

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

**The Francis Marion Hotel  
Charleston, South Carolina  
November 11, 2010**

Board Approved March 2011

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## INDEX OF MOTIONS

1. **Approval of agenda by consent** (Page 1).
2. **Approval of proceedings of August 3, 2010 by consent** (Page 1).
3. **Move to accept the reference point update for management use** (Page 6). Motion by Pat Augustine; second by Bill Adler. Motion carried (Page 6).
4. **Move that the 2011-2012 daily trip limit remain at 3,000 pounds and that the TAL/quota for 2011-2012 be 20 million pounds** (Page 9). Motion by Pat Augustine; second by Peter Himchak. Motion carried (Page 13).
5. **Move to move forward with the development of an addendum to address the state-by-state quota shares, including the seven options** (Page 16). Motion by Louis Daniel; second by Pat Augustine.

ABOVE MOTION REWORDED ON PAGE 17: **Motion to direct staff to prepare Draft Addendum III to the Spiny Dogfish FMP with the following management options: New Jersey proposed allocation options A, B, C and D and Maryland proposed allocation options E, F and G; include quota transfer options; include quota rollover options; include payback of transferred quota; include a three-year southern region state share re-evaluation; include an option that removes the trip limit requirement.** Motion carried (Page 17).

6. **Move to set a 33-fish possession limit for large coastal sharks in 2011** (Page 19). Motion by Pat Augustine; second by Malcolm Rhodes. Motion carried (Page 20).
7. **Move to formally recommend to the National Marine Fisheries Service the July 15 opening of the large coastal sharks** (Page 20). Motion by Louis Daniel; second by William Adler. Motion carried (Page 20).
8. **Motion to adjourn by consent** (Page 21).

## ATTENDANCE

## Board Members

Terry Stockwell, ME, proxy for G. Lapointe (AA)  
Sen. Dennis Damon, ME (LA)  
Doug Grout, NH (AA)  
Ritchie White, NH (GA)  
Rep. Dennis Abbott, NH (LA)  
David Pierce, MA, proxy for P. Diodati (AA)  
William Adler, MA (GA)  
Sarah Peake, MA (LA)  
Mark Gibson, RI, proxy for B. Ballou (AA)  
William McElroy, RI (GA)  
Rep. Peter Martin, RI (LA)  
David Simpson, CT (AA)  
Rep. Craig Miner, CT (LA)  
James Gilmore, NY (AA)  
Pat Augustine, NY (GA)  
Peter Himchak, NJ, proxy for D. Chanda (AA)  
Tom Fote, NJ (GA)  
Gil Ewing, NJ, proxy for Asm. Albano (LA)  
Craig Shirey, DE, proxy for Patrick Emory (AA)

Roy Miller, DE (GA)  
Bernie Pankowski, DE, proxy for Sen. Venables (LA)  
Tom O'Connell, MD (AA)  
Bill Goldsborough, MD (GA)  
Russell Dize, MD, proxy for Sen. Colburn (LA)  
Steve Bowman, VA (AA)  
Jack Travelstead, VA (AA Proxy)  
Cathy Davenport, VA (GA)  
Louis Daniel, NC (AA)  
John Frampton, SC (AA)  
Robert Boyles, SC (LA)  
Malcolm Rhodes, SC (GA)  
Spud Woodward, GA (AA)  
John Duren, GA (GA)  
Jessica McCawley, FL (AA)  
Steve Meyers, NMFS  
Jaime Geiger, USFWS  
Bob Ross, NMFS

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

## Ex-Officio Members

### Staff

Vince O'Shea  
Bob Beal

Nichola Meserve  
Christopher Vonderweidt

### Guests

Paul Rago, NEFSC

Jim Armstrong, MAFMC

The Spiny Dogfish and Coastal Shark Management Board of the Atlantic States Marine Fisheries Commission convened in the Carolina Ballroom of the Francis Marion Hotel, Charleston, South Carolina, November 11, 2010, and was called to order at 8:00 o'clock a.m. by Chairman David Simpson.

### **CALL TO ORDER**

CHAIRMAN DAVID SIMPSON: Okay, good morning, everyone. I would like to get started. This is the Spiny Dogfish and Coastal Shark Management Board Meeting.

### **APPROVAL OF AGENDA**

CHAIRMAN DAVID SIMPSON: The first item on the agenda is to approve the agenda. Are there any changes coming from the board? Pete.

MR. PETER HIMCHAK: Mr. Chairman, as an other item, I would like to have a discussion on smooth dogfish.

CHAIRMAN SIMPSON: Okay, thank you. Any other items to add? Can I have a motion to approve the agenda as it has been modified? Pat and Bill, thank you. Any objection to that motion?

### **APPROVAL OF PROCEEDINGS**

CHAIRMAN DAVID SIMPSON: Seeing none, I would like to approve the proceedings from the August 3<sup>rd</sup> meeting. Is there any objection? Not seeing any objection, we will consider the proceedings from the last meeting approved.

### **PUBLIC COMMENT**

CHAIRMAN DAVID SIMPSON: Is there any public comment on items that are not on the agenda today? I didn't see anyone that signed up, but is there anyone here who missed the opportunity to sign up and has a comment on items not on the agenda? Okay, thanks, I don't see any. Item 4 is the Spiny Dogfish Reference Points and Assessment Update, which will be provided by Dr. Paul Rago.

### **SPINY DOGFISH REFERENCE POINTS AND ASSESSMENT UPDATE**

DR. PAUL RAGO: It is a pleasure to be here today. I appreciate the opportunity. I want to

apologize in advance here. My luggage and my presentation are both in Wilmington, North Carolina. I discovered this at midnight when I arrived last night, and so I put together a few things between then and when I went to bed. There are a few things in this presentation, but the rest of it is elsewhere.

The basic objectives I would like cover are a recent assessment history for spiny dogfish, a background on the biomass reference points, the update that occurred this year, a little brief summary of the Mid-Atlantic Statistical and Scientific Committee Review, an update on the survey values for 2010 landings and discard information for 2009, and just point your attention to there is a Center reference document that provides a great deal of detail on the biomass reference points for spiny dogfish. We also have other background material that had been provided to the SSC.

I'm not sure what year this is in the Chinese Calendar, but I think we can describe this one as the Year of the Dog in terms that we began the year with a meeting of the TRAC, which failed to reach consensus on an approved model. That was followed by a meeting on Groundhog Day, before the ASMFC. In response to the failure to reach an agreement on an assessment, there was a special panel review by the TRAC and the members of that, and I'll give a little more details.

That was in April. I made a presentation to the Mid-Atlantic Council on April 13<sup>th</sup> following that panel review. We had a reference document on the dogfish reference points and so forth. There were specifications for 2010, which were approved between March and May. That was followed by the presentation at the New England Fishery Management Council, and then finally there was an update and a number of SSC discussions and recommendations in September, and then you'll hear about the ASMFC Technical Committee and the Monitoring Committee of the Mid-Atlantic, and then the Mid-Atlantic Council had made a recommendation or request for an update of the Fmsy proxy. That brings us to Veterans Day.

One of the things with the Atlantic States Marine Fisheries Commission I'm always impressed with is a sense of history, and, of course, the history goes way back for the commission, and when you go back and you see a lot of the issues

that were discussed at some of the early meetings you find that they are very similar to the ones that we are discussing today.

And to go back to even a little bit further to 1904, there was a scientist from Maine who was at the 33<sup>rd</sup> Annual Meeting of the American Fisheries Society and he is talking about neglected species, and he had an eight-point program for the war against spiny dogfish, and he called them the Prince of Ravagers. He had a pretty impressive plan of how to get rid of them.

And one of the things he pointed out was that there were 30 to 50 boats in the Gulf of Maine that could not fish; they were idle from July to September because of the excessive numbers of spiny dogfish. So, this has been a recurring theme for at least a hundred years. I think where we are now, though, is at a point where much of this resource is one that is highly manageable and one that I think will provide a lot of opportunities in the future, and I think we know enough now perhaps to try to craft some appropriate management plans.

The background is there was no agreement, and, of course, this reference point problem provides a huge number of issues for U.S. management issues, particularly under the Magnuson-Stevens Act. We reconvened that group and were able to establish, through a number of meetings and presentations, a new basis for a biological reference point.

That reference point importantly includes some consideration of the biological structure of the population; so not only is it based on the biomass that is necessary to produce a high number of average pups but also the management of the resource needs to consider the biological attributes of that resource, in particular the number of large females and the average size of the pups that they produce that seems to have a pretty influence on the subsequent management of the resource.

Now, in the short term it will be mostly what you have in terms of your population size and so forth, but in the longer term the ultimate determinant of how many you can harvest is how many are produced; and because of the life history dynamics of spiny dogfish, it is important to factor that into the decisions. Now, the reviewers accepted the biomass reference points, but they had some caveats and recommendations.

If you go into the actual report, you can see they're in there unvarnished, and so you can see where they had some problems and what their concerns were.

I think it was pretty clear that we had a strong consensus that it was good basis to go forward. Based on these revised reference points and current measures of stock status, the resource was declared rebuilt and we have number of measures that have been proposed through Mid-Atlantic Council and the New England Council, which will be discussed further today here.

The reference point itself is based on the average weight per tow of mature females greater than 80 centimeters in the population. This is the proxy or the population size which supports maximum recruitment. We use a Ricker's Stock Recruitment Function. This is not the maximum biomass that the population can have. We have approached that I think.

This is termed SSBmax but it is not the maximum biomass, so I just want to emphasize that. Based on the revised model, the target is 30.3 kilos per tow in the spring bottom trawl survey. There are a lot of issues related to the size of the footprint that is associated with this swept-area estimate. The bottom-line estimate that is shown there, the 159,288, so say roughly 160,000 metric tons is the estimate of the spawning stock size that will allow this maximum production and so forth.

We also revised the fishing mortality reference points. Dogfish are a tricky species to manage for a number of reasons, and one in particular is the size selectivity of the fishery. The size selectivity occurs not only because of the spatial distribution, the sexual segregation that occurs in the population, but also its proximity to shore where most of the large females are.

There is a high encounter rate and there is also a high encounter rate in non-target fisheries. In particular much of this resource is discarded. In the past several years it's running about 50/50 in terms of that which is caught and discarded and that which is caught and ultimately landed. There is a huge source of uncertainty as to how to manage the resource, and that is the source of uncertainty that provides some scope for change in terms of harvesting.

Although the overall catch limits are set at a fairly high level, there is some scope for that, but that is going to require some more intense efforts to look at directed fishery behavior as opposed to what we have been observing during the rebuilding period, which is a non-target fishery. This reference point for fishing mortality is based on a life history model. It looks at sort of a replacement value concept.

That replacement is designed to ensure that each female is fished at a rate that allows for its replacement over time. Now, for something that lives 40 to 50 years and it is a fairly delicate balance in terms of the parameterization of that, it is one that is subject to some uncertainty. One of the things that was highlighted at the SSC review was that there was suggestion that those reference points may be too high; so what the Mid-Atlantic Council has requested is further refinement of that, and it is proposed or likely to occur during 2011.

The next slide just kind of gives another update on the stock status. The best estimate of the abundance is 159,000 or 160,000 metric tons. Based on our survey abundance from the last three years, we are above or just about half that number, so we're staying in that range. There is a fairly sizable chunk of male dogfish that are offshore, which are not factored in this definition, but are in fact considered when we make the recommendations for catch levels. And, again, everything suggests that there is almost no chance that the resource is being – that overfishing is occurring on the resource. I'm sure everyone is saying, okay, thank you, Sherlock.

Okay, under the rebuilt process here, this a good instance of where I think the management measures that have been taken have been very successful and that this rebuilding program is not too far off from what it was originally conceived as a way of – but, you know, it was definitely one that I'm sure we don't want to go through again. Certainly, I don't.

But, there are still major sources of uncertainty in future management of the resource, and I think it is important to take those into consideration. Again, I just emphasize that is and should be a highly manageable resource. This slide just emphasizes a couple of the points that I have made already; that when the pup weight is lower on the average, that the intensity of fishing is

greater or that the productivity is expected to be lower and catch regulations will ultimately have to respond to that.

As the poor recruitment stanza sort of enters into the fishable stock over the next several years, we expect it to go down, so that will be an important factor for future councils and commission representatives to deal with. The discards are a problem, as I said. Eighty-one percent of the fishing mortality on the males is via discards and over 42 percent of the fishing mortality on females comes through discards.

I guess I can go into some additional detail on the underlying basis for the reference points. I have just a couple of slides here. Okay, there are a number of technical issues related to establishing biomass reference points for this; most notably the whole issue of the scaling of the population in dealing with a swept-area biomass.

We have some sense, based on the response of the population and attempts at modeling this resource, that in fact we have the scaling about right. There were some important changes over time as we looked at the dynamics, and one of the most important sort of pieces of information was the change in recruitment that occurred immediately following the intense directed fishery in the nineties.

That suggested that factors such as the maternal weight, the average size of the pups that were being produced, and so the male/female ratios might be candidate measures for causing that low population production, the low recruitment stanza. In order to address that, we went through a fairly extensive modeling process, and this is what was reviewed both by the special peer review panel established through the TRAC, the Transboundary Resource Assessment Committee, and subsequently by the SSC.

Those three candidate factors were maternal weight, the pup size and the sex ratio. We went through a fairly elaborate model selection process using a couple of different estimation approaches and we were able to select them on a basis of what is known as the AIC or Akaike's Information Criteria. It is a way of characterizing the model identification and the most appropriate model for establishing an appropriate characterization of the underlying data.

This is the one slide that I did have that wasn't in my suitcase, which has the relationship between the spawning stock biomass and the pup production of the recruits. The most important thing is just that it identifies that when you have pups on the order of about 90 grams, that you expect to see a much higher level of recruitment, during the period when they were very small pups, on the order of 40 grams, these are about half of the size of the pups that were produced early on the series, that that recruitment was much, much lower; interestingly enough, the maximum, the peak that occurs is unaffected by the average pup size so that the target population size is still about 30 kilos per tow in this example here. The next slide just emphasizes where all of those small low recruitments did occur. That's basically what I have. Again, thanks for the opportunity and I'll be happy to entertain questions and answer what I can in response.

CHAIRMAN SIMPSON: Thanks, Paul, that's impressive work for beginning at midnight last night. Any questions of Paul? Pat.

MR. PATRICK AUGUSTINE: Thank you, Dr. Rago, excellent presentation as usual, discrete and to the point. The question that arises, though, of some concern to myself and I'm sure others around the table is that we're talking about the spiny dogfish population having rebounded extremely well over the period of time, and we've managed through your direction, but remember we're doing single-species management, and we're setting our harvest quotas on an annual basis.

Two questions; I'm concerned and interested in what level above the target does the Science Committee believe we have to get so we can control again the overages in the spawning stock biomass to keep them in alignment? If we're going to attempt to do multispecies management, in this transition we're really not getting there very fast.

If this stock gets out of hand like it did before, I'm concerned, one, about the impact on other species as you've noted here, but more importantly resistance to increase the quotas as the stock rebuilds gets tougher and tougher; more resistance to get at that population, keep it in control. Have you folks set a level above the target that you're comfortable with that – let's assume we went from a 50 million pound harvest to a 30 million harvest, and would you also

suggest that we do a three-year averaging quota-setting or one? There are three or four questions all interrelated; so if you could try to address those, Dr. Rago, I would appreciate it.

DR. RAGO: I guess the first issue is that the magnitude of any kind of excess harvest or excess population size to sort of buffer that, that is a matter of policy in terms of whether the SSCs or the councils that they're associated with or the science committees of the commission wish to sort of incur as a protective sort of buffer on that.

There are certainly a lot of potential ecosystem consequences of spiny dogfish. We know through stomach analyses that there are impacts on a variety of species. We also know that they eat a lot of things like ctenophores which has indirect effects on other species. Those kinds of concerns are certainly ones that I think at this point we have sort of opportunity to sort of investigate clearly.

For the short run I think that there is a good chance that we've got a run of at least five to ten years of fairly stable harvest with relatively little chance of exceeding the sort of targets by an excessive amount. In fact, it will probably be going the other way as this lower than average classes enter into the population.

There is also an unaddressed – all this presentation is silent on is the use of the male dogfish population. It is much harder to get offshore; it's a lower value product. There is no real market for it at this point. All those factors are important in terms of how this fishery is prosecuted over the next few years. I think I answered most of your questions, and I probably answered a few that you didn't ask.

MR. AUGUSTINE: Thank you for that clarification, Dr. Rago. I guess you meet with the SSC directly. I've not participated in one of those meetings, but I'm assuming that they query you as to what your group believes would be a logical stock level that needs to be maintained. This is a tough one and I'm going to ask it, anyway. Do they follow your advice or your group's advice or do they come to some conclusion based on the data that you have presented to us in a different format and arrive at an ACL/AM?



DR. RAGO: Well, I guess scientists are a very independent bunch. I think what they tend to recommend are staying within the boundaries defined by the biomass thresholds and the biomass target. Right now we are above the target. We have a fair amount of scope between the threshold and the targets; and so as long as that sort of boundaries are observed, then there is a pretty good chance that they'll stay within what the science suggests is feasible.

DR. DAVID PIERCE: Paul, again, stellar work. I always appreciate your summaries of what is going on with dogfish. You mentioned that the SSB targets, spawning stock biomass target for the females is 30.3 kilograms per tow, and that is 159,288 metric tons? Okay, in the future will this commission and will the councils be getting indications of where we are with spawning stock biomass based on the bottom trawl survey kilogram per tow data only or will we be getting biomass estimates similar to what we have right now, so we can compare it versus the 159,288?

DR. RAGO: We will be providing regular updates on the status of this resource both from the standpoint of the measures now conducted by the Bigelow and we will also be providing you with the information associated with the nature of the fishery and the size composition of the resource over time. We fully intend to provide that information to the commission and to the councils on a regular basis.

DR. PIERCE: So we will get the biomass estimate itself along with the kilograms per tow?

DR. RAGO: Yes.

DR. PIERCE: Okay, good. One final point, just a clarification; I think you said in your presentation that the Mid-Atlantic Fishery Management Council believes that the fishing mortality reference points are too high and it is going to be addressed in 2011?

DR. RAGO: Yes, that is correct. The response to the request by the Mid-Atlantic Council, Rick Robins, to the Center is in process, so to speak, and my expectation is that we'll commit to taking another look at that reference point. That will be going through the – well, there will be a review body which will have the opportunity to comment on that. The exact nature of that is unknown at this point, but that is sort of the

current thinking on this. That is not official policy.

DR. PIERCE: Well, that's a great surprise to me. I thought we had new reference points that came out of all of this assessment work, and we see them before us now, and you're indicating that the Mid wants to make a change. I don't know in which direction, but I guess I'll be seeking clarification on why in the world does the Mid-Atlantic Council want to, on its own, request a change in the reference points that have just been generated by all this assessment work. Maybe you can't answer that, Paul, but I would love to know why because it affects ASMFC decisions.

DR. RAGO: Exactly. I can clarify the technical aspect of this. The model that is used to evaluate the magnitude of the overfishing level is based on a life history model. That life history model, as I alluded to, is based on a 40-year life history and it requires some parameters that are very difficult to estimate and these are most notably the survival rate of the pups in their first year.

Just like in most stock recruitment relationships, the egg to larval or egg to first-year survival rate is really the primary unknown. In this case it is a little more certain, but still unknown. Now, when we took the life history model and looked at projections at Fmsy over a very long time period, it appeared that it was not a sustainable one.

In fact, it was causing the population to decline, so the SSC, when they were considering the specification packages for 2011, indicated that they felt that there was something that should be reconsidered as part of the Fmsy proxy for this population. That was the technical basis for the request. And as you note and as the Mid-Atlantic Council noted – and I know Rick is in the back and may want to comment further on this – they recognized that this could be a future problem and have asked the Center and the Service to respond directly to this issue, and hopefully that will be resolved again during 2011.

MR. JIM ARMSTRONG: Jim Armstrong, Mid-Atlantic Council staff. I was at the SSC meeting. I think Paul pretty much wrapped it up there. The SSC has to identify an overfishing level in order to recommend ABC for the stock, and the projections that they had before them – they had

three runs before them and only one of those showed the stock stabilizing throughout the projection time period, and that was the Ftarget.

So rather than use the Fmsy proxy as the basis for OFL, they used the Ftarget and then reduced from that to get ABC for the upcoming fishing year. A number of other runs were explored by Paul after that SSC meeting, so those will probably form the basis for a revision by a peer review body. The point is that given the starting conditions, the undulations in the projections even at F equals zero, that an F replace threshold level was not deemed to be appropriate at this time.

If the stock was one where recruitment had been stable for a long period of time, it hit across the finish line and you just let it stay there, then that would have been appropriate, but the SSC observed the decline to an overfished condition at Fmsy, and that's the reason for rejection for that. They're going to be looking at it again.

MR. MARK GIBSON: Paul, I'm very impressed with the work done to show the effect of pup weight on the stock-recruit relationship and the apparent survivorship, and I would point out – I don't know if you have the Reglan and Sosebee Report that that inverse relationship between the mortality rate and body sizes has been widely demonstrated.

In fact, the apparent slope that I glossed through that is very consistent with theoretical expectations to the effect of body size, scaling on metabolic rates, demographic rates and so on. My eyeball calculation says it is almost exactly consistent with it, so it is widely appreciated. It has been observed in anadromous fish the size that they migrate to sea at freshwater fish over winter survival and body size, so that is no surprise, and I applaud you for putting that in there, and I think it advances greatly the ability to calculate reference points as well as take account of maternal effects, which are broadly being appreciated now in the spawning-recruit relationships.

CHAIRMAN SIMPSON: Okay, anyone else from the board? Bill.

MR. WILLIAM A. ADLER: Dr. Rago, we had threshold targets. In several of the fishery management meetings we've had this week, we talked about how much over the target is the

biomass, and we sort of relate to that with we had some others where they were 145 percent over the – you know, which means good. Now, can you give me – is it over target by how much – can you give me a number on dogfish?

DR. RAGO: Yes, I think it is probably about 3 percent or so. It is 159 versus 163; current stock size is about 163. The target is about 159.

MR. RICK ROBINS: Mr. Chairman, I just wanted to respond to some of the discussion about the Mid-Atlantic Council's request for an updating of the F-based reference points relative to the SSC decision. It doesn't reflect a desire to have a lower set of reference points. In fact, what we don't want to do is come into the next specification cycle with a rejected OFL. That's the situation we find ourselves in now.

The SSC felt that the Fthreshold that was presented to them that had gone through that TRAC update process was not in fact an appropriate OFL, so they substituted Ftarget as an OFL. I would point out that despite that we were still able to recommend a substantial quota increase to 20 million pounds, so the process actually worked out relatively well.

Nonetheless, as we go into the next cycle we want to have a set of reference points that will pass muster with the SSC, and so we simply want an updating of those reference points. We're not looking for a lower reference point, per se, at all. We just want to get past this stage where we have a rejected OFL and Fthreshold, so we've asked that those reference points be updated so that we can go through the specification process the next time with a set of reference points.

CHAIRMAN SIMPSON: Thanks, Rick. If there are no more questions, **we do need a motion to accept the reference point update for management use. Pat and seconded by Bill Adler.** Any discussion on this motion? Any objection? **Then, without objection, the update is accepted for management use.** The next agenda item is Spiny Dogfish Specifications and Chris has a presentation on this.

## **2011/2012 SPINY DOGFISH SPECIFICATIONS**

MR. CHRISTOPHER M. VONDERWEIDT: For about the fourth year in a row, there is no

technical committee chair. I ask the question at every meeting and nobody seems to raise their hand, so here I am again with the recommendations, but my goal is to remain objective as staff, so don't shoot the messenger if you don't like what the recommendations are, please.

The meeting was on September 24, 2010. It was a joint meeting of the ASMFC Technical Committee and the Mid-Atlantic Monitoring Committee; and being that it is a complementary-managed species we always have these joint meetings. There are some orders of business that one group handles and the other one doesn't, but generally it is trying to work together to have complementary management.

For the background and discussion leading up to the recommendations, as Paul mentioned in his presentation the biomass has exceeded the target for two years in a row, 2009 and 2010, so we're rebuilt and we continue to be rebuilt for two years in a row.  $F$  was equal to 0.113 in 2009; and if you remember the rebuilding  $F$  was 0.11, so what that tells us is that we're well below the updated target of 0.207.

In the discussions of management uncertainty in the last couple of years, I think this demonstrates that management has effectively achieved the  $F_{goal}$  using the methods that I'll describe here to determine the quota. The stock is not overfished and overfishing is not occurring. However, there is that caveat that biomass is going to decrease around 2014 due to record low recruitment from 1997-2003.

The magnitude increases as fishing mortality increases, but keep in mind that this oscillation still occurs even with no fishing pressure, so it is there. To begin the discussion, the technical committee agreed to recommend a target  $F$ , 75 percent of the target. They recommended this for a few reasons. Basically it allows a reasonable increase in quota while minimizing future SSB declines, and it is also generally consistent with what the Mid-Atlantic SSC was requesting and what the Mid-Atlantic Monitoring Committee was recommending as well.

As Paul and Jim explained, the  $F_{msy}$  that we have as the definition in our plan right now doesn't necessarily coincide with the biomass  $MSY$ , so the technical committee recommended

going down by 25 percent to better reduce that oscillation and achieve biomass  $MSY$  in the future. The equation to reach the quota is fairly simple. There are no Greek letters in there or anything.

It's basically you use the  $F$  rate to estimate what your total catch can be, and then you have to subtract the dead discards, which there are some questions about; the Canadian landings, which there are also some questions about; and then the recreational landings, which have very little impact to the overall  $F$ , and I'll go into these in greater detail.

But one of the endpoints of this is going to be that it is a one-year recommendation. While the technical committee realizes that in order to set long-term plans, processors and fishermen would like to have multi-year specifications, but the questions surrounding the dead discards and the Canadian landings and some new management made them uncomfortable recommending more than one year.

For the total catch, that one is pretty simple. Paul gave us an estimate of what amount of dogfish would achieve  $F$  75 percent of the target, and that amount is 15,341 metric tons. Discards in the past have been estimated as a function of total catch; so if you have a higher catch or quota, you're going to have a larger amount of discards, but Paul showed us during his presentation that regardless of the catch size, they have remained around 5,000 metric tons, 5 or 6,000 metric tons.

So, if you look back in 1996 or 1999, there were 40 million pounds being harvested, there were 60 million pounds being harvested, but the discards were around 6,000 and went down to 3.5 thousand, and so they basically hovered around 5,000 metric tons. What the technical committee recommended was to just use last year's discards sort of as a conservative approach, and they discussed maybe using a three-year average, and the three-year average is within 60 metric ton close, but they wanted to use the same method for all three of the variables to come up with the quota.

So they just did the one-year average; and as I go forward, it will make sense why they used the one year for the other things. The big question about discards right now is that there is Amendment 16 to the groundfish plan, which is

they have implemented sectors, there are higher possession limits, which means when they go out they can bring back more target species that are more valuable than dogfish, there is less room on the boat for the dogfish, so there is less incentive to keep those dogfish.

They're likely to have fewer otter trawl trips because they have higher possession limits to catch a fixed amount of groundfish, and otter trawls are one of the gear types that catch a high proportion of spiny dogfish. All of that made the technical committee think that discards are going to decrease, but we don't know this animal yet. There are questions about it, so we can look back next year and we can see what happened with the discards; and if they went down, adjust appropriately.

As far as Canadian landings, there has been a significant drop in the last couple of years. In 2008 it was 1,572 metric tons and then last year it was 113 metric tons. At the meeting we had a couple of processors there and they were able to communicate with DFO in Canada, and there were six metric tons on September 19<sup>th</sup>.

The Canadian Dogfish Fishery is a major October fishery, so any kind of a significant increase above 6 metric tons was highly unlikely. Last year we kind of had the same questions, and they were at 113 metric tons around the same time, and they didn't have an increase then, either. And then also contributing to the technical committee thinking that Canadian landings are going to continue to be low in 2010 is that you need the right infrastructure and processing plants and the market to be there; so to do that in one year is a very hard thing to do, so it is unlikely that it is going to increase significantly.

So, 113 metric tons, which is the 2009 landings, was the recommendation and also just for one year so we can look back next year and see what the Canadian final landings were this year and if there are going to be any changes in infrastructure or market demand that might cause an increase in the fisheries.

Recreational landings are pretty simple. There is a small overall impact on F, 1 to 2 percent of total landings. 2009 landings were 34 metric tons. If you put those all together, you put the 15,000 total catch and then you subtract the other

3, you get 9,297 metric tons, which comes out to about 20.5 million pounds.

The technical committee thought that it was best to round down to 20 million pounds and only set for one year; give a buffer for the questions with the Canadian, recreational and dead discards, find out what happens with Amendment 16 for one year, and this is also consistent with the Mid-Atlantic recommendations, and actually I think the council recommended 20 million pounds in October. So that's it, 20 million.

They also recommended 3,000 pound possession limits. Basically there is no scientific justification for high possession limits or low possession limits. There are discards associated with a high level versus a low level, and they felt that it is more of a management decision at this point in light of any new scientific information; but because it has worked successfully in the last few years at 3,000 pounds, we have achieved the target F, we have been able to close the quota in a timely fashion with few overages, so a 3,000 pound trip limit is the recommendation there. Thank you.

CHAIRMAN SIMPSON: Okay, thanks, Chris. Questions on the presentation? Pat.

MR. AUGUSTINE: Thank you, Chris, great presentation, very clear and easy to follow. In the last part when you talked about discards, you had indicated that we're going to go with roughly 5,000 metric tons for an annual, but were you suggesting that it will be a running average over a three-year period of time? You indicated going back and reflecting on a previous year. Any answer to that one and then a motion, Mr. Chairman, when you're ready.

MR. VONDERWEIDT: Pat, if you go back to that slide on the discards, the technical committee considered using a three-year average; and I think that if things were more stable or if this wasn't the first year that used this approach, but the three-year average was really close. It was 5,832 versus 5,897, so they said why not just use 2009. It mirrors how we did it for recreational and Canadian.

MR. HIMCHAK: Mr. Chairman, not a comment on the quota, per se, but my concern that I expressed at the Mid-Atlantic Council that I wanted people to be aware of is that – I mean, I think a number of us here have been in contact or

in the e-mail distribution for the Marine Stewardship Council Certification for spiny dogfish both in the United States and Canada.

I don't know much about this process but from a marketing point of view I believe this is very helpful in developing new markets for the product once you get this seal of approval, whatever it is, from the Marine Stewardship Council. Okay, with that said and I realize the Canadian landings are not very large and maybe they have smaller fish and more males, but my fear is this.

My fear is that the competition for markets may spur more fishing activity in Canada and then we're stuck with accountability measures and management uncertainty and we would in subsequent years, where they would have no bounds on what they could harvest and market, we would be constrained – we'd have to subtract the Canadian landings off the top to get our domestic quota.

Now, this has come in Atlantic herring, it has come in Atlantic mackerel, and something has to be done so that we're not every year, well, what is the domestic quota on spiny dogfish? Well, let's at what the Canadians have taken over the last four years, do we average it, what do we do, do we expand and allow for growth, but we will be constrained by the Magnuson Act on preventing overfishing.

There needs to be some kind of formula for constraining or giving a Canadian part to the ledger other than we think they're going to harvest this, let's keep our fingers crossed, if we go over it combined, then we're going to pay for it the following year. I just wanted to bring that to everybody's attention.

MR. ADLER: Yes, I'm concerned about the F 75 target. I heard the explanations. It seems like that is like a conservative number, and then on top of that we get more conservative because we round everything down. I just listened to Peter with this Canadian – I don't know what they're doing up there in Canada. I mean, they don't have any type of control or look at figures and stuff like that and then decide that they're going to put some limits on. As Pete said, frequently we're in this morass where we have to keep control and then if Canada gets out of control up there we pay dearly in a quota.

I guess I was just a little bit frustrated with all the figures that show things are good and then we have to go for 75 because of this, that and the next things; and then when we get the quota, we have to round it down and it just gets a little bit frustrating with that. That's all; I guess I'm just venting. Thank you.

DR. PIERCE: I won't repeat what has just been said about the Canadian harvest. Right now we're lucky, the harvest is low; therefore, we've got an increase in quota, but that may not happen in the future, we'll give it all to Canada potentially or at least a significant chunk with a control rule that we may as a commission find ourselves following; that is the Mid-Atlantic Council Control Rule.

Specific however to the Canadian issue what would be helpful for me – and I think the commission can benefit from it – this is actually more of a question for Paul Rago because it is the Canadian opinion, the Canadian contribution to this assessment – if I may, Mr. Chairman, could I ask Paul a question about the Canadian perspective on what the reference should be? Specifically for the TRAC process, have the Canadians agreed to and accepted the F reference points that we have been discussing?

DR. RAGO: The short answer is, no, the Canadians did not agree to the reference points nor did they agree to the model that was proposed or that we're using. One of the major problems – I mean, the reason that the TRAC process failed was that we couldn't agree on stock structure. There were some concerns that there were unique stocks that could not be managed as a unit stock and were more appropriately managed as a set of intertwined stocks with unspecified degrees of intertwining as part of the process.

So, they agreed to use the TRAC reviewers as part of the peer review process as a way of addressing the management needs of the U.S. Fishery but were not endorsing them as part of a TRAC product.

DR. PIERCE: Did they indicate favoring of higher F reference points or lower reference points?

DR. RAGO: They kept their cards fairly close and didn't reveal any predilection towards higher or lower landings.

DR. PIERCE: Okay, thank you, so they didn't agree to anything specific; however, we do have reference points out of the TRAC and they have been discussed by you, and potentially they're going to be – well, they will be reduced by the Mid-Atlantic Council because of the OFL and reduce it to the ABC, so I just wanted to highlight the point that we really are headed for a future train wreck with the Canadians on this issue since we will be likely significantly constraining ourselves and the Canadians will not, similar to their management perspective with sea herring, I suspect, and groundfish as well. All right, thank you for that clarification, Paul.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Mr. Chairman, just so I understand this, the question about this perception that this is a somewhat conservative approach to setting the quota and the frustration – and this is to Dr. Rago – I thought what you had said was that we're heading towards a dip in the stock in 2014, and that one of reasons to using F 75 is an attempt to sort of even out the swing that is going to happen, anyway, so the other alternative available to the managers here is to go with F 100 percent now, and then what would be the consequences when we get to 2014 and beyond?

DR. RAGO: Well, as Vince correctly points out, there are some consequences for longer-term dynamics of the resource, and again those are based on a series of assumptions about the behavior of future fisheries and what we think should go on – we expect to go on with the stock structure. I think we're probably more certain about what will happen to the stock structure given its current size frequency and sex ratio information.

The consequences for the fishery and the landings is much less certain, and particular it is that magnitude of the discards and the behavior of fleets that is going to be a real important controlling factor. Certainly, putting dogfish on board when you don't want to is very expensive. It means that you can't put money on board for other things, and you spend a lot of time and gear damage and other things associated with that, so there is a very explicit desire to stay off of dogs if you don't intend to land them.

I think that will come up as this moves from the discard type fishery that we've have had for the five or six years to one which is actually directed

toward, and that's what Chris was relaying in terms of future behavior and discard uncertainty.

CHAIRMAN SIMPSON: Okay, we have a recommendation from the technical committee for a 20 million pound quota and a 3,000 pound trip limit. Those are the same values previously adopted by the Mid-Atlantic Council. If anyone wants to make a motion at this point, Dr. Pierce, do you have your hand up for that? Did you have a question before we get there? Okay, is there a motion regarding trip limits or annual quota? Pat Augustine.

MR. AUGUSTINE: **Mr. Chairman, I move the 2010 daily trip limit remain at 3,000 pounds and that the TAL/quota for 2010 at 20 million pounds.**

CHAIRMAN SIMPSON: Pat, for clarification this would be the 2011/2012 –

MR. AUGUSTINE: Yes, I did; please do that for me.

CHAIRMAN SIMPSON: Is there a second to that motion? Pete Himchak. **Discussion** on the motion? Dr. Daniel.

DR. LOUIS DANIEL: Mr. Chairman, I don't want to press my luck, but would it be a friendly amendment to exempt North Carolina from the 3,000 pound trip limit? I've had a lot of requests to up that limit to 4,000 pounds. We're managing our 16 percent opening and closing. I don't think it really has an impact and it would help the industry out a lot if we were able to have the 4,000 pounds. If that's considered a friendly amendment, I would appreciate that.

MR. AUGUSTINE: Mr. Chairman, no, I would not change it. If the gentleman from North Carolina would like to amend the motion or it can be an unfriendly motion to replace it, I would. The reason for that is we and I are very supportive of North Carolina and their issues. In many respects they're very different fisheries than we have above that state. Their requests for changes all the time are constant. We made a change in one of the previous species that we've dealt with, not at this meeting but a previous meeting.

It seems to me that we are always finding ourselves in a situation for one state or another. I don't mean to be crass on this but convenient

treatment when we agree as a board to set parameters – a couple of years ago we got to a point in time where North Carolina decided they were going to leave us, and our executive director went down and spent several hours in meetings discussing where, whyfors and why they shouldn't and so on.

But, the bottom line is if we need to go in that direction again where a state – and I'm not suggesting that you do – that a state threatens us, I just would like to remind he and the rest of the members that the Atlantic States Marine Fisheries Commission is a Compact of 15 states; and whether you're in it or not, you're obliged to agree with all of the commitments that we make. In this particular case if North Carolina would like to amend it, please do so, but I would prefer not to change it. Thank you.

CHAIRMAN SIMPSON: Okay, is there a motion to amend, Dr. Daniel?

DR. DANIEL: Yes, I would like to move to amend the motion to exempt North Carolina from the 3,000 pound trip limit, and if I get a second I will respond.

CHAIRMAN SIMPSON: Is there a second to exempt North Carolina from the trip limit? Not seeing one, the motion fails for lack of a second. We're still on the main motion. Any further discussion on the main motion? Dr. Pierce.

DR. PIERCE: Well, it is good news, obviously, we have an increase in the quota. Once again, I say it is in part to the fact that the Canadians are not going to have any significant catch, so 20 million pounds would be the result. We're going in the right direction. Nevertheless, it is a calculation that results from our taking 75 percent of the F target.

We have a totally rebuilt stock; we are not overfishing; and I just do not feel comfortable adding another layer of scientific uncertainty on to the calculation; that is the 75 percent of the F value, the F target. This number could be higher; easily justified. I'm not going to make a motion to amend because I know that would put us at odds with the Mid-Atlantic Council and potentially the New England Council, and I don't want to do that. But as a matter of principle and for future positions that I will take regarding the quota that we set for spiny dogfish relative to the

F target in this rebuild stock, I cannot support the motion.

CHAIRMAN SIMPSON: Okay, thank you. Any comments from the board before I go to the audience? Anyone from the audience wishing to speak to this? I understand there was at least one person who wanted to speak to the specifications. Okay, does the board need a moment to caucus on this? Mark.

MR. GIBSON: I just started thinking about this trip limit. Is the sole reason for the 3,000 pound trip limit to have conformance with the Mid-Atlantic and the councils? I have some concerns like Dr. Daniel does about the magnitude of the trip limit, and I'm lacking in understanding as to why we need that at that level with the quota size we have. It seems to be overly constraining on business decisions. I think I heard Chris say that the trip limit is simply a management decision and has no biological basis one way or another. Is the 3,000 just to align with some other organization?

MR. VONDERWEIDT: Yes, the discussion is the same every year. It is that if you have higher possession limits, the quota goes quicker, so then all the dogfish that are landed after that are discarded. If you have lower ones, there are discards associated with hitting your trip limit and then for the remainder of that trip, if you encounter dogfish you can't keep them. But, yes, they say it is management decision more than a science decision; and being that we've been at 3,000 pounds and achieved the F target without going over the quota, that was the decision.

CHAIRMAN SIMPSON: Yes, and I guess from own perspective, I think it would have implications for allocation distribution of who has had access to the resource and when, so I think that's part of the rationale.

MR. FOTE: A question I'm asking then, if you have a separate quota for North Carolina that is a region down there, what difference does it make to have that state basically harvest if it's not going to create more bycatch? I mean, that's my only concern if it's going to create more bycatch or not bycatch; and if it is not going to unfairly take away from other states because I understand it is a separate quota, then why not?

I got into a long discussion when it was brought up before about special management tools, but that is part of the reason we're here because we're able to do that type of fix when we need to do it for a particular state if it doesn't negatively impact other states, so that is what I'm trying to figure out here.

REPRESENTATIVE DENNIS ABBOTT: Thinking about Dr. Daniel was trying to do – and I don't have the paperwork in front of me – and knowing that he is talking about how they take the southern half of quota, the division of it, and I was wondering if we had the figures of how much of that catch is actually caught by North Carolina versus the other states. I think it is significantly the largest; isn't it? Do we have those figures?

CHAIRMAN SIMPSON: Yes, previous decisions in terms of allocation allots North Carolina 16 percent of the coast-wide total.

REPRESENTATIVE ABBOTT: So how significant is it really; and when they harvest their 16 percent, after giving this a little more thought, it seems like if they want to go out tomorrow and catch it, fine, if that's the way they do that. I don't know, after Mark brought it up it just puts a different light on it. I don't know that we shouldn't consider that.

MR. HIMCHAK: Mr. Chairman, North Carolina has their 16 percent allocation, and this issue of one and a totes – two totes is 4,000 pounds has come up a number of times. The only thing I could see that would hurt the other states in the southern region is that we're all fighting for the processing in Massachusetts.

I know they're constrained by 16 percent, but does this give them a marketing advantage to get their trucks filled up quicker and get up to the Massachusetts processors and put other southern states at a disadvantage. I don't know; I'm not an economist.

MR. AUGUSTINE: Mr. Chairman, just to go back – and I'm not a guy that talks about history, but in previous meetings at this board and of the Mid-Atlantic, we had discussed the concern about not having anyone have the privilege of ending up developing a directed fishery, and that was what we ended up with as 3,000 pounds, and that was going to control it.

In previous years, when we first got into this process of dividing percentages between north and south, as I recall – and, Dr. Pierce, I'm not going to pick on you, but one of the northern states harvested all of the quota, well above and beyond what North Carolina could have had, Virginia or Maryland, and those southern states were completely shut of the fishery.

There was a very long and extended debate about why we were going to 3,000 pounds, and that was a control factor to prevent that from happening. So if you want to go and revisit that, we'll be here for three days. Thank you, Mr. Chairman.

CHAIRMAN SIMPSON: Yes, I think the management scheme in place now precludes that.

DR. PIERCE: To the point that Pete made, the market for North Carolina dogfish is Massachusetts. The market for every dogfish is Massachusetts. Processors are limited in terms of their capacity, and they have expressed great concern to me relative to the landing limits that are in place, that actually wanted lower landing limits than 3,000, but they're living with it now.

So, there is the concern, legitimately so, cannot be estimate – that is, I can't specifically identify – well, I can't quantify the impact, but having no trip limits in North Carolina, as they land large amounts to ship to Massachusetts, potentially is that could flood the market. I don't know for sure but the dynamics are pretty obvious.

If North Carolina had processors – and we have been encouraging North Carolina and their fisheries to get processors so they can develop their own markets or get into the same markets, whatever. I think it would be unwise to move away from the same trip limit, universal, up and down the coast; because if we do so, we do possibly cause some problems with the markets and flooding the markets with too many dogfish.

DR. DANIEL: It's a heck of a discussion for an unseconded motion. I just wanted to respond. The last thing I want to do is impact the southern states and flooding the markets. We're usually at the tail end of the season. My thought was that it would not cause such a problem. I do know that in the upcoming discussions on the addendum, when we all go to state-by-state quotas, we're looking at the option of not having trip limits and



letting the state have the flexibility to set it wherever they'd like to.

I was just trying to get ahead of the game a little bit just because it has been requested of me so many times to go to 4,000 pounds. I think it is just the price and the economics of it. It seemed like a legitimate discussion point since we have 16 percent quota share and I can shut the fishery down as soon as it is caught. There is no bycatch after that's over because they're not out there fishing. I'm almost tempted to remake my motion but I'm not going to do it.

MR. JACK TRAVELSTEAD: I think Louis made my point, and that is in Agenda Item 7 we're going to be talking about state-by-state shares at least for the Mid-Atlantic Region and hopefully agree to that and get something in place by May 1<sup>st</sup>, and perhaps between now and then we can revisit the trip limit issue if in fact we do all agree to state-by-state quotas and just leave it for a future discussion.

CHAIRMAN SIMPSON: That's good, Jack, good point. Any other discussion on the motion? We have a motion on the floor for a 20 million pound 2011-2012 quota and 3,000 pound trip limit. Do you need a moment to caucus? The motion is move that the 2011-2012 daily trip limit remain at 3,000 pounds and that the TAL/quota for 2011-2012 be 20 million pounds. Motion by Mr. Augustine; seconded by Mr. Himchak. All those in favor please raise your hand; any opposed; any null votes; abstentions, 2 abstentions. **The motion passes 13 to 1 with 2 abstentions.** The next item on the agenda is a presentation from Jim Armstrong on the Mid-Atlantic Council's Spiny Dogfish Amendment 3.

### UPDATE OF MAFMC SPINY DOGFISH AMENDMENT 3

MR. ARMSTRONG: Mr. Chairman, I don't have anything to throw up on the screen and I'm going to keep this really brief. Amendment 3, as it is currently contemplated, has seven issues. The first one is RSA provisions. When the Spiny Dogfish FMP was developed, that was exactly the same time that the RSA framework was being developed, the Omnibus Framework for our other FMPs, so it didn't quite make the train, and so the idea here is to just go ahead and add that in. It should be easy enough.

The only thing I can see might be a problem is that the word on the street is the RSA Program may be getting modified, so it would be a shame if you get into this and then the RSA changes significantly, but I don't have anything official on that. The second issue would be quota allocation. That is probably the major source of disagreement between the federal and the interstate FMPs for spiny dogfish.

Each year fishermen with the federal permits have to exit the federal fishery as the federal fishery is closed but state waters are still open; and then when federal waters open up, they apply for their permits again and get them, and it is an open access permit, so you can hop in and out as much as you want, but it causes a lot of problems. There is access confusion.

For example, this year the fishery closed, Period 1 closed early – it closed August 27<sup>th</sup>. That was also coincidentally when the northern region closed, roughly, but folks in the Mid-Atlantic and for North Carolina the federal waters were closed to them until November 1 when they opened up again, so by aligning the quota allocation schemes we can minimize the conflict between the two FMPs to the greatest extent possible. I'm looking forward to listening in on the discussion that follows this.

One of the reasons for the delays in Amendment 3 is actually this issue of we contemplate alternatives like a status quo alternative and possibly a coast-wide quota where no allocation is made, an allocation similar to the black sea bass plan is done by the commission, but we don't have another alternative like – well, their other alternative would be to match the allocation plan that is implemented by the commission, but that appears to be a moving target right now, so we're looking forward to that stabilizing so we can bring the plans into alignment.

The third issue is sex-specific management measures. This would allow for the male-only fishery, which would be a good idea to explore. From a biological standpoint, it would likely benefit the female stock and take some fishing pressure off and take some of the pressure of having a lot of male dogfish out there off of the female stock.

How this fishery would operate, though, is kind of difficult to – is one of the things that makes it

difficult to get off the ground, I think. It would likely be a high-volume offshore fishery. Right now I'm not sure anybody is really taken enough serious thought into what the market would be for a product that is harvested in that manner. It is theoretically appealing, but it has some practical issues.

The fourth issue is limited access. This was proposed as a way to keep the fishery in the hands as it grows – it looks like we're on the threshold of a good stable spiny dogfish fishery here. This idea was proposed as a potential way to keep the fishery in the hands of experienced dogfish fishermen that would likely be able to minimize some of the problems with the fishery that have occurred in the past, such as protected resource interactions. Due to the controversial nature of limited access and the lack of a joint federal and state FMP, this might be a candidate for a subsequent amendment.

Another issue that is in the amendment is acknowledging the recreational fishery, which is not recognized by the FMP as it currently exists. Adding it would allow for specification of recreational management measures should the development of a recreational fishery occur. Anything can happen.

EFH designation, essential fish habitat, a periodic review of the essential fish habitat definitions is required under the Magnuson Act. Redesignation isn't necessarily required but periodic review is required, so we're doing this because we've got to, so that will be in there. Lastly, management measure rollover, which is basically an administrative housekeeping issue – it exists in other plans and basically would maintain status quo management measures at the beginning of a given fishing year if rulemaking hasn't finalized and the new management measures aren't in place yet.

Where we're going from here, the joint committee is going to meet during the December Mid-Atlantic Council meeting, and the committee is expected to, at that time, finalize the issues that will be addressed in the amendment.

CHAIRMAN SIMPSON: Thanks, Jim. Any questions for Jim? Any comments on where the development of the plan is now that you might want to see included in a letter from the commission to the Mid-Atlantic Council? Okay,

Jim says he'll be in touch. The joint committee meets in December, is that right, with the New England Council? Okay. The next agenda item, then, is Spiny Dogfish State Shares. Who wants to get this started? Pete.

## **SPINY DOGFISH STATE SHARES DISCUSSION**

MR. HIMCHAK: Mr. Chairman, I inherited this task. The way this situation was left at the August board meeting is that the southern region states would again caucus to see if they could come up with a range of alternatives for state-by-state shares, the northern states could similarly go about their business and then come back at the annual meeting with options for an addendum that we're hoping we can finalize today at least for the southern region and then have public hearings and get this thing in place before the next fishing year, which is May 1<sup>st</sup>.

I had originally presented four options at the August meeting, and then we discussed three others amongst – again, this is the states from New York to North Carolina – we discussed three additional options. I refined my original proposal because in the transcript there was a lot of – the data prior to 1988 was deemed unreliable, so I took that out of my original analysis, and I defined the ACCSP data set from 2003-2009 and not 2002, as was requested in the transcript, and I kept the same methodology and recrafted three of the four options that I originally proposed that essentially gives a base allowance to each state, 5 percent of the regional quota.

Everybody is distributed equally and then it takes varying percentages of the historical catch, which is defined as 1988-2002, and the current catch, which is defined as 2003-2009. I circulated this document to the states from New York to North Carolina, and we've been discussing it at a number of opportunities today.

In the board transcript there was a request for a fourth option to just do a straight percentage for the years 1994-2000. The reason that option was requested was because that was the option in the original Addendum III wherein North Carolina got their 16 percent allocation. Subsequent to my distribution of recommendations to my fellow states, there have been three additional recommendations to essentially include North

Carolina in my first three formulas and do – so now we're up to seven options.

This was discussed at the last board meeting, and we have come up with seven options that we would like to put in the document, have public hearings and make a decision. Again, I don't think the minutia is important to the northern region states. Our methodology can be circulated. I still have reservations about the current landings data.

I still need the PDT to certify that the data that is being used in the calculations is accurate and is complete because there are a number of issues. Some of it is confidential so it may not be a complete picture. I went ahead and did the calculations. They may change a little bit, but I think we all bought into the methodology and that is what is important. I think I'll leave it at that; and if Tom wants to further develop this discussion, I'll turn it over to him.

MR. THOMAS O'CONNELL: First, I'd just like to thank Peter for taking the time and effort between the board meetings to start the discussion amongst the southern region. Maryland's interest to add three options using Peter's formula but including North Carolina was looking back and seeing that the North Carolina allocation was based upon when we had a regional quota, and there was concern about them being geographically disadvantaged and that quota being obtained before the fishery gets started.

Now that we're looking at a state-by-state allocation, we feel like the same formulation should be applied to all states evenly; so recognizing the landings concerned with North Carolina, I followed what the technical committee recommended back in 2002, which was to utilize North Carolina's trip ticket data, so that was the data that I had included for their reference period landings and just basically followed the same approach Peter had used for his first three, but included North Carolina landings.

MR. TRAVELSTEAD: I think the important thing here today is that we proceed with an addendum. All of the southern states are interested in going to state by state, it appears. Whether we send out three or four or seven options is not as important as that we get this thing rolling so that we can have something in

place by May 1<sup>st</sup>. I think the seven options that have been developed capture the range of reasonableness for all the states. Everybody likes one or two and everybody dislikes one or two, but I think we've got it captured where we need to be and hopefully we can roll forward with it today. Thank you.

CHAIRMAN SIMPSON: Very good; it sounds like it is shaping up. Dr. Daniel.

DR. DANIEL: I agree with everything that has been said. I think there is an option out there that retains the 16 percent for North Carolina. I need that at least as one of the options. I think Tom and Pete have done a great job coming with various options that give everybody an access. I just want to express one point for the record that my only concern is using the current information because that is the reason we came to this board in the first place was because the fish were being caught before they got to North Carolina.

Those current landings reflect that, and that is going to be a discussion for another time and I understand that, but I was supportive of the seven options going out to public hearing in an addendum and getting that going so we can have it in place for the next fishing year.

MR. JAMES GILMORE: We agree with it also and seven options seems to be quite a lot, but I think if you go back to the last meeting and the amount of e-mails that went back and forth, I think we were up to about 15 options at one point, so actually we've cut it down quite a bit. The only thing we haven't discussed or we brought up I think earlier, and I just want to make sure we include this is that we are kind of guessing at this, and we've sliced this thing up so many different ways because when you go back to the data in the eighties and whatever, you really couldn't figure out what the right way to do this was so we're basing it on history, but we wanted to make sure at least from New York that we put in something of a sunset clause so we re-evaluate this in three years or so just to make sure we got it right and also the possibility of putting in transfer capabilities in this so we can move stuff around if we missed it all. With those caveats, we're agreement with it also.

MR. HIMCHAK: Mr. Chairman, to address Dr. Daniel's concerns, I had originally only advanced four options essentially conceding that North Carolina should have their 16 percent.

The reason I did that is because in the board transcript, when they put their trip ticket system in in 1994, there was a lot of discussion about a lot of the data that are entered for North Carolina are underrepresented, but, again, we can take the seven to public hearing, we could reduce it to four, we come up – you know, ultimately we'll pick one.

And then included in the addendum is a three-year review – there are other facets to this that we'll have to work with Chris on – a three-year review where we may renegotiate percentages, allowing for quota transfers and issues like that, quota paybacks and all that stuff, which is typical for quota monitoring state by state.

CHAIRMAN SIMPSON: Okay, is there a motion to direct staff or technical committee to develop this any further; is there any need for action on this today?

DR. DANIEL: **I'll make a motion to move forward with the development of an addendum to address the state-by-state quota shares, including the seven options.**

CHAIRMAN SIMPSON: Okay, we had a motion from Dr. Daniel; is there a second? Pat Augustine seconded. Dr. Pierce.

DR. PIERCE: Well, certainly, I'm still supportive of the states in the southern region establishing state shares to deal with competing needs, to prevent one state in the southern area from capturing the majority of dogfish that may be landed based on that southern quota. I'm still troubled, however, by the addendum that references possession limits, Section 6. I've already pointed out that potentially we have the situation where states to the south may have possession limits of 10,000 pounds, whatever, and where would those fish go?

To Massachusetts because that is the only state that has the processors, so that could have a dramatic effect on the price made available not only to those fishermen from the south who would be flooding their own market but certainly to those fishermen in the northern area such as Massachusetts that would be living with 3,000 pounds as a possession limit.

Now, yes, there is some seasonality to this, true, but there is a lot of overlap. I'm not going to make any motion to take it out. I'm just

cautioning everyone that this could have a very negative effect if indeed the limits are raised in the southern states to the point where they shoot themselves in the foot by causing price to decrease to fifteen cents a pound or ten cents per pound as opposed to keeping it up around twenty-two cents or more.

There are some economic consequences here to states having the ability to set their own possession limits because they'll be competing against each other potentially relative to the amounts that can be shipped into Massachusetts. I would hope that eventually processors will be established in other states. When that happens, then possession limits differing by states might make sense, but right now it doesn't. I'm not going to oppose the motion or make a motion to amend, but obviously we will have a lot more to say on this addendum as it moves forward and the public comments on it.

MR. TERRY STOCKWELL: Mr. Chair, the written motion addresses my issue, which was that was specific to the southern region. Thank you.

MR. HIMCHAK: Mr. Chairman, I don't want to take Jack's thunder here, but to address Dr. Pierce's comment, I think that the genesis determination to get state-by-state shares or that if North Carolina and Virginia had a set amount of the quota, that they could then invest in shoreside facilities and process the fish on their own. I'll let Jack expand on that if I'm getting it wrong, but that is really the thrust of the strategy here in the long term.

MR. TRAVELSTEAD: I wasn't even going to make that point, but you're right, Pete, there is some hope that shoreside processing could occur in the Virginia/North Carolina area in the future if we can get enough quota between the two of us. I wanted to perfect the motion a little bit, though. I see only six options listed, A, B, C and E, F, G. There was a seventh. I don't know what letter it was associated with, but we need to add that seventh option in there. I don't see anything in the option about trip limits that David was speaking to.

MR. HIMCHAK: There is an Option D; it should be A, B, C and D and then Maryland put forward the E, F and G.

CHAIRMAN SIMPSON: To your point, Jack, is there a problem that needs to be corrected up here with regard to trip limits?

MR. TRAVELSTEAD: No, not that I know of.

CHAIRMAN SIMPSON: Okay, and in terms of documentation, I'm not sure where these alternatives are described, but presumably they'll be provided to the commission staff to include them in the meeting transcripts and so forth. Pete.

MR. HIMCHAK: Mr. Chairman, the next step would be for me to work with Chris; and essentially once we know what the ACCSP data base is, then make sure all the calculations come out and the percentages are correct.

DR. DANIEL: Just from a lot of our discussions at least in the southern group, I know we did talk about having an option in there to remove the trip limits, and so I think that does need to be included in my motion to at least have an option in there to remove the trip limit requirements, and then we can discuss that as the addendum progresses.

I don't think there is a lot of analysis that would be required there, but just to be able to give the states the flexibility to go above 3,000 pounds if they need to. I would like to expand my motion to include an option that removes the trip limit requirement. Understanding Dr. Pierce's concerns and I don't disagree with him, but again if we are successful in getting enough fish to have a processing facility in North Carolina or Virginia, then it may resolve a lot of his concerns.

CHAIRMAN SIMPSON: Is that perfection of the motion okay with the seconder, Pat Augustine? Okay, it is. Any discussion on that change? The most affected parties seem to understand these alternatives fairly well. Is there any other comment on this motion?

MR. G. RITCHIE WHITE: Mr. Chairman, as far as trip limits, I think we already established trip limits for 2011-2012, so this would only – if this passed, this would be 2012-2013, I assume.

CHAIRMAN SIMPSON: I think at this point it is in the development of the details of this, and so I expect that it would require a second action by the board to change the trip limits we adopted

previously. Any further discussion on this before we take a vote? Any need to caucus. **The motion is to direct staff to prepare Draft Addendum III to the Spiny Dogfish FMP with the following management options:**

**New Jersey proposed allocation options A, B, C and D and Maryland proposed allocation options E, F and G; include quota transfer options; include quota rollover options; include payback of transferred quota; include a three-year southern region state share re-evaluation; include an option that removes the trip limit requirement. Motion by Dr. Daniel and second by Mr. Augustine.**

Are we ready for the question as they say in New England? All those in favor raise your hand – I think we had 15 in favor – any opposed – I don't see any opposed – any abstentions, I don't see any; any null votes. **The motion passes unanimously.** Vince.

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, I have an important question about the timing on this. During the discussion there was an intent to have this in place for 2011. We have one board meeting scheduled before then, which will be in the third week in March. It seems that there are two options to the board. One would be there has been an awful lot of work done here already, and one option would be for the staff to prepare the addendum in consultation with the folks that have been working with us already, circulate that addendum by correspondence, have the board approve it for release for public hearing and such, have the states help us with the public hearings, and get the board in the position to vote on this at the March meeting.

The second option would for us to bring an addendum to you at the March meeting, but there is nothing in the existing system now that as the states get closer to knowing what they want prior to the opening in May that the individual states couldn't set their own limits individually in the absence of the addendum, and then let the addendum go through and be approved in August. That's the two options that I see for you, Mr. Chairman.

CHAIRMAN SIMPSON: Okay, thanks, so the first option was developing a document for approval basically via conference call or e-mail poll, something to that effect, and that would

lead to approval at the March meeting, in a regular board meeting. The second one I'm not as clear, and I guess I need a little more help with the second one.

EXECUTIVE DIRECTOR O'SHEA: Well, the second option would be to bring you the addendum for approval at the March meeting, then go forward for public comment and do the hearings, and the earliest you'd be able to take action on it would be at the August meeting in Alexandria. That would be after the 1 May start. The impact would really be in the hands of the individual states to control, because by 1 May they ought to know pretty close what they have in mind, and they could set their own quotas.

CHAIRMAN SIMPSON: Okay, with that understanding, Pete, do you have something?

MR. HIMCHAK: Mr. Chairman, we discussed this earlier this morning, and it was our preference to go with the first route that Vince outlined, that we would essentially deal with it – the states from New York to North Carolina – approve the addendum, have our public hearings and then come to the March meeting for approval and then make any regulatory adjustments that we had to make by May.

CHAIRMAN SIMPSON: Okay, that sounds good and it sounds like the details are sufficiently developed among the group that I wouldn't anticipate much problem doing that, and I think it would be better for the public and for the industry to know about two months ahead of time or six weeks ahead of time rather than a midseason adjustment. I can imagine that would be a little chaotic. Vince.

EXECUTIVE DIRECTOR O'SHEA: Just two things; one, to clarify even though this would be a quota-sharing scheme among the southern states, the addendum to be released for public comment would have to be approved by all the states on the board. And then the second is a plug or a sense of commitment from the board that the states would be willing to help us with a lift on the public hearings so that we don't have to send staff to all the states for the public hearing on this. Chris is the coordinator but we're down two plan coordinators here for the next three months or so. Thank you.

CHAIRMAN SIMPSON: Okay, that's a good point; and states that would be expecting to hold

hearings, do you think you can do that lift, as Vince says? I see a lot of nods so I think that will be pretty easy to do. Ritchie, you had something.

MR. R. WHITE: Mr. Chair, I would just share David's concern on the trip limit issue, and I would hope that in this process where this is going to be accelerated and we may not have the ability to comment from a northern perspective on this until the final approval, that I would hope the southern states would consider leaving the trip limits in place for this year and next year then that could be addressed. Thank you.

DR. DANIEL: My understanding is we don't have a choice. We're at 3,000 pounds for this upcoming season. That is what I understand the motion did before.

CHAIRMAN SIMPSON: Where we stand right now, we're at 3,000 pounds.

DR. DANIEL: Right.

CHAIRMAN SIMPSON: Okay, ready for the next agenda item, Coastal Sharks 2011 Specifications. Chris has the presentation for this one.

## **COASTAL SHARKS 2011 SPECIFICATIONS**

MR. VONDERWEIDT: This is pretty quick and straightforward. The Coastal Sharks Fisheries Management Plan allows the board to set possession limits for small coastal shark species, large coastal shark species, pelagic species and smooth dogfish, and it allows the board to set a quota for smooth dogfish. However, the board is not obligated to take any action for any species. Last year the only action that the board took was a 33 large coastal shark possession limit in 2009.

The NMFS proposed specifications are a 33-fish large coastal shark possession limit with a July 15 opening date; January 1 opening date for small coastals and pelagics; with no possession limits for any species other than large coastal sharks. It also proposes in-season possession limit adjustments without much details on what that might mean, but what it could mean is that they would go to a possession limit of zero large coastal sharks midway through the season at one point but then open it up again to 33 and then close it at zero or change if in season.

I'll talk about that a little bit later in detail. The technical committee recommended to continue on with a 33-fish large coastal shark possession limit. There is no new data warranting a change. This amount was developed to spread the quota out under the existing large coastal shark quota. It is consistent with the NMFS proposed specifications.

This amount worked reasonably well in 2009. The technical committee does not recommend measures for any other shark species or complex, but they did have some concern regarding the in-season possession limit adjustments. As many of you know, the state regulations for I would say about 70 percent of the states are set at a 33-fish possession limit for large coastal shark species, so this is going to take a change to the regulations to have some kind of an in-season adjustment.

For that reason, several states might take a few months to do this; some might take half a year, depending on if they have to the legislature. For that reason it is incompatible with current state regulations, and the technical committee members made it very clear to HMS staff during the conference call that this was the case. I just wanted to highlight that for the board. That's it, 33-fish large coastal shark recommendation.

MR. AUGUSTINE: I'm on the Highly Migratory Species Advisory Panel, Mr. Chairman, and we did discuss at length the point that you made. Would you want a motion that we accept or approve the technical committee recommendation? I think the first one, Chris, was just the 33? **Move to set a 33-fish possession limit for large coastal sharks in 2011.**

CHAIRMAN SIMPSON: Is there a second; Dr. Malcolm Rhodes. Any discussion on the motion? Dr. Daniel.

DR. DANIEL: I just wanted to say I appreciate the proposed specifications from NMFS. There was some discussion about the possibility of opening January 1, which would have disadvantaged a lot of the North Carolina north states. I think the July 15 and the 33 fish is fair for all concerned and provides everybody with equal and equitable access. I'll support the motion but also wanted just for the record to say I felt that the proposed specifications from NMFS are right on target.

CHAIRMAN SIMPSON: Okay, good, thank you. Any comments to the motion? Steve.

MR. STEVE MEYERS: Mr. Chairman, I'm going to abstain on this simply because we're in the process where the final decision hasn't been made yet. Again, we have been discussing this with the states and we hear concerns and we're working together, but I'm going to have to abstain this morning.

CHAIRMAN SIMPSON: Okay, thank you, Steve. Any other comments? Bill Adler.

MR. ADLER: Mr. Chairman, just a question; Dr. Daniel said something about the opening date or something, and is that a standard or is that something that needs to be in this motion?

CHAIRMAN SIMPSON: Okay, I guess the standard opening is July 15 and that is set by the National Marine Fisheries Service.

MR. ADLER: Okay, and it is that.

CHAIRMAN SIMPSON: It is already built in, yes. Dr. Daniel.

DR. DANIEL: I don't believe that is correct. They could select to open January the 1<sup>st</sup>. The reason I put it on the record was just to support NMFS in the proposed specifications. They could change that July 15, but I'm hopeful that the board supports the proposed specifications and the July 15 opening date. If they open January 1 at 33 fish, there is a good chance that the fish would be taken before North Carolina and Virginia and other states have access to it. That is the only reason I brought that point up.

CHAIRMAN SIMPSON: Okay, is there any desire to add that recommendation to the National Marine Fisheries Service or to bring that point out in this motion at all; any need to do that, Bill?

MR. ADLER: Yes, I think if there is any concern, I think it would be wise to have into a motion that states that's what we basically want rather than leave it blank.

CHAIRMAN SIMPSON: Okay, we have a couple of people from the National Marine Fisheries Service here; is there any comment about this or input that you could provide now, either Bob or Steve? Okay, we'll give you a

minute. I think if we're going to take action on that, we could do it separately from this motion.

If there are no other comments on this motion; is there anyone in the public who wishes to speak to this motion? Okay, seeing none, a moment to caucus. All those in favor please raise your hand, 13 in favor; those opposed, none; any null votes; any abstentions, 1 abstention. **The motion passes.** Dr. Daniel.

**DR. DANIEL: I just would move that we formally recommend to the National Marine Fisheries Service the July 15 opening of the large coastal sharks.**

**CHAIRMAN SIMPSON:** Second by Bill Adler. Discussion on this motion? Does the Fisheries Service conference have consensus yet? Steve, any thoughts or help at this moment?

**MR. MEYERS:** Mr. Chairman, if the board wishes to recommend this, certainly we will listen and consider it as part of the process.

**CHAIRMAN SIMPSON:** I imagine if this motion passes, that the intent will be conveyed by letter from the commission in a comment to the National Marine Fisheries Service. Any further discussion on this. All those in favor please raise your hand, 13 in favor; any opposed, none; any abstentions, 2; any null votes, none. **Very good, the motion passes.** The second to last thing on the agenda is the Law Enforcement Review, Recreational Shore Angler Targeting and some other details; Mike is going to give us that.

## **LAW ENFORCEMENT COMMITTEE REPORT**

**MR. MIKE HOWARD:** The Law Enforcement Committee through a series of phone calls, conference calls and meetings discussed the issue of recreational anglers targeting prohibited species from shore. That is in your packet along with a response to NOAA reference targeting sandbar and sand tiger sharks.

We worked with the board to refine some of the language. Our summary is that unlike striped bass where wording such as "attempt to catch" may have limited effect, and we can actually use as a tool in rare circumstances for targeting striped bass where it is prohibited, prohibiting specific species of sharks while allowing others

that occupy the same range is problematic and really much more difficult than targeting schools of fish, so the committee recommended that wording such as "attempt to take" not be used.

We did work with a definition of take and everybody was consistent with that. In response to the letter from NOAA, we wanted to point out several things about coastal shark fishing. The Law Enforcement Committee believes there is widespread shoreside fishing, and where shark are present there is a traditional history of dealing with sharks in an unsavory way.

They're thrown in the bushes, thrown in the sand and all this. Yes, there are tournaments and, yes, there are kayaks and there are new presentations on some of these, they don't represent the real scope of the taking of sandbar and sand tigers that we believe is going on. However, any efforts to eliminate tournaments are good.

The bigger problem we see is these shoreside fishermen, dockside fishermen that catch them and throw them in the bushes, put them in the bucket for food and cannot identify them and don't buy into the FMP at this time. The letter is self-explanatory. The one that responds and identifies the public's ability to identify the various species, education is needed for recreational folks. In the commercial field the ID School is a great success.

For the recreational sector education is much more complicated, the issue of attempting to catch or take sharks and the problems there. We reviewed our enforcement efforts. No one see large-scale targeting of these species at this time. More opportunistic fishermen fishing for anything that bites and if sharks are in the area, and they are some of the protected species, they're more apt to catch those and not recognize them from shore.

There has not been recognized a significant increase in recreational fishing for sharks in the last few years. Although kayak fishing and other methods are occurring on a limited basis, they're novelty items but no state has seen an explosion in this type of activity or a resulting increase in catches by this activity except for the few and a little TV program and a local station. The bigger problem is the large group of folks that just don't know what the fish are, that are mom and pop sitting on a bucket at docks and shoreside. Any questions?



MR. ADLER: That woman that put the tautog under her skirt; did they put the shark under there, too?

MR. HOWARD: Mr. Adler, I knew I'd be remembered for something. To specifically answer your question in a serious way, the tautog fishery, people know what they're catching, know it is illegal and are seriously hiding it. There is a difference and I want to be clear about this. There is a difference between the current state of recreational shark fishing along the Atlantic coast because folks as a general way don't know how to identify the fish.

We've got to get over that and then we have to get them to buy into the plan. You get that done and law enforcement efforts are going to be so much more easy. We're lucky that a lot of fishing occurs on barrier islands and national and state parks where rangers and other public billboards are there and says, "Stop, identify your sharks, handle them carefully."

They're great educational tools, but many of our areas don't have that and folks are just not able. I speak with folks routinely, what is this you can't keep sharks, what kind can you catch, and I have difficulty and I'm trying to get myself over that learning curve, and I refer them to places. So that is our biggest concern that the law enforcement sees right now in the recreational sector is education and getting them to buy into the plan.

## OTHER BUSINESS

CHAIRMAN SIMPSON: Thanks, Mike. Any other questions for Mike? Is there any need or desire to take an action on this? Okay, seeing none, I believe we're on to other business. One item was brought up, smooth dogfish.

MR. HIMCHAK: It's amazing with horseshoe crabs being pretty quiet in New Jersey, we can devote more time to dogfish. There was a public scoping meeting held by the Highly Migratory Species in New Jersey on an advanced notice of proposed rulemaking for the future of the Atlantic Coastal Shark Fishery. It seemed like the discussion on smooth dogfish dominated the evening's discussions.

Just to make everybody aware, if you read the Federal Register Notice for June 1, 2010, HMS Amendment 3 was adopted – I don't know what

the word is, but anyway they established a quota to take effect in the year 2012. You can read the whole background of this issue in that Federal Register Notice.

But basically they took the peak – and the status is unknown. They have very few data on smooth dogfish, but they took the highest peak landings from 1998-2007 and then took a mean of that time period and added two standard deviations to derive a quota that is around 1.6 million pounds. This will take place in 2012.

If you look at the landings by state, again we're going to get into the issue of regional advantages in getting to this coast-wide quota. This was brought up at the public hearing by New Jersey fishermen. It is also reference in the Federal Register Notice by North Carolina fishermen.

Who is going to get a shot at the fish first and can they them all and then there will be none for the rest of us. So, to address that need – I know it is over a year away, but I'm prepared to offer a **motion to – yes, move to direct the plan development team to develop an addendum to the Coastal Sharks FMP to include a state-by-state allocation for smooth dogfish to be implemented prior to the 2012 fishing year.** Again, it could be something simple as look at the percentages – we have reliable data from certain years – and try and craft something. This doesn't have to be on the fast track, but let's work on it.

## ADJOURNMENT

CHAIRMAN SIMPSON: **Okay, we have a motion on the floor; is there a second? I'm not seeing a second. The motion fails for lack of a second.** Any other business to come before the Shark Board? Okay, do I have a motion to adjourn, then? Okay, and seconded. Without object, it went very well.

(Whereupon, the meeting was adjourned at 10:07 o'clock a.m., November 11, 2010.)