

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

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

## ATTENDANCE

### Board Members

Lew Flagg, Maine DMR	Bruce Freeman, New Jersey DFG&W
Pat White, Maine Gov. Apte.	Tom Fote, New Jersey Gov. Apte.
John Nelson, New Hampshire DF&W	John De Persenaire, proxy for Assemblyman Smith (NJ)
Rep. Mary Ann Blanchard, New Hampshire	Roy Miller, Delaware DFW
Ritchie White, New Hampshire Gov. Apte.	Eric Schwaab, Maryland DNR
David Pierce, Massachusetts DMF	Bill Goldsborough, Maryland Gov. Apte.
Bill Alder, Massachusetts Gov. Apte.	Pete Jensen, proxy Senator Colburn (MD)
Vito Calomo, proxy for Rep. Verga (MA)	Jack Travelstead, Virginia MRC
Gil Pope, <b>Vice Chair</b> , Rhode Island Gov. Apte.	Fentress Munden, <b>Chair</b> , North Carolina, DMF
Jerry Carvalho, proxy for Rep. Naughton (RI)	Damon Tatem, North Carolina Gov. Apte.
Ernest Beckwish, Connecticut DMR	Melvin Shepard, proxy for Rep. Redwine (NC)
Gordon Colvin, New York DEC	David Cupka, South Carolina Gov. Apte.
Pat Augustine, New York Gov. Apte.	Susan Shipman, Georgia DNR
Brian Culhane, proxy for Senator Johnson (NY)	Harold Mears, NMFS
	Bill Cole, USFWS

### Ex-Officio Members

Steven Correia, MADMF, TC Chair	Col. William McKeon, LEC Rep.
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### ASMFC Staff

Megan Gamble	Carrie Selberg
Bob Beal	Lydia Munger
Tina Berger	Vince O'Shea

### Guests

Dennis Abbott, NH Legislative proxy	Paul Perra, NMFS
Rich Seagraves, MAFMC	Susan Mangin, USFWS
Anne Lange, NMFS	David Simpson, CT DEP
Bob Ross, NMFS	Preston Pate, North Carolina DMF
Peter Burns, NMFS	Sonja Fordham, The Ocean Conservancy
Heather Stirratt, NMFS	Charles Lynch, NOAA
	Cory Routh, VMRC

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

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## MOTIONS

**1. Move that the Board approve a February 1, 2003 deadline for state submission of implementation proposals.**

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

**2. Move that May 1, 2003 be the implementation date for the Interstate Fishery Management Plan for Spiny Dogfish.**

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

**3. Move that the Board recommend to the Commission approval of the Interstate Fishery Management Plan for Spiny Dogfish.**

Motion by Mr. Augustine, second, by Mr. Shepard; motion tabled.

**4. Move to table the original motion.**

Motion by Mr. Patten White, second by Mr. Calomo, motion to table carries.

**5. Move to reconsider to allow for each state to issue exempted permits for the biomedical harvest of spiny dogfish up to 1,000 fish/year if such collection is included in a state's implementation plan. This amount would be allowed in addition to the annual quota.**

Motion by Mr. Flagg, second by Mr. Calomo; motion carries (3 abstentions).

**6. Move to remove from the table the main motion.**

Motion made by Mr. Shepard, second by Mr. Patten White; motion carries.

**7. Move that the Board recommend to the Commission approval of the Interstate Fishery Management Plan for Spiny Dogfish.**

Motion made by Mr. Augustine, second by Mr. Shepard; main motion carries (13 in favor, 2 opposed).

**ATLANTIC STATES MARINE FISHERIES  
COMMISSION**

**SPINY DOGFISH & COASTAL SHARK  
MANAGEMENT BOARD**

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

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The Spiny Dogfish and Coastal Shark Management Board of the Atlantic States Marine Fisheries Commission convened in the Tidewater Room of the Williamsburg Lodge, Williamsburg, Virginia, November 18, 2002, and was called to order at 1:15 o'clock p.m. by Chairman Red Munden.

**WELCOME & INTRODUCTIONS**

CHAIRMAN RED MUNDEN: I would ask all the Spiny Dogfish Board members to take a seat at the table, please. I would like to welcome everyone to the Spiny Dogfish and Coastal Shark Management Board. I see no need to call the roll; it's obvious we have a quorum.

**BOARD CONSENT**

CHAIRMAN RED MUNDEN: The first action item is approval of the agenda. The first item we have is the approval of the agenda. Do any of the board members have items that they would like to add to the agenda? Dr. Pierce.

DR. DAVID PIERCE: Not add to the agenda, Mr. Chairman; however, I think it would be useful to the board if we moved up on the agenda the review of recent actions by the councils on spiny dogfish, since it is germane to the plan, and I'm sure to any discussion we may have here this afternoon regarding quotas and limits.

CHAIRMAN MUNDEN: Are you referring to Item 4, Dr. Pierce?

DR. PIERCE: I am referring to the update on recent council activities in Number 6, move that up before the review of the plan for final approval.

CHAIRMAN MUNDEN: Yes, Dr. Pierce, I will agree to move that up. Any other items that board members would like to add to the agenda?

The staff has advised that we have two items that will be added to the agenda, and those items are a review by the staff of the current quota system, an update from Megan on what's going on with the quota for spiny dogfish and a pending closure.

Then last we would have comments by the National Marine Fisheries Service concerning management for the Atlantic shark fishery, and a former member of Atlantic States Marine Fisheries Commission who now is with the National Marine Fisheries Service, Heather Stirratt, is going to give us an update on that.

So I have added those two items to the agenda. If there is no objection to the board, they will be officially added to the agenda.

In your packet you have the minutes from our last meeting, which was August 29, 2002. Comments on the minutes? Pat Augustine.

MR. PAT AUGUSTINE: Thank you, Mr. Chairman. Motion to accept them if there are any identified changes or corrections.

CHAIRMAN MUNDEN: Is there a second to accept the minutes? Second by Melvin Shepard. Any discussion on the minutes? Any opposition to acceptance of the minutes? With no opposition, the motion passes.

**PUBLIC COMMENT**

CHAIRMAN MUNDEN: The next agenda item would be comments from the public, so we'll ask the public to comment to the management board on issues that pertain to spiny dogfish. Any comments from the public? Seeing no members of the public indicating they would like to speak, then we have no public comments.

**UPDATE ON RECENT COUNCIL ACTIVITIES**

CHAIRMAN MUNDEN: At this point in time I think I will honor Dr. Pierce's request and that will be for the action taken by the two councils on quota setting for the 2003/2004 fishing year. I'll turn the mike over to Megan.

MS. MEGAN GAMBLE: You should have just received a handout that is several pages long. It's called the Summary of Recommendations for Spiny Dogfish, Fishing Year 2003 Specifications for Federal Waters.

The specification process in the federal waters takes several steps, so I just wanted to quickly tell you what the recommendations were through each of those committees and boards and then let you know where this leads the commission.

The first meeting was the Dogfish Monitoring Committee on September 19, 2002, and their recommendation was to maintain the 2002/2003 status quo for the 2003/2004 fishing year, with a commercial quota of 4 million pounds, a trip limit of 600 pounds for Quota Period 1 and 300 pounds for Quota Period 2.

The quota for the two semi-annual periods would be for the first period 2,316,000 pounds; and for the second period, 1,684,000 pounds.

That recommendation then goes before a Joint Dogfish Committee, which consists of member of the New England Council and the Mid-Atlantic Council, and that joint committee recommended an 8.8 million pound quota for the 2003/2004 fishing year.

They also recommended a 7,000 pound trip limit for the first period and a 5,000 pound trip limit for the second period for the 2003/2004 fishing year.

What happens then is the recommendations from the Joint Committee moves on to both the Mid-Atlantic Council and the New England Council. The Mid-Atlantic Council recommends to the regional administrator to maintain the 2002/2003 status quo for the next fishing year, so that's a 4 million pound quota and a trip limit of the 600/300 split.

I also wanted to mention another discussion that took place at that meeting, which was the council recognized the importance of conducting an interjurisdictional assessment in managing the North Atlantic spiny dogfish resource in cooperation with Canada, and I know that was a concern of this board also.

At the New England Council meeting a few weeks ago, they recommended that the spiny dogfish quota for their next fishing year be 8.8 million pounds and that the trip limit be the 7,000 pounds for Period 1 and the 5,000 pounds for Period 2.

From this point, these two recommendations from the councils moves on to the regional administrator, who will make a final decision.

I wanted to update the board on this because pending the approval of the interstate FMP, an annual

specification process is something the Commission will also have to be going through.

After the Joint Dogfish Committee, or during the Joint Dogfish Committee, Dr. Pierce recommended an alternative way of deriving the commercial quota for dogfish.

His proposal for that alternative methodology is included in this packet. I believe it's the last item. Because this is different from the traditional way in which the councils choose their commercial quota, the chairman of this board requested that the technical committee review both Dr. Rago's methodology as well as Dr. Pierce's methodology.

Unfortunately, Dr. Rago has been a little consumed with other tasks and responsibilities and was unable to draft a summary for our technical committee to review prior to this meeting.

Our plan is to still have Dr. Rago do that for our technical committee, to have the technical committee get together, review the two different methodologies, and make a recommendation to the board on what is the most appropriate way to determine the commercial quota for spiny dogfish.

We anticipate being able to do this before the February meeting, which leaves us enough time before May 1st, which is the first of the fishing year. I think that is all for the update on where we are with the quota specifications.

CHAIRMAN MUNDEN: Dr. Pierce.

DR. PIERCE: Just a couple of points. I note that in your summary, Megan, of what transpired at the Mid-Atlantic, you indicated that it was 15 in favor, 3 opposed, and 1 abstention.

Just for the record, I will note that the New England Council vote was, I think, 13 in favor with 3 against, and that reflects, I think, the position of the New England Council for quite a long time now regarding the size of the quota for the spiny dogfish commercial fishery.

The analyses that is on the last page of your handout that you received today, the one that I put together, is a relatively straightforward, simple approach that I used to determine the amount of landings that would correspond to the fishing mortality rate target of 0.03.

That is the controlling factor, the fishing mortality rate, and I did this calculation because it is the sort of

approach I suspect will be used by the assessment scientists who deal with dogfish next time around.

At least it should be similar to what they use next time around because the approach that is now being used and has been used to calculate the fishing mortality for spiny dogfish just isn't working very well.

It's a Beverton - Holt length-based method; and if you apply that method today to determine what the fishing mortality rates are for spiny dogfish, you come up with F rates of around 0.4, 0.45, something like that, and those mortality rates are quite unlikely considering the fact that the fishery is pretty much scaled down to a very small amount, 4 million pounds.

So, obviously, you can't read this today and I'm not going to give any presentation, but I'm very glad to see that the chairman has asked the technical committee to take a look at this. I welcome their comments on the approach that I have used.

One final point that I should make is that, clearly, with two different council perspectives on spiny dogfish management, the 8.8 million pounds and the small-scale directed fishery supported by the New England Council and continuation of the status quo, 4 million pounds, the bycatch fishery of 600/300 pounds, now the National Marine Fisheries Service will have the final say as to what will be implemented.

I think we all know that the Service will follow through with the previous stated positions and the recently stated position that status quo is appropriate, so I expect that the New England Council position will not prevail. I'm not so naïve as to think that it ever would.

So now it's up to ASMFC to move forward with this plan, to adopt this plan. Clearly, the ASMFC has already adopted the 4 million pounds. Perhaps early next year at the technical committee review, there will be some consideration of the 8.8 million pounds if my analyses stand up. Time will tell, I guess, on that one.

In addition, there are the trip limits, the possession limits to establish, and I'm unclear as to where we stand with that, Megan. Is that also an action that can put off until February? I certainly would not object to that.

It would make sense in light of the fact that we await technical committee review on my approach for calculating mortality and the quota that would resume. I think that's all I have for now, Mr. Chairman.

CHAIRMAN MUNDEN: Thank you, Dr. Pierce. At the last meeting of the Mid-Atlantic Council, as Megan has pointed out, the Mid-Atlantic Council voted for the harvest specs for the upcoming fishing year.

Prior to the Mid-Atlantic Council taking action on the specs for the upcoming fishing year, I distributed a memo that Dave Pierce had sent to me and asked that I present to the Mid-Atlantic Council.

Several Mid-Atlantic Council members had questions as to whether or not the document had peer reviewed, if any scientists had looked at it other than Dr. Pierce. When they were advised that this had not gone before the technical committee or the monitoring committee, then the members of the Mid-Atlantic Council felt like they should go with status quo for their recommendation for the upcoming fishing year specs.

And with that information available to me, I've discussed this with Megan, and did make the request that the technical committee look at the proposal by Dr. Pierce and also get Dr. Paul Rago with the National Marine Fisheries Service to explain his analysis that results in the 4 million pound quota.

So that will be done, hopefully, by the technical committee, and we will have that information by our February meeting and use that when we make the decision on spec setting for the upcoming fishing year for ASMFC.

#### **AMENDMENT 1 to the FEDERAL SPINY DOGFISH FMP**

CHAIRMAN MUNDEN: Rich Seagraves is here from the Mid-Atlantic Council, and I would ask Rich to give us an update on what we are doing relative to Amendment 1 to the Spiny Dogfish FMP, which is a joint plan, of course, with the Mid-Atlantic Council and the New England Council.

MR. RICH SEAGRAVES: Thank you, Mr. Chairman. In your handout that Megan just passed around, it indicated the most recent actions on page 1 that both councils took. If you look at the second page of that handout, there is a summary of issues that the councils will be taking up under Amendment 1.

First is schedule. We tentatively are scheduling scooping hearings for January, both January council meetings, the New England and the Mid-Atlantic Councils, so you might want to put that on your schedule.

That will be the kickoff of Amendment 1. The issues that are going to be included in that scooping hearing are listed on page 2 there. Essentially the list hasn't changed much. We have a disapproved spawning stock biomass target from the original FMP.

90 percent of SSB max was the compromise reached between the two councils. That was submitted in the original FMP and was disapproved, so we have an outstanding problem there.

We're going to consider BMSY as the appropriate target and some other alternative targets have been suggested. We need to revise the stock rebuilding schedule because the current F of 0.03 will no longer rebuild in the timeframe in which we thought in the original FMP.

There's no provision for quota overages. There are a number of options that will be discussed there. Discards continue to be a major issue and we'll be dealing with that issue. We will consider specifying specs for multiple years.

We'll reconsider the seasonal allocation of the quota and how that's done. There's some suggestion that we need to set aside some amount of the quota for biological research; supply in terms of educational needs for universities and other educational venues there.

Both the Mid-Atlantic and the New England are very interested in what the actual discards are; so as part of the actual amendment, we're going to be exploring ways to improve our evaluation of discards. Also, we'll be considering a zero quota option and closing the fishery relative to the other options that have been floated around.

Limited access was put back on the table. In the original FMP, because we were dealing with strictly a bycatch fishery and very little in the way of a directed fishery, we thought we would put limited access to the side. It's been put back on the table.

We would also want to add or consider a research set aside of up to 3 percent of the total quota. Dave Pierce asked that we consider what the size structure of the rebuilt female spawning stock biomass might look like rather than just having a 200,000 metric ton

target or whatever the estimate of  $B_{MSY}$  is; what the actual size or age structure of that rebuilt female SSB might look like. There are a couple of options he has put out there.

We would also reconsider regional and state-by-state quotas and a slot or maximum size for females or a slot fishery, where we might land fish in some slot or size range. These are the options that will be included or discussed at the kickoff of Amendment 1 at both council meetings, and then we'll proceed. The game plan is to submit by December of 2003.

CHAIRMAN MUNDEN: If we meet that deadline, Rich, and have the plan submitted by December, 2003, when did you anticipate that the amendment may be approved?

MR. SEAGRAVES: Well, again, we would be shooting for implementing in the spring of 2004.

CHAIRMAN MUNDEN: Thank you. Dr. Pierce.

DR. PIERCE: I just wanted to highlight one point that Rich made and that's one of the elements of Amendment Number 1. That's the age structure or the population structure of spiny dogfish that we're attempting to achieve.

At the committee meeting, when we talked about this issue, it occurred to me that it was an issue similar to that which the weakfish board has discussed, trying to achieve some specific population structure, age group structure, for weakfish.

So, it's analogous here for spiny dogfish, I think, in that right now, for the most part, the course we're on right now with spiny dogfish, certainly at the council level and maybe at the ASMFC level, is to try to achieve a population structure that would entail a large abundance of females that would be 25-, 30-year-old females -- and those are very old females, to say the least -- in contrast to perhaps an age structure that would be 15, 20 years.

So it's a major issue that needs to be discussed because it relates to pup production. The number of pups per female tends to go up, of course, with the age of the female. So if we're attempting to achieve a population structure of females that might produce on average, oh, let's say, 8, 9, 10 pups, we would have to generate, in all likelihood, an age structure of females that would be 25 to 30 years old and older, in contrast to a population structure that would provide



for a pup production of around, let's say, 5, 6 pups per female.

That would be a population structure that would entail females, let's say, from 15 to 20 years of age. So there's implications for rebuilding, there's implications for, obviously, what we're trying to achieve with this resource at the interstate level.

CHAIRMAN MUNDEN: Other comments or questions of Mr. Seagraves? Thank you very much, Rich.

### **SPINY DOGFISH FISHERY CLOSURE IN STATE & FEDERAL WATERS**

MS. GAMBLE: I wanted to note that the Commissioners, as well as the state directors, have received a notice on Friday, November 15th, that the spiny dogfish quota for Period 2 is projected to be harvested by this Thursday, November 21st. So, the federal waters is closing to the harvest of spiny dogfish one minute after midnight on November 21st.

So, in accordance with our emergency action, Vince has drafted a letter to go out to all the state directors, again, saying that the federal waters has closed and therefore the state waters need to close also, and that will also take place one minute after midnight on November 21st, this Thursday.

We have sent a fax of this letter to your offices because we knew that you would be here, and we just would ask that you let staff know what sort of action your state has taken with regard to this emergency action, as we usually do. Thanks.

CHAIRMAN MUNDEN: Questions or comments concerning the emergency action closure?

### **REVIEW DRAFT INTERSTATE FMP for SPINY DOGFISH FOR FINAL APPROVAL**

CHAIRMAN MUNDEN: The next item on the agenda is the review of the Draft Interstate Fishery Management Plan for Spiny Dogfish for final approval, and Megan will walk us through this.

And let me remind all the board members, at our last meeting we voted on the items that Megan will review and we asked the staff to go back and make technical changes or whatever, so I would encourage all the members not to rehash old issues.

Unless you have a real serious problem or unless you see an obvious error in the information that Megan presents to us, then, let's move forward with this rather than going back and bringing up the old issues.

If you have something that really bothers you, now that the board has voted on this, the way to address that is through a plan amendment. So, let's go forward with today's business at hand.

MS. GAMBLE: Thank you. Today I'm going to walk the board through some of the changes made to the Draft Interstate Fishery Management Plan for Spiny Dogfish, and all of these changes reflect the decisions made during the August board meeting.

At the end of walking you through the document, the board is going to need to discuss the implementation schedule for this interstate FMP. Provided there are no major changes by the board during this meeting, the board will then need to discuss approving this document and forwarding it on to the Policy Board for final approval.

The first section I wanted to identify for the board is the overfishing definition. Please note at the bottom of each one of these slides, I have referred you to the appropriate sections within the body of the document, as well as the page number in the executive summary, so you can try and follow along.

There are two reasons I'm bringing this particular section to your attention. First, during the board's last meeting in August, it was decided that the Interstate Fishery Management Program would apply a constant fishing mortality rate strategy of 0.03.

This translates into the target fishing mortality rate. The board's decision has been reflected in this document, but in effort to coordinate the interstate plan with the federal plan, the F of 0.03 is the target fishing mortality rate during the rebuilding period.

So once the adult female portion of the stock has reached the target spawning stock biomass, that fishing mortality rate increases to 0.082, and that's exactly how the federal plan works.

The last row of this slide shows the proposed threshold fishing mortality rate to be 0.11. This table summarizes the spawning stock biomass target and threshold for the female portion of the stock.

At the request of the board during the last meeting, I have gone through the document to make sure it is

clear that these reference points refer to the adult female portion of the stock. The target spawning stock biomass was selected to be 100 percent of the female spawning stock biomass needed to maximize recruitment, and that equates to 167,000 metric tons.

The minimum biomass threshold also pertains to the adult females and is one half of the target biomass. The last row of this column provides a three-year moving average of the current adult female biomass.

Stock rebuilding schedule; the most recent projections we have estimate that the female portion of the stock has a 50 percent probability of reaching the spawning stock biomass target by 2016 if a constant fishing mortality of 0.03 is maintained throughout the entire period.

The projections that we have do not include the 2002 stock information. In projecting the amount of time it will take the stock to rebuild, it should be conducted on an annual basis because it is a measure of the management program's success, so that's something we're going to attempt to do every year.

The management strategy; as I have already stated, the board selected the constant fishing mortality of 0.03, and that is implemented through a commercial quota which is set annually. That quota is based on the projected stock size estimates and the latest stock assessment information and a target fishing mortality rate.

That quota is set anywhere between zero and the maximum allowed by an F of 0.03. This next graphic shows the fishing year, the semiannual periods, and the allocation of the quota. The fishing year and the semiannual periods coincide with the federal quota and periods.

The allocation of the quota is based on the historical landings between 1990 and 1997. This is the same period also used in the federal plan. The allocation between these two periods is fixed.

As I mentioned earlier, this plan also implements an annual specification process; and the way that it will work for the commission is the technical committee will review the most recent data, and then will recommend an annual coastwide quota and possession limits that will not allow the harvest to exceed the target.

And when possible, we will coordinate this process with the New England Council and the Mid-Atlantic Council process. After the annual technical

committee report, the board will determine the annual coastwide quota and possession limits.

The quota and the possession limits will remain in place until changed by the management board. The next section is the payback provision, and actually I have to say that this section has to be changed. Red brought this to my attention.

Actually, what the board decided was that if Period 1 exceeds its quota allocation, then it will be deducted from Period 1 in the subsequent fishing year, and I will make that change to reflect the board's actual decision.

I do want to point out, though, how the federal plan currently works. And right now, when Period 1 is exceeded, that gets deducted from Period 2. If Period 2 is exceeded, there is no penalty currently.

That is one issue that may be addressed through Amendment 1. The reason I'm pointing this out to you is that it's a little discordant, and we may have a little bit of trouble matching up our quotas in the next year.

Quota rollovers; the board decided that rolling over any unharvested portion of the annual quota will not be permissible until the stock has rebuilt to the target spawning stock biomass, and then rollovers will be limited to 5 percent of the annual quota.

The next section is Biomedical Supply and Scientific Research Collection. The board has decided that there will be no quota designated specifically for this purpose, and that dogfish harvested for this purpose can be harvested as part of the annual coastwide quota for the commercial fishery.

This is a very long list of management measures that can be changed through the adaptive management process, or the addendum process; and during the board's last meeting, several additional measures were added to the list.

I wanted to provide the board with an opportunity to review this, but I also want to point out that the very last item, Number 28, does say "and any other management measures currently included in the spiny dogfish management plan." If you don't see it in that list, I think it's captured under that last item.

The next couple of slides deal with regulatory requirements, and I'm pointing these out specifically because they will need to be addressed through the state implementation plans.

The first item is when the quota is projected to be harvested, the state waters will close to the commercial landing, harvest and possession of spiny dogfish. And, again, we'll ask that notification of the state's action will be sent to the commission.

States will also be required to report landings weekly to the National Marine Fisheries Service. Item 3, state-permitted dealers must report weekly, and included in that report should be the quantity and pounds and the name and permit number of the individual from which the dogfish were bought.

Item 4, the states should implement possession limits as determined through the annual specification process; and, finally, Number 5, state regulations should reflect the prohibition of finning, which is laid out in Section 4.1.7.

Expiration of the Emergency Action; the spiny dogfish emergency action expires on January 31, 2003. The states will not have time to implement the provisions of the Interstate FMP prior to the expiration of the emergency action.

In an effort to keep the current management provisions in place, the plan review team has incorporated the following language into the section called regulatory requirements:

“During the period from submission and until the management board makes a decision on a state's program, a state may not adopt a less protective management program than contained in this management plan or contained in its current state law.

“While implementing the provisions of the Interstate Fishery Management Plan for Spiny Dogfish and upon notification of closure in federal waters due to the spiny dogfish fishery harvesting the total allowable landings, state waters will close to the commercial harvest, landing, and possession of spiny dogfish.”

The bottom line is this keeps us at status quo while we're implementing the Interstate FMP. This is my last slide and this is where I'll ask the board to start making some decisions. We have here the implementation and the compliance schedule.

The first bullet deals with — it provides two different dates that are proposed deadlines for states to submit implementation proposals.

The first date is February 1st; and if the board choose the February 1st deadline, the state proposals could be reviewed during the February 24th meeting week. The February 1st deadline provides the states with two months to develop their implementation proposal.

If the board should choose the April 1st deadline, the next opportunity for the board to review the proposals is the June 9th meeting week. The reason I point that out is because June 9th is after the start of the fishing year, but that does provide the states with a little bit more time to devise those implementation plans.

The second bullet provides three different proposed deadlines for implementing the board-approved state programs. The first is May 1st, which would make the state plans effective the first of the fishing year.

The second is June 1st and the third is September 1<sup>st</sup>, and those different options are just to allow the states more time to go through their own implementation process.

And then the last item on here is the deadline for the annual state compliance report, which will be July 1, 2004, which is two months after the close of the fishing year. That one doesn't require action, but those first two bullets do.

CHAIRMAN MUNDEN: We need to take action on the date for submission of programs by the states for implementation of the spiny dogfish management plan. The two dates that have been proposed would be February 1, 2003 or April 1, 2003. I recognize Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. **I move that we accept April 1, 2003, as the date that the program is implemented.**

CHAIRMAN MUNDEN: Do we have a second?

MS. GAMBLE: I just wanted to clarify, Pat, that April 1st deadline is when the states will submit to the board their proposals.

MR. AUGUSTINE: A point of information, then. Do we actually have two choices, then?

MS. GAMBLE: You absolutely do. I just wanted to make sure that you understood what that deadline meant.

MR. AUGUSTINE: A follow-up question. How much of a problem will it be if we don't accept February 1st as the date that the plans have to be submitted to the commission? I understand that it delays your action to May 1st, June 1st, or September 1st. How much of an impact will that have on the fishery, if any at all?

MS. GAMBLE: Unfortunately, I can't determine that myself. I would assume that the fishery would proceed as it has been under our emergency action.

MR. AUGUSTINE: A follow-up question, then. Our emergency action will be extended again or is it just going to --

MS. GAMBLE: No, we are out of extensions, and that's why the plan review team included this language in the plan. So as long as this plan is approved today, then in a sense we have extended the emergency action because the language of the emergency action is preserved within the plan.

MR. AUGUSTINE: Then a follow on to that. **As long as I didn't have a second, we'll change that to a February 1, 2003.**

CHAIRMAN MUNDEN: **Pat's motion is to change the date for the states to submit the plans to February 1, 2003. Seconded by Mr. Freeman.** Discussion on the motion? Pat.

MR. AUGUSTINE: Can we call the question, Mr. Chairman?

CHAIRMAN MUNDEN: The question has been called. All in favor of the motion, indicate by raising your hand; is there any opposition to the motion; null votes; two abstentions. **The motion passes.**

The next action item is the date by which states must implement the spiny dogfish management plan with their approved programs. We have three dates for implementation: May 1, June 1, September 1, 2003. I recognize Bruce Freeman.

MR. FREEMAN: Thank you, Mr. Chairman. **I would like to move that May 1 be the date for implementation.**

CHAIRMAN MUNDEN: Is there a second? **Seconded by Pat Augustine.** Discussion on the motion which would establish an implementation

date of May 1, 2003? No discussion on the motion, the question has been called. All in favor of the motion, please raise your hand; those opposed to the motion, raise your hand please; any abstentions, one abstention; any null votes? **The motion passes.**

This is the moment we've been waiting for. Megan has now informed me that the only thing left is approval of the document. Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. Do you have some common language you want to type into this? **Okay, I move that the board approve the ISFMP Plan for Spiny Dogfish to be forwarded to the Policy Board for final approval.**

CHAIRMAN MUNDEN: Is there a second to Mr. Augustine's motion? **Seconded by Melvin Shepard.** Any discussion on the motion? Lew.

MR. LEWIS FLAGG: Thank you, Mr. Chairman. I just have one question about Megan's presentation. I noted that there was no provision in the plan for an allocation for the biomedical industry, and I have some concern about that, mainly because - -and if you look at page 23 of the FMP, you'll notice there is some information about the biomedical industry.

In Maine we do have a company that's been extensively involved with research with dogfish. We have issued them permits annually. These fish are taken from state waters. They have to be fresh specimens, so the prospect of getting these samples from a commercial fisherman, particularly if the fishery closes because of either period quota being attained, that presents a big problem for providing a supply of fresh fish to this particular operation.

I suspect there may be others. The collections that occur in Maine normally occur in July and August and into early September, and potentially this could be a time when the fishery is closed because of the reaching of the Period 1 quota, which often occurs fairly early.

I think this year it was in June. I guess the question I'm asking, where does it leave states that want to allow limited numbers of these fish to be collected on a fresh fish basis for such use?

Obviously, I suppose, we could go to Canada and get the fish, but that seems a little -- I'm not interested in generating additional market for a Canadian fishery so that they can get more quota when they're dealing with the U.S. on this issue.

So, I guess my concern is that I'm concerned that there is no provision for limited quantities. Now we use between -- I think the maximum they have ever used is 2,000 animals. This past year they collected about 960.

They can use either males or females. They've elected to use only males in their work because they do obviously know about the status of the stock and the need to rebuild, so they have elected voluntarily to just collect the males for their work.

So I guess my concern here is that there is no provision for the biomedical supply, and I would like to have some clarification as to how we deal with this issue.

CHAIRMAN MUNDEN: Thank you for your comments, Lewis, and my answer to you, the short and sweet answer, is I don't know, because North Carolina is faced with a very, very similar situation.

The board voted to not approve a portion of the quota for scientific or biological supply use; and as I understand it in the thinking of the board, or as I recall the thinking of the board, is that those fish would just have to come from the fishery that is prosecuted when quota is available.

Unfortunately it does not address the needs of that industry although it's a very small industry. We will be addressing that when we start to begin working on Amendment 1 to the federal plan.

But in the short term, I don't see any real solution other than to encourage those individuals to try to purchase the fish that they need when quota is available and the season is open. Bill Adler.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. I just have two things to do on this. One was on page 34 of the document. I wanted perhaps an answer to why the discard in the recreational had gone so high, just a quick answer as to where that figure came from.

And the last thing -- and this is just for the record. I don't expect you to have to rewrite this thing. It was on page 85 -- I have some serious problems in the three paragraphs on the whale issues, which I don't believe are correct information. I just want to put it on the record and maybe get an answer to the first question. That's all I have on that.

MR. STEVE CORREIA: I guess, Bill, relative to that discard data, apparently it just comes out of the MRFSS Survey, so apparently there was quite a few people that caught dogfish and discarded them.

And when they bumped up the sample, you end up with a larger number. I don't know of a reason why those numbers would have bumped up in 2001.

MR. ADLER: But it's wild; it went wild, right?

MR. CORREIA: Right.

MR. ADLER: Okay, that was amazing. Thank you.

CHAIRMAN MUNDEN: Dave Pierce.

DR. PIERCE: I don't know the reason why, but I can speculate. We've received, in the Division of Marine Fisheries, a number of phone calls and correspondence from recreational fishermen who continue to complain about the fact that their recreational fishing opportunities have seriously declined in terms of their quality because of the abundance of dogfish that does such things as take live eels. So they are abundant, they're widespread, and they are biting hooks.

CHAIRMAN MUNDEN: Thank you. Other comments from board members on the motion? Lewis Flagg.

MR. FLAGG: Thank you, Mr. Chairman. **I would like to offer a motion to reconsider the issue associated with the biomedical industry, and I would move to reconsider that each state be allowed to permit the collection of up to 1,000 dogfish for biomedical purposes irrespective of whether or not the season is closed in state waters.**

And, obviously, it would be with the understanding that the states that did that would submit a report annually to the board for their consideration before any future allowances are granted. I think that would be very helpful in our instance.

CHAIRMAN MUNDEN: Yes, we have a motion on the table; **seconded by Vito**. Board members, if you bear with me until the staff support returns, then we will address this particular issue. Lewis Flagg.

MR. FLAGG: Thank you, Mr. Chairman. In order to dispel the confusion, I guess I would offer this as an amendment to the main motion, if that would be more in order, rather than trying to make a separate motion at this time.

CHAIRMAN MUNDEN: Staff has advised that the simplest way of addressing this is to table the original motion; and then we will address your motion and depending on whether it passes or fails, then we will readdress the original motion. Pat.

MR. PATTEN D. WHITE: **Move to table the original motion.**

MR. VITO CALOMO: **Second.**

CHAIRMAN MUNDEN: Okay, there is a motion to table the original motion and a second. All in favor of tabling the motion, indicate with a show of hands; all opposed to tabling the motion, indicate by raising your hand; null votes; abstentions? We have three abstentions. **The motion passes. The original motion is now tabled.** Pat Augustine.

MR. AUGUSTINE: May we address the new motion?

CHAIRMAN MUNDEN: We do not have a second to Mr. Flagg's motion? Did Vito second that? Okay, so we now have a second to Mr. Flagg's motion. Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. I'm referring back to page 23 and 24 of our document here, and it appears under 1.31.3. The issue of where these dogfish were coming from for biomedical purposes, I thought was stated rather clearly and no where in here did it say that they had to have them at a certain or particular time.

For the state of Maine and so on, and North Carolina, it went on to say how they were able to obtain these specimens, alive or otherwise, and it just seems to me that there not having been any substantial conversation or discussion relative to allowing set asides for the spiny dogfish of 1, 2, or 3 percent, I was under the impression that was the reason it wasn't carried through. I may be wrong and may stand corrected.

I would like to ask Rich Seagraves, if we may ask him from the council point of view, what their position was on the research set asides; and if in fact they did set one aside, then I think we might want to

consider it. But if not, I think I would vote against this motion.

CHAIRMAN MUNDEN: I recognize Rich Seagraves for clarification.

MR. SEAGRAVES: The current federal FMP does not include research set asides. Both councils are considering inclusion in Amendment 1, so it's not an option currently.

MR. AUGUSTINE: Thank you, Mr. Chairman.

CHAIRMAN MUNDEN: Before we go any further, staff has a question of Lew for clarification.

MS. GAMBLE: Lew, I just need to ask, with your motion, do you want those extra 1,000 fish to come off of the annual quota or do you want them to be in addition to the annual quota?

MR. FLAGG: It was my intent that they would be part of the annual quota. I don't think we were looking at -- I think the problem that we have is the fact that if the season were open pretty much the whole season, the Period 1 fishery were open, it wouldn't be a problem.

I know it's going to likely close and most of the researchers that do this work come to Maine in the summer months. They're from all over the place, all over the world in fact, and so most of the collections for this work are done in July and August.

And it's a time that there is a strong likelihood that the Period 1 fishery could be closed, and those animals would not be available in a fresh state for them to use. So that's the dilemma that we're in.

If in fact the season stayed open during that period, there would be no need for collecting those fish during a potential closed period. But if the fishery should close fairly early on, as has been the experience recently, then it would be very difficult.

I mean, it would be impossible for them to be able to collect fresh samples. These are all taken from state waters, by the way.

I guess the other point I wanted to make is that certainly I would envision that when a state submits its annual program of how it is going to implement the FMP, that they would include whatever numbers of fish that they felt were going to be collected that

particular year, so that it could become part of their annual plan.

MS. GAMBLE: Lew, just to that last point about an annual program, we actually only have the states submit an implementation program right after an FMP or an amendment is approved. There is an annual report that is submitted by the states, but that's about the season that just occurred.

CHAIRMAN MUNDEN: Preston Pate, to that point.

MR. PRESTON PATE, JR.: Thank you, Red. From North Carolina's perspective, we have almost an identical problem except the timing is different. The harvest of spiny dogfish off of our coast occurs late in the winter or after the beginning of January.

In our experience, the last several years, ever since this species has been quota managed, is that we don't have the opportunity to harvest them for any reason.

I'm not so sure that the plan that's being approved is going to make that situation any worse or any better for our commercial fishermen, let alone the biological supply houses. With the fishing season beginning, I think, May 1st of the year, it's likely that the Period 2 would be closed before the fish get off of our coast.

In fact, I have on my desk a letter that I received by fax Friday from the harvesters that are involved in supplying the biological supply houses as a request to not close the season, to bring North Carolina out of compliance with this plan, just so that they'll have a chance to harvest for their biological supply needs.

So given the minimal harvest that segment is responsible for each year, I think it's a reasonable request for us to accommodate those needs in the plan to assure that they are not disadvantaged by the more aggressive commercial landings.

And if the quota comes off of the total for the commercial landings, then, that's fine, from my perspective. We can accommodate that.

CHAIRMAN MUNDEN: I have Tom Fote.

MR. TOM FOTE: I would just like to be allowed to catch a thousand fish. I mean, we're talking about a set aside for a thousand for some states where New Jersey had no fishery last year because of the way the quota is set up.

So you're going to give us a thousand fish to use any way we want; and then by the time we get to the season, it's closed in New Jersey and the bycatch fishery doesn't work. At least with a thousand fish, we could send one boat out to do a commercial harvest; and if he wants them biomedical, that's fine.

But I don't want to — I'm here allocating whether you give another state an extra thousand fish when we don't have any fishery because you've shut down because the quota is reached before it gets to New Jersey. It's kind of ridiculous.

CHAIRMAN MUNDEN: Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. I think the broader question that has to be asked really is how many states are there that have need for spiny dogfish for biomedical purposes? The only two that were stated in here happen to be Maine and North Carolina.

Now, if we were to pass this motion, and I think it's a very worthy cause that we do set aside a certain number, as Tom had said, each state could turn out to be several thousand or more than several thousand fish coming off the overall quota.

So I'm not sure, Mr. Chairman, whether you would ask or if it would appropriate to ask what other states might have that need; and if we find it to be a limited number for biomedical purposes, then I would like to amend the motion to read that it would incorporate those states.

MR. G. RITCHIE WHITE: How was this handled in horseshoe crab? Didn't we go through this same issue in horseshoe crab and didn't that come out of part of the quota? The question was in horseshoe crabs, wasn't this same issue addressed and how did we address it?

MR. ROBERT E. BEAL: Horseshoe crabs, Ritchie, is a little bit different in that the horseshoe crabs are actually just bled and then returned back to the water, so they're not taken out and removed permanently, so they don't have a separate set aside.

MR. WHITE: So there is no mortality associated with that?

MR. BEAL: Yes, assume 10 to 25 percent mortality, but it's not taken directly off of a state's quota.

MR. WHITE: So that mortality isn't figured in?

MR. BEAL: It's figured into what we're calling the stock assessment, which there's not a whole lot of data right now on horseshoe crab abundance, but it's figured into the overall mortality of horseshoe crabs.

MR. WHITE: So if we treated dogfish in the same manner, then it would not come out of the quota?

MS. GAMBLE: Steve, I'm going to ask you, but my assumption is, yes, it has to. Right now, when the annual quota is — When Paul comes up with the annual quota, it does take into account discards.

So if we set aside a certain amount of dogfish for the harvest of biomedical supply, it's also going to have to take that into account. I mean, we're talking about incorporating Canadian landings, too.

MR. CORREIA: Thank you. What Megan is saying is essentially true. If you want to hit your target of 0.03, that maps into the total quota; and within that quota, how you break it out in terms of recreational or commercial or if you take part of that and you give it to the biomedical industry, the 0.03 maps in with the total quota.

If you lay that on top, so you set your quota and then you say, okay, now we're going to give an extra quota to the biomedical supply, then you won't achieve your F. In the May 16th Spiny Dogfish Technical Committee, the technical committee made a recommendation that you do not have an additional quota for the biomedical field.

CHAIRMAN MUNDEN: Lewis.

MR. FLAGG: Thank you, Mr. Chairman. If you pass this motion and allow the thousand fish per state, there's fifteen Atlantic coast states. That's 15,000 fish at about 7 pounds apiece. They're averaging about 6.7 pounds up our way, the ones they use. If you assume they were 7 pounds, that's 105,000 pounds in a minimum 4.4 million pound quota. It's insignificant.

CHAIRMAN MUNDEN: Dave Pierce.

DR. PIERCE: I had to check with Lew just to make sure I understood the motion. This is just

1,000 fish per state. It's not 1,000 fish per fishermen per day. It's just 1,000 fish.

It's laughable because the amount of discard that is occurring in a number of fisheries makes 1,000 fish look rather insignificant. I would say just subsume it into the estimates of discards. I mean, my God, just exempt it for a thousand fish.

We've gone to the absurd regarding this. I mean, 17,000 pounds being discarded by some fishermen on a particular trip on a particular day, this really is absurd. Just exempt it, allow it to be landed in addition to the quota and just subsume it into the estimates of discards that are occurring.

And, God Almighty, we don't know that those amounts are. That would be the easy way to do this and not make a big deal out of 1,000 fish times six states. 6,000 fish, my God.

CHAIRMAN MUNDEN: I have Gil Pope and then Melvin Shepard.

MR. GIL POPE: Thank you. Plus it's going to be a thousand males, right, which means there is going to be some discarding on top of that. It seems like we want to go out of our way — even though it's such a small amount, and it truly is such a small amount, it seems like we consider one of the users of this resource very important; and the other users of this resource, it doesn't seem like we hold them in such high esteem, for some reason. Thank you.

CHAIRMAN MUNDEN: Megan.

MS. GAMBLE: Just a point of clarification. Currently, the motion on the table does not state that it's only for males. It could be females also.

CHAIRMAN MUNDEN: Melvin Shepard.

MR. MELVIN SHEPARD: Mr. Chairman, North Carolina agrees with this motion, but I have a practical question, and my practical question goes along like this. If we say this is going to come out of the quota and this coming Thursday we have closed it because we have reached the quota and we yet haven't gotten that thousand fish for the biomedical, we're going to — see, I'm agreeing with Dave Pierce.

I think we ought to go ahead and just exempt this because otherwise it's going to get very, very complicated; or, we ought to amend this just to say



Maine and North Carolina at the present time. I think we're complicating something that is fairly simple.

CHAIRMAN MUNDEN: Pete Jensen.

MR. W. PETE JENSEN: Well, I had a question, too, which may of final import, but once the feds close, why then, of course, you've got a problem taking them in the EEZ for any reason.

Are these fish to be caught inside of state jurisdiction for these two purposes? Maine, will these be inside of the EEZ, and North Carolina? It seems to me that simplifies the problem and how we handle it so that we don't butt heads with what is going on in the EEZ. For example, it seems to me that it's possible that the states could provide for this in their implementation plans. I see nothing wrong with that.

MR. GERALD CARVALHO: Thank you, Mr. Chairman. To keep all this in perspective, a forty-foot vessel in the state of Rhode Island last year got into a one tow a load of dogfish. It was probably 15,000 to 20,000 pounds in that single tow.

It rolled the vessel over and killed the captain. Now that probably had two or three times the amount that we're talking about in one of the smallest boats in the fleet, a 40-footer, and there were so many dogfish there that it rolled the vessel over and killed the captain.

We need not to complicate these things. We need to keep them simple, and I think we should just move ahead now with simplicity. Thank you.

CHAIRMAN MUNDEN: Other comments from the board members? If there are no other comments from the board members, I will recognize Sonja Fordham from the audience, and then I will come back to the board for other comments.

MS. SONJA V. FORDHAM: Thank you. Sonja Fordham, The Ocean Conservancy. Just on this motion, I think with all due respect, this process has been going on for this FMP for years, and this issue was not brought up and agreed upon before.

I would hate to see at this late hour to have a loophole opened up. This amount may seem insignificant, but I'm more concerned about the loophole that would be created if you allowed for dogfish fishing when the season is closed.

I am quite uncomfortable moving forward with that without adequate consideration, particularly from and

input from the enforcement officers. I would suggest that you save this for the committee and bring it up at another time. Thank you.

CHAIRMAN MUNDEN: Other comments on the motion from board members? I have John Nelson.

MR. JOHN I. NELSON: Thank you, Mr. Chairman. I realize it is perhaps at a late time to deal with this, but it does appear that it was put into the document as a discussion point, so there was some discussion about it.

And as I look through this and see, at least in the case of the Mt. Desert Island activity, they are looking at trying to develop some molecules or chemicals out of the spiny dogfish so that it will serve as an anti-cancer agent.

Somehow it sounds foolish to me to say we don't want to pursue that any further, given the fact that some of us either have or probably will be facing that type of issue in the future. I would suggest that we keep it as simple as possible.

There are possibilities of states, in order to qualify for this, they put forth in their plan that they're going to close a day early or something like that that allows them to take a thousand spiny dogfish sometime later in that season. I don't think it needs to be a big issue. I suspect that maybe the benefits will be a positive or more than just the dogfish in the future.

CHAIRMAN MUNDEN: Lewis.

MR. FLAGG: Thank you, Mr. Chairman. I wanted to just mention very briefly -- I know we had a comment concerning how this might be controlled. I just wanted to give the board an opportunity to -- I wanted to outline just how we operate the collection process, and that is we permit two vessels.

They're named, the people on it are named, those permits are given to our marine patrol officers. It isn't that anybody can go out and collect these fish for Mt. Desert Biological. They have a contract with a couple of vessels that are named and so it's very specifically controlled.

They have to make sure that they keep the enforcement people notified of when they're doing their collections, especially if it's outside of the period when the fishery is open.

So it's two vessels and there are very strict permit controls on those vessels, and there is a report requirement that has to be made out at the end of the year, which is submitted to us before they can pursue that activity the following year. Thank you.

CHAIRMAN MUNDEN: Pete Jensen.

MR. JENSEN: I would like to suggest a friendly amendment and add to that motion, "if such collections are included in the state's approved implementation plan".

CHAIRMAN MUNDEN: Mr. Flagg, are you in agreement with that amendment?

MR. FLAGG: Yes.

CHAIRMAN MUNDEN: Mr. Flagg agrees with the amendment to the motion. Bill.

LT. COLONEL WILLIAM MCKEON: Just from a law enforcement perspective, as long as the individuals have the appropriate permits and/or paperwork, I don't see it being a significant law enforcement issue.

CHAIRMAN MUNDEN: Other comments from board members? Bruce Freeman.

MR. FREEMAN: Thank you, Mr. Chairman. It seems to me that every state has the opportunity to issue what are normally called scientific collecting permits.

We have fisheries closed all the time and permits are issued to collect fish outside of quota in a small amount of fish. I'm sure if you went through every state and asked what's being collected after the quota closes, it will be a — I wouldn't say a substantial number, but most every states have this. This amount of fish, quite frankly, is not a large number.

There's almost the consideration of not even having this motion made because of what states normally do in the way of business. So I would support it, but it seems like we're putting too much into this.

CHAIRMAN MUNDEN: Other comments from board members? Sonja.

MS. FORDHAM: Sonja Fordham, the Ocean Conservancy. I forgot to mention I assume that's a thousand fish per year; and if you could clarify that, that would help.

CHAIRMAN MUNDEN: Yes, that's correct. Someone called the question. Okay, we all did. I will recognize Dave Pierce and then we'll vote on this amendment to the motion.

DR. PIERCE: Thank you. The motion is still unclear as to whether this is an add on to the annual quota or whether it's in the annual quota, so perhaps, Mr. Chairman, the motion could have another sentence to it that would read something like this amount will be allowed in addition to each year's annual quota, to make it clear.

It's only about 7,000 pounds at the most, and that way we don't have to worry about whether it's taken from the quota. Let's make it very specific.

CHAIRMAN MUNDEN: Mr. Flagg, do you agree with that addition to your motion, that amendment?

MR. FLAGG: I don't have a problem with it either way.

CHAIRMAN MUNDEN: Mr. Flagg agrees with that additional language. Bob Beal.

MR. BEAL: Well, before that part went up, I was going to make the comment that I think if the management board knows early in the process each year of how many states intend to allow the additional harvest of a thousand additional fish, the board can take that into account when they're setting the specifications on an annual basis for dogfish.

So if two states, which it looks like they are Maine and North Carolina, intend to allow a thousand fish, that's 2,000 fish at 7 pounds, 14,000 pounds, we can take that off the quota. You know, you're getting pretty far down on the decimal points, anyway. I don't know if that last sentence is needed. I think it can be taken into account each year as the specification process is being set.

CHAIRMAN MUNDEN: Dr. Pierce, would you agree to remove that language based on comments from staff?

DR. PIERCE: Well, there might be some unexpected overages each year, so why worry about that? Do it this way and consequently those who depend upon this product for that research would not have to worry that they might lose their opportunity because of some overage.

CHAIRMAN MUNDEN: We've all been convinced by Dr. Pierce, whose language will stay. Any other comments from board members? Bruce Freeman.

MR. FREEMAN: I don't have any problem with this motion. It's getting more complicated, but I would anticipate that those states who are petitioning to collect extra fish or to collect the dogfish would try to do so during the normal commercial season.

I think it should be the opportunity to have our existing commercial fishermen sell them the product. That was the original intent of this whole thing, so that we wouldn't close the commercial fishery and then allow other people to have a directed fishery.

In the event that the dogfish can't be collected because of premature closure, there may be some necessity to allow them to collect outside the season. I would expect each state, if in fact the fish are available during the period that collection normally occurs, to take the fish during the normal commercial quota. And if it needs to be after that, then fine, but I wouldn't want people to take advantage of this. That's not the intent.

CHAIRMAN MUNDEN: Other comments from board members? The question has been called. Lew, would you please read your motion.

MR. FLAGG: Yes, I will, Mr. Chairman. **Move to allow for each state to issue exempted permits for the biomedical harvest of spiny dogfish up to 1,000 fish per year if such collection is included in a state's implementation plan. This amount would be allowed in addition to the annual quota.**

CHAIRMAN MUNDEN: Board members, we are ready to vote. Would you like to take time to caucus? Is there a need to caucus? Seeing none, all members in favor of the motion, please indicate by raising your hand -- all members in favor of the motion, please raise your hand and keep it up; all board members opposed to the motion, raise your hand. Seeing no opposition, any abstentions, three abstentions; any null votes. no null votes. **The motion passes.** Melvin Shepard.

MR. SHEPARD: **Mr. Chairman, I would move to remove from the table the motion to recommend to the commission the approval of the Interstate Fishery Management Plan for Spiny Dogfish.**

MR. PATTEN WHITE: **Second.**

CHAIRMAN MUNDEN: The motion has been made and seconded to remove the former motion to table the spiny dogfish FMP approval action. Is there any opposition to that motion? The motion passes.

Now we are ready to vote on the motion that was made earlier to approve the Spiny Dogfish FMP for submission to the Interstate Fisheries Management Plan Board. I've been told by the staff to the full commission.

Comments from the board on the motion? Do we need time for caucus? Any of the board members wish to caucus? I will recognize one individual from the audience, Sonja Fordham, before we take the final vote.

MS. FORDHAM: Thank you, Mr. Chairman, Sonja Fordham, The Ocean Conservancy. As you may know, we have believed for quite some time that a state plan that was consistent and compatible with federal regulations was crucial to turning around this difficult situation.

I just wanted to express our support for this motion and for the FMP and also express our appreciation and gratitude for the commission staff for their hard work and the commission on making these difficult decisions. Thank you.

CHAIRMAN MUNDEN: Thank you for your comments, Sonja. Sonja had asked to speak when the original motion was made. Are we ready to vote on the motion?

All in favor of the motion, indicate by raising your hand; all opposed to the motion, indicate likewise, two in opposition; any abstentions; any null votes? **The motion passes. The vote was 13 in favor, 2 opposed to sending a motion forward to the full commission.**

#### **NOMINATIONS TO THE SPINY DOGFISH PLAN REVIEW TEAM**

CHAIRMAN MUNDEN: We have two more items on the agenda. We now will accept nominations for the Spiny Dogfish Plan Review Team. Any board members have individuals you would like to nominate for the plan review team? I would recognize Dave Pierce.

DR. PIERCE: Yes, I would nominate Greg Skomal. Greg Skomal is a member of my staff, but

he is our shark biologist with a very well-known reputation, whose expertise goes far beyond spiny dogfish and embraces all the sharks. When we eventually get to the more important sharks, he will be there and ready to go. That's Greg Skomal.

CHAIRMAN MUNDEN: Other nominations for the plan review team? Megan has indicated we would need two to three members for the plan review team. Other nominations for the plan review team? I recognize Preston Pate.

MR. PATE: On behalf of the state of North Carolina, I would like to nominate Ms. Tina Moore, who is a biologist in our Washington Regional Office.

CHAIRMAN MUNDEN: Thank you, Preston. Dr. Pierce.

DR. PIERCE: The question has been asked as to the qualifications of those who are on the plan review team; do they have to be biologists, scientists, or can they be policy people as well?

I think that's become a little bit unclear as time has gone by, and I think we all tend to lose contact with the plan review teams and who is on those teams. They don't have to be just scientists?

MS. GAMBLE: That is correct.

CHAIRMAN MUNDEN: If there are no other nominations, then we will close the nominations. Megan has informed me that it's not necessary to vote on the members for the plan review team.

#### **NOAA FISHERIES: MANAGEMENT OF ATLANTIC SHARKS**

CHAIRMAN MUNDEN: The final item on the agenda is a presentation by Heather Stirratt, concerning the most recent action by NOAA Fisheries for management of the Atlantic shark fisheries.

MS. HEATHER STIRRATT: Thank you, Mr. Chairman. My purpose in being here today — again, my name is Heather Stirratt and I'm representing NOAA Fisheries — is to keep the ASMFC and all the commissioners around the table up to date on recent and forthcoming activities relative to large coastal sharks.

I'm going to be mentioning three separate items, the first of which is that the HMS Division has publicly announced the availability of the large coastal shark stock assessment.

A couple of pieces of information about that. If in fact you have not already received a copy and you are interested in getting a copy, you can contact HMS at (301) 713-2347 for copies or you can see me following the meeting. This document is currently being peer reviewed, and we should have further information in that regard shortly.

The bottom line from this stock assessment is that the large coastal shark complex is overfished and overfishing is occurring. Sandbar sharks are not currently overfished, but optimum yield has not been yet achieved.

Therefore, overfishing is occurring. Black tip sharks are currently rebuilt in this stock assessment. This is just to give you a bottom-line understanding of where we're coming from with the availability of this new information.

The second item is that the Highly Migratory Species Division recently, last Friday, which was 11/15/02, published the notice of intent to prepare an EIS and an amendment. The basis for this amendment and the EIS is the latest stock assessment information for both large coastal sharks and small coastal sharks.

The comment period on this document, it's my understanding it will be open for about 120 days, and, again, it did publish on Friday.

And the final piece of information that I have is that many of you are aware HMS had published last year an emergency rule which established the commercial quotas and the fishing seasons for the large coastal sharks, as well as small coastal sharks. That emergency rule will expire on December 30th of this year.

We anticipate that a proposed rule will come out shortly which will be picking up the regulations relative to those species before the expiration date, and that would be no later than the first of January of this coming year.

Once that rule is approved, it is anticipated to remain in place until the amendment is completed and implemented. Again, this proposed rule would be to establish the commercial quotas in the fishing season for 2003. I'm available if you all have any questions. That's it.

CHAIRMAN MUNDEN: Dave Pierce.

DR. PIERCE: In light of the information that Heather has just given us, the time table that the Service has regarding these very important sharks, how should the Spiny Dogfish and Coastal Shark Management Board respond?

When should we have our next meeting to address some of these issues that relate to our having in place eventually an interstate plan that would deal with these sharks?

I recall three years ago now, or two and a half years ago, a meeting where Dick Schaefer attended with others from the Service to talk about these sharks, large coastal sharks and the like.

I can't recall all that was said at that time, but certainly there seemed to be an emphasis placed by Dick at that time on the need for ASMFC support of what the federal government was attempting to do with these species of sharks.

So if there is no answer now, fine enough, but I do think the board needs to pay more attention to these sharks and follow closely the events as they develop with the Service.

CHAIRMAN MUNDEN: Other comments or questions for Heather? Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman, just one final one. This document that we received from NOAA, it's rather interesting. I think Jack Dunnigan, in his new job, has new residence because it was sent by Ripley Entertainment, Orlando, Florida. Is this true or is this just a copy from somewhere else?

MS. GAMBLE: Actually, I think it was forwarded from another individual, and we didn't receive it directly from Mr. Dunnigan.

MR. AUGUSTINE: Thank you for that clarification.

MS. GAMBLE: I just wanted to respond to Dr. Pierce's comment. It is my understanding -- and this precedes the length I have been here at the commission, but it's my understanding that this board, or the policy board has decided that they wouldn't move forward on sharks until the Spiny Dogfish FMP was in place, and that was the intent of this management board.

CHAIRMAN MUNDEN: Other items to come before the Spiny Dogfish Management Board? Harry.

#### **UPDATE ON TRANSBOUNDARY MANAGEMENT OF SPINY DOGFISH**

MR. HARRY MEARS: Thank you, Mr. Chairman. I would like to give a brief update on a motion which was made at the previous Dogfish Board meeting; namely, that the board request that the Northeast Regional Coordinating Council, and specifically the regional administrator of the Northeast Region, schedule a joint U.S./Canada assessment of the dogfish stock and essentially communications leading to joint management.

In terms of an update of those discussions, that topic was put onto the agenda for the recent meeting of the Northeast Regional Coordinating Council, which includes representatives of the executive directors of the New England and Mid-Atlantic Councils, the executive director of ASMFC, the science director of the Northeast Fisheries Science Center, and also the Northeast Regional Administrator.

As a result of those discussions and especially as a result of the vote made here this afternoon, the potential for successful collaboration between the United States and Canada in joint assessment, joint management decisions, joint collaboration on managing the resource, the potential for that to happen has been tremendously improved.

There will be a dedicated meeting this Friday, the 22<sup>nd</sup>, during which these discussions will continue between the NMFS Northeast Region and also the Canada Department of Fisheries and Oceans, and I believe as well as the state of Maine. I wanted to provide that update. Thank you.

CHAIRMAN MUNDEN: Bill Adler.

MR. ADLER: Thank you, Mr. Chairman. So, Harry, do the Canadians have a quota or did they cut their quota or are they still fishing on the dogfish without a quota until we come to an agreement or something? How does that work?

MR. MEARS: I believe there was a news release that was passed out at the last board meeting, I believe it was from last May, where Canada does have a quota. I mean, it also has a small research set aside provision as well.

The purpose of the discussions, which have led to the motion of the last board meeting, is hopefully to come into greater agreement in terms of joint determination of what that quota should be between the two countries.

(Whereupon, the meeting was adjourned at 2:55 o'clock p.m., November 18, 2002.)

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MR. ADLER: What is their quota now?

MR. MEARS: Can anyone help me out? I would have to dig through my materials -- 2,500 metric tons.

CHAIRMAN MUNDEN: David Pierce.

DR. PIERCE: Harry, at this meeting with the Canadians, will there be discussions about biological reference points, in particular the biomass targets for the large females?

MR. MEARS: I believe that sort of discussion would be in the natural evolution of how exactly the United States and Canada will formalize a transboundary joint stock assessment. This is a meeting to essentially discuss the protocol and the steps for that type of dialogue to occur.

CHAIRMAN MUNDEN: Invite them to come before the board. Before we adjourn, I would like to express my appreciation to all of the wonderful folks that made it possible for us to have a plan that could be approved.

Steve Correia on my right here has served as the chairman of the technical committee. Rich Seagraves with the Mid-Atlantic Council has been a great help. Also, all of the members of the plan development team; Bruce Halgren from New Jersey, Brian Kelly from Massachusetts, Tina Moore from North Carolina, Bill Utin, retired, from the Maryland Department of Natural Resources, but above all, Megan Gamble. Let's give Megan a big hand. (Applause.) Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman, one final one. We thank you, Mr. Chairman, for having walked us through some shark invested waters for many meetings. It seems like spiny dogfish was never going to come to a conclusion, and it seems as though we have taken a major step today, and let's hope we can save this resource. Thank you for a great job.

CHAIRMAN MUNDEN: With that, the Spiny Dogfish Board is officially adjourned. Thank you very much.