

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

**August 18, 2005  
Radisson Hotel  
Alexandria, Virginia**

## ATTENDANCE

### Board Members

George Lapointe, Maine DMR	Bruce Freeman, New Jersey DFG&W
Lew Flagg, Maine DMR	Erling Berg, New Jersey Gov. Apte.
Pat White, Maine Gov. Apte	Ed Goldman, proxy for Assemblyman Smith (NJ)
John Nelson, New Hampshire Fish & Game Dep.	Craig Shirey, Delaware F&W
G. Ritchie White, New Hampshire Gov. Apte.	Bernie Pankowski, proxy for Sen. Venables (DE)
Rep. Dennis F. Abbot, New Hampshire Leg. proxy	Bill Goldsborough, Maryland Gov. Apte. Proxy
David Pierce, Massachusetts DMF	Howard King, Maryland DNR
William Adler, Massachusetts, Gov. Apte.	Russell Dize, Proxy for Senator Colburn (MD)
Vito Calomo, proxy for Representative Verga (MA)	Fentress Munden, North Carolina DMF
Mark Gibson, Rhode Island DEM	Damon Tatem, North Carolina Gov. Apte.
Everett Petronio Jr., Rhode Island Gov. Apte.	Robert Boyles, Jr., South Carolina DNR
Gil Pope, proxy for Rep. Naughton (RI)	John Frampton, South Carolina DNR
Eric Smith, Connecticut DMR	Spud Woodward, GA DNR Coastal Resources
Lance Stewart, Connecticut Gov. Apte.	John Duren, Georgia Gov. Apte.
Gordon Colvin, New York DEC	Gil McRae, Florida FWC-FMRI
Brian Culhane, New York Leg. Apte.	Harold Mears, NOAA Fisheries
Pat Augustine, <b>CHAIR</b> , New York Gov. Apte.	Wilson Laney, USFWS

### ASMFC Staff

Bob Beal	Vince O'Shea
Ruth Christiansen	Brad Spear

### Guests

Bill Hogarth, NOAA Fisheries	Megan Gamble, NMFS
Paul Diodati, MA DMF	Jim Armstrong, MAFMC
Jim Hanlon, MA Env. Police	Sonja Fordham, Ocean Conservancy
Sean McKeon, NC Fisheries Association	Louis Daniel, NC DMF
Pete Rowe, NJMSC/NJSeaGrant	Douglas Grout, NH F&G
Steve Heins, NY DEC	Steve Meyers, NMFS
Tom McCloy, NJ Div. F&W	Peter Burns, NMFS
David Perkins, USFWS	Anne Lange, NMFS
Karyl Brewster-Geisz, NMFS	Dewey Hemilright, F/V Tarbaby
Margo Schultz-Hagen, NMFS	

**TABLE OF CONTENTS**

**WELCOME & INTRODUCTIONS ..... 5**  
**BOARD CONSENT ..... 5**  
**PRESENTATION BY NMFS HIGHLY MIGRATORY SPECIES DIVISION ..... 5**  
**PUBLIC COMMENT ..... 15**  
**REVIEW OF COASTAL SHARKS WHITE PAPER ..... 18**  
**REVIEW OF DRAFT ADDENDUM 1 TO THE INTERSTATE SPINY DOGFISH FMP 28**

## MOTIONS

**1. Move that the Commission initiate development of an Interstate Coastal Sharks FMP and that it be done under the auspices of this Board.**

Motion by Mr. Lapointe. Second by Mr. Colvin. The motion carried.

**2. Move that the Board adopt (approve for public comment) Addendum I to the Spiny Dogfish Fishery Management Plan and select Option 3 as the preferred Option, which is to allow for multi-year management measures with annual review.**

Motion by Dr. Pierce. Second by Mr. Nelson. The motion carried.

**ATLANTIC STATES MARINE  
FISHERIES COMMISSION**

**SPINY DOGFISH AND COASTAL  
SHARK MANAGEMENT BOARD**

Radisson Hotel Old Town  
Alexandria, Virginia

August 18, 2005

-

-----

The Spiny Dogfish and Coastal Shark Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Radisson Hotel Old Town, Alexandria, Virginia, August 18, 2005, and was called to order at 9:00 o'clock a.m. by Chairman Patrick Augustine.

**WELCOME & INTRODUCTIONS**

**CHAIRMAN PATRICK AUGUSTINE:** Good morning, ladies and gentlemen. Welcome to the Spiny Dogfish and Coastal Shark Management Board. We have a relatively full agenda. I would like to have you look at the agenda. We are going to make a slight change.

Dr. Hogarth has some commitment later in the morning, so we're going to move the Item 5 presentation by NMFS Highly Migratory Species to Number 3. After Dr. Hogarth and Margo's presentation, we will go back into public comment and so on. That's the agenda. Are there any corrections or additions? Any objection? Seeing none, it's approved.

**BOARD CONSENT**

May I have a motion for the approval of the proceedings from the November 2004 meeting?

**MR. GEORGE LAPOINTE:** So moved.

**CHAIRMAN AUGUSTINE:** Thank you. Mr. LaPointe. I have a second from Dennis Abbott. Any objections to the motion? Seeing none, they're approved.

At this time I would like to take an opportunity to welcome Dr. Hogarth to our meeting. As you look in your package or reviewed your package, you saw a letter from Jack Dunnigan, dated in May. Previous to that, there was a letter by Dr. Hogarth to ASMFC.

In those two letters they stated concern about what's happening with large coastal sharks, the HMS FMP, and so on, and apparently there is need for a request by the National Marine Fisheries Service to have ASMFC involved. At this point, with no further ado, I'd like to present Dr. Bill Hogarth.

**PRESENTATION BY NMFS HIGHLY  
MIGRATORY SPECIES DIVISION**

**DR. WILLIAM HOGARTH:** Thanks. It's great to be here again with this group. I always feel like I still belong to this group, and I always like to get around as much as I can to talk to you. We have to work together. We as a federal agency cannot do this without the cooperation of the states.

I think, as we move forward, we hope that we can continue to have the working relationship that we do, so it's nice to be here. I just want to take a couple of minutes, and Margo is going to really do most of the presentation.

I guess all of you are aware by now that Margo is now head of the Highly Migratory Division, and we look forward to having Margo. She has been working very hard throughout the agency and has got a lot of

experience, and we think she's the perfect leader for this group.

She has got a lot on her plate, but we are sure that she will work with you as we work through these issues. But, I want to talk a little bit about sharks. Sharks really need protection. The large coastal sharks are overfished and overfishing is occurring.

Sandbar and finetooth sharks are experiencing overfishing. Even some of those sharks that are not overfished now we have concerns about due to their biology. I think all of you know that, so I don't need to talk a lot about that.

The pupping and nursery areas for most all the sharks are located in state waters, so protecting this area is critical to rebuilding these overfished stocks. As I said, we can only do it with a partnership with the states. To make shark management work, we have to have you with us.

Most states have implemented some shark management measures, and the state of North Carolina is probably one of the leaders right now in the implementation of shark regulations. I know Pres is under some real pressure due to the magnitude of the regulations and some of the closed areas and has sent us a petition, which we are looking at very carefully as we move forward.

But, some states don't have a lot of regulations and probably very less from a conservation standpoint, which makes the enforcement very difficult and the rebuilding. We really think that interstate shark planning will allow for all states to work together to resolve these issues and allows us to address the management issues in a comprehensive manner and increase the ability of the states to really work with us from a federal standpoint and to influence

the federal management measures as we move forward.

We think that complementary management would be much better for all of us, the state and federal. We think this is a good time to start development of an Interstate Shark Plan, because we have two new assessments coming up next year. Dusky shark is being done later this year, and then next year we'll be doing the large coastal sharks.

After this, we plan to revisit shark management, so it would be a good time to do an interstate shark plan and we all work together on the regulations. We know you've got the Spiny Dogfish Management Plan established, and now we'd like to see us move forward on the coastal shark management.

I'm here to just ask you to see if we can work together on this plan, and Margo will make the presentation. If there are any questions you have of me, I'm always around for this group. I hope you all realize that, so I look forward to working with you.

**CHAIRMAN AUGUSTINE:** Thank you, Bill, for that welcome to Margo, and congratulations to Margo from us for advancing to the director of that group. Are there any questions directed at Bill?

I would prefer we hold all those until Margo's presentation. Bill said he would be around for a while to answer any follow-on questions. Again, Bill, thank you very much for taking time to come visit with us. Margo, are you ready?

**MS. MARGO SHULTZ-HAGAN:** Well, thank you very much. As Bill said, we were here, I think it was last May, talking about a coastal shark plan and developing an interstate plan. We were requested, at that time, to come back now and present the

federal shark regulations, as well as the benefits that we saw of an interstate plan.

What I've got here is some of the details on the federal regulations. You should have the handout of the presentation as well, so I'm going to try and move fairly quickly through it so that we do have time for discussion, and I know you have other things on the agenda.

As many of you know, sharks are managed by the Secretary of Commerce, and the management range is from Maine to Texas, including the Caribbean. In 1993 the first shark plan came on line and included a broad suite of measures for commercial quotas, permitting, reporting requirements, seasons, recreational bag limits.

Since then we've had a number of assessments as well as a number of changes to management, as we learn more about sharks, that has basically led to more conservative measures in the federal regulations.

For a number of years, we were involved with some litigation, and that has since been resolved. The latest measures were adopted in 2003, and that was the shark amendment, as we call it, and again addressed a very broad range of measures for sharks, commercial and recreational, prohibited species, as well as the time/area closure.

So, what I'm presenting here is, obviously, the regulations on the books as they are now, but those of you familiar with shark management will know that has changed over time.

Right now we have four management units for sharks, the large coastal, small coastal, pelagic and prohibited species groups. The large coastal group, you can see the species here. The primary species in the fisheries,

both commercial and recreational, are sandbar and blacktip.

Other species are caught with varying levels of frequency and are retained or not depending on their market status and prices for them. They are, as their name implies, larger than the small coastal group, but they are more coastal. The primary gears for this are bottom longline, although there is a small directed gillnet fishery that focuses on blacktips as well.

Small coastal sharks are, as their name implies, smaller than the large coastal group, and species are caught frequently in recreational fisheries as well as the directed gillnet fishery.

Pelagic sharks, this group is primarily incidentally caught in pelagic longline fisheries further offshore. Primary species here would be shortfin mako and thresher that are retained. Blue sharks are caught frequently, but there is less of a market value for them, and so they are frequently discarded.

Porbeagle sharks, there had been a small directed fishery for them, but that has primarily been an incidental capture and retention in recent years.

The prohibited species group is currently comprised of nineteen species. Originally five were implemented in 1997, based on concerns on the vulnerability to fishing and stock status, and an additional, I think, fourteen or fifteen in '99 for similar reasons.

These species must be released with a minimum of injury without removing the animal from the water. We do have a recreational target fishery for white sharks that cannot be retained.

The most recent assessment information we have, we have a 2002 assessment for large

coastals, as well as a separate one for small coastals. We also have a recent ICCAT assessment for some of the pelagic species.

For large coastals, the most recent assessment looked at the aggregate, being the complex, as well as separate assessments specifically for sandbar and blacktip. The results for the large coastal complex, when looked at in conjunction with the thresholds for overfishing and being overfished, in the management plan the agency determination was that the complex is overfished with overfishing occurring.

For the primary species assessed individually is a little difference. Sandbar we found not to be overfished, but that overfishing was occurring. Blacktip were considered to be rebuilt with no overfishing and not being considered overfished.

For small coastal, the complex, as well as three of the species in that group, were found to be not overfished without overfishing. The exception here is finetooth. While presently not overfished, overfishing is occurring on this species.

I should note for finetooth that the results for that are a little less certain. There was less available data for that species, and so there's some wider confidence intervals, and this becomes more relevant that I'll talk about in a few minutes.

For pelagics, ICCAT looked at shortfin mako, both North Atlantic and South Atlantic, as well as blue sharks. Blue sharks were thought to be not overfished with no overfishing; whereas, there was a likelihood that shortfin mako had experienced some stock declines, and there was also a possibility of overfishing.

ICCAT is revisiting this assessment, I believe, this year, and right now is looking at it. They did not assess the other species,

although Canada has done a fairly detailed assessment for Porbeagle sharks and has found significant stock declines, about 89 percent from virgin biomass. So actually this species is being considered for their equivalent of the Endangered Species Act.

Getting into the regulations themselves for permits, to fish in federal waters for sharks, you need some sort of permit. Commercially, there's directed and incidental permits with differing levels of catch that can be retained, and so these are limited. They have to be purchased from someone leaving the fishery if you want to enter it. There are also vessel upgrading and ownership restrictions.

For recreational fishing, people would be required to get the HMS angling category. This is a broader category than just sharks, but does include sharks, and there is a no-sale provision here.

There is also a separate category, again HMS, but includes sharks for charter/headboats. This would be required for vessels that take paying passengers. They're for-hire vessels, depending on the combination of whether the vessel also has been issued a commercial limited access permit. There's the differing regulations, depending on the seasons are open and what type of permit, so it's a little more complicated.

In terms of seasons and closures, we operate the fishery on a calendar year, from January through December, but there are also trimesters, as you can see here. For large coastal sharks, because the quota is limited and it's always been reached, we have moved to announcing the season lengths thirty days prior to the fishery opening.

The reason for this was to provide some stability to the fishery. It had been a derby fishery prior to this, with a lot of complaints

that people did not know when the fishery would be closed and had concerns there.

Based on this, we also do not close early, but we also do not extend the season if there is evidence, and there may be available quota, but there is quota overage and underage provisions, so that any accounting the following year in the same season and region is made.

This is not a perfect system by any means. As quota is available, we get pressure to extend it or reopen it, and we have adopted the philosophy that we would make that adjustment the following year.

For small coastals, pelagics, and blue and Porbeagle, the quota has not been constraining, and so we do not announce the season ahead of time, but we do have a provision that we could close it if need be with fourteen days' notice.

These are the actual quotas. And, as you can see, the large coastal is the largest, and these others are species specific with the exception of a public display quota where this is now primarily for aquariums to capture and display sharks. You should also note that there is a trip limit of 4,000 pounds for the large coastal sharks.

The other point here is that landings from state waters are included and counted against the federal quotas in an effort to account and track all sources of mortality.

We have broken out the commercial quotas into different regions. You can see here the Gulf of Mexico, large coastals is about half of the quotas allocated to the Gulf, but about 10 percent of small coastals.

For the South Atlantic, large coastals is most of the rest, and is the vast majority of the small coastal quota. Then these quotas are split evenly among the trimesters, and this is based on historic landing information.

For the North Atlantic, a much smaller degree of the large and small coastals. We do not have a regional allocation at this point for pelagic species, although that quota is split among the trimesters as well.

Some of the other commercial regulations include a landing restriction where sharks cannot be filleted at sea. There is a ban on finning, where 5 percent wet weight is the maximum that the fins can be relative to the dressed carcasses, and all the fins have to be offloaded at the first point of landing.

I should point out, as well, that there is a national ban on finning in federal waters. Congress passed that Act, I believe, in 2000. We also have a number of authorized gears with specific measures for some of the gears in terms of equipment, handling and dehooking requirements primarily for pelagic longlines, but there are some for bottom longline and gillnet as well.

This is the current time/area closures. This is a bottom longline closure. The solid black line is the closure boundary. This is an intent to protect juvenile sandbars and all life stages of dusky sharks. We had originally proposed a larger area; and due to public comment and the desire to really focus on concentrations of where these stages occurred for these species, it is at this point.

This also reflects the only habitat area of particular concern that extends substantially into federal waters. We have, as Bill alluded to, received a petition for rulemaking from the state of North Carolina to amend the boundaries of this time/area closure, as well as the time frame, to match 15 fathoms, which, if you can see, is the red line.

Hopefully, that is clear. It's a zigzag line kind of midway through. It does approach the current boundary in some places, but it's

further inshore in others, and the state of North Carolina has requested that closure be amended to a year-round closure to the 15-fathom line. We took comment through July 11<sup>th</sup> on it and are currently preparing our response to that.

Moving on to the recreational regulations, we both bag limit and size limit restrictions of one shark per vessel per trip with a minimum size of 54 inches or 4.5 feet fork length, with a provision for one Atlantic sharpnose and one bonnethead per person per trip with no minimum size.

These species were broken out because their stock status supported that they could support this, as well as the ability to identify these species. Bonnethead is fairly obvious; and with minimal outreach, we expected that we could identify Atlantic sharpnose.

The only authorized gears are rod and reel and handline. There is also a landing restriction that recreationally heads, fins, and tails must also be attached. This is, again, to address identification concerns.

For charter/headboats, the same recreational bag and size limits apply; also, the same authorized gears. As I mentioned before, depending on the other combination of permits held and commercial seasons on for-hire and not-for-trips, the regulations do vary for this group.

As well, we have regulations for dealers to track landings' information for stock assessments, as well as quota monitoring. They are required to get a permit and only to purchase from federally permitted vessels, unless that vessel fishes exclusively in state waters. They are not supposed to sell or buy sharks outside of open seasons and are also required to report.

Now, as some of you know, if you stayed for the Tuesday meeting, we do have a draft

fishery management plan that would consolidate the current fishery management plan for Atlantic tuna, swordfish and sharks with the separate billfish plan. It's out for public comment right now through the 18<sup>th</sup> of October.

Some of the shark-related proposals include efforts to expand efforts to decrease the mortality of finetooth sharks to address overfishing through increased data collection and coordination. We've sent letters to the councils and commissions asking for information on what fisheries may be catching finetooth sharks in an attempt to identify the sources of mortality.

It's not completely clear where the mortality is, and so we're trying to identify that in order to target management measures appropriately. The management measures we have available to us at this time either we believe would not address overfishing or might actually make the situation worse, because finetooth sharks are an incidental catch. If we were to limit or prohibit that, fishing effort might actually increase with the finetooth just being discarded.

We also have two workshops that are being proposed, one for shark dealers — and, again, this is an effort to increase the species-specific identification of landings. Right now about 20 percent of our landings come in as unclassified, and we identified shark dealers as a limited universe where we could significantly improve identification with some targeted education. These would be proposed to be issued on a three-year basis.

We are also proposing mandatory workshops for longline, which would be including bottom and pelagic vessel owners and operators, on sea turtle and marine mammal handling and release, as well as the gillnet fisheries. These are also proposed to be issued on a three-year basis.

Some of the other regulatory changes would be to require the second dorsal and anal fin on commercially landed fish to be retained through landing. Again, this is to address identification concerns. Handlines would be required to be attached to the vessel, as well as a recreational permit condition.

What this would mean is that as a condition of getting the federal angling category permit, you agree to abide by federal regulations regardless of where you're fishing.

This matches the commercial requirement that is on the books right now that as a condition of getting the commercial federal permit, you agree to abide by federal regulations, regardless of where you're fishing. This would be in attempts to address some of the enforcement concerns that we have.

Some of the other things going on, as I mentioned, the North Carolina petition for rulemaking on the current time/area closure, and we are preparing our draft response to that.

We have also been looking at the various state regulations, and we will be sending letters to the states of New Jersey, Virginia, Georgia, Florida and Mississippi requesting that they review their state shark regulations and consider making them complementary.

These states were identified because their regulations appear to be the most different and are posing the most problems for rebuilding and enforcement. We have significant issues, particularly with recreational differences in the limits, because enforcement of the regulations is primarily done at the dock.

When there's no way to tell where a fish was caught, it's extremely difficult for

enforcement agents to determine which limits would apply when those limits vary between state and federal regulations. We looked at those particularly.

As I also mentioned, we have upcoming stock assessments. The dusky shark assessment should be released at the end of this year. The large coastal assessment, which we will be following a SEDAR-like process, would be started this fall, and we expect to be completed in 2006.

The small coastal would start in 2006 and be completed in 2007. The FMP that's currently out for public comment, we expect to be implemented in the spring of 2006. Then looking forward, based on the assessments and some other information, we anticipate a comprehensive revisiting of shark management measures after those assessments.

The permit reform here, as some of you may know, our permit combinations and requirements have gotten fairly complex over the years as changes have been made, and so a comprehensive review is something that we are hoping to do.

One of the other things that we were also requested to do was identify those measures that we thought would be key for an interstate plan and what some of the benefits we felt would of an interstate plan.

Some of the key measures for our perspective on enforcement as well as rebuilding would be coordinating seasons and closures in the commercial fishery, as well as establishing consistent or complementary trip limits for large coastal sharks; and for the recreational fishery, getting complementary minimum size and bag limits, again to increase enforcement and greatly facilitate rebuilding.

For prohibitions, we are looking for complementary measures on the species that would be prohibited. Some states have some of the species that the federal government prohibits; other states do not have any at all. This, again, compromises our ability to rebuild the stocks and have sustainable fisheries as well as to enforce those regulations.

We are then also looking for complementary measures for dealers in order to maintain high-quality assessments and reporting mechanisms. One of the key things that we feel at this point is important are the states who are clearly our partners.

And as Bill mentioned, the nursery grounds and pupping grounds for many, many shark species are in state waters. So, it's critical -- a lot of modeling has shown that these life stages of the juveniles and sub-adults are key to rebuilding, and so the states clearly are our partners.

We feel very strongly that having complementary or compatible regulations is very important, and we feel that now is a good time to start the development of an interstate plan. We have a number of assessments coming up and we'll be acting on them in the next couple of years.

It would be great if we could move forward together on what those measures would be. Also, our vision would be that it would provide a forum for the different states to discuss the issues and resolve the issues that they have in a way that we can respond to.

Different states have different issues, and dealing with them and then trying to address regulations on a state-by-state basis would be very complicated and very difficult to enforce. We have been able to move to at least a regional approach in the commercial regulations, and our hope is that we can also

do that recreational regulations and prohibited species.

We feel that now is the time, and the commission did acknowledge the need for an interstate plan by establishing the Spiny Dogfish and Coastal Shark Board. Spiny dogfish, I won't say it's done, but it's at least not as high a priority.

We're in a position now to move forward as well and so we would like to see the commission move forward. In the meantime, those states that do have different regulations, since it would be some time before a commission plan be on line, we would request that they review their regulations and see what they could do as well.

That's all I have. You will see in the handout there is some information on the stock assessments, some of the detailed information, as well as some landings' information; and, two examples of some of the information we have on essential fish habitat.

The examples were for sandbar and dusky sharks. If you want the Draft FMP, we will certainly get it to you. Some of you probably already have it or will be getting it. And as I said, the comment period is through the 18<sup>th</sup> of October. At this point, I will hand it over.

**CHAIRMAN AUGUSTINE:** Thank you, Margo, for that very detailed, although brief, representation of where we are with the federal plan and some recommendations as to where we, the commission, should consider looking to be complementary in our FMP efforts. Are there any questions for Margo at this point in time? Dr. Pierce.

**DR. DAVID PIERCE:** Well, more of a comment, Mr. Chairman. Margo, you said that now is the time for us to move forward

in a complementary manner to jointly manage these important coastal shark species, and I couldn't agree more.

Actually, I had hoped that we would have moved forward together on these shark conservation issues years ago. Unfortunately, the board is spiny dogfish and coastal shark, and we have been distracted for a few years by spiny dogfish. As a consequence of that, we haven't put the emphasis where I personally feel it needs to have been placed on some these important other shark species.

So, you'll definitely see for Massachusetts a great deal of cooperation and assistance with regard to shark conservation issues. Relative to that point, I just wanted to highlight one inaccuracy in the table that's attached to the memo to the commission signed by Bill Hogarth.

That's the one that describes the concern of the Service about the finetooth shark, and that is in the table showing the different state regulations. In Massachusetts it notes that shark regulations in Massachusetts apply to spiny dogfish, and we have prohibition species and some additional regulations as well.

I just highlight so that you will make an effort to work with me and correct that so that the table correctly describes what we're doing in Massachusetts for shark species.

**CHAIRMAN AUGUSTINE:** Thank you, Dr. Pierce. Mr. King.

**MR. HOWARD KING:** Yes, thank you, two questions. The first one is what is bandit gear?

**MS. SHULTZ-HAGAN:** Bandit gear is basically I think rod and reel or a handline attached to an electric reel.

**MR. KING:** Okay. And, you mentioned consistent regulations, and Maryland is consistent, but are anglers and harvesters generally compliant; and if they're not, is it because of differing regulations, in your view?

**MS. SHULTZ-HAGAN:** The information that we have is there are a substantial number of trips coming in through the reporting systems where the number of sharks landed exceeds the federal bag limit, as well as exceeding the federal minimum size, to the point where the 2002 assessment indicated that if those regulations were followed, it would go a very long way towards rebuilding.

Now, it is difficult, through some of these surveys, to determine whether the anglers were fishing in state waters or federal waters, to know whether it actually was in compliance with regulations or not. So, this would be a good example of where the differences in regulations make it difficult to determine what actually is happening and also compromise the ability for rebuilding and sustainable fisheries.

**CHAIRMAN AUGUSTINE:** Thank you. Mr. Freeman.

**MR. FREEMAN:** Thank you, Mr. Chairman, just a couple of points. Historically, New Jersey has had a very active shark fishery, but it started out being a recreational fishery. It really was one which gave small boat anglers an opportunity to catch a fairly large fish. This is going back for twenty years or more.

When the regulations were put in place by the Service, we indicated a number of concerns we had, and essentially those concerns were not addressed, in our opinion. One of the things we find, and continue to find, from the recreational standpoint is that

there still is a fairly important recreational fishery for sharks.

This is, again, a small boat fishery. In order to utilize those sharks, the fishermen historically have essentially removed the head and tail and fins and just kept the trunks or the trunks of the fish and put them in coolers in order to preserve them for food.

Most of these boats don't have the ability for a large fish-holding capacity. So, our regulations reflect the trunk length as well as the total length, which is different than the federal regulations.

What you seem to be asking is that we adopt the federal regulations; and in so doing, we have some major problems. We need to sit and talk about that because I suspect other states have the same problem.

If you're going to require total length of fish and that fish to be landed with the head on, then it could very well be that you're not going to have a food product. You're going to bring in a fish that you may put up on the dock, but it won't be edible. So, there needs to be thought given to historically how that fishery operates, and to date that hasn't occurred.

Another point, historically, the in-shore fishery, again, recreational fishery, has been primarily concentrating on sandbars and duskys. There is often a very -- it's very difficult to determine the identity of those two. They're usually combined as brown sharks and landed as such.

It may be very useful to have brochures produced by the Service that could be distributed to anglers for correct identification. I notice now that duskys are prohibited, and that used to be one of the most common species taken in New York and New Jersey and Delaware.

It could well be that fishermen simply don't know the difference between a dusky and a sandbar; and if that identification is well known, it could certainly reduce the incidental mortality of duskys. So there's some things that certainly we need to work on.

**CHAIRMAN AUGUSTINE:** Thank you, Mr. Freeman. Margo, would you like to respond?

**MS. SHULTZ-HAGAN:** Yes. Certainly, we are aware of some of New Jersey's comments and concerns and look forward to being able to work with you on that. As far as the differentiation between dusky and sandbar sharks, it is difficult. Even shark experts sometimes have to look twice.

That is one of the reasons that our limits are shark, you know, one shark and not trying to get too species specific for that reason. I would like also to note that we do have an identification guide that's available. It's not free, but it is available from Rhode Island Sea Grant that does have pictures that help distinguish them and have some comparative information to distinguish between many of the similar species beyond just sandbar and dusky.

I believe the Narragansett Lab has a leaflet on distinguishing between those species specifically. Maybe we can get that to you.

**CHAIRMAN AUGUSTINE:** Thank you, Mr. Smith.

**MR. ERIC SMITH:** Thank you, Mr. Chairman. I was wrapped around a different issue in the presentation, and I hope somebody just didn't ask and answer this or I'll be just totally lost.

I noticed in the presentation -- and I think if I understand it right -- there's a 5 percent -- Congress has a ban on finning, yet it seems

like your regulations have a 5 percent bycatch limit on fins, if I read the slide correctly.

And, the fact that finning is an incidental limit, yet finning is an intentional activity. I mean, it has to happen because of a deliberate action as opposed to incidental catch that comes up. I wonder if I read the slide correctly, why we even have a 5 percent incidental limit?

**MS. SHULTZ-HAGAN:** Actually, finning in its entirety is banned. You cannot fin a shark. What that 5 percent is, is a landing determination where the fishermen are allowed to dress the shark at sea, to remove the fins from the carcass, and that 5 percent is at dockside, the fins can account for no more than 5 percent. So, it's not that it's a bycatch allowance for finning. It's more of a commercial processing provision.

**MR. SMITH:** So the carcasses are present, the fins are present, the fins can't be more than 5 percent of the -- yes, thank you.

**CHAIRMAN AUGUSTINE:** Thank you. Any other questions from the board? Yes, Mr. Boyles.

**MR. ROBERT BOYLES:** Thank you, Mr. Chairman, not a question. I just want to let you know that South Carolina has done some extensive work on some identification keys that I'd be happy to provide to the board at our next meeting. I'll work with you and we'll bring some stuff, a box full of these things, and we'll be happy to share that.

**CHAIRMAN AUGUSTINE:** Wonderful, that will be very much appreciated. Any further comments from the board members? Bill, would you like to have any final comments at this moment?

## PUBLIC COMMENT

All right, I'd like to go to the audience for comments based on the presentation. Ms. Fordham.

**MS. SONJA FORDHAM:** Good morning. Sonja Fordham, The Ocean Conservancy. I can't pass up this opportunity. We serve on the Highly Migratory Species Advisory Panel, so we're keenly interested in this FMP and the amendment.

We strongly support the mandatory workshops for ID and training and proposed refinements for shark finning to improve enforcement of that ban, as well as stopping, not just addressing but stopping overfishing of finetooth sharks.

Overall, though, I have to say that we're deeply disappointed in the proposed amendment given the repeated requests by the scientific and conservation communities for greater attention and greater protection for especially vulnerable or depleted species.

In particular, stopping overfishing of the large coastal shark complex as a whole is still a very big problem in our minds. We're particularly concerned about hammerhead sharks. Two species have just been proposed as endangered under the IUCN red list by the shark specialists group. We're particularly upset about no attention to Porbeagle sharks -- yes.

**CHAIRMAN AUGUSTINE:** Sonja, this is really not the time for all of the dialogue that goes on with this. We're really trying to get responses and questions, and you're welcome to come back and do this later, but --

**MS. FORDHAM:** Later today?

**MR. AUGUSTINE:** -- we've got a process to follow. How much more do you have, three pages, five pages?

**MS. FORDHAM:** No, I only have one page.

**CHAIRMAN AUGUSTINE:** Okay, go fast.

**MS. FORDHAM:** I'm just hitting the highlights.

**CHAIRMAN AUGUSTINE:** This isn't the public forum for it.

**MS. FORDHAM:** Porbeagle sharks is proposed as endangered by Canada. We wanted that quota to be zeroed out. Deep water sharks are particularly vulnerable. We want to prevent those fisheries from developing.

Having said that, we're very pleased that the ASMFC and NMFS is moving forward with this long overdue and very important process to align the plans. We support Margo's request that the states do what they can in the meantime to bring their regulations in line with the federal plan; or, if possible, to make them stronger. Of course, we would appreciate stronger measures for Porbeagles, hammerheads and deep water sharks. Thank you very much.

**CHAIRMAN AUGUSTINE:** Thank you, Sonja, you got it all in. We appreciate it. Mr. Hemilwright, please.

**MR. DEWEY HEMILWRIGHT:** My name is Dewey Hemilwright, and I'm a commercial fisherman from North Carolina. I'm also a shark fisherman that's been very active in this process. A lot of my livelihood depends on it.

I had a couple of questions for Margo there about the -- what is the percentage of the

state landings that come off the federal quota?

**MS. SHULTZ-HAGAN:** You're talking about for quota-monitoring purposes or --

**MR. HEMILWRIGHT:** Yes, just for any purpose. I mean, what's the percentage of the state's landing of the federal quota?

**MS. SHULTZ-HAGAN:** Well, it varies by state, and so an overall percentage, I don't have that at this point. Again, it varies by state, but what I will say is that when we do kind of a comparison of what we get from state landings relative to the dealers, what we see is a higher volume being reported by state dealers; whereas, the higher degree of species specificity coming from the logbooks and the dealers.

So, there does appear to be a higher percentage coming in from some of the state reporting, so there is a percentage there, but we can work on getting that percentage. I imagine that would be of interest to the commission as well.

**MR. HEMILWRIGHT:** Another thing, what would be the most important time to be not fishing, because it seems like there's some states that are fishing and seeing the highest landings, according to your data, the months of May and June? Would that be probably one of the best times not to be fishing for pupping seasons, and do you currently know what states have the magnitude of landings during that time?

**MS. SHULTZ-HAGAN:** Again, I would have to get back to you to that level of specificity and time frames. For pupping and nursery grounds, it does vary some by species. Spring is generally thought to be pupping season, and so fishing during that time would be an appropriate time to not fish.

But, you know, neonates and juveniles are present in those areas, especially the first couple of years, sometimes year around, certainly throughout the summer. So, those are key areas for most of the year, if not all of the year for some of those life stages.

**MR. HEMILWRIGHT:** One other thing about your presentation, I was kind of troubled here by the way we're going to have to leave -- your preferred alternative to leave shark fins on a couple of the sharks.

Presently the way we go about, or I do, looking at my guesstimation of how much my 4,000 pounds trip limit is, is by the amount of sharks or amount of fins in a basket or toke. If I have to start leaving fins on a shark, I mean, I'm going to be totally rocket scientist type figuring out what my weight will be.

I was wondering why the need to do that, because it's going to mess up a lot of fishermen who do it that way, look at your tote or your poundage of fins and guesstimate and try to get an idea because you're only allowed a 4,000 pound trip limit, and you have allowed no tolerance for exceeding that.

One other thing, I think that the guides you have put out by Sea Grant, I think that every state people and all your identification, there is a big problem. This is the place to address it with the states and their idea of the sharks and what they give to the federal government.

I mean, it's pathetic. I think that guide and some interaction in looking at the numbers would definitely help if this crowd is really serious about helping National Marine Fisheries with their shark management plan on identification.

It's killing me as a federally permitted fisherman to look at these numbers, and

when you go back and look at the large coastal unclassified, here in 2005, you have almost 800,000 pounds of unclassified sharks. Is it that bad that we can't identify the sharks in the states? That's just my comment, thank you.

**CHAIRMAN AUGUSTINE:** Thank you very much. Margo, would you respond?

**MS. SHULTZ-HAGAN:** I think you're talking about the second dorsal and anal fin being retained. That was to address some of the identification issues. Fin placement and color on some species is key to identification. As far as the impact of that on the 5 percent ratio, those are some of the smaller fins, but that is a good comment. That is something we should consider.

**MR. HEMILWRIGHT:** It's not the 5 percent. It's the idea of looking in your tote; and if you take that dorsal fin, I'm not for sure a percentage of what it's going to be, but it could 25 percent of the total of the four fins, and all of a sudden all them fins are sitting in the box and your package and all like that, and you look up there and you're trying to figure out, you know, what it is, I think it's going to be real hard for us.

We don't have scales on the boats, and it's real hard to do that. You have them put a tolerance in there of -- you know, all these sharks are increasing that we're catching -- the large coastals, the couple of species we catch, you haven't put no tolerance in there for overages or anything like that, so I think it's going to be trouble for us fishermen.

**CHAIRMAN AUGUSTINE:** Excellent points, thank you very much. Are there any other comments from the audience? Any further comments from the board? Well, thank you very much. What we will do is, again, thank Dr. Hogarth and Margo for having come to be available and talk with us

and present their ideas and suggestions as to which way we go.

With that, if you would all want to, we can take a ten-minute break, and we're going to go right into the rest of the agenda; or, we will go on with the agenda. Go through it? Okay, we'll go through it, then.

With your indulgence, Board, we have talked about the possibility of moving what would have been Item 4 to come after the white paper, which was Item 6. Is there any objection to that? Seeing none, we'll move forward, so, Ruth, why don't you go forward with the white paper, and we'll go from there.

## **REVIEW OF COASTAL SHARKS WHITE PAPER**

**MS. RUTH CHRISTIANSEN:** All right, thank you, Mr. Chairman. My presentation today is basically just going to focus on what the development of a possible interstate FMP for Atlantic coastal sharks will mean for the states and for the commission.

As I'm sure everyone is aware, in May 2005 ASMFC received a letter from NMFS requesting initiation of the development of an interstate FMP for Atlantic coastal sharks. ASMFC also received an additional letter from NMFS seeking assistance in addressing issues specifically related to finetooth shark management.

As was requested at the commission's spring meeting, a white paper was drafted regarding ASMFC's development of a coastal shark FMP. The contents of this white paper include background information on federal and state shark management programs, status of stocks, potential management issues to be addressed, a preliminary time line and budget, and alternatives to an FMP development.

Now, very briefly, when compared with current federal coastal shark fishery regulations, I found that Maine, New Hampshire and Rhode Island lack commercial and recreational shark fishery regulations.

Massachusetts, Connecticut, New York, Maryland and North Carolina have shark fishery regulations more to that of the federal program. New Jersey, Delaware, Virginia, South Carolina, Georgia and Florida have differing shark fishery regulations.

This table, which I'm just going to blow through very quickly, is Table Number 5, and it can be found on Pages 10 and 11 in your white paper. I drafted this table to get an idea of the types of shark species found in coastal waters and the ranges of those species.

This is the focus table. This one is not included in the white paper, but it gives a summary of the minimum number of shark species found off of each state's coast, including the number of federally prohibited shark species found off the state's coast.

To develop a full interstate coastal shark FMP, it's about an 18-month to 2-year process, the details of which can be found on Pages 17 and 18 of the white paper. It this was the determined course of action to take, the FMP would not be complete until some time in 2007 and would end up costing approximately \$32,500.

This is slightly different from the figure that is in the white paper. At the last minute, we realized that we forgot to include two AP meetings. This budget and time line assumes the necessary stock assessments for coastal sharks are completed, using the existing federal process.

In conclusion, it may be possible for the commission to forego the development of an interstate coastal shark FMP by simply fostering coordination among states to either mirror federal regulations or to develop complementary coastal shark management measures. Thank you.

**CHAIRMAN AUGUSTINE:** That was good, thank you. Any questions from the board? Mr. Goldman.

**MR. ED GOLDMAN:** I had a question on one of the tables. On Page 12, when you're looking at the dusky shark, it says it was prohibited from commercial fishing in June 2000, and I notice the catches are quite substantially diminished, but there's still an 1884, 16367 and 23,288.

I was wondering if that was a bycatch because I noticed in some of the other fisheries that they went right down to zero, but for some reason the dusky didn't. Would that be an identification problem again?

**CHAIRMAN AUGUSTINE:** Margo, would you want to respond to that, or Ruth?

**MS. SHULTZ-HAGAN:** Well, partially through the year 2000 is when that prohibition went through, so that year you could expect some of those landings could have been prior to the prohibition. You can see that the magnitude did drop off, but, yes, we do continue to reported landings of dusky sharks.

**MR. GOLDMAN:** Part 2 of that question, which is related, on the recreational harvest I noticed the same thing, 1999 was the year the regulations were put in; and, like, 2001, the catch was bigger than before the regulations went into place, so I'm assuming, again, that might be an identification problem?

**MS. SHULTZ-HAGAN:** And an enforcement problem.

**CHAIRMAN AUGUSTINE:** Thank you, Mr. Goldman. Mr. LaPointe.

**MR. GEORGE LAPOINTE:** Well, you forced me to come up with a question. Mine isn't about the information in the presentation; it's about what we do. I think I voiced this the last time. I certainly voiced this when I was a staff member about spiny dogfish.

It is how do we fit this in with everything else? I think that's the question before us. The need for complementary measures I don't disagree with. There's information in the document we could probably all disagree with, but it's not worth our time this morning.

The question before us -- and I'd be really interested in hearing from other board members -- is what does this do to our workload both from the commission's perspective, which was outlined, and from the perspective of our states?

Maine doesn't have much of a coastal shark fishery, but you can rest assured we want to watch to make sure that if we did an FMP, it doesn't burden us too much. So, I'm concerned about that, so I'm really interested in what other board members think about the utility of an FMP and moving forward.

**CHAIRMAN AUGUSTINE:** Good question. First, I'd go to Bob and staff and what would be your perception as to what the burden would be on the staff load?

**MR. ROBERT E. BEAL:** As far as staff load, drafting documents and scheduling meetings and going through our normal FMP development process, I think the existing staff that we have right now, we're

fully staffed in the ISFMP Department. I think we can absorb that work.

I think George's question or part of George's question is what does this mean to the state scientists, the state individuals that have to be members of the plan development team and the resources. The major resource that the states would have to put into this is time of their technical staff that are spread pretty thin right now.

I think it's kind of a two-part question; can we handle it in house at the commission, and can all the states handle the staffing responsibilities or obligations that would come up in developing this document.

**CHAIRMAN AUGUSTINE:** Thank you for that. It sounds like the staff could handle it, but now let's get back to the states; and if any of the state directors would like to speak to this, I think Dr. Pierce made a note that he would like to speak to it.

**DR. PIERCE:** Well, in Massachusetts I think we have an advantage over the other states in that we have someone on staff who devotes a very significant portion of his time to shark research, and he's involved quite a bit in advising us on issues that relate to shark management.

So, we certainly will be committing his time to assist in a major way with the development of this plan, providing input regarding research needs as well as, of course, what sorts of management strategies might then need to be considered by the state.

So, we will be a major participant in this initiative, and I wanted to make everyone aware of that fact. And while I've got the microphone, Mr. Chairman, just a quick point regarding the budget that was shown on the board, and it's also depicted on Page 18.

I wonder if there's a need for us to include some funds for advisory panel meetings? We have PDT; we have technical committee meetings; we have public hearings, but nothing set aside for an advisory panel. I suspect that will be important; therefore, if it hasn't factored in, it probably should be.

**MS. CHRISTIANSEN:** It has been factored in, actually, at the very last minute, so it wasn't included in the white paper. I showed it in the presentation. It bumps up the budget about another \$10,000.

**CHAIRMAN AUGUSTINE:** Thank you. Mr. Munden.

**MR. RED MUNDEN:** Thank you, Mr. Chairman. North Carolina supports the development of an interstate fisheries management plan for coastal sharks because of our involvement in the fisheries. We do have staff members that would be involved as members of the PDT.

We also would support the development of a stand-alone plan rather than amending the Spiny Dogfish Plan. You may recall at our last Mid-Atlantic Council meeting, there was some discussion about bringing in smooth dogfish into the Spiny Dogfish Plan at some point in the future.

The Spiny Dogfish Plan on the council level and the commission level is still a work in progress. The stocks have not rebuilt, and we are in the process right now of amending the plan to go with multi-year specifications, and that's also on the table for this meeting.

We would feel very comfortable with the development of a plan for coastal sharks, and we would support the development of an independent, stand-alone plan as well as a board specifically for coastal sharks.

**CHAIRMAN AUGUSTINE:** Thank you for that clarification. Mr. Freeman, would you like to speak to the subject?

**MR. FREEMAN:** Well, I'm somewhat apprehensive in the fact that we do have specific ways the fishery has been conducted far beyond when the feds got involved in the system, and we made these desires known or these conditions known.

They were sort of, in our opinion, ignored, and we don't want to be put in the position of simply having the federal plan now dictate what we do or don't do and how we deal with handling our fish for food purposes.

If this is going to be a situation where we're just going to be asked to adopt the federal regulations, I think we still have the same problem we did originally.

**CHAIRMAN AUGUSTINE:** So, with that comment, would you suggest, then, if we do go forward with the development of a plan, it should be a stand-alone?

**MR. FREEMAN:** That would probably make sense.

**CHAIRMAN AUGUSTINE:** Okay, thank you for that. Any other comments? Dr. Gibson.

**DR. MARK GIBSON:** I'll answer George's question directly about burdens to a state. I'm not ready to have staff participate in the development of an FMP for sharks. I have vacancies. I don't have people who specialize in that, and I was more intrigued by the second alternative that Ruth presented, which was just mirroring federal regulations.

I'm much more likely to embrace that at this point than jump into something else that I

don't have the people to throw into the process.

**CHAIRMAN AUGUSTINE:** Thank you. Mr. Colvin, would you care to make a comment on it? Okay, thank you. The board has all commented. Any further comments from the board? If not, I'll go to the public.

**MR. HEMILWRIGHT:** Again, my name is Dewey Hemilwright. This is something that's real important as far as the federal management of the sharks. I think a couple of recommendations here — and I don't have them written down, but I think a way that you can do this stuff is if every state went and looked at their landings and seen how they were identified — and I'm going to pick on Virginia a little bit today just because I happen to have their landings.

And the reasons why I did that, I got this from Mr. Pride, a representative — Bob Pride at an HMS meeting. And in 2003 — I think a gentleman over there asked about the dusky shark and about the landings in 2003 was 16,000 pounds according to the feds.

Well, the state of Virginia had down — and these were passed to me from Mr. Pride, that he called the office or called there and got these landings — they're saying they caught 13,000 pounds of duskys.

There was a lot of this stuff in state waters that the identification level that I think that you all are going to have to — you know, you might do a plan that might mirror them, but there's a lot of questions that's got to be asked here. I mean, if you all just want to do something and throw it on paper, hey, that's probably fine, but, I mean, there's a lot of misidentification and a lot of unclassified sharks.

For instance, Virginia had 275,000 pounds of unclassified sharks in 2003. I mean,

when you have this much of unclassified sharks, what good is it going to do if you don't know what shark you're catching if you make a management plan? It's pretty much useless

And there's not a lot of states that are major players in the shark landings. When you look at the numbers, I don't know what you'd call a major player, and, you know, maybe 30 or 40,000 pounds.

I don't know, you know, there's some states that probably don't catch a whole bunch, but if the states went back and looked at their data and they say for the last, since '99, this is what we caught in sharks. All right, well, where did you catch these sharks, what gear did you catch them with, and what time of the year did you catch them?

And that's something that maybe your trip ticket programs -- I don't know how it's done -- would show that, and then you can go from there to see, well, you know, your identification level. I don't know if you need a management plan, but there's some real issues.

And one thing, when you look at these landings, the time of the year that they come -- you know, May and June is a critical time for your pupping time, and your juveniles, and if you've got, you know, a lot of landings during that time of year, there's probably -- you know, it probably ain't mirroring the federal plan, you know, because here the feds shut down the federal waters for me for seven months, from January to July, and then fish swim right to Virginia.

You've got a gillnet fishery going on in Virginia in the state waters, and in 2003 you got 275,000 pounds of unclassified sharks.

So, I mean, there's a ball of worms here that either you do nothing; or if you do step into

it, you better be ready to roll your sleeves up and do something, because, I mean, there's people's livelihoods that, you know, depend on this at the state level. Thank you.

**CHAIRMAN AUGUSTINE:** Thank you. It sounds like an identification problem of education as opposed to a management problem. Mr. LaPointe, would you like to speak?

**MR. LAPOINTE:** Well, the issue this gentleman raised is a legitimate one, and it's one that has to be addressed regardless of the path we go, but what we're discussing here is not the specifics of what's in a plan, but how we move forward.

You know, from Maine's perspective, we don't have technical staff to dedicate to this, and I'm not that worried about it because we're a small player. My worry is that plan become too cumbersome for the small player. You know, I want to keep de minimis de minimis at the right levels.

I mean, that's our concern. But, the board's perspective is do we do that through complementary regulations or do we need an FMP? Then the other question that Red raised was -- and I get the sense from a lot of people that they think an FMP is the way to go.

The other question is do we need a separate board? You know, should we just make this the shark board with two FMP's under it, or do we need a coastal shark board? I guess I kind of favor just making it a shark board just because of -- you know, look at the meeting mechanics.

We start at eight in the morning and we go until five, we went until 7:30 last night, and trying to pack in another two-hour slot doesn't make sense to me at this point.

**CHAIRMAN AUGUSTINE:** Excellent points. Specifically to George's points and concerns, I think we should address the basic fact; do we want to go with a complementary plan or do we want to go with an FMP? Let's take some comments on that.

I think the nuts and bolts of the whole meeting and the white paper and the effort that we're trying to put into this to direct to where we're going, that's the crux of it, so let's make a hard decision.

You've already spoken to the fact that you think we should do it one way, Dr. Gibson another way, and so on. So, how about some comments from other board members as to what would be your preference based on what we're able to do? Mr. Adler.

**MR. WILLIAM A. ADLER:** Thank you, Mr. Chairman. I've noticed in several of the plans that we do where we have a federal plan and we do a plan, and then we end up, well, the federal plan is different than ours, so we should adjust to them.

So, I wonder if we do our own plan and the feds are going along with their plan, do we get ourselves into this same mess and we end up that our plan has just got to be adjusted so we're the same as them; otherwise, they're going to overrule us, et cetera, et cetera? We have seen this in a number of cases. Are we getting ourselves into this?

**CHAIRMAN AUGUSTINE:** Margo.

**MS. SHULTZ-HAGAN:** I think the comment you made is similar to the one that Bruce raised earlier. While this would be uncharted territory where a secretarial plan has not been developed in conjunction with the commission plan previously, it's not my vision that we would simply be asking you to do federal regulations.

There are considerable differences among the regions, and I think we would want to look together at what management measures in the states would mean versus what federal measures would be. I don't view that we just want you to do what we've been doing. If that was the case, that's what we would have asked for.

I think there's opportunities to change the federal regulations. You know, if we had assurance and complementary measures -- and whatever complementary means I think would be something we would work out together.

**CHAIRMAN AUGUSTINE:** Thank you. In response to that, Mr. Adler?

**MR. ADLER:** Yes. It's just that in the past what happened when we did one dogfish, for instance, plan, and it came out -- for whatever reason, it came out different than the federal thing. Then it was, well, who is ruling here?

And, the states' plan said one thing; the federal plan said, "Well, we don't agree with that, and we're going to basically trump you" in various ways. I just didn't want to get into that mess again.

**CHAIRMAN AUGUSTINE:** Thank you, Mr. Adler. Dr. Pierce.

**DR. PIERCE:** I would definitely support having a separate FMP for the sharks, separate, of course, from spiny dogfish and smooth dogfish, if we are going in that direction. I think it makes a lot of sense to have a separate FMP.

I think we do injustice to management of the sharks if we just go with implementing complementary regulations. I don't think that involves or entails a significant

commitment by the states in the direction of shark conservation.

I suspect there will be many different things, unique things, that the individual states could do apart from the federal government to improve shark management. So, a separate FMP, I believe, is the way to go for a number of very good reasons.

In addition, I also support, as earlier indicated by a few other commission members, a separate board for coastal sharks, and that way we can give it the attention that it needs. I suspect in the near future we will be doing something else on spiny dogfish, perhaps in the context of ecosystem-based management consistent with what the councils are doing.

That's going to take time, and I don't want that time to be draining resources in time and effort away from coastal shark management. So, two separate boards and a separate FMP for these sharks.

**CHAIRMAN AUGUSTINE:** Thank you. Mr. LaPointe.

**MR. LAPOINTE:** I have a motion, Mr. Chairman. I want to get this going. **The motion would be that the commission initiate development of a coastal shark FMP.**

**CHAIRMAN AUGUSTINE:** Motion by Mr. LaPointe; seconded by Mr. Colvin.

**MR. LAPOINTE:** And to get the discussion started, that it be done under the auspices of this board. And because there are divergent views, if people don't like that, they should move to amend. I just think the various points have been laid out, and so we just need get on with it.

**CHAIRMAN AUGUSTINE:** Thank you, Mr. LaPointe. To that motion, Bob, please.

**MR. BEAL:** You can Mr. Colvin, the seconder, talk, and then I have a question for the maker of the motion.

**CHAIRMAN AUGUSTINE:** Mr. Colvin.

**MR. COLVIN:** I seconded the motion because I support the content of the motion. I think it's a good idea to get one up here to focus discussion, anyway.

I share some of the same viewpoints that Mark Gibson expressed earlier about state resources and what we can contribute. Nonetheless, I think we'd be better off assembling such resources as the states can provide, recognizing that some of us won't be able to provide as much as others to a development and active participation of this management program, and so be it.

I still think, in the long run, we'd be better off with a management plan that reflects that, and that those states that have resources to contribute and issues that they wish to address more specifically will contribute in proportion to their level of concern and need, and I think that will make it happen.

I also happen to agree with George's viewpoint on lumping rather than splitting at the board level. I think the more boards we have, the more awkward and cumbersome our meetings and our scheduling is going to become. I think we can do this in this board.

**CHAIRMAN AUGUSTINE:** Thank you, Mr. Colvin. Bob, it's back to you.

**MR. BEAL:** Mine is a question of process or timing, George. The action plan for this calendar year doesn't have the initiation of a coastal shark FMP in that document. Do you envision this as being included in next year's action plan?

We could pull this board back together at the annual meeting and initiate the discussion on what the content of the document should look like, and that doesn't have any resource implications directly. I just wanted to make sure we're all on the same page as far as time line.

**MR. LAPOINTE:** The motion also had that it under the auspices of this board, so I am a lumper as well. That was part of the motion. Clearly, there are other views held about that.

If we could have a discussion at the annual meeting about how to kick this off and fits in with the revision of action plan, that's fine with me. I am less concerned — one meeting isn't going to make a difference, but if that's a good way to kick it off, I'm all for that, too. So, do we need some corrective language? You just got the clarification, that's good.

**CHAIRMAN AUGUSTINE:** Thank you. Mr. Ritchie White, did you still want to follow up?

**MR. G. RITCHIE WHITE:** Thank you, Mr. Chairman. The importance that the Service is obviously placing on this issue and all the discussion around the table about the lack of resources that the states have, maybe it will be possible for the Service to try to find some financial resources to help the states out on this issue.

**CHAIRMAN AUGUSTINE:** Mr. Munden.

**MR. MUNDEN:** Thank you, Mr. Chairman. The state of North Carolina will support this motion. The point I wanted to make before Mr. LaPointe put the motion on the board ties back into a comment that he made earlier about Maine wishing to retain its de minimis status.

My recollection relative to the plans that I'm familiar with is that the federal plans do not have a provision for de minimis. I think the only way that the states will be allowed to have the de minimis option would be through an interstate fisheries management plan.

We do support this motion because I think it will bring consistency into the state fisheries and eliminate some of the problems that we currently have that have been identified by the staff, where some states have regulations that mirror the federal regulations, and other states have things in place that do not support the federal regulations. So, we support the motion, Mr. Chairman.

**CHAIRMAN AUGUSTINE:** Thank you very much for that insight. Mr. Pope.

**MR. GIL POPE:** I agree that we should have our own plan, but as complicated as this thing could be, with all the different species that I saw in there that we're trying to take care of, I think we need to do this in a matter of priorities, take it over time and not take it in big chunks here, take it in very small, measured chunks so that we don't use up a lot of resources and don't use up a lot of time, and find out what the priorities are from the federal government as to what they feel needs to be taken care of right away and go at it from that point of view.

**CHAIRMAN AUGUSTINE:** Good point, Mr. Pope. Dr. Laney.

**DR. WILSON LANEY:** Two points, Mr. Chairman. Relative to the question of whether you split the board or not, I would note that there are already three boards that handle multiple species. The South Atlantic State-Federal Board, the Scup, Summer Flounder and Black Sea Board, and Shad and River Herring Board all handle multiple species.

A second point -- and I'll defer for further details to my colleagues, Dr. Mears and Margo, on this, but the fact that you already have a federal plan in existence, and a tremendous amount of information on these animals has already been pulled together should greatly facilitate preparation of a plan by the commission should you choose to go that route.

**CHAIRMAN AUGUSTINE:** Excellent points. John Duren.

**MR. JOHN DUREN:** Mr. Chairman, assuming that we vote in favor of this motion to begin development of a plan, there are a lot of issues that have been discussed that create complexity. I think for us to agree on a process to develop the plan today would be pretty difficult.

I would recommend we appoint a committee of wise persons to consult with the various states and with the federal authorities and recommend at our next meeting the process under which we will proceed to develop this FMP.

**CHAIRMAN AUGUSTINE:** Thank you. Margo, response?

**MS. SHULTZ-HAGAN:** I just wanted to respond to a couple of things. The point on whether the Service could provide some funds to support it, I think we can try and do that.

As well as the point on the fact that we do have a lot of information already that would be useful in the development of an interstate plan, certainly I think there would be further analyses or questions, things that would come up, and we would certainly do our best. We do have a tremendous amount of in-house expertise that we can draw on to support the development.

**CHAIRMAN AUGUSTINE:** Great, thank you. Further comments on the motion? Mr. Freeman.

**MR. FREEMAN:** Several points. This motion deals only with coastal sharks, and we see, in our area, that there's other pelagic sharks that are taken incidental. For example, this year a large number of thresher sharks are being taken in the summer flounder fishery. My question is, is the issue that there's problems only in coastal sharks?

**MS. SHULTZ-HAGAN:** No. Coastal sharks is not our term. Our management includes everything, you know, coastal to 200 miles offshore. So, how you're determining that term, I guess is the point that you're raising, and I don't have that answer.

**MR. FREEMAN:** Well, if I may continue, we have the same concerns I've heard expressed by many. We don't have the technical people. We just don't have the people, much less technical people, and yet we certainly see if a plan were to be developed, we'd obviously have to be involved in it.

Margo, I have a question. Can you identify or have you identified those areas that are the most troublesome to the agency? For example, in New Jersey we have regulations -- we have many commercial regulations that mirror what the agency has, and I don't think there's any problem with what we have in our regulations that would in any way deter or somehow conflict with the federal commercial regulations.

We do have some recreational regulations which are different. But, looking on one of the tables where you have the recreational harvest --

**CHAIRMAN AUGUSTINE:** Bruce, I know what you're talking about and I know where you're going -- I think I know where you're going, but I'm really trying to get more --

**MR. FREEMAN:** Right. Well, I'm trying to understand -- this is an important vote, Mr. Chairman, and I don't want to just --

**CHAIRMAN AUGUSTINE:** I understand that.

**MR. FREEMAN:** Just because of time, we're going to just zip through it.

**CHAIRMAN AUGUSTINE:** I'm not looking at time. I'm looking at the direction you're going.

**MR. FREEMAN:** But my concern is can there be some method -- I think the comments from the South Carolina representative are very real. Can we identify those areas which pose the most problem and then concentrate on those? I'm concerned that we're going to spend a lot of time on this and get very little benefit from it.

**CHAIRMAN AUGUSTINE:** Mr. LaPointe.

**MR. LAPOINTE:** With all due respect, it's not a question for Margo. It's a question for us. This is the Atlantic States Commission, and we're developing a plan. And, to Bruce's first question, I had mentioned coastal sharks because that's the language we have been using.

We should use the flexibility this commission prides itself in and do what we need to do with sharks, and we don't need to determine that today because we don't have time. If there are issues that the feds are doing that we don't like, we can identify those. If there are species that we think

should be excluded or included, we can identify those. If there are ways the feds have operated that we don't like, we can identify those as well.

But, the sense I got and the reason I made the motion was people think that we need to do work at the state level, and we should say, yes, let's do that work. We should do what the commission does best, and that's identify those things that are important to the states and move ahead with the states and move ahead with those.

**CHAIRMAN AUGUSTINE:** Excellent points. Mr. Mears.

**MR. HARRY MEARS:** Thank you, Mr. Chairman. I believe it's very important that we do vote on this in favor of it. I think there's some interesting discussion here, whether or not to lump it or split it from the dogfish plan.

My gut tells me the goal would probably be better served by splitting it, but I know on balance there's a lot of altering perspectives. I think it might be worthwhile for a committee to be established, as was recently suggested, to look at the issues on either side. I do think the important point is to go forward in some fashion. We can always change direction in the process if that need be. Thank you.

**CHAIRMAN AUGUSTINE:** Thank you, Mr. Mears. Mr. Mears is suggesting that we do develop this committee. What kind of an issue would be or would it cause a problem? Bob.

**MR. BEAL:** It wouldn't cause a problem, obviously. You know, it may be more efficient to work kind of at the staff level prior to the annual meeting, have Ruth and I working with the folks at the HMS over at NOAA and try to kind of boil down the issues as well as we can and develop some

groupings of sharks and impacts on the states and kind of come up with some logical decision matrix for the board to handle at the annual meeting.

**CHAIRMAN AUGUSTINE:** Thank you, that was the answer I was looking for. Mr. White indicated he was going to call the question.

**MR. PATTEN D. WHITE:** Yes, Mr. Chairman, I would like to call the question.

**CHAIRMAN AUGUSTINE:** The question has been called. Are you ready for a vote? Do we need to caucus? Let's take a caucus at this time.

(Whereupon, a caucus was held.)

**CHAIRMAN AUGUSTINE:** Okay, let's get back to business. All right, all in favor of the motion as stated, please raise your right hand, 14, yes; opposed, same sign, 2; abstentions; null votes. The motion carries.

We will go back to our agenda. We are going to review the Draft Addendum I to the Spiny Dogfish FMP; multi-year specification process. Ruth, would you lead us through this.

#### **REVIEW OF DRAFT ADDENDUM 1 TO THE INTERSTATE SPINY DOGFISH FMP**

**MS. CHRISTIANSEN:** Yes, this should be very easy. I am going to go ahead and review Draft Addendum I to the Spiny Dogfish FMP, and hopefully we will be able to approve it for public comment today.

As part of the current Spiny Dogfish Management Program, specification of commercial quotas and trip limits are conducted every year and apply only to the following year. This annual process creates

a heavy administrative burden and makes it difficult for industry to set long-term business plans and goals.

Addendum I modifies the current FMP so that within a given year, TAL's for the spiny dogfish fishery can be specified for up to five years. Addendum I is intended to improve management by streamlining the administrative and regulatory processes involved in specifying quotas and trip limits and by allowing fishermen to establish more effective business plans while also maintaining consistency with the original Spiny Dogfish FMP.

There are three management options under consideration in this addendum. The first option is to maintain the status quo which would maintain the annual specification process. Option 2 would allow for multi-year management measures without annual review.

Under this option, if multi-year commercial quotas and trip limits are implemented, annual review of updated information on the fishery by the technical committee and the commission is not required.

Option 3 would allow for multi-year management measures with annual review. It's identical to the action proposed under Option 2 except that every year a review of updated stock conditions will be conducted by the TC and the management board.

And a quick update on the New England and Mid-Atlantic Fishery Management Councils, our document is a sister document to their Framework 1. At their June meetings, each council identified Alternative 1, which is to allow for multi-year management measures without annual review as their preferred alternative, and each have recently submitted Framework 1 for approval by NOAA Fisheries. They are currently

proceeding in anticipation that Framework 1 will be approved. That's it.

**CHAIRMAN AUGUSTINE:** Any questions of Ruth? We have Jim Armstrong with us, if any of you have questions as to where the Mid-Atlantic Fishery Management Council is in adopting the Framework 1 to the Spiny Dogfish Management Plan.

Is does allow the council to specify TAL's for up to five years with or without annual review. Framework 1 is consistent with the changes proposed in this document, so that may give you some insight as to what they have done relative to where we're trying to go with this.

Comments, suggestions, motions? Yes, Mr. Goldman.

**MR. GOLDMAN:** This is in the comment category. This just flashed me right back to last week at the joint meeting in Philadelphia with summer flounder where we said we're going to do this in multi-year when we did it with an annual review, and we wind up changing it every year, so I just wonder if that option would be just an exercise in frustration.

**CHAIRMAN AUGUSTINE:** Yes, it would be. Any other comments from the board? Yes, Dr. Pierce.

**DR. PIERCE:** I move that the board adopt Addendum I to the Spiny Dogfish Fishery Management Plan and select Option 3, which is to allow for multi-year management measures with annual review.

**CHAIRMAN AUGUSTINE:** Seconded by Dr. Nelson. Let's go to discussion. Could we have Jim clarify what we're talking about at the Mid-Atlantic to set the groundrules.

**MR. JIM ARMSTRONG:** The no annual review phrase doesn't mean that the status of the stock is going to be ignored, that the councils won't have the option to review or in this case the commission won't have the option to revisit on an annual basis the possibility of changing the specifications for the upcoming year.

What it does is it takes, in the federal FMP, the obligation for an annual meeting of the monitoring committee and the joint committee out of the list of things we have to do. It doesn't mean they can't meet. What's going to continue on an annual basis is the Science Center -- the Northeast Fishery Science Center is going to annually review -- continue to annually review the status of the stock and inform council staff as to the status of the stock.

Council staff will then raise to the council or councils any changes in the status of the stock that may merit a change in the upcoming specifications. I hope that clarifies what that means.

**CHAIRMAN AUGUSTINE:** Thank you. Ruth wants to clarify a point.

**MS. CHRISTIANSEN:** I just wanted to make it was Option 3 that you wanted as an option. Okay, thank you.

**CHAIRMAN AUGUSTINE:** Thank you. I had Mr. Munden.

**MR. MUNDEN:** A question for Mr. Armstrong; do you recall the action that the Mid-Atlantic Council and New England Council took on Amendment 1 to the plan? My recollection is that both Mid-Atlantic and New England voted for the option that did not require annual review.

**MR. ARMSTRONG:** That's correct.

**CHAIRMAN AUGUSTINE:** Thank you for that clarification. Mr. Pope.

**MR. POPE:** Well, I don't think that it's wise during times of rebuilding, for supposed rebuilding in the dog fishery here, that we go to any other option but Option 1 during the rebuilding period.

Then once it's rebuilt and we feel comfortable with it, then go to your three years, either Option 2 or 3, which I prefer 3, anyway, because, remember, we are in a rebuilding period and that quotas and so on are at basic low values.

I kind of get the feeling, unfortunately, that if we go to this three-year specification, there are certain people who would want to delay reviewing quotas and so on. So, I think that it's important that we stay with annual quota setting, whether it needs to go up or down during the rebuilding period. And once we feel that it's rebuilt, then go to something with a little more long-term value to it. Thank you.

**CHAIRMAN AUGUSTINE:** Thank you. Any further comments from the board? All right, comments from the public? Are you going to repeat what you did before? You sure? Okay, Ms. Fordham, please come up to the microphone.

**MS. FORDHAM:** As long as you promise to say "excellent point" when I finish. Sonja Fordham, The Ocean Conservancy. Let me just clarify. Option 2 is what both councils have preferred or sent forward?

**MR. ARMSTRONG:** Yes, that's correct.

**MS. FORDHAM:** And the motion is for Option 3? Yes, okay. We support the federal level, the way they're going. We concur with the councils. We agree that the annual review has been a burden on many levels, and also that multi-year quota setting

and trip limit setting is appropriate for such a long-lived species. We urge you to oppose the motion and go with Option 2. Thank you, Mr. Chairman.

**CHAIRMAN AUGUSTINE:** Thank you, Ms. Fordham, and I didn't mean to pick on you, but you're an easy pick today. Any further comments on the motion? Dr. Pierce.

**DR. PIERCE:** I think it's been clear for a long time that the Atlantic States Marine Fisheries Commission has a major role in management of spiny dogfish. Actually, it is controlling things, and I think that was evident from the last decision we made as a board.

In fact, the Mid-Atlantic Council has even said that they would like to see ASMFC take over management of spiny dogfish and have something set in concrete, I guess, in federal waters. Anyway, we have a great deal of influence as an organization.

A lot goes on, and individual states have done a lot of work with management and research of dogfish, for example, Massachusetts. The annual review really isn't a big burden. I don't think it is at all. I think an annual review is necessary for us to better evaluate what is happening with this fishery, bycatch and other issues.

I'm not saying that we're going to change quotas every year or change limits every year. That would be set, and it would be consistent from one year to the next, unless something happened with an annual review that made it obvious that we needed to do something different.

It may be more restrictive, I don't know. We have a technical committee that would have the charge to do this annual review. There's no burden on the full council as I can see it.

Assessment information will be provided on an annual basis by the Northeast Fishery Science Center, they need to do that because of the rebuilding needs for spiny dogfish. So, the technical committee can take that information, work with it and then that would be part of our annual review.

I think it makes a lot of sense. And, again, it just puts the spotlight once again on the commission as being a major player with spiny dogfish management and potentially research.

**CHAIRMAN AUGUSTINE:** Thank you. Mr. Colvin.

**MR. COLVIN:** I'm inclined to agree with Dr. Pierce's view of this partly because it's my perception that what an annual review, quote-unquote, would entail in the commission process might well be different, involve less administrative and paperwork burden than it does at the federal level.

But, before I vote on this and come to decision, I did want to ask the staff to see if I was right in that impression. What exactly would an "annual review" entail in the commission process?

**MR. BEAL:** My interpretation would be getting the technical committee together and looking at the new information and the landings from the previous year. I guess I'm a little bit unclear of whether there would or would not be a turn-of-the-crank stock assessment each year.

I think this board probably needs to decide to what level of review they would like to see each year. You know, a turn of the crank kicks off a whole other level of workloads and resource issues if we want to update the assessment every year.

If we just want to go in and look at some survey numbers and landings and those sorts of things, that's relatively easy to do and doesn't require a lot of resources.

**CHAIRMAN AUGUSTINE:** Thank you, Bob. Does that answer your question, Mr. Colvin?

**MR. COLVIN:** Well, I think so, and I think it tends to reinforce my opinion. What it doesn't entail necessarily is a formal review and report by a monitoring committee provided for and the development of a comprehensive quota paper by staff and federal rulemaking, which is what the federal process entails.

Frankly, we're all looking at the same correspondence sitting here in front of us, which back home we're all seeing multiplied by a thousand every day. I think our stakeholders would want us to be following trends in the dogfish resource.

I don't know if a turn of the crank or any other kind of situation specifically is necessary, but at least a technical review of where things stand on a more frequent basis than every third year or fifth year, I think they expect us, given what's going on out there, to be watching the situation a lot more closely than that. Under those terms, I'm going to support the motion as is.

**CHAIRMAN AUGUSTINE:** Thank you for those comments, Mr. Colvin. Mr. Smith and then Mr. Munden.

**MR. SMITH:** Thank you. I support the motion and I agree with Dr. Pierce and Gordon. I would point out the way this reads is the specifications that are established for the three-year period, it's an economy measure to not have to change them.

The value of the annual review, I think we can decide on an annual basis what kind of review we want to do, and it can be brief or it can be complicated. I think the review is an important thing to do, but the value of the motion is let things be status quo unless on an annual basis we think we ought to do something differently. That's just being efficient. Thank you.

**CHAIRMAN AUGUSTINE:** Good clarification. Mr. Munden.

**MR. MUNDEN:** Thank you, Mr. Chairman. Speaking for the Mid-Atlantic Council, we have supported multi-year specifications without annual review for several species, but the primary reason that the Mid-Atlantic Council has supported that is to reduce the administrative workload.

It takes just so long to get a framework action through the federal system. So even though this motion is different than the actions that were supported by the Mid-Atlantic and the New England Councils, I would support the motion.

I don't think it's a real big deal. At the council level, should the stock assessments indicate that you need to do an annual review, we have the option of doing that, so I would support the motion.

**CHAIRMAN AUGUSTINE:** Thank you, Mr. Munden. Any further comments? Dr. Nelson called the question. A moment for caucus?

(Whereupon, a caucus was held.)

**CHAIRMAN AUGUSTINE:** All right, ready for the vote? The motion is clearly stated? All in favor of the motion, please raise your right hand, 13; opposed, same sign, none; abstentions, 3; null votes. The motion carried. Do we have any further

business to come before the board? Dr. Wilson Laney.

**DR. LANEY:** Just one brief update for the board. I am pleased to report that for several years now the Cooperative Winter Tagging Cruise has been tagging spiny dogfish in cooperation with NOAA and all of our other partners on the cruise.

I am pleased to report Dr. Roger Rulison of East Carolina University, who has been collaborating with us on that, has secured some funding from the Canadians and also from other sources, and we will be expanding our tagging program this year on the cruise, hopefully putting out between 10 and 15,000 spiny dogfish tags in U.S. waters off North Carolina and Virginia.

Roger also is collaborating with the Canadians to put tags out off Newfoundland and Labrador and other places up north. So, hopefully in the future we should know a whole lot more about stock mixing and migration and movement and those sorts of things. Thank you, Mr. Chairman.

**DR. JOHN I. NELSON:** Thank you, Mr. Chairman, just a quick question for Wilson. I think that's great that we're going to get additional funds for tagging. I was just curious, that source of funding, is it all federal or is it private, state, what?

**DR. LANEY:** John, I just got the e-mail last night from Roger. See me afterwards and I'll pull it up and we can look and see. He told me who it's coming from, but I didn't pay any attention to that part of it.

**CHAIRMAN AUGUSTINE:** Thank you. Any further business? Seeing none, the meeting is adjourned.

(Whereupon, the meeting was adjourned at 10:50 o'clock a.m., August 18, 2005.)

