to incorporate the final changes by the management board as directed today. We also are waiting on the social and economic sections of the FMP, which are just standard components of our fisheries management plans. Hopefully, we'll get those in the next couple of weeks, and then edit, edit, edit, and get the final document out there.

So, recreational fishing license, the technical committee recommended removing the word "require"; changing it to "recommend" for states, whether or not the board wants to go along with that. The document shows the language to be struck and recommended changes of wording to "recommend". The recreational possession limits, the advisory panel has –

CHAIRMAN SMITH: Wait a minute; any questions on the recreational fishing license? Okay, seeing none, thanks.

MR. VONDERWEIDT: Recreational possession limits, the advisory panel has requested adding a maximum of one non-prohibited shark per vessel or shore angler as an Option C. It's just a new option in the draft.

DR. LOUIS DANIEL: I think that's a good suggestion to add that because it is confusing where you have one sharpnose or one bonnethead or one of other types. I think just one shark per vessel is a great option to take out to public hearing.

CHAIRMAN SMITH: One non-prohibited shark, right. Any comments? Seeing none, let's move on.

MR. VONDERWEIDT: The commercial fishing definition –

CHAIRMAN SMITH: Let's make sure we're clear. The first page is the shore-based fishery and the second page is the boat-based fishery, and the proposal is the same proposal, one non-prohibited shark. In the boat case it's per vessel; not per angler. Okay.

DR. DANIEL: Before you go on, Mr. Chairman, I don't know really how to approach this, so I'm going to take it in order. An issue with the recreational size limits, I'm confused in terms of what we're recommending. If you look on 4.2.3, the recreational minimum size limit, there is an option for sharks caught in the recreational fishery must have a fork length of at least four-and-a-half feet, and then it brings in the no size limit for bonnethead or Atlantic sharpnose or smooth dogfish.

For the commercial fishery it looks like what we're doing is saying for a certain suite of species, so we're doing it a little bit differently for recreational versus commercial. The board needs to be aware that four-and-a-half foot size limit essentially eliminates access to the small coastal sharks that are not listed here.

The bonnetheads and sharpnose are cool, but finetooths and blacknose, this rule essentially eliminates any recreational harvest of those two abundant species. I think there needs to be an alternative in there, an additional alternative in

there that says that large coastal sharks caught in the recreational fishery need to be a four-and-a-half foot size limit, and then no size limit for small coastal sharks.

I think that needs to be an option for the public comment, because no option in here allows for any harvest of blacknose or finetooths by the recreational fishery. That will be the option that I will argue for when we meet again.

CHAIRMAN SMITH: Do you have that?

MR. VONDERWEIDT: Yes.

CHAIRMAN SMITH: Okay, so, as I understand it, you want to make the four-and-a-half foot size limit is the large coastal sharks and that the small coastals, if not otherwise prohibited, are not prohibited by this size limit?

DR. DANIEL: Correct.

CHAIRMAN SMITH: Okay, everybody agree with that? Jack.

DR. MUSICK: That was the intent of the technical committee. It's just an oversight, Louis, so I agree with you.

DR. PIERCE: Just to make sure I understand, Option C in the document does not take care of your concern?

DR. DANIEL: Well, I don't think we want to go there, the species-specific stuff and getting into individual large coastals. I think there needs to be – for the non-prohibited, it doesn't matter, but for the large coastals they are difficult to distinguish. I don't think we want to go in there and play with large coastals versus small coastals. What my suggestion does is just basically adds two species, finetooth and blacknose, and it kind of keeps the small coastals and the large coastals separated.

CHAIRMAN SMITH: Okay, without any other comment, we will move on. Chris.

MR. VONDERWEIDT: Okay, the commercial fisherman definition, the two criteria again, sold a shark during a fishing year or you have sharks on your boat which you intend to sell commercially.

CHAIRMAN SMITH: Any disagreement or comment? Pat.

MR. AUGUSTINE: Just a question, Mr. Chairman. Is this identical to the definition that's accepted to the National Marine Fisheries Service or to the Highly Migratory Species?

MR. VONDERWEIDT: It's not defined. They have permits so you need a permit in order to sell sharks, but most plans don't define a commercial fisherman.

CHAIRMAN SMITH: If no other comments, then we will move on.

MR. VONDERWEIDT: Display permits, this is going to be changed, I guess, for both display and aquarium, that states can give an exemption from size, quota, and prohibited species if they want to set up their own system, so such an option will be added, so there will A, B, C; and then there would be D here, what Roy wanted, and that's for display. The next one is going to be aquarium.

CHAIRMAN SMITH: Okay, do you all understand that; that's to accommodate the point Roy made? Disagreement? No, okay, we'll do the same thing with the research, same strategy. Comments? David.

DR. PIERCE: Are you about to go beyond the research permit section, Mr. Chairman?

CHAIRMAN SMITH: Right now it's display and research permit. Comments on that?

DR. PIERCE: I have a comment on research permits. All right, in the draft plan itself that we have for review, the thicker document, under Issue 3 it shows Option A where it mentions specifically the federal exempted fishing permit, scientific research permit or letter of authorization is required, and it goes on from there, but I notice in the PDT document that it takes out the words "letter of authorization" and it says "limited access permit".

I need clarification as to why that happened, because I strongly favor the letter of authorization which is essentially the approach that we use in our waters to enable individuals to fish for the purposes of our gathering research information.

MR. VONDERWEIDT: Thank you, David. That should be "letter of authorization" as it reads in the changes to the draft.

MR. AUGUSTINE: Back to display, Option B, I suggested we remove that. That unburdens the technical committee. Then under the next one which is research permits, take out Option B. That also would unburden the technical committee. That's my recommendation.

CHAIRMAN SMITH: I'm sorry, I'm having a hard time catching up with myself. You're suggesting Option B –

MR. AUGUSTINE: Yes, Option B removed in both display permits and research permits that was suggested.

CHAIRMAN SMITH: Okay, that's the whole issue where the technical committee had to do a lot of permit review here, which they're not set up to do. Does anybody disagree with removing Option B from both of those sections? Seeing none, we'll eliminate Option B.

MR. VONDERWEIDT: Commercial size limits, this is just adding commercial size lengths of four-and-a-half feet for all the large coastals. Then there is an asterisk next to "sandbar", and that is just showing that it's also the Highly Migratory Species preferred option for Amendment 2 right now is to make sandbar a research-only fishery.

So if that changed, then this option would likely change as well, just to pull out sandbar. You can look in the document on how that was changed, but basically no commercial size limit or four-and-a-half feet.

MR. AUGUSTINE: Point, Mr. Chairman. Chris, based on what you just said, if Amendment 2 is approved as you have just described or would have a size limit on it, could we not put a caveat in here, one sentence that says, "Based on the result or the implementation of Amendment 2 that calls for" – so we wouldn't have to go back and amend this.

MR. VONDERWEIDT: We could – I mean, it's set up – the way the fisheries management plan is laid out is that there are large coastals, small coastals, pelagics and prohibited based on federal groupings, so I guess we put based on the large coastal shark federal groupings, but they could

be classified as non-sandbar large coastal sharks, so I don't know that we need to necessarily tie ourselves into anything right now. I think there is flexibility for the management board to do that when taking final action.

MR. AUGUSTINE: Okay, as long as it's not dropped. It may be another bone of contention later on and create more work for staff, and I'd rather keep it simplified if we can.

CHAIRMAN SMITH: Okay, is there any disagreement with how the size limit issue is now characterized. This is just the two options for the commercial fork length; any disagreement, comment? Seeing none, next.

MR. VONDERWEIDT: Okay, authorized commercial gear, the technical committee would like to change to allow a maximum of two shortlines.

MR. WILLIAM A. ADLER: Now, that wouldn't handle our longline fishery people to limit it to two shortlines. What do we do here? If you keep this in – and, by the way, you have Option G, and Option G in the larger document corresponds to pound nets and fish traps, and I didn't know if just the G or the option numbers were a little bit strange. In one thing you have Option G, and I looked in Option G, and the other draft is different. But, I'm opposed to having the limits this way because I know it's not going to work for my people.

MR. VONDERWEIDT: This document only shows things that were changed to keep it simple and short. The other gear types were included by the board the last time, so nothing has changed with them, so that's why they weren't included. But, basically, the thought here is that longlines are one type of gear, which are included as a possible authorized commercial gear right now, which you'll see in the management options document that was included on the briefing CD.

Then another option is shortlines, which would restrict longlines in state waters. So, nothing is being excluded. Shortlines is an alternative to allow a certain amount of effort, but to not allow a mile or two-mile long longline, which aren't allowed in many states anyway. So, all the options are included, but the idea behind shortlines is it's an alternative to longlines, which would restrict effort a little bit.

So, if you allow as many shortlines as possible or as they wanted, there is no difference between that and longlines potentially because you could have 35 shortlines, and it would be the same thing as a longline. It's one step back from longlines, but longlines have not been excluded.

CHAIRMAN SMITH: Bill, let me try and explain. There are eight different gear types in the large document. I'll go down the list real fast, rod and reel, small mesh gill nets, large mesh gill nets, trawl nets, longlines without any limitation, shortlines, and then it's defined as 50 or fewer hooks, less than 500 yards in length, maximum of two allowed per vessel. The next one is pounds and fish traps and the next one is weirs.

There is a lot of gear in there. The battleground for you is going to be after public comment, whether longlines are in or out, whether shortlines are in or out. The question is, is something missing here for purposes of going to public comment or is there something you think ought to be rejected out of hand? Okay, Pat Augustine and then David Pierce.

MR. AUGUSTINE: Mr. Chairman, I was just wondering where the 500 yards – is that consistent with anything in particular? I know it goes 1,800 feet, but what is it consistent with?

CHAIRMAN SMITH: North Carolina.

DR. DANIEL: What we did was when we opened state waters back to shark fishing, there was a real concern about using longlines in state waters, obviously, and the interactions that they would incorporate. What we have historically had is there have been some guys in the southern part of North Carolina who have used what they called a trotline. NMFS wants to call it a shortline, and that's fine.

But ours were typically the guys used 500 yards, 50 hooks, and so I felt like that was a reasonable thing as opposed to miles of longlines. I think the TC's recommendation to limit them to two is a good one, but I don't think it would impact the longline guys that Bill is talking about at all.

MR. AUGUSTINE: Thank you for that clarification.

DR. PIERCE: Well, you addressed it, Mr. Chairman, the main document does note

longlines. I think it would be useful, though, in bringing this to public hearing, to somehow make it obvious to the reader that if, indeed, the board does adopt the shortlines and says longlines are prohibited, that would not prohibit longlining for spiny dogfish, because it's an entirely different creature altogether; that is, the gear is entirely different the way it's fished.

This would not prohibit longlining for spiny dogfish, but, indeed, it would prohibit, potentially, if we decide to go in that direction, longlining for the other shark species. That would be my suggestion since it's not the intent of this board to use this in a belief to somehow implement a rule and regulation that would impact the spiny dogfish fishery.

CHAIRMAN SMITH: Directly to the point you're making, that's all true unless somebody comes forth and it's persuasive to the board that fishing for spiny dogfish with a longline impairs the management plan's success for coastal sharks. Then you would set up that conflict that would have to be resolved, but until that happened and until we had to resolve that, you're quite right, you could comment that this is a coastal shark plan and spiny dogfish is separate.

DR. PIERCE: You've handled the issue admirably, Mr. Chairman. Indeed, if it can be noted – if it's noted during the public hearing process that there is some impact on coastal sharks or smooth dogfish, for that matter, then, certainly, that would be an issue for this board to consider.

CHAIRMAN SMITH: Okay, other comments on this issue? Let's move on.

MR. VONDERWEIDT: Okay, authorized commercial gear, the advisory panel would like to restrict the length of large-mesh gill nets to 1,200 feet.

CHAIRMAN SMITH: Okay, now that I understand the issue – Roy.

MR. MILLER: Thank you, Mr. Chairman. Chris, is that any individual net or that 1,200 foot; is that in reference to nets set in strings?

MR. VONDERWEIDT: That's one net.

CHAIRMAN SMITH: Well, okay, the obvious question then – it's obvious to me; maybe the

rest of you know the answer. If there is no limitation on the number of nets that can be set, then why is 1,200 relevant at all, anyway, unless it's gear conflict or whatever, some other reason? Here is my rationale. If you make it a 1,200 foot limit, somebody has to go out there with a long tape measure, and why bother? If there is a reason we want to limit nets feet per boat or whatever, then you also need a limitation on the number of nets. So is this one an idea that needs further development or to be pulled or to add something to it? Pat.

MR. AUGUSTINE: Mr. Chairman, I do think we need something more definitive than that; and in addition to that, it would seem to me that it should be a suggestion or a recommendation as what spacing should be between these. I mean, I could have ten 1,200 footers end to end. If I don't have a space between them, I might just as well have one that's six miles or ten miles long. I am not sure how you control it, but it seems to me that if we're allowing 1,200 feet, there has got to be some definition as to spacing.

CHAIRMAN SMITH: I guess whoever advocated for the 1,200; could we have a little bit of a rationale for the though behind it, because it is a new addition to the document since we met last. I think this one bears a little bit more justification. Do you have a comment on this?

MR. HUDSON: It seems that the discussion was centered around the black drum fishery that one of the AP members had brought up there on the eastern shore of Virginia. I don't know personally – maybe Jack does – how much net is restricted – I mean, if they're restricted to two nets or three nets, but it was a 1,200 foot cap, and that's where that came from. That was the total number of one net was 1,200 foot; so, if it's two or three nets allowed, the state of Virginia is where this is occurring in state waters for black drum.

DR. MUSICK: I don't know many feet they set, but this has been a problematic fishery. These large-mesh nets catch everything. They're problems for loggerhead sea turtles, they're problems for Atlantic sturgeon, and they're problems for sandbar sharks over there. I mean, my recommendation would try to minimize this fishery, if anything.

CHAIRMAN SMITH: Well, I understand that, although I also understand and appreciate that is one person's comment as opposed to a consensus of an advisory group; and, more importantly, hearing that, what the board wants to do with it, because clearly it's only part of the equation. If you want to limit the total amount of net feet in the water, you need something more.

Having heard that rationale, if you think it should be added, we need an addition; or, if you think it should be dropped, we need to do that. Right now it's just kind of out there as one half of an equation, which probably just means it's a headache for enforcement officers, and it doesn't really substantively solve the problem. Anybody have a suggestion how they would like to proceed? John, you had a question.

MR. JOHN I. NELSON, JR.: Actually, I think you're correct, you probably have to have some type of capping of numbers, Eric, so I would suggest that be put in there. But, the other thing that struck me was depending on where these are utilized, are there any other management measures that already control this?

In the New England Council you have cappings and you have also – I think there might be some length restrictions associated with them, but I can't remember off the top of my head, but for large mesh like that, is there anything in the regional management council area that also should be taken into account? I think sea turtles was just mentioned, and I realize the council doesn't deal with that, but that might be another factor that needs to be looked at as taking into account for types of restrictions on that type of gear already. I don't know if that has already been done; I don't know that information.

CHAIRMAN SMITH: That's a good question, and the states around the Mid-Atlantic might want to think about that for a minute. Let me ask Margo, in the HMS Plan is there a net length per boat limit of any kind, realizing it's bigger water and maybe it hasn't been an issue because you're out in the ocean as opposed to state waters.

MS. MARGO SCHULZE-HAUGEN: There is a limit of two-and-a-half kilometers that's an overall limit. There are a number of regulations coming out of the Large Whale Take Reduction Plan affecting large-mesh gill nets, focused in the South Atlantic Region of Florida, primarily to reduce takes of right whale seasonal

components, net checks, things like that. We have a number of regulations in federal waters for that, but they tend to be more southern.

MR. VONDERWEIDT: The measures that Margo is talking about have already been included in the plan and were approved by the board at the last meeting. It's identical to what she just said. One way to not scratch this from the public comment document, but not put a hard number, is just say that the – in the draft for public comment just say the board is considering capping the number of gill nets and see what public comment we get and see what the AP and TC say, and that doesn't restrict us at all. I can include that as well as restricting the lengths of large-mesh gill nets as an option.

MR. MILLER: Thank you, Mr. Chairman. What I'm concerned about is if this 1,200 is included in the option concerning large-mesh gill nets, and this plan is adopted, it effectively changes forever how we operate our gill net fisheries within the state of Delaware. We have a thousand yard net limit to fish for species such as striped bass, American shad, sharks, black drum, you name it, weakfish.

A 1,200 foot net limit, if that refers to the total length of nets and not any individual nets, would drastically change our applicable fishing laws, and I would oppose its inclusion. If it's 1,200 feet on any one net, then I don't have a problem with it. Thank you.

CHAIRMAN SMITH: Okay, as I understand from Chris' comment a minute ago, this is 1,200 foot per net. Right now there is no talk about how many nets per boat. Do we want to say, as Chris suggests, that the commission is considering having a number of net caps also? If that's the case, though, then we really have to have some kind – well, maybe we don't have to have a number in. We could just simply see what kind of public comment we get. I'm pretty sure we're going to get comment on this.

So, we're still in the mode of leave the 1,200 per net in, raise the issue of number of nets per boat, or take it all out, because it has been a new idea. We didn't see this in August. It's ripe for, yes, now that we've heard it, we think it's a good idea; or now that we have heard it, we don't think it's a good idea. What is your pleasure? Louis and then Roy.

DR. DANIEL: Well, I wouldn't want to start the discussion on this, but I'd be much more inclined to restrict the length of small-mesh gill net. I mean, I think you're opening up a can of worms in this plan that you don't want to open up, and I'd suggest you take the whole thing out of the plan.

MR. MILLER: Agree with Louis.

CHAIRMAN SMITH: Anybody on the board who wants to advocate for leaving the 1,200 per net in, including the net cap? Okay, John, you do. Okay, then this one will require a motion of whoever is so inclined to be the first to throw a motion in here and we'll get it resolved that way. Louis.

DR. LOUIS: I'd move that we remove the option from the plan.

CHAIRMAN SMITH: Is there a second? Roy Miller. Okay, comment on the motion, one in favor, one against. Well, we've heard the favor. Against comment? Question?

MR. G. RITCHIE WHITE: If this is just going to go out to public hearing and we get more input on it, I mean, doesn't it make sense to leave it in just from that standpoint, so then we can make more intelligent decision on it after we hear more about it? That would be my sense.

CHAIRMAN SMITH: That's a good point. I'm just suggesting this might be a flashpoint when we get out to the public. If the board knew it didn't want to do it, why create the additional acrimony? But, you have a good point, if this board is evenly divided, then you'd rather have the comment and decide later. Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. I would agree with Mr. Nelson. I also would suggest that we have the technical committee or someone find out from the large-mesh gill net folks approximately how many nets they're using now. We're lost here; we have no guidance other than the fact that, yes, we want to control it, but we have no idea what effect it will have, negative or positive.

Maybe we find out from a commercial fisherman what is the average nets that you use on a daily or weekly basis, and then maybe put a number in there, and go from there. But, to leave it blank

like that and take it out absolutely makes no sense. Thank you.

CHAIRMAN SMITH: Okay, having heard that, are the people who made the motion agreeable to let it go to public comment? No, you want it out, okay. We need to conclude the business on this because we have a long way to go and not much time. Is there violently opposed to voting? I will read the motion: Move to remove Option C of Section 4.3.4.5 of Issue 5, authorized commercial gear. That's not quite correct. You really want to only remove the sentence that says, "Gill nets must be shorter than – well, I'm reading a different document.

MR. VONDERWEIDT: No, you're right, so I guess the motion would be to leave it as is, without changing.

CHAIRMAN SMITH: Yes, the motion really is eliminate the sentence "gill nets must be shorter than 1,200 feet".

MR. VONDERWEIDT: It hasn't been changed yet.

CHAIRMAN SMITH: Right, the document, as we saw it in August, doesn't even have that sentence; so, if we do nothing, that sentence about 1,200 feet length is not in there. Okay, so, really, when you're voting for this motion, you're really voting to leave the document as it was on this point when you saw it in August. If you vote against the motion, you're voting then to include the 1,200 foot sentence.

MR. AUGUSTINE: Mr. Chairman, point of order. The AP recommends restricting the length of large-mesh gill nets. Now, did they take it out of the air and just say, "Hey, this sounds like a good thing to do?" I don't think so, so why are we just, out of hand, planning not to do it? So, I am vehemently – what's that word" – vehemently opposed to that.

CHAIRMAN SMITH: Thank you for that and you get to cast a vote like everyone does, so you're going to have your opportunity in about 30 seconds. The document as it stands now has no mention of the 1,200 foot issue. Only the suggested document had it in as an underlined issue. There is really no need for a motion to strike; there is really a need for a motion to add it. So, I am going to call that one out of order. Roy.

MR. MILLER: Mr. Chairman, if you're referring to the document that we picked up in the back of the room, draft for board review, under Section 4.3.4.5, under Option C it says gill nets must be shorter than 1,200 feet, so I'm not sure which document you're referring to when you say it's not in there or it is in there.

CHAIRMAN SMITH: Okay, I stand corrected. Both of the documents do have that sentence in, so the motion as it was offered is appropriate. The motion would take out the second sentence of Option C, leaving sentence number one in there, which deals with five-inch mesh. Louis.

DR. DANIEL: And I'm sorry for this, but will there be a full economic analysis of the impacts of this in the economic section of this plan, because it's going to affect every gill net fishery on the east coast. You're going an unbelievable economic analysis that you're going to have to do on this option.

CHAIRMAN SMITH: Let me ask this much the way David Pierce asked this question about dogfish. At that point it's important to know whether we're talking about gill nets directed at coastal sharks or are we talking about all gill net fisheries in state waters? That's not clear from the document either. Okay, so Chris is saying it would affect all fisheries, all gill net fisheries in state – all commercial fisheries in state waters. Okay, is everybody clear on the motion now? David.

DR. PIERCE: Well, I don't know why it would affect all gill nets in state waters because the italicized text at the beginning of the options indicates one or more of the following options may be included as legal gear for commercial shark fishermen, so I would think there is a linkage there with the gear type being used by a fisherman to pursue sharks and not other species. I can't agree with that –

CHAIRMAN SMITH: I would agree with you now having that sentence brought to my attention. Everybody take a deep breath; we will find a solution to this. It's legal gear for commercial shark fishermen as defined as we had agreed to define it previously, so the motion is to take out sentence number two, remove it from the document. Louis.

DR. DANIEL: Well, first off, it doesn't really matter if you say it's for sharks or not. It's sort

of like what Jack said about the longlines. You know, you're going to have a bycatch associated with that gill net fishery. It's so inconsistent, though, with what NMFS has got in the EEZ for their gill nets.

It sounds like to me that it was brought up by the advisory panel to address the drum fishery in Lower Chesapeake Bay, and that was the only issue. So it seems like to me that is an issue – if it's not a problem anywhere else, it's an issue that Virginia, if they'd like to, can address it, but for us to go out and understand the significant public comment that we're likely to receive on this one, it's really a non-issue. It just seems like that's a lot of effort for not a lot of gain.

CHAIRMAN SMITH: Okay, one more comment from someone who has yet to speak on anything on sharks, and that would be Jack Travelstead, and then we're not going to debate the motion anymore. We're going to try and clear it up so we can move on. Jack.

MR. JACK TRAVELSTEAD: Just to clarify this black drum fishery in Virginia that's been mentioned a couple of times, Virginia's maximum length on any gill net is 1,200 feet in the state regardless of what it is used for. That applies to the black drum fishery as well. There is no limit on the number of nets in that fishery.

CHAIRMAN SMITH: Okay, that's how the document was initially before I muddied the water with what does that mean to the number of nets. Does that influence the movers to take it out or do you want to still leave it in there? If it was 1,200 feet per net with no net cap – all right, let's call the question, Roy, unless you're sure you've got a different point.

MR. MILLER: I'm just seeking clarification before we vote. What you're saying is it's 1,200 foot per net; we're not saying anything about total yardage that can be used; is that correct?

CHAIRMAN SMITH: No, what Jack said is in Virginia they have nothing on their books about the number of nets per boat, and this evolved, I think, in the technical committee because there was a Virginia person involved there. The question is the document as it stands, with nothing else in it, would have a net can't be longer than 1,200 feet.

Chris suggested that we would add language to say we're also going to ask the public about the number of nets per boat, but right now we don't have a number of that. Pat said maybe we need to find out how many nets they fish. It gets more and more complicated. We can either take that sentence out or we can leave it there without the net cap and just make it consistent with what Virginia has for their rules.

I think we ought to vote on this thing. People have a pretty good sense of what they want to do; and at the end of the day, when we get done with the rest of the document, if people want to come back to this one and we have time, I don't mind doing that. Take a minute to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN SMITH: Okay, everybody is talking a lot now. I suspect that probably means you've come to a conclusion on the caucus. I'm going to read the motion one more time: Move to eliminate the sentence "gill nets must be shorter than 1,200 feet" of Option C of Section 4.3.4.5 of Issue 5, authorized commercial gear. Motion by Dr. Daniel; seconded by Mr. Miller. All those in favor, raise your hand, nine in favor; those opposed, six opposed; null; abstentions, one abstention. The carries nine to six with one abstention. David.

DR. PIERCE: Mr. Chairman, again, just a clarification. I need to make sure this is understood. With regard to the issue that we talked about before; that is, would this impact gill netting for other species, my assumption is that it would not. However, if it's determined that gill netting, for whatever species, does on occasion have a bycatch of sharks, would that lead us to the conclusion that all gill netting for other species as well would have to somehow be prohibited under the terms of the shark plan?

CHAIRMAN SMITH: I thought you had a solution to that question before when you simply said in the public comment period you have to make it clear that these rules are for coastal sharks and not necessarily dogfish or other species. If somebody wants to comment in the public comment period that bycatch is an issue and it needs to be addressed, we'll take that comment when it comes and decide what to do with it.

DR. PIERCE: Thank you. You have expanded it beyond dogfish, but that clarifies it. Thank you.

MR. VONDERWEIDT: Okay, moving on, authorized commercial gear, every single group has recommended removing longlines from authorized commercial gear just due to the bycatch and other problems, overcapacity in state waters.

CHAIRMAN SMITH: Okay, this is one of those species that's currently in the list on Page 115 of the draft for board review. Longlines is in; the three groups recommended taking longlines out. Comments on that suggestion? Bill Adler.

MR. ADLER: All right, I'm trying to get this straight here. If we take it out, it means that it's not allowed, but if we leave it in, it is allowed; is that how this works?

CHAIRMAN SMITH: If we take it out now, when you go to public comment, the only person who could get longlines back in the plan would have to comment from the floor as a commenter, and then we'd have to come back and decide to put it in. If you leave it on the table now and go out to public comment, the technical committee, advisory panel, and those bodies who don't think they ought to be in there, their comment again is going to be take it out of there. You can get at it either way. Frankly, it's probably better to leave this one in there to make sure that it's not a real fight to get it back on the table.

MR. ADLER: Correct, I agree with you, Eric, to leave it in as something for comment rather than take it out, which automatically mean you'd have to fight to get it back in. I would say don't remove it; I'd say leave it in the document.

CHAIRMAN SMITH: Okay, this one, to take it out of the document also, we either need to agree or not agree. I don't want to do another motion if we can help it; it takes too long. Anybody want to argue that we ought to remove longlines from the document? Okay, seeing none, we'll leave it in and get the public comment. Thank you.

MR. VONDERWEIDT: Seasonal closure, this is putting in the seasonal closure that the technical committee recommended, and, basically, large coastal sharks are prohibited

from being landed from Virginia to New Jersey from May 15<sup>th</sup> through July 15<sup>th</sup>.

CHAIRMAN SMITH: Okay, this is the spring/early summer seasonal recommendation. Would you like to have this issue in? Lou Daniel.

DR. DANIEL: Yes, I would like to comment on another part of this as well. Maybe I'm just being sensitive, but I don't particularly like the idea that the potential language for a recommendation to the secretary was sort of summarily removed from the document. I agree with the technical committee's recommendation on the May 15<sup>th</sup> through the July 15<sup>th</sup> in those areas.

They did not include the area off of North Carolina. The reason why North Carolina is not included in that list is because we have a closure from January through July. From talking to the technical committee and from looking at the real intensive part, where it's important off North Carolina is during the wintertime, January through April.

So, I think to complement this in the closed area off of North Carolina, that we need to make a recommendation to the secretary that they modify the closed area off of North Carolina to be in effect from January through April. Then it might behoove us to maybe move that date back to May 1, just at some point in time have pupping season closures. I realize this is one issue, but they're sort of combined.

CHAIRMAN SMITH: Isn't that an appropriate comment when we get to commenting on the Federal Amendment 2?

DR. DANIEL: Well, we've got to make that recommendation.

CHAIRMAN SMITH: Yes, but we have that as an agenda item after we get done with this coastal shark FMP review.

DR. DANIEL: But this one is sort of –

CHAIRMAN SMITH: Do you want to add something to this?

DR. DANIEL: My feeling about this would be I would change that to May 1 through July 15<sup>th</sup> if everyone could agree that our recommendation

to the secretary would be for the closed area off of North Carolina to be in effect from January 1 through July 15<sup>th</sup> as opposed to January 1 through July 15<sup>th</sup> like it is now. So that does bear on this question.

CHAIRMAN SMITH: Well, unfortunately, without making it very complicated, we almost have to deal with the document now, so your suggestion for now is make these dates May 1<sup>st</sup> through July 15<sup>th</sup>, period?

DR. DANIEL: Yes.

CHAIRMAN SMITH: Okay, does anybody disagree with that, understanding that he's going to raise the issue and the comment on the HMS plan to deal with the front end of that from North Carolina's point of view, and those dates will align April 30<sup>th</sup> with May 1<sup>st</sup>? So, if there is no disagreement with May 1<sup>st</sup>, fine. We may have to revisit it if we don't get the desired outcome that he's looking for on the HMS letter. Okay, May 1<sup>st</sup> through July 15<sup>th</sup> it will be. Louis.

DR. DANIEL: I was just going to ask if Dr. Musick had any comment on that?

DR. MUSICK: The original intent of this regulation was to protect large adult female sandbar sharks when they come in there to drop their young. May 15<sup>th</sup> is about the earliest that we've ever seen them in there. May 1<sup>st</sup> would be very early. So, from a biological standpoint, to protect large females, anyway, there is no reason to push it back to the 1<sup>st</sup>.

On the other hand, I agree with you that winter nursery area, those baby sharks migrate out of there by the middle of May. Even though there may be a few left there through July, I have always felt that federal closure has been excessive. There is no doubt that those sharks are there, both duskie and sandbars, off of North Carolina in the wintertime, but by the middle of May they started to move.

CHAIRMAN SMITH: Let me try and shortstop this a little. We'll leave it May 1<sup>st</sup>. I am going to start to get real pushy because we have 55 minutes left and we've got a lot to do, so please don't be offended as I drive us. Next issue.

MR. VONDERWEIDT: Okay, this kind goes back to what Louis said a second ago. There was kind of a section in there, a recommendation to

the secretary on the North Carolina closure. The language in there was contingent on the technical committee reviewing it and agreeing that the North Carolina closure is excessive, and then language would be drafted endorsing whatever the technical committee said.

The technical committee agreed that the closure off North Carolina is extremely important to the shark habitat on account North Carolina is a special place along the coast, and it just happens to be that way. They endorsed the closures off of North Carolina, so therefore there is no language to include from the technical committee alleviating that, so it would be scratched from the document.

DR. DANIEL: But there was also a discussion about having a bycatch allowance in the North Carolina plan. Are we going to have a chance to talk about that as well?

MR. VONDERWEIDT: Yes.

CHAIRMAN SMITH: Yes, it's in the text that immediately follows in the changes document. It's the next issue, frankly.

MR. VONDERWEIDT: We'll get to what you just discussed, Louis. It's kind of its own management suite, so I included it separately, but it is in this presentation, and we can address it. The next one is just logbook requirements. Basically, most states don't have a system in place. It's burdensome to states without a commercial fishery, so the plan development team and technical committee recommend removing any logbook requirements from the plan at this point in time.

CHAIRMAN SMITH: Comments? Okay, seeing none, next issue.

MR. VONDERWEIDT: All right, alternative management suites, this is what Dr. Daniel was talking about a second ago. This has been added to the document, and this is to prohibit sandbar – under the preferred alternative for Amendment 2, they would become a research species, and this would also allow a ten-fish bycatch of non-sandbar large coastal sharks, which would not be attached to a quota, and the small coastal shark fishery would be identical to federal waters. This has been added.

DR. DANIEL: I just want to take a minute now to explain. The technical committee's problem with this was that there was no quota associated with the large coastal sharks. The intent here, though, is to account for the bycatch in otherwise non-directed LCS fisheries, primarily the small coastal fishery. So, if we were able to keep – there would be no sense to close the fishery down with a ten-fish bycatch allowance if you met some quota and allow those fish to continue to be discarded dead.

So, the intent here was to try to keep the fishery going year round at least from a bycatch standpoint. It would probably eliminate your finning issue because there would be so few fish that they would be dealing with that they might be able to handle them better. My hope was that we could have something set up similar to what we've done in North Carolina with red drum. We have a quota, we have a seven-fish allowance, and 50 percent of their catch has to be something other than red drum.

I would never shut the fishery down because we achieve some cap because then we would have just discard waste. So that was the intent behind the proposal. If it meets standards, then I think it's a good way to go. It protects the sandbars, but it allows these guys, when they're small coastal fishing on a healthy resource, it allows them to take advantage of this large coastal bycatch.

CHAIRMAN SMITH: Are you happy with the language as drafted?

DR. DANIEL: Yes.

CHAIRMAN SMITH: Okay, good. Any other comments? Seeing none, we'll leave that in. That's 4.3.6. All right, next issue.

MR. VONDERWEIDT: The last part of the plan is just simply that de minimis guidelines were developed. They were developed that states can apply for de minimis by submitting a report to the plan development team chair, who coordinates the meeting of the PDT and the technical committee to review the proposal and recommend action to the board. The board will review the proposal and approve it or deny it.

Basically, in most of the plans for the ASMFC, de minimis excludes a state from monitoring requirements if they don't have a significant

fishery. There are no monitoring requirements with this plan, so there is no specific thing to alleviate the states as far as that is concerned. All components of the plan are deemed necessary for sustainable management. Basically, there's large shark small quotas, the taking of a few sharks can be detrimental to the management plan, so that's why it was written without alleviating a state from the specific regulations.

And, finally, de minimis guidelines are included as part of the adaptive management section of the FMP, meaning that we can always alter these if the fishery changes in some way through an addendum, which we can fast-track in about six months.

CHAIRMAN SMITH: So there would be no standard de minimis procedure; it would case by case. Any disagreement? Pat.

MR. AUGUSTINE: I don't disagree, Mr. Chairman, but I think we should take the last sentence out because you don't want to say, "States may apply for de minimis status by submitting a written request to the Spiny Dogfish and Coastal Shark Management Board through the Chair of the Coastal Shark" whatever.

I just feel they shouldn't even have an opportunity. I would feel if a state wants to go over de minimis status and in view of the fact that sharks are in such dire straits, let's have that state push us through a full amendment or addendum. I really think that last part should be taken out because of the paragraph above it. You describe the reason why we don't want people to be considered as de minimis, and therefore any acceptance would threaten the attainment of the plans and goals of the FMP.

CHAIRMAN SMITH: Okay, so the two schools of thought are in the document it says make it case by case, so if a state wants to argue that some particular provision they'd like relief from, there would be a review to see as long as it didn't jeopardize the shark plan, it could be allowed, a decision of the board, I gather; or, simply not allow the de minimis process at all. What is your pleasure?

MR. AUGUSTINE: Just a followup, Mr. Chairman. The sandbar is going to take 70 years to rebuild, and I –

CHAIRMAN SMITH: Yes, I understand, you made a good point. I just want to see how people feel. Who would like the document as it was written versus who would like to take de minimis out entirely? Which one, Roy?

MR. MILLER: The former.

CHAIRMAN SMITH: Former, you like the document as it is. Okay, any disagreement with that? One, I understand. Okay, I don't see the need for a motion on it, then, frankly. I'm asking was there disagreement with what is in the document, and I didn't anybody raise their hands, other than I know you disagree with that. I counted you as one against. Okay, it's not worth a motion if there is one out of 45 people.

Okay, that ends this particular document. Thank you on that point. We are now not only 15 minutes behind; we're also at recommendations for Federal Amendment 2. Now, the preface to this, there are two parts to it. The comment period is due Friday. Slow down, okay.

MR. ROBERT E. BEAL: I think we either need a motion or at least a consensus by the board that they have approved this document for public comment. The timeline that Chris mentioned in his presentation was modify the document over the next few weeks and then hold public hearings probably not until winter, and come back to this management board in May rather than February, because it's going to be a pretty extensive set of public hearings up and down the entire coast, potentially 15 hearings or so. So, with the holidays, it will be difficult to modify the document and squeeze that in before the February meeting/

## **APPROVAL OF COASTAL SHARKS DRAFT FMP FOR PUBLIC COMMENT**

CHAIRMAN SMITH: Okay, is there a motion to approve the document for purposes of going to public comment? Pat White; second, John Nelson. Any disagreement with the motion? Seeing none, we'll move on that schedule. Hang on just one second now. Here is why we're kibitzing up here.

A person came in late, wants to speak on the part of the comment period that's not on the agenda. I'm going to take that the first thing after we come back from a short break, and the break will

come after we do the HMS comments, which we're going to do right now.

Now on HMS Amendment 2, you recall in August we asked for an extension of the comment period. The National Marine Fisheries Service kindly allowed that; they allowed it until this Friday, which is November 2<sup>nd</sup>. What we decide in the next few minutes on comments on the HMS Plan amendment, Chris will then have to convert into a letter that he will get to them by Friday. He is going to summarize the recommendation of the various reviewers. Without objection or with revisions, they go Friday. That's the essence of what we need to do right now. Chris.

MR. VONDERWEIDT: All right, thank you, Mr. Chairman. Recommendations to HMS on Amendment 2, as Mr. Smith said, the comment period was extended to November 2<sup>nd</sup>. There is a letter that was included on the CD that stated we are a valuable partner in the development process from HMS.

So, just to kind of go over the preferred alternative that HMS is proposing for Amendment 2, just to kind of give you an idea of where they are at when the advisory panel met a few weeks ago, they're proposing to pull sandbar out into a research-only fishery and distribute a 116.6 metric ton quota to various people who apply.

There are standards there that I don't think have been set in stone, but, you know, not having violations, having a clean record, what you're proposing, how it will help science, things like that. There will be a remaining non-sandbar large coastal shark fishery of 541 metric tons with a trip limit of 22 fish per trip.

Porbeagle will be prohibited. Before there was a very small quota for porbeagles. Then small coastal sharks, pelagic and blue would all remain status quo. Also, contained within the preferred alternative is one region. Right now there are three regions. There is the North Atlantic, the South Atlantic, and the Gulf. They are proposing to go to one season. Right now we have three trimesters. The dates change sometimes, depending on the size of the quota. The idea behind one region and one season is that there is a very small quota so why split it up. Another preferred alternative is that fins must

remain on. Unclassifieds would be recorded as sandbars and go towards the quota as sandbars. Changes to the recreation fishery, I won't read the list that you're allowed to possess, but basically from the current regulations, it would exclude sandbar, silky, blacktip, bull, spinner, blacknose, finetooth and porbeagle from allowed recreationally retained species.

So where do the potential incompatibilities with our plan and our management system come up? The one season could be problematic. We're talking about season for the entire region from the Gulf all the way up to the North Atlantic under the preferred alternatives. So, if sharks are down south, January 1<sup>st</sup>, when the fishing season opens up, we have a very small quota at that point in time, this is also compounded by the closure, but basically the quota is very likely to be landed by July 16<sup>th</sup> when the large coastals are geographically available to the fishermen in the northern states.

One possible solution to that would be to start the fishing season July 16<sup>th</sup> so that the northern states can harvest those species, too. This is kind of a geographical allocation issue as much as a seasonal allocation.

Another potential incompatibility is the proposed one region, spanning from the Gulf to the North Atlantic. Now the way that the system is set up right now, if we decided to go with identical quotas as HMS and one of the preferred alternatives from a board member is that we open and close for a species group when the quota has been landed in federal waters, potentially the Gulf could land 200 percent of the large coastal quota in a year.

The following year the entire fishery would be closed because of the 200 percent overage, so we could potentially be punished for overages in the Gulf. Now, state landings are also counted towards the federal quota, so there have been some problems with Louisiana catching more than the federal quota allows for, so those would go against the Gulf states.

This also compounds the one-season problem because if there is even a smaller quota, then there is going to be less of a quota that can be landed by North Atlantic states when the sharks make their way up there. A possible solution would be to have a minimum of two regions, a Gulf Region and an Atlantic Region. That way

we would get our own quotas. We would be accountable for our own harvest, our own sharks, and it wouldn't be punished for lack of management in the Gulf.

Moving on, the technical committee looked at the list of recreationally acceptable species, and they felt that it was unnecessary to include bull, blacktip and spinner sharks. They felt these species are easily distinguishable from prohibited species, and so there is no reason to not allow recreational anglers to land them. They also felt that the populations can handle sustainable recreational fishing pressure if it continues the way it is right now. The solution would be to recommend retention of bull, blacktip and spinner sharks.

To recap the recommendations from the various groups is to begin the fishing season July 16<sup>th</sup> to account for our seasonal closure; a minimum of two regions so that we would allotted our own quota and be able to manage it ourselves; allow recreational retention of bull, blacktip and spinner; to allow recreational anglers to harvest as many species as they can sustainably do; and any other recommendations the board members might have.

CHAIRMAN SMITH: Comments on those? John Nelson, then Lou, then Pat.

MR. NELSON: Just for clarification, Mr. Chairman. The last items are what we're recommending, and the first few that we went through is not part of our letter, if you would? Let me rephrase it. Some of us in the northern states had made comments about the porbeagle quota, which was about two metric tons.

Both at the council level and on the state level we had commented to the feds that we thought that was inappropriate to put them on the prohibited list. When we asked for the information on whether or not two metric tons created a longer recovery timeframe or increased the mortality on porbeagles, basically the answer was they don't know. They haven't done any analysis associated with that at all, and two metric tons obviously is a very small quantity.

We basically proposed one for the commercial sector as incidental catch and also one for the recreational where they occasionally have some tournaments and they might catch a couple of fish. It amounts probably to less than ten fish,

certainly less than about fifteen fish for the entire season.

So, I would just like us – I wasn't clear of how this was being said, but I'd like us to not agree with the feds on putting porbeagle on the prohibited list. I don't think we need to state that; I merely want us to remain silent on agreeing with them in that particular area and let the state's own comments carry that.

CHAIRMAN SMITH: Let me suggest this. The slide that is up there now, the first three points, is there any disagreement with them? Okay, then building on that, when you get to the bullet that is "other", I would suggest that we add a comment that says we propose that porbeagle not be a prohibited species, but that their TAC be limited to two metric tons.

MR. NELSON: Okay, I appreciate that, Mr. Chairman.

CHAIRMAN SMITH: Any disagreement with that fourth point?

MR. AUGUSTINE: Addition to the fourth point. I attended the meeting of the Highly Migratory Species Advisory Panel.

CHAIRMAN SMITH: You have an additional one to number four to add?

MR. AUGUSTINE: Yes, just change the language in number four, "allow recreational retention of bulls, blacktip and spinners to be consistent with commercial fishing", with what commercial sharks are that we're allowed to keep. That came up loud and clear that porbeagle not be put on that list.

CHAIRMAN SMITH: Okay, so that's number three. You would like the recreational retention of bull, blacktip and spinner. You've got two different things going on here.

MR. AUGUSTINE: So it would be consistent, so those –

CHAIRMAN SMITH: To be consistent with the commercial.

MR. AUGUSTINE: And then one further clarification on –

CHAIRMAN SMITH: Wait, before you do that, Pat, any disagreement with that suggestion, on Point Number 3, after the word “spinner”, “to be consistent with commercial rules”? Any disagreement? Seeing none, so those four points, then, are as they stand, and the fourth one is the porbeagle. Any other comments?

MR. AUGUSTINE: A follow-on that, Mr. Chairman. I wasn’t clear whether or not the advisory panel here – Jack and Rusty were both there with the other advisory panel – whether or not you all looked at what that advisory panel agreed to as the preferred option. I thought they weren’t looking at the research set aside, Option 4, alternatives; that they were looking more at the limited shark fishery for the permit holder, directed and incidental, along with recreational as the alternative suite.

Now, what was this advisory panel’s selected alternative suite? Was it research only, Option 4. Rusty, do you remember when we went through that? This is important because you didn’t say what alternative suite we were going to take.

MR. HUDSON: Well, you’re talking about the AP meeting for Atlantic States, the one for HMS?

MR. AUGUSTINE: No, the highly migratory species, but then what your group for ASMFC decided?

MR. HUDSON: Our group from the commercial point of view was very contentious. We want status quo. There are a variety of reasons when you’re talking about the federal plan. You need to be aware that we also support, like you said, the recreational list to look just like the commercial allowable list, so we didn’t have a problem there.

But, where we do have a problem is with the identification. If any shark is unidentified, it’s deducted from the small sandbar quota; and as soon as that’s filled, the rest of the large coastal is closed. That means state waters and federal waters from Maine to Texas. That’s the whole point that I’m trying to say, that there is a problem with the federal plan with that particular caveat.

MR. AUGUSTINE: That helps, Mr. Chairman, but I think unless some of the board members have looked at this spreadsheet that we passed

around or what is on your document, you’re going to find that’s there are some pretty contentious issues. Again, what Rusty says is very important. Without all sharks being identified, that are being put in as non-classified, you can actually close down the sandbar shark fishery almost immediately.

So, one of the demands, if you will, that the advisory panel came forward with was that all sharks be identified both recreationally and commercially, and nowhere in our position have we stated that we would like to have a document or a guide made available to recreational anglers identifying the sharks that you can keep.

The commercial folks have it. It’s a book about that thick. We don’t need one quite that thick, but they are pictured, tell the size, tell you where they’re basically located; and, without something in there to say that we need that to help our fishermen identify these sharks, we’ve lost something there.

The other options included under retention limits, a breakout where if you look at this closely, we wouldn’t rush to just go ahead and rubberstamp this. I think we would look at some other combinations of retention limits so that 129 directed shark fishermen would not be put out of business overnight. I agree we’ve got to reduce the number of sharks that are being harvested.

There are some listed here as being recovered in maybe a hundred to 400 years if we’re still around, if the world is still around. But, in looking at the numbers – and, again, the unclassified sharks that are landed, it’s ludicrous to go forward with eliminating all these folks, all these businesses that were approved, if you will, and asked by the federal government to be developed some years ago, in one fell swoop to put them out of business and not do it in a more controlled fashion.

So, Mr. Chairman, I don’t know what the next step would be, and I, quite frankly, do not feel comfortable rubberstamping this document that we’re putting together. We only have a few days so I’ll leave it up to you to decide which way to go.

CHAIRMAN SMITH: Well, I appreciate that because my question to you is going to be if you have a concrete suggestion of what we ought to put in here as comments, please let’s hear it, but

otherwise I heard a statement of a very complicated problem and no solution as yet. So, I'm kind of stuck and we don't have a lot of time. Other comments while he's searching for another document? Lou.

DR. DANIEL: I've got three quick ones. First, I just want to make sure that everyone is aware that it still doesn't have blacknose and finetooth on there, the small coastal sharks. The federal plan will prohibit possession in federal waters. I don't think that's a big deal for the recreational folks. What we've done in plan, by allowing blacknose and finetooths, allows us to take advantage of that fishery, and it doesn't really matter whether blacknose and finetooths are on this list or not, I don't think. Somebody may disagree.

The 22-fish large coastal trip limit does tend to minimize the potential discard mortality of sandbars in the otherwise directed fishery, so I didn't know how NMFS was going to propose that, but I think that does help to address that problem and not have a directed fishery that's going to have – with the bulk of the fish being sandbars that would have to be discarded probably dead. So, I think the 22 fish is good for the federal waters.

The last one I make is another category. Based on what Dr. Musick said, it was make the recommendation to the secretary that the closed area off of North Carolina only be in effect from January 1 through May 15<sup>th</sup>. That way you've got the coverage up until the time when the science says the fish may be moving into the bay May 15<sup>th</sup>, early. So, I suggest that.

But then I would ask a question of the National Marine Fisheries Service. Does the closed area off of North Carolina mean that you can't take your – there is no bycatch allowance in federal waters; so if you catch a shark off of North Carolina January through May, do it fall under a – if it's a bycatch fishery, are we allowed to bring those fish in or are we still prohibited from even bringing in the bycatch allowance?

MS. SCHULZE-HAUGEN: Just to respond to that, my memory is that it's a gear closure, and so that gear cannot be set in that area during that time. But as far as other fish being retained or as bycatch under current rules, I'd want to double check, but I don't think that is the way it works. It is a gear base.

DR. DANIEL: It's gear based, so it would allow for the otherwise discarded fish to be taken advantage of, but I just want to make sure everybody is comfortable with that language in the recommendation to modify the closed area off of North Carolina January 1 through May 15<sup>th</sup>.

CHAIRMAN SMITH: You say May 15<sup>th</sup> now, you had us change the date before to be May 1<sup>st</sup>, because you were going to suggest April 30<sup>th</sup>.

DR. DANIEL: And when Jack made the comment that he made, that it would be pretty unusual for a May 1 entry, I didn't want to have that gap there, so I would suggest we go back and retain the technical committee's recommendation of May 15<sup>th</sup>.

CHAIRMAN SMITH: Okay, does everybody understand that? Back in the document that we approved, so that we don't have to get parliamentary here, that issue that we raised, we're going to leave the date of the season as May 15<sup>th</sup> to July 15<sup>th</sup> in our shark document going to public comment. Everybody understand that? Then his comment is to make the North Carolina closure go from January 1<sup>st</sup> to May 14<sup>th</sup>.

DR. DANIEL: And I'm assuming that the technical committee is comfortable with that recommendation.

CHAIRMAN SMITH: Okay, he has handled the dates. Okay, we're going to try and wrap this up quickly. You had three points; Chris, I'm sure got them. Did anybody disagree with what they were hearing? Okay, so as it stands now, we have the four that we had on the screen plus the three that Lou suggested. We're going to take more if people are really hard pressed.

I have to point out to you we had a little bit of an agenda eruption here because this one and the sturgeon one that follow are inconsistent in their timing. Sturgeon is supposed to pick up at 4:30; we already said we were going to start it at 4:45 because herring gave us a late start. I am going to go five here, because we've got dogfish ahead of us, and that's never easy.

I am going to five with dogfish and sharks, and the chairman of the Sturgeon Board has told me that it's fine to start them late, because that would be me. So, with no objection, that's how

this is going to evolve just so if you're looking at the documents and you wonder where we're going. We are going to take a quick break after this agenda item is done. Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. I won't go through my whole list with the yellow chicken marks here, but I'll tell you the points that were selected that might be considered to be put there very shortly and briefly.

CHAIRMAN SMITH: I ask you to limit that to the very highest point.

MR. AUGUSTINE: I will. Time area closures were to be similar – it would be Alternate 3, maintaining current HMS time area closures, and also include the South Atlantic Fishery Management Council eight MPAs, which weren't mentioned here that were part of Amendment 2; change the dealer reporting to within 24 hours of having received shark carcasses; all sharks need to be classified by dealers –

CHAIRMAN SMITH: I'm sorry, Pat, if the looks I'm getting around the table are an indication of the look I feel on my own face, I'm not going to be able to absorb reading complicated issues that came up at a meeting. Without something that was handed out ahead of time, I don't know how the board can hope to simply hear complicated issues and say, okay, that's fine.

MR. AUGUSTINE: I'll make it very uncomplicated, Mr. Chairman. This document was not fully vetted in our briefing book. It's not Chris' fault; it wasn't. I reviewed the whole thing. I compared it against what the amendment was. These are the salient points that come out of it that have not been addressed and will not be addressed in our letter. And if that's the way we're going to proceed with it, fine.

I just hate to gloss over a document this important for the first amendment to a complete plan and not really delve into the importance issues that are in it. So if the rest of the board wants to gloss it over, fine, and I'll leave it at that, Mr. Chairman.

CHAIRMAN SMITH: I'll let it up to the board. Hearing the first three points of some others, I mean, not having something written up – you're welcome to write a letter of comment yourself –

does the board want to hear the full list and try and comprehend whether we'd want to add those into our letter? I'll leave it to the board. Okay, thank you. Other comments on Amendment 2 that would go into a letter from us? Okay, seeing no other comments on HMS Amendment 2, we're going to take a five-minute break.

(Whereupon, a recess was taken.)

CHAIRMAN SMITH: Okay, please take your seats for Round 2 of the Coastal Shark and Dogfish Management Board Meeting. Okay, this is the dogfish part of the agenda, and Chris has a report on the specifications and recommendations. If you're looking at your meeting overview, this is the item we should be – well, actually, we're going to talk about the northern states closure issue first. Chris.

## **SPINY DOGFISH NORTHERN STATES CLOSURE**

MR. VONDERWEIDT: This is fairly simple. Everyone got a memo from me in the middle of September that the northern states had harvested their allocation of spiny dogfish. That's Connecticut through Maine. They get 58 percent of the catch. I know various board members called me asking it and asked me to put together a presentation just kind of showing the landings of the season so far.

Just to give an overview, the Period 1 quota for '07 and '08 was 3,480,000. The actual true landings, with updates from NMFS, is 3,857,274, so that's a 383,000 – a hundred thousand overage for Period 1. If you look at the northern states and the southern states, what they were allocated and what they landed, the northern states were allocated 3,190,000. They landed 3.6 million, so that's about a 500,000 overage in '07 and '08. The southern states so far have landed 175 hundred thousand.

So if you look at the breakdown of the allocation by state, you've got the percentages of the states up there. You'll notice that percent of the allocation, that doesn't add up to a hundred – it's more than a hundred percent. That's because there was an overage, so you're going to have more than a hundred percent with the average. The percent of landings is the actual landings, including the overage. That's where we're at as far as the dogfish landings.

## **SPINY DOGFISH SPECIFICATIONS FOR 2008/2009 FISHING YEARS**

CHAIRMAN SMITH: Questions? Okay, seeing none, the next item is the specifications for '08-'09.

DR. JIM ARMSTRONG: I guess I need no introduction.

CHAIRMAN SMITH: I will, though, Dr. Armstrong, chairman of the technical committee.

MR. VONDERWEIDT: No, we don't have a chair of the technical committee.

## **SPINY DOGFISH ASSESSMENT UPDATE**

DR. ARMSTRONG: Jim Armstrong, Mid-Atlantic Council staff. I'm the chairman of the monitoring committee, but the monitoring committee and joint committee work very closely in reviewing the stock status. I have been working on dogfish since about 2003, so I was asked to share with you the update on stock status.

I am going to do that today; and for those of you who don't know it, the spiny dogfish assessment is driven by the trawl survey. It's a swept area, biomass estimate. The latest data that we have on the status of the stock from that survey came from this year, from the spring of this year. I'll be going over the trawl survey results, then looking at landings and discards for 2006, which the trawl survey results will give us a biomass estimate.

The landings and discards compared to biomass will give us an F estimate, and that's for 2006. Notice we're working with the 2007 survey but the 2006 F estimate and actually 2006 biomass estimate, and that's due to smoothing. We'll talk about that a little bit. Then a couple of things I don't have on the list here I'll mention toward the end.

Okay, here is where we were a couple of years ago. Things weren't looking too good. The survey was continuing to not catch many mature female spiny dogfish. The status of the stock is measured in terms of female spiny dogfish. The biomass threshold and the biomass target that the commission has and hopefully the federal system

will have shortly are all measured in terms of the abundance of mature females.

There was a protracted period following the decline of the fishery when the trawl survey was catching very few mature female spiny dogfish. That was '05. Then the miracle happened in '06 and the point estimate of biomass increased five-fold. Of course, this is biologically unreasonable.

You see on the figure that there is a line through those points, and the purpose of that line is to sort of introduce biological reasonability into the biomass estimate, so it's a smoothed biomass estimate. It's not one that bounces around wildly from year to year. But the effect of that very large increase was to change the downward trend into an upward moving trend. That happened in 2006.

Then in 2007 the survey continued to catch mature females at a level above what it had in the last, say, nine years or so. For those of you who want to follow along, I think Chris or you guys should all have a document called "An Update of Stock Status Based on the 2007 NEFSC Spring Bottom Trawl Survey". That was a product of the Northeast Fishery Science Center by Paul Rago and Kathy Sosebee specifically, and many of the figures I'll be showing are from that document, starting on about Page 7.

When we get down to numbers, the way of calculating spawning stock biomass is a stochastic estimator. You'll notice in the document that I just referred to that a three-year arithmetic average of the swept area biomass yields an estimate of 155,800 metric tons. However, that's not the number that's used to measure where we are. The stochastic estimator was a method that takes into account the variability in the area covered by the trawl.

This methodology was approved in the 43<sup>rd</sup> SARC in 2006. The biomass estimate that comes from that is 141,350. A couple of years ago the biomass estimate was a rather small fraction, nearly a third of the current estimate or latest estimate. You know, the Science Center is the first to admit that is biologically unreasonable and a remarkable increase, but it is also consistent with the predicted biomass estimate from the last SARC.

So, it's more likely, it's suggested, that the recent biomass estimates are more accurate and the older estimates were underestimates. So, with reference to stock status, we take the biomass estimate in a given year and measure it against the threshold and the target. The target, of course, means you've got a rebuilt stock. The threshold, by definition, tells you whether the stock is overfished or not. If it's below the threshold, the stock is overfished.

So, by that definition, the stock is not overfished because the biomass estimate is 141,000 metric tons, which is greater than the threshold estimate of 100,000 metric tons. In calculating the fishing mortality for the stock and not just landings are considered. All sources of removals go into the calculation of F.

The various contributors to removals include U.S. commercial landings but also Canadian commercial landings, commercial discards from the U.S. fishery and removals from the recreational fishery. These are the estimates that go under those categories in 2006, and they sum to about 20.2 million pounds overall. The bottom line on that – I am sure there will probably be some questions about the various sources of removals, but the bottom line on that is that overfishing is not occurring.

The definition for overfishing is when the F is above the threshold. The threshold F of 0.39, which might seem a little high for a stock with this life history, is influenced by the methodology – well, it's determined under a new methodology that was established at the latest stock assessment. It takes into account the selectivity of the commercial fishery with respect to removals of mature females both through landings and discards.

So, 0.39, the F threshold, under the current selectivity patterns, the F would correspond to a one-to-one replacement ratio, one mature female being replaced by one recruit growing up to maturity. So, the target, however, is 0.11, and that corresponds to about 2.5 spiny dogfish for every female in the reproductive stock. It just so happens that when you do the rounding down the two decimal places that we nailed in 2006, overall landings came out to just about exactly 0.11, F or 0.11.

So, once again, the Reader's Digest version, the stock is not overfished and overfishing is not

occurring. That, of course, is not the whole story with spiny dogfish. The survey catch of pups continues to be an issue. Nine of the lowest survey catches in the entire history of the survey have come in the last 11 years.

There may be a little bit of an increase, slightly higher stands in the last four years. However, the effects of this sustained low production by the stock are going to factor into the long-term rebuilding trajectory. That's because as these small cohorts grow up and grow into the mature stock, here is a depiction of the trend in the immature female stock. As these fish grow over time and become reproductively mature, there is going to be an overall reduction in the number of entrants into the productive portion of the stock.

So, here is sort of what that looks like. Back in the old days, before the fishery, in the top figure you have the – all of these are the lengths composition of female spiny dogfish, and there is generally a widespread distribution of lengths prior to the fishery. The fishery ramped up the early nineties and was over by the end of the nineties, and about 250,000 metric tons of spiny dogfish were removed during that period.

What that does is it takes this right-hand portion of the lengths distribution, which the fishery tended – these were the more valuable dogfish, of course, and removed those so that sort of truncated this lengths composition from the right-hand side. The reduction in productivity by the stock resulted in low recruits, and that led a truncation in the left-hand side of the length composition.

Chris is probably going to show you a figure or get into some of the recent projections. This is the figure that was taken from the most recent stock assessment workshop. But, the result of that sustained low recruitment period is that while in the short term we expect the stock to continue to grow, when those small age classes start to recruit into the reproductive stock, then the overall size of the reproductive stock is going to decrease.

So, these are long-range projections going out to 2025, and you'll notice no matter what the fishing mortality rate is applied, whether it's status quo F – now, this was not the most recent F, but rather the status quo F that was in 2005, it would have been a rebuild F which would be the

0.11 and a hypothetical highly unlikely zero F scenario.

But, there's a common pattern to these in that there is a short-term increase followed by a decrease followed by an increase. The cause of the decrease is again those small cohorts. The cause of the subsequent increase in the long-term projection is that – you know, when you're doing a projection, you have to feed into the model year classes, and you run out of data when you run out of observed year classes.

And what these projections use then is average recruitment, so the increase that you see after about 2015 here is influenced by sort of artificial year classes. So, short term you're likely to see more and more dogfish over the next two, three, or four years. The old estimates of biomass were likely underestimates. It may be that the current estimate is an underestimate. There is always uncertainty in any of these estimates, but what is likely to occur in the long term is that low pup production is eventually going to be felt.

So, even if the stock does, in the next several years, reach the point where it would said to be recovered, there is going to be a period following that where the removals that are consistent with maintaining and recovery of the stock are probably going to have to go down again. I think that will have to be my segue into Chris' part of it.

CHAIRMAN SMITH: Thank you. Chris, recommendation on specifications.

### **TECHNICAL COMMITTEE RECOMMENDATIONS**

MR. VONDERWEIDT: Thank you, Mr. Chairman. The technical committee got together. As tasked by the board – there was an assessment update which Jim just went through, including through spring 2007 – recommend a quota for '08, '09, plus up to five years, I guess, they can recommend and then also recommend trips limits.

The technical committee initially had a meeting in Providence. To start it off, Paul Rago gave an overview of the assessment which Jim just gave us the presentation on. The technical committee endorsed the assessment update, used the same methods as the previously peer-reviewed model. They requested projections showing a quota that achieves F equals 0.11. What Jim showed us

before is you've got the target and the threshold fishing mortality rate.

Until we're rebuilt, which is 200,000 metric tons, the plan recommends a fishing F rebuild of F equals 0.11. As part of his presentation, he gave fishing mortality rates, but nothing that would lock you into a actual quota. We requested that Paul go back and give us specific quota numbers and how they would affect F. He was also asked to create some projections to a little bit higher than F, anticipating that the board might be interested in seeing what would happen.

We had two subsequent conference calls after that, which six different scenarios were looked at. Scenario number one would be a 6 million pound quota, and this would be a status quo fishing mortality rate. What this does is it assumes that discards would increase – where it would decrease proportional to the increase in landings and removals. This is basically a baseline fishing mortality rate of F equals 0.109 or basically F equals 0.11.

Scenario two is eliminate the U.S. fishery and you'll see an asterisk here. The TC's write-up summary breaks the down the scenarios, and it says "quota of 6 million pounds and eliminate the U.S. fishery." The quota of 6 million pounds is incorrect there. Eliminating the U.S. fishery altogether, keeping all other mortality sources, you would get a fishing mortality rate of about 0.080, so you're below the F rebuild.

Scenario three would be a 6 million pound quota where 84 percent of the catch is female. It assumes no increase in discards as catch increases. This scenario would give you a fishing mortality rate of 0.113 or slightly higher than F rebuild.

Scenario four is a 6 million pound quota; 84 percent of the catch is female. Discards would increase proportional to the increase in landings, so this is a more conservative way to view it, and also no change in the recreational fishery. This had a fishing mortality of 0.120, slightly higher than the F rebuild.

Scenario five is bumping it up 2 million pounds to an 8 million pound quota. Again, 84 percent of the catch was female. This scenario assumes no increase in discards with the increased catch, and you get a fishing mortality rate of 0.125, a little bit over F rebuild.

Scenario six is another 8 million pound quota. Again, 84 percent of the catch is female. With this one, discards increased proportional to the increased landings, and the fishing mortality rate goes up to 0.131, so 0.021 percent over F rebuild.

The recommendation from the TC on the quota was for 6 million pounds. The reasoning for this is when you look at the different assumptions and discard rates from the various projections, you get around 0.11 fishing mortality rate at this level of harvest. They felt that it was the most appropriate. They also wanted to stress the need for precaution.

SSB is projected to decline in 2011 because of the ten-year low pup production. Although we're going up, as Jim's presentation showed, 2011 comes around and we're projected to have biomass decline significantly. There was also concern that the model may overestimate biomass because it's assuming pup production is going to return to average levels rather than the continuation of the decade-long low levels, and there remains a skewed male-to-female sex ratio of four to one.

Moving on to trip limits, the TC went around and around on this one, and basically there is no true link to a fishing mortality rate if you have a hard quota, which we do for dogfish. The debate kind of focused around the discards and which trip limit is going to have more discards, 600 pounds or 3,000 pounds. There are discards associated with both of these, and there has really been no quantitative analysis to say one has fewer or one has more.

Basically, with 600 pounds, a lot of fishermen aren't even going to bother with 600 pounds of dogfish, so all the dogfish that they catch, probably particularly in the southern states where the processors aren't close, would just end up being discards. Three thousand pounds, the quota is going to get landed early, and then all the dogfish from there on out would become discards.

Based on that, the technical committee recommended a 600-pound trip limit for a few reasons. They felt that directed fishing should be discouraged until the stock has been given a chance to rebuild. A 600-pound limit ensures that the quota is not exceeded. If you look back

at previous years when the trip limit was 600 pounds, a 4 million pound quota wasn't landed.

I think they landed somewhere around 2.3 million pounds, so it's very unlikely that these trip limits will the quota to be exceeded. Also, they felt that there is no reason to deviate from previous recommendations from the technical committee, which were 600 pounds. They wanted to emphasize that consistency between state and federal regulations is extremely important.

So, in summary, the technical committee recommends 6 million pounds with 600 pound trip limits for three years, and the three years is to allow industry to set long-term business plans. Thank you.

3-CHAIRMAN SMITH: Okay, thank you, Jim, for the presentation and the assessment, and, Chris, for summarizing the technical committee recommendations and how they get there. Knowing that this issue is going to culminate in a motion that we have to pass, and time being short and rather than have debate, then a motion, and then more debate, does someone want to offer a motion? Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. I move that we set the total allowable landings for spiny dogfish for a three-year period to be 6 million pounds; Quota Period 1, 57.9 percent, which equals 3,474,000 pounds; Quota Period 2, 42.1 percent of 6 million pounds, which equals 2,526,000 pounds; that the trip limits, Quota 1 Period, May 1<sup>st</sup> to October 31<sup>st</sup>, be 3,000 pounds, as we had last year; Quota Period 2, November 1<sup>st</sup> to April 30<sup>th</sup>, be 3,000 pounds. And if you'd like rationale, Mr. Chairman, I would like an opportunity to address that.

CHAIRMAN SMITH: I would rather have a second first. Seconded by Dennis Abbott, thank you. Comment on the motion? It was a 6 million pound quota; the first period, 57.9, which is about 3.47 million pounds and a 3,000 pound trip limit; the second period of 42.1 percent, 2,526 million pounds and a 3,000 pound trip limit. Comments on the motion? David Pierce and then Red Munden.

5-DR. PIERCE: Actually, Mr. Chairman, I would like to make a substitute motion. That motion would be that we set the quota for May 1, 2008, through April 30, 2009, at 8 million

pounds with a trip limit of up to 3,000 pounds. Of course, I'll elaborate if there is a second.

CHAIRMAN SMITH: Ritchie White seconds.

DR. PIERCE: Okay, if I may, Mr. Chairman, again, I appreciate the presentation from Jim and from Chris. Much of that is information that we received before. There were obligated to go over it again so that new members of the board are brought up to date. I have a historical memory here, so I'll only highlight one thing that relates to my historical memory, and that is the numbers that you offered up, Jim, regarding stochastic estimates, you know, the abundance estimates, you related those to a target of 200,000 metric tons.

What you didn't remember is that Paul Rago did indicate that with the adjusted footprint in the lowered numbers, the biomass target goes down as well to around 180,000 metric tons, so the target is really 180,000 with that kind of a strategy.

Now, the Mid-Atlantic Council at its recent meeting offered to go with 8 million pounds. That's one reason why I feel it makes sense for us to go with the 8 million pounds. It fits rather well with the fact that the most recent estimate of biomass jumped up, as expected, from around 115,000 metric tons to around 158,000 metric tons, very close to the ASMFC target of around 180,000 metric tons.

It's clear to me and I think to those who have looked at the projections that the update itself provides this information that we were very likely next year and later in the year beyond hit our biomass target and go beyond that biomass target with the expectation, of course, that it will eventually dip a little bit as time goes on.

But, anyways, no overfishing, we're not overfished, biomass has risen significantly. We will be rebuilt very shortly. And, again, we're referencing only the mature females; that's what the target relates to. So, with that understanding that we are at 8 million for the Mid-Atlantic Council's decision, and with an understanding that the biomass keeps increasing, with our knowing that ASMFC is working with 6 million pounds for the current fishing year, it seems logical to increase it in a modest way, up to the 8 million pounds.

CHAIRMAN SMITH: Time is going to very short. You've made your motion and you've made your point. I am a little concerned the way we're doing this process means that the motion that was initially put on the floor never got a chance to be debated, but that's how the rules play. We're going to debate this motion to substitute briefly. You had your favor; we're going to take one opposed. Maybe we'll take one more of each, and then dispense with it, to be sure that we give the array of view the fair consideration.

DR. PIERCE: If I may, Mr. Chairman, can I just touch on the landing limit; I didn't deal with that? Your point is very well taken.

CHAIRMAN SMITH: Okay, briefly.

DR. PIERCE: Briefly, up to 3,000, that's the decision of this board that we made last year. We have been working with that decision over the past fishing year. It only makes sense for us to continue with that approach.

CHAIRMAN SMITH: Okay, Red Munden.

MR. RED MUNDEN: Thank you, Mr. Chairman. I like Dr. Pierce's motion with one exception. Last year when we established the spiny dogfish quota, we specified that 58 percent or 57.9, I believe it is, would be allocated to the states from Rhode Island through Maine; and 42.1 percent would be allocated to the states from New York through North Carolina. I would ask Dr. Pierce to include this language in his motion.

DR. PIERCE: Absolutely, that was an oversight on my part, Red. We did decide to manage the quota in area-based way. It makes a lot of sense. Unfortunately, we're still working with the overlap of the seasonal aspect of it as well, but, first and foremost, your refinement is very important to this motion. I accept that.

CHAIRMAN SMITH: Okay, you're going to have to craft the words to have it in there, so that we have it up on the board. Last year it was 58 and 42.

DR. PIERCE: Whatever the percentages were, I think it was 58 some odd.

CHAIRMAN SMITH: It was 58 and 42.

DR. PIERCE: Okay, 58 percent –

CHAIRMAN SMITH: 58 north, 42 south.

DR. PIERCE: Yes, 58 percent will be allocated to the states – I think it's Connecticut, isn't it, Connecticut through Maine; and from New York south, the balance of 42 percent.

CHAIRMAN SMITH: Before we have one more in favor or look for one against – I guess we haven't had one against yet – I do have a question for Bob. Ordinarily, when we set a quota that's higher than the federal waters quota, we usually catch a warning pretty quick that the EEZ quota in the subsequent year is going to have to be reduced by the amount of the overage due to our higher quota. I don't know what kind of discussion there has been in this current year about that issue because it was four and six. Has there been communication?

MR. BEAL: Thank you, Mr. Chairman. What you say is correct, obviously, that a lot of times if the commission's quota is higher than the federal government, there is a repayment issue. The unique feature in the federal spiny dogfish plan is there is not a repayment of overages at the federal level.

The states will likely land a total poundage that's above the federal quota for this year, but the difference between what the states land and what the federal quota is is not going to be automatically removed off the top of the federal quota. That could be a policy decision that is made by the federal government at some other time, but it's not hard-wired into the fishery management plan.

CHAIRMAN SMITH: Okay, is there anyone who would like to speak opposed to the motion? Harry Mears.

MR. HARRY MEARS: Thank you, Mr. Chairman. I would strongly urge us not to continue to go forward with the obvious disconnect between state and federal quotas. We just heard the report summarizing the status of the resource, which is in rebuilding mode. We heard a report from the technical committee that very clearly tells us that this resource, at its present condition, cannot support an 8 million pound quota.

It's clearly above the F threshold. The resource would no longer be in rebuilding mode. I would hope that we have the clarity to think of the needs of the resource. This is not defensible

from either a scientific nor a managerial perspective. Thank you.

CHAIRMAN SMITH: Okay, we had two for, one against. Anyone else like to speak against the motion? Okay, seeing none, time to caucus. This is a motion to substitute. If it passes, then we have to address it again as the main motion. So, caucusing on this motion to substitute.

(Whereupon, a caucus was held.)

CHAIRMAN SMITH: Okay, are you done with the caucusing? Okay, let me read the motion. The motion to substitute is to set the spiny dogfish quota for May 1, 2008, through April 30, 2009, at 8 million pounds. 58 percent of the quota will be allocated to the states of Connecticut through Maine; and 42 percent of the quota will be allocated to the states from New York through Florida. The trip limit is up to 3,000 pounds. Do I understand this, David, that the seasonal percentages are not a part of this motion?

DR. PIERCE: They are not a part of this motion because, frankly, we are continuing to work the bizarre situation where we superimposed. The area allocation, the area percent splits deals with the necessity of making sure that fish are available for the Mid-Atlantic southern states.

CHAIRMAN SMITH: Okay, I just wanted to be sure we're not omitting something in haste. Okay, that's the motion. All those in favor, raise your hand; all those opposed; abstentions; null votes. Okay, the vote is ten in favor, three opposed, one abstention, one null. The motion carries.

That is the motion to substitute and now it becomes the main motion. Is there any further debate on this as the main motion? Okay, seeing none, is there a need to caucus? Seeing none, all those in favor of this main motion, raise your hand; those opposed; abstentions; null. Eleven in favor, two opposed, three abstentions, zero null. The motion carries.

We are now at Item 8, and mysteriously we're also back on time. Are there nominations for vice-chairman of the Spiny Dogfish and Coastal Shark Management Board? Malcolm.

## **ELECTION OF VICE-CHAIR**

DR. MALCOLM RHODES: I would like to nominate Dr. Louis B. Daniel, III, as vice-chair of the Spiny Dogfish and Coastal Shark Management Board.

CHAIRMAN SMITH: Is there a second to that motion? Seconded by Pat Augustine.

MR. AUGUSTINE: And to cast one vote, thank you, sir.

CHAIRMAN SMITH: It looks like a setup job, but congratulations, Dr. Daniel. All right, we also have a spiny dogfish technical committee nomination. Chris.

MR. VONDERWEIDT: Staff is going to hand out a letter right now – it's from Maine DMR – suggesting Dr. Matthew Cieri as Maine's technical committee representative on the technical committee.

CHAIRMAN SMITH: All right, is there disagreement with adding Dr. Cieri, since we all know him from about 18 other species? Okay, seeing no disagreement, that nomination is approved.

## **OTHER BUSINESS**

Other business, Red Munden, you had a point or two you wanted to bring before the board.

MR. MUNDEN: No, Mr. Chairman, my concerns have already been addressed.

## **ADJOURN**

CHAIRMAN SMITH: Okay, thank you. The other item was the Nearshore Trawl Survey Data, and we dealt with that before by reminding people to all get their stuff to Chris, so we did that. Other items of business before the board? Thank you all for your indulgence.

(Whereupon, the meeting was adjourned at 5:00 o'clock p.m., October 29, 2007.)