

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

**February 25, 2003  
DoubleTree Hotel Crystal City  
Arlington, Virginia**

Approved June 10, 2003

## ATTENDANCE

### Board Members

Lew Flagg, Maine DMR	Bruce Freeman, New Jersey DFG&W
Ritchie White, New Hampshire Gov. Apte.	Roy Miller, Delaware DFW
David Pierce, Massachusetts DMF	Eric Schwaab, Maryland DNR
Bill Alder, Massachusetts Gov. Apte.	Bruno Vasta, proxy for Bill Goldsborough, MD
Vito Calomo, proxy for Rep. Verga (MA)	H. Russell Dije, proxy Senator Colburn (MD)
David Borden, Rhode Island DEM	Rob O'Reilly, Virginia MRC
Gil Pope, <b>Vice Chair</b> , Rhode Island Gov. Apte.	Chris Ludford, Proxy for Catherine Davenport, VA
Jerry Carvalho, proxy for Rep. Naughton (RI)	Fentress Munden, <b>Chair</b> , North Carolina, DMF
Ernest Beckwish, Connecticut DMR	David Cupka, South Carolina Gov. Apte.
Lance Stewart, Connecticut Gov. Apte.	Spud Woodward, Georgia DNR
Fred Frillici, proxy for Sen. Gunther (CT)	Luis Barbieri, Florida F&W
Gordon Colvin, New York DEC	Harold Mears, NMFS
Pat Augustine, New York Gov. Apte.	Bill Cole, USFWS
Brian Culhane, proxy for Senator Johnson (NY)	

### Ex-Officio Members

Chris Batsavage, NCDMF, TC Chair

### ASMFC Staff

Megan Gamble	Mike Lewis
Bob Beal	Lydia Munger
Tina Berger	Brad Spear
Vince O'Shea	Nancy Wallace

### Guests

Rich Seagraves, MAFMC	Paul Perra, NMFS
Anne Lange, NMFS	Steve Meyers, NMFS
Bob Ross, NMFS	Wilson Laney, USFWS
Peter Burns, NMFS	Preston Pate, North Carolina DMF
Heather Stirratt, NMFS	Gene Bergson, Atlantic Coast Fisheries, Bedford, MA
Janice Plante, Commercial Fisheries News	Paul Diodati, MA DMF

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

**TABLE OF CONTENTS**

**WELCOME & INTRODUCTIONS.....5**  
**BOARD CONSENT .....5**  
**PUBLIC COMMENT .....6**  
**PLAN REVIEW TEAM REPORT: STATE IMPLEMENTATION PROPOSALS .....7**  
**TECHNICAL COMMITTEE REPORT: 2003-2004 FISHERY YEAR SPECIFICATIONS.....15**  
**TECHNICAL COMMITTEE: 2003 STOCK ASSESSMENT .....30**  
**UPDATE ON THE FEDERAL AMENDMENT TO THE SPINY DOGFISH FMP.....31**  
**NOAA FISHERIES HMS UPDATE: SHARK AMENDMENT #2 .....32**  
**IMPLEMENTATION DELAYS/PENALTIES .....36**  
**OTHER BUSINESS .....37**

## INDEX OF MOTIONS

**1. Move to approve Maine's implementation proposal, including its request for *de minimis* status.**

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

**2. Move to approve Delaware's implementation proposal, including its request for *de minimis* status.**

Motion by Mr. Augustine, second by Mr. Adler; Motion carries.

**3. Move to approve the state implementation proposals for New Hampshire, New York, Maryland, Virginia, South Carolina.**

Motion approved without objection.

**4. Move to approve South Carolina's request for *de minimis* status.**

Motion approved without objection.

**5. Move to approve North Carolina's implementation proposal.**

Motion approved without objection.

**6. Move to approve Georgia's implementation proposal, including its request for *de minimis* status.**

Motion approved without objection.

**7. Move to approve Rhode Island's implementation proposal.**

Motion approved without objection.

**8. Move to approve Massachusetts' implementation proposal.**

Motion approved without objection.

**9. Move that the quota for the May 1, 2003 - April 30, 2004 fishing year be 8.8 million pounds.**

Motion by Dr. Pierce, second by Mr. Carvalho; Motion passes (6 in favor, 3 opposed, 1 null, 5 abstentions)

**10. Substitute Motion:**

**Move that states of Maine, New Hampshire and Massachusetts limit dogfish landings in those states to 57.9 % of the annual quota (5,095,200 pounds) for the fishing year May 1, 2003 to April 30, 2004 and the states from Rhode Island south agree to limit landings in those states to 42.1% of the annual quota (3,704,800 pounds). The trip limit for this fishing year shall be up to 7,000 pounds.**

Motion by Dr. Pierce, second Borden; Motion carries (6 in favor, 3 opposed, 7 abstentions)

**12. Main Motion:**

**Move that states of Maine, New Hampshire and Massachusetts limit dogfish landings in those states to 57.9 % of the annual quota (5,095,200 pounds) for the fishing year May 1, 2003 to April 30, 2004 and the states from Rhode Island south agree to limit landings in those states to 42.1% of the annual quota (3,704,800 pounds). The trip limit for this fishing year shall be up to 7,000 pounds.**

Motion by Dr. Pierce, second Borden; Motion carries (6 in favor, 3 opposed, 7 abstentions)

**13. Motion to approve the Terms of Reference.**

Motion by Mr. Borden, second by Mr. Flagg; Motion carries with no opposition

**ATLANTIC STATES MARINE FISHERIES  
COMMISSION**

**SPINY DOGFISH AND COASTAL SHARK  
MANAGEMENT BOARD**

**DoubleTree Hotel Crystal City  
Arlington, Virginia  
February 25, 2003**

---

The meeting of the Spiny Dogfish and Coastal Shark Management Board of the Atlantic States Marine Fisheries Commission convened in the Washington Room of the DoubleTree Hotel Crystal City, Arlington, Virginia, Tuesday, February 25, 2003, and was called to order at 4:40 o'clock p.m. by Chairman Red Munden.

**WELCOME & INTRODUCTIONS**

CHAIRMAN RED MUNDEN: I would like to welcome everyone to this meeting of the Spiny Dogfish and Coastal Shark Management Board. I'm Red Munden with North Carolina Marine Fisheries and I serve as the chairman of the Spiny Dogfish and Coastal Shark Management Board.

**BOARD CONSENT**

CHAIRMAN RED MUNDEN: We have a couple of things I'd like to bring to your attention. First of all, I've had two requests to add items to the agenda. The Mid-Atlantic Council staff would like to give us a very brief update of the timelines for Amendment 1 to the Federal Spiny Dogfish FMP.

We have Mr. Rich Seagraves with the Mid-Atlantic Council here to make that presentation, so we will add that to the agenda if there is no objection from any of the board members. It will be very brief.

And the other item is a request by Dr. Dave Pierce to give us some information relative to the Massachusetts analysis of the data that results in an 8.8 million pound quota for the upcoming harvest year.

I have talked with the Executive Director and feel like that since Dave Pierce has made this presentation and presented information to us a number of times, that this is something that the board needs to discuss before we add it to the agenda.

We are running behind already today and I've talked to Dave Pierce, so I would like to handle this -- although it's my prerogative to add it to the agenda, I'd like to get input from the boards members.

So, first of all, I'd like to ask Dave just to give us a very brief explanation of what you intend to do and how much time would be required, Dave.

DR. DAVID PIERCE: Yes, thank you, Mr. Chairman. You will have a memo that I made available to Chairman Nelson, Vince O'Shea, Megan Gamble and Red Munden describing a number of issues, one major issue being the analyses that was reviewed by the technical committee, my analysis that served as the basis for 8.8 million pounds.

This upcoming potential quota for this fishing year was misunderstood by the technical committee, and that was clear to me after I read their report.

I would like to take no more than ten minutes to give a PowerPoint presentation that will explain how the technical committee has misunderstood my analysis, the implications of that, and I need to clarify that for the benefit of the board.

In addition, I feel that decisions made today by this board, quota decisions, trip limit decisions, will affect Massachusetts more than any other state. Actually, just Massachusetts and New Hampshire, to some extent, have the most interest in this fishery and will be the ones, the two states, most affected by whatever action is taken by the board today.

I would appreciate your consideration to allow me to have about ten minutes for this presentation that would follow just after the technical committee report and prior to the board's action on 2003-2004 fishing year specifications.

CHAIRMAN MUNDEN: Thank you, Dr. Pierce. Is there any objection from any of the members of the board to adding Dr. Pierce's ten-minute presentation to the agenda? Pat Augustine.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. I don't believe it's an objection. I think the question is are we going to go through the same cycle here as the New England Council going through this again?

Are we uncovering new ground? Is there a possibility that we're going to come to a different

conclusion than we've already reached in that we agree with the 4 million pound quota that has already been set?

In other words, is this document going to change our decision to reconsider going to an 8.8 million pound quota? If not, then maybe it's just added information and it would be worth seeing the PowerPoint presentation.

If the attempt here is to change our position with this information not having been peer reviewed or presented to the New England Council, I think we should review it on our own time and go from there.

CHAIRMAN MUNDEN: I really can't answer that. Dave Pierce wants to provide information to the board, but rather than get into a discussion, I would ask, again, if any board member has a problem with Dr. Pierce taking then minutes?

I look around the table and I see no indication of any objection so what we will do is we will add Dr. Pierce's ten-minute presentation to the agenda as the last thing on Item 5. And then, Mr. Augustine, we'll make up our mind then whether or not it's new information presented by that presentation.

MR. AUGUSTINE: Thank you, Mr. Chairman.

CHAIRMAN MUNDEN: Okay, so if there's no objection, we'll go forward with those two changes to the agenda. You all should have had a chance to review the minutes from the last meeting of November 18<sup>th</sup>. Any changes or additions to the minutes? Pat Augustine moved to accept the minutes; second by Vito. Any discussion? The minutes are approved.

#### **PUBLIC COMMENT**

CHAIRMAN RED MUNDEN: The next item on the agenda is an opportunity for public comments. We received a letter from Mr. Stephen C. Barndollar. He asks that Dave Pierce be allowed to read that letter into the record because Mr. Barndollar cannot be here today.

We will agree for Mr. Barndollar's comments to be read into the minutes during the public comment period. So, Dave Pierce, do you have Mr. Barndollar's letter? If so, would you please read that for us.

DR. PIERCE: All right, thank you, Mr.

Chairman. This is Seatrade International from Portsmouth, New Hampshire. It's addressed to me and it says:

"Dear David: I will not be able to attend the ASMFC dogfish hearings being held on February 25<sup>th</sup> and I would appreciate your reading this letter on my behalf.

It is unfortunate that there seems to be strong sentiment for ASMFC to adopt the federal plan whereby there will be no directed fishery, thereby eliminating all commercial fishing of spiny dogfish.

According to boat data collected by individual dogfish gillnetters in 2002 and our own in-plant size/sexing data, the fishery already is beginning to show signs of recovery.

We processed approximately 1.5 million pounds of dogfish from July through November 2002, and the size of fish and the abundance of mature pups in females were significantly greater than the years 1999 through 2001.

Remember that the entire processing industry is only 4 million pounds, down from a historical high of about 60 million pounds in 1998 through 1999. We need to maintain a commercial export industry for this fishery which supports three to four plants employing 150 to 200 workers and a fleet of 100 to 150 vessels.

We have supported and continue to ask for a fishery of 8.8 million pounds of a 7,000 pounds per day directed fishery. We would also prefer to have a fishery open in September through February or a six-month season with no landings during the summer when inshore New England spawnings are the greatest and the export prices for fish to Europe are the lowest.

A six-month season of 4 or 8 million pounds would maintain our export markets and allow some landings of Mid-Atlantic fish during the winter season when processors can pay higher prices for the fish.

I ask that you and all the members of both the New England and Mid-Atlantic Councils support the continuation of this important fishery. The federal plan is a complete moratorium and will not alleviate the discard of dogfish but will mean the end of this industry. That's signed by Stephen Barndollar."

CHAIRMAN MUNDEN: Thank you, Dr. Pierce. Would you make sure that Joe receives a copy of that letter for the record. Are there other

members of the public who would like to comment before the Spiny Dogfish Board. The gentleman in the back, if you would come forward and please give us your name for the record, please.

MR. GENE BERGSON: My name is Gene Bergson with Atlantic Coast Fisheries, and I'm here to represent Atlantic Coast Fisheries. AML Louie Julliard wasn't able to come either, as Steve wasn't. Between Steve, Louie and myself, we are the three processors left for dogfish.

I wanted to let you know that I'm here for the following reasons. One is to support the constant harvest of the 8.8 million pounds, to support the directed fisheries with a trip limit of 7,000 pounds, and to support the idea of having the seasons change and get away from the summer fisheries and start the fisheries in September and go with, like what Steve was suggesting, a six-month fishery at that time; and also, to give reason why the federal plan with the bycatch of the 350 pounds at a certain time of the year and the 600 pounds at the other half of the year basically will end the fisheries totally for the processors.

When you're looking at dogfish and you're having a catch of 600 pounds on a trip limit, you're looking at something that's going to give to the boat somewhere around \$120 on a trip. And when it's 350, it's only \$70.

It doesn't really make it worthwhile for the boats to fish; and if you have to move the fish from a distance to get it to a plant, if you're looking to move a truckload of fish, you know, 35,000 pounds of fish, you're talking about trying to figure out where you're going to find 100 boats all in the same port to go fishing to accumulate that much fish to move it, to get it into a plant.

It will just basically kill the fishery, and it will kill the industry all together. So, you know, representing the two companies, as Steve said, the industry has three processors.

It has 100 boats, with more than 100 boats that will fish on it at different times of the year. We employ between 100 and 150 people. Those are all jobs that are going to be lost if we continue with the -- if we go into a non-directed type of fishery for the quarter. Thank you.

CHAIRMAN MUNDEN: Thank you for your comments. Are there other members of the public who would like to provide comments before

the board? Seeing none, we will now move into Item 4 on the agenda, which is a report from Megan Gamble from the plan review team.

#### **PLAN REVIEW TEAM REPORT: STATE IMPLEMENTATION PROPOSALS**

MS. MEGAN GAMBLE: Thank you. You should have all just received a copy of the plan review team's review of the Spiny Dogfish State Implementation Proposals. And included in that packet is a copy of each of the state implementation proposals that have been received to date.

I just want to run through a couple of important dates. February 1<sup>st</sup> was the deadline for the states to submit their implementation proposals. The plan review team had a conference call on February 20<sup>th</sup> to review those proposals and to develop recommendations for the management board to consider.

May 1<sup>st</sup> is the deadline for states to implement their board-approved state spiny dogfish programs. And then just to refresh your memory, July 1, 2004, is the first date that states will submit their annual state compliance reports.

The next two slides just quickly run through the items that were supposed to be addressed in each of the state implementation proposals. The first one was that the states needed to show in their proposals that when the quota is determined or projected to be harvested, the states will close to the commercial landing, harvest and possession of spiny dogfish.

Then following that closing, they would send a notification to ASMFC just to keep track of those closures. The states also needed to show that they report their landings weekly to National Marine Fisheries Service in order to improve the quota monitoring process.

And, Number 3, kind of along the same suit, the states needed to show that their state permitted dealers would also report weekly.

Number 4 was the states needed to show that they have the ability to implement the annual specifications, specifically the annual possession limits. And then, finally, the state regulations need to reflect the prohibition of finning.

CHAIRMAN MUNDEN: Mr. Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. I noticed in that column under

“prohibition of fishing” -- and I’m not picking on Massachusetts, David, I think you guys are doing a great job -- it claims it’s unnecessary, and is that appropriate for the position that we should take as a state? Isn’t it mandatory to some degree?

MS. GAMBLE: Mr. Augustine, if you don’t mind, I’m going to run through each of the state proposals --

MR. AUGUSTINE: I just didn’t want you to forget it.

MS. GAMBLE: Oh, I promise I won’t. I also wanted to refresh the board’s memory on the de minimis status as it’s described in the interstate FMP, because we did have a few states that are requesting de minimis status.

So in order to obtain de minimis status, a state’s commercial landings must be less than 1 percent of the coast-wide commercial total, and achieving that de minimis status exempts the state from biological monitoring of the commercial landings.

Kind of ironically, the plan doesn’t currently require any biological monitoring, but if a state does qualify for de minimis status, they must continue to report their commercial and recreational spiny dogfish landings.

One thing the plan does not do is specify the number of years a state must be less than 1 percent of the coast-wide total in order to qualify, so the PRT had to do some interpretation and we’ll see if the board agrees with that.

Two more slides before we get into the state proposals. I wanted to point out two big issues that came up repeatedly while reviewing the state proposals. The first was closing state waters to the commercial landing, harvest and possession of spiny dogfish.

There is the potential for the quotas to be different in state and federal waters. By implementing an interstate fishery management plan for spiny dogfish, the board has decided to have a separate annual specification approval process.

That means there is the possibility for a different quota for state waters than there is for federal waters, so the quotas may not match. In addition to that, if the quotas are the same for state and federal waters, the payback provision for each plan is different.

In the interstate plan, quota overages from Period I will be deducted from Period I in the subsequent fishing year. Quota overages from Period II will be deducted from the quota Period II in the subsequent fishing year.

The federal plan deducts quota overages from Period I in quota Period II within the same fishing year, and there is currently no penalty for going over the quota allocated to Period II.

So because of those differences in the payback provision, the quotas may not match up. This means that states need to have the ability to close when ASMFC determines or projects the quota to be harvested, as well as when NMFS determines the quota to be harvested.

Many of the states expressed that right now the way their regulations are written they will only close when National Marine Fisheries Service determines the quota to be harvested. I point out the states that do have that currently in their regulations are Maine, New Hampshire, Rhode Island, Maryland, Virginia and South Carolina.

But, again, we will take these up as I go through each of the proposals. The recommendation from the plan review team on this issue was just that those states modify their regulations so that they can close their state waters when ASMFC or National Marine Fisheries Service declares the quota to be harvested.

That moves us into Maine’s state proposal. The plan review team reviewed Maine’s proposal and does recommend approving Maine’s proposal, although there were just two items. The first was that Maine closes when National Marine Fisheries Service determines the quota to be harvested and also the proposal did not mention a prohibition on finning.

So if the state of Maine could just respond to those two items, then the plan review team would recommend that the board approve their proposal for implementing the spiny dogfish program.

Also, the state of Maine requested an additional 2,000 spiny dogfish to be harvested under exempted permits for biomedical harvest. In their proposal, they said that this request was contingent on no other states allowing for the biomedical harvest of dogfish under the exempted permits.

There are several states that have requested or have stated that they will take advantage of that 1,000 dogfish. And, also, the plan does not currently

specify the ability to transfer the exempted permit allowance.

So the recommendation from the plan review team is to decline Maine's request for the additional 2,000 dogfish. And then, last, the state of Maine has requested de minimis status. In reviewing de minimis status, the plan review team looked at the landings for the last ten years.

The state of Maine, their commercial landings has been less than 1 percent of the coast-wide total for the last five years. And, therefore, the plan review team thought that Maine does qualify for de minimis status.

CHAIRMAN MUNDEN: Are there any questions from the board members concerning the report from Megan on the state of Maine? Lewis.

MR. LEWIS FLAGG: Thank you, Mr. Chairman. Yes, I would like to make a clarification. I had not caught that -- it was an oversight -- the fact that we don't have a provision in our regulation right now that would allow us to close when ASMFC declares that a quota would be harvested.

We will include that in our regulation. Though I didn't include it in there, we're looking at a finning prohibition. We will include that language in our regulation. We would like to withdraw the request for the additional 2,000 dogfish as there is not a mechanism for apparently transfer of quota anyway.

I think that does it. We would note that even over the last ten years, we went back and calculated what Maine's landings were as a proportion of U.S. East Coast landings; and if you look at landings from 1991 through 2001, it was about 2.7 percent overall.

We did have very high landings in the early to mid-1990s. They got up to 6 million pounds. Since about '96 or '97, the landings have dropped dramatically. We have no processing capacity in Maine anymore.

And there are a few fish that are taken by Maine boats that are landed in Portsmouth, New Hampshire, that are processed by New Hampshire processors. So, over the last five years, our landings have dramatically dropped. They're down to about .004 percent of the coast-wide landings as of 2001. Thank you.

CHAIRMAN MUNDEN: Thank you, Lewis. I was going to recognize you to tell us whether or not Maine was willing to make those

recommended changes. All appearances are that Maine is willing to make those changes. **Do we have a motion to accept Maine's plan implementation proposal? Motion by Mr. Augustine.**

MR. AUGUSTINE: Absolutely, Mr. Chairman.

CHAIRMAN MUNDEN: Is there a second?

MR. BRUCE FREEMAN: Second.

CHAIRMAN MUNDEN: Second by Bruce Freeman. Discussion on the motion? Do the states need to caucus? No caucus. Ready to vote on the motion? All in favor indicate by saying aye; those opposed; null votes; abstentions. The motion passes.

MS. GAMBLE: I guess I'd like to ask the board if they would like to accept the state of Maine's request for de minimis status as well.

CHAIRMAN MUNDEN: Mr. Augustine.

MR. AUGUSTINE: Mr. Chairman, could we include that in that motion?

CHAIRMAN MUNDEN: Any objection to including that, Mr. Freeman? Any objection to including de minimis status to the motion?

MR. FREEMAN: No.

CHAIRMAN MUNDEN: Very good. Okay, thank you. Megan. Gil.

MR. GIL POPE: One real quick question. Lew, what happened to the processors? Did you have them at one time? Thank you.

MR. FLAGG: Back in the early-'90s, late-'80s, early-'90s until about the mid-'90s, we had a very large processing operation in Rockland. The fish were shipped overseas.

One of the major problems that they had at the time was disposing of the waste products. It was a very, very big problem.

And so most of the processors -- there was a little bit going on in Portland as well as the large operation in Rockland; and because they weren't able to dispose of the waste in an environmentally acceptable manner at the time, they just got out of the business.

They just couldn't handle that. And, unfortunately,

now where the quota has been so low, there hasn't been any incentive to try to get back into that business. We have a way to dispose of the waste now. Most of our salmon aquaculture industries has a lot of waste in the processing and they use it.

They have a very large composting industry, and that has been very successful in getting rid of waste. So we have a way to do it now, but the quota is so low that it's not attractive for anybody to gear up to process at this time.

CHAIRMAN MUNDEN: Thank you, Lewis. We're going to go back to Megan, but Megan is going to take the states out of order from which they are listed in the report from the plan review team.

And next we're going to Delaware. What we'll do is I'll ask Megan to give the report and I'll go to the state director for any points of clarification before we get into the question and answering because oftentimes the state director will be able to answer the questions that you may have on your mind. And so we'll start with Delaware.

MS. GAMBLE: I'm taking them out of order with the hope that we can reduce the number of motions we have to make. The PRT reviewed Delaware's proposal and saw that they included each of the items and responded to each of the items very well. Thank you, Delaware.

But they also requested de minimis status and Delaware's commercial landings has been less than 1 percent for the last ten years and, therefore, the PRT does recommend approving Delaware's request for de minimis status.

CHAIRMAN MUNDEN: Roy, would you like to respond to any information that Megan presented?

MR. ROY MILLER: No.

CHAIRMAN MUNDEN: Any questions from the board members relative to the Delaware proposal?

**MR. AUGUSTINE: Mr. Chairman, I move that we accept the recommendation from the PRT in giving de minimis status to Delaware.**

CHAIRMAN MUNDEN: Second by Dave Borden.

MR. DAVID V. D. BORDEN: Yes, a suggestion, Mr. Chairman. If we don't have objections to a proposal, I suggest we simply avoid dealing with this in a motion and ask if there is objection to approving it. If there is no objection, it stands and you can declare it approved. It will avoid the motions, that's all.

CHAIRMAN MUNDEN: Harry Mears.

MR. HARRY MEARS: Yes, Mr. Chairman, thank you. It appears several of the state-by-state reports will include requests for de minimis. Right now the plan indicates what this essentially does is remove the requirement for biological monitoring from those states, and apparently that's all it does.

Without looking in the report, could someone just comment on what in fact the requirement otherwise would be for biological monitoring?

MS. GAMBLE: Yes, one of my slides early on, Harry, described that it exempts you from biological monitoring. Currently the plan does not have any requirements, but the intent was that if it did include any in the future, they would be exempted from that. At this time there is no exemption. It is basically a status.

MR. MEARS: So what de minimis in fact does is in the event biological monitoring requirements were to be incorporated into the plan, that concerned state would be given a waiver?

MS. GAMBLE: That's correct.

MR. MEARS: Thank you.

CHAIRMAN MUNDEN: Other comments from board members? Since we started this with a motion and a second, any discussion on the motion from the board members? Board members, are you ready to vote?

Is there a need to caucus? Seeing none, all in favor of the motion, indicate by saying aye; opposed; null votes; abstentions. The motion passes. Megan.

MS. GAMBLE: I've lumped a bunch of states together here because the PRT had the same issue with these proposals. The PRT does recommend approving New Hampshire, New York, Maryland, Virginia and South Carolina's proposal, but each of these states said in their proposals that their current regulations state that the state waters

will close when National Marine Fisheries Service declares the quota to be harvested.

CHAIRMAN MUNDEN: Yes, sir, I can't see your name plate from here.

MR. G. RITCHIE WHITE: Ritchie White. New Hampshire has a public hearing scheduled late March and that regulation will be changed by the first of May. We will certainly forward that to the commission at that time.

CHAIRMAN MUNDEN: Gordon Colvin.

MR. GORDON C. COLVIN: Thanks. I think a lot of us are operating off regs that we had in place during the period pre-dating the adoption of the amendment that encompassed the emergency rule and the pre-existing federal rules. The next time we update our regs we will make it read the federal and/or interstate quota.

In the meantime, as Megan has noted and e-mailed to me, our regulations are very clear that we can close when ASMFC declares the quota to be harvested. That's where we stand today so we don't have an implementation problem until we make that change, which we will make.

CHAIRMAN MUNDEN: Other state directors? Eric.

MR. ERIC SCHWAAB: We just became aware of this problem through this process, and we will take action to amend our regulations to allow for closure at the behest of either the ASMFC or National Marine Fisheries.

CHAIRMAN MUNDEN: Rob O'Reilly.

MR. ROB O'REILLY: In 2001, in our state regulation we already have provisions to close when the federal quota is announced as closed, and so we will just have to accommodate the ASMFC declaration of a closure. We are scheduled to bring issues forward to be effective May 1, 2003.

CHAIRMAN MUNDEN: Thank you. Dave Cupka.

MR. DAIVD CUPKA: Thank you, Mr. Chairman. Being a legislative state, we will have to go back and get authority through our legislature. Right now we just track plans that are put in place under the Magnuson-Stevens Act, so we will have to address that. It will require a legislative action on our

part but we'll certainly move ahead to do all we can to bring that into effect.

Also, if I can, Mr. Chairman, just for the record, the document that was sent in didn't really clearly request de minimis, but that was certainly our intent. For the record, I would like to state that we would also like to be approved for de minimis status.

CHAIRMAN MUNDEN: Mr. Cupka, Megan is going to address that, so I think we will smile favorably upon your request. Any comments for Megan or state directors concerning the states of New Hampshire, New York, Maryland, Virginia and South Carolina's implementation proposals?

Is there any opposition to accepting the implementation proposals from these five states? No opposition, these implementation proposals are approved.

MS. GAMBLE: Okay, just quickly going back to South Carolina's proposal, the PRT was able to read between the lines and assume that South Carolina was actually requesting de minimis status.

South Carolina actually has no commercial landings on record during the past ten years so the PRT does believe that South Carolina qualifies for de minimis status.

CHAIRMAN MUNDEN: Is there any objection from board members for approving de minimis status for South Carolina? Seeing none, then South Carolina's request for de minimis status is approved by the board.

MS. GAMBLE: The next proposal is for the state of North Carolina, and the PRT does recommend approving North Carolina's proposal. The only comment from the PRT is to ask that North Carolina restricts exempted permits issued for spiny dogfish to harvesting for biomedical purposes only.

The proposal lists also research -- I think scientific research and educational purposes; whereas, in the last board meeting the board explicitly stated that exempted permits should be issued only for biomedical harvest.

CHAIRMAN MUNDEN: Mr. Pate, do you want to respond to that or would you like for me to? I thought that was going to happen. I will work with Mr. Pate to try to come to an acceptable solution to this problem.

The problem, Megan, is that the mechanism by which we would allow the harvest of spiny dogfish for biomedical purposes follows under the broad category for permits for scientific, educational or biomedical, but I think that Mr. Pate and I can come to a solution that would be agreeable to the board. We will work on that. Any other questions of Mr. Pate? Seeing none, any objections to accepting the North Carolina proposal?

MR. AUGUSTINE: Mr. Chairman, do you have a date that you will deliver that commitment to ASMFC or should we wait until next year?

CHAIRMAN MUNDEN: It may take until our next reporting period to work through that, but we are only talking about a thousand fish.

MR. AUGUSTINE: I'm not picking on you, just wanted it to be on the record.

CHAIRMAN MUNDEN: Seeing no objection, the North Carolina implementation proposal is approved.

MS. GAMBLE: Okay, the next proposal I'd like to address is Georgia. The plan review team does recommend approving Georgia's proposal, but the proposal did not address the prohibition on finning.

The plan review team also made the assumption that Georgia will not issue exempted permits for spiny dogfish because it was not mentioned in their proposal.

In addition, Georgia has requested de minimis status. As with South Carolina, Georgia does not have any commercial landings on record for the past ten years, so the PRT determined that they do in fact qualify for de minimis status.

CHAIRMAN MUNDEN: Mr. Woodward.

MR. SPUD WOODWARD: Thank you, Mr. Chairman. To address the finning prohibition, we do have in the state law that any species managed under state authority, which in this case would be de facto spiny dogfish, must be landed with head and fins intact so that should be covered under that.

It is not the intent of the state of Georgia to issue any permits for the harvest of spiny dogfish. The catch of a spiny dogfish in Georgia is a fairly rare event, anyway, so I don't think we're going to have to worry about it happening in Georgia.

CHAIRMAN MUNDEN: Thank you, Spud. Any questions from the board members of Mr. Woodward? Any objection to approving Georgia's implementation plan and request for de minimis status? Seeing none, then Georgia's implementation proposal and de minimis status request is approved.

MS. GAMBLE: Okay, the next state is Rhode Island. The plan review team reviewed Rhode Island's implementation proposal and determined that they could not make a recommendation for Rhode Island's proposal.

The reason is that the FMP requires states to implement trip limits for spiny dogfish once it is approved by the management board, and Rhode Island did not indicate in their proposal if they have the ability to implement new trip limits annually.

In addition to that, Rhode Island was one of the states that said they would close when National Marine Fisheries Service declares the quota to be harvested.

CHAIRMAN MUNDEN: Mr. Borden.

MR. BORDEN: Yes, thank you, Mr. Chairman. On the first point, our regulations allow us to close when either we get notice from NMFS or ASMFC. That was not part of the submission, but just so everyone is clear, we do have that authority. It's already promulgated. It's part of our current regulations.

The second point is when the staff submitted the documentation, they did not include a specific section which allows us to modify our trip limits in response to changing trip limits that are administered by the commission.

We do have that regulatory authority, and we will adopt whatever trip limits the commission specifies. I don't see this as a problem. We've already promulgated those direct regulations. They're already on the books.

CHAIRMAN MUNDEN: Thank you, Mr. Borden. Any questions of Dave Borden? Is there any opposition to accepting Rhode Island's implementation plan for spiny dogfish? Seeing none, then the board accepts Rhode Island's implementation proposal.

MS. GAMBLE: Next was a memo that the plan review team received from the Commonwealth of Massachusetts, and the plan review team

determined that they couldn't make a recommendation for the Commonwealth of Massachusetts.

The reasons for that was because the memo did not address weekly reporting, the ability to implement annual trip limits and an annual report on exempted permits, if they are issued, whether the exempted permits would be limited to a thousand fish per year. Also, the memo stated that they felt the finning prohibition would be unnecessary for their state waters.

CHAIRMAN MUNDEN: Dr. Pierce.

DR. PIERCE: I thought I was clearer than that in my memo, Megan. I apologize for the confusion that apparently has arisen. You did receive our proposal. Obviously, we're not requesting de minimis status.

As indicated in Table 1, closure of state waters when the quota is harvested, yes. State report weekly to the National Marine Fisheries Service, this is not addressed, but indeed we do report to the National Marine Fisheries Service.

State permitted dealers report weekly, yes, they do as indicated in the table. Ability to implement annual specs that is the trip limits, well, certainly, we've had trip limits in place for quite a long time now.

So I, again, apologize for not making that clearer in the memo to you. There is no problem there. Intent to issue exempted permits, as indicated in Table 1, yes. We do have the ability to do that through a variety of means such as a permit issued for scientific purposes.

Annual report, not indicated, well, clearly, we can provide an annual report. There's no problem there. Prohibition on finning, claims it's unnecessary, that's taken out of context. I indicated in the memo to you, Megan, that the entire dogfish is processed; therefore, there is no need to just prohibit finning.

I mean, they use the liver, the flesh, the head, the cartilage, the tails, the skin, the fins, the oil. They use just about every piece of the dogfish. Now, clearly, if indeed there was a dogfish closure and suddenly someone began to land fins, we would implement a restriction to prohibit that.

But in light of my knowledge of the dogfish processors in Massachusetts, that would not happen. They want the entire fish. They would not be in

business to just handle fins. But if a surprise occurred, we would take action.

So, there really is no problem with Massachusetts' ability to comply with any of these regulatory requirements. We have the authority and we certainly have the ability, and we've demonstrated that ability through previous management actions that we have taken to support ASMFC.

CHAIRMAN MUNDEN: Thank you, Dr. Pierce. Questions of Dr. Pierce concerning Massachusetts' implementation proposal. Mr. Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. It was surprising, by reviewing Dr. Pierce's letter, some of those points do come out loud and clear. But if simply stating that finning is not acceptable, why can't it be another regulation along with everything else? What's so difficult about that?

As far as the weekly reporting is concerned and those other items, if the rest of the board feels comfortable with where we're at, state report weekly, not addressed; ability to implement annual specs, not addressed.

Are you saying, Dr. Pierce, that all of the things that are missing in this chart are in fact in place? And if they are, then I think we should accept, it but if they are not, then I think we should still question why they are not.

CHAIRMAN MUNDEN: Dr. Pierce, would you respond to that.

DR. PIERCE: Everything is in place except the prohibition on finning. As I said, if it becomes a problem, we can implement the regs. However, if indeed the board feels that it's absolutely necessary for us to prohibit finning apart from everything else that we have in place right now regarding dogfish management, then we'll move forward and we will prohibit the finning of dogfish.

We can certainly do that in time for the beginning of a directed fishery, assuming that there is going to be one allowed by ASMFC.

CHAIRMAN MUNDEN: Bill Cole,

MR. BILL COLE: Dr. Pierce, does the State of Massachusetts continue to allow finning of other species?

DR. PIERCE: There is no finning of any fish in Massachusetts as far as we know. It is not a practice that is undertaken by any commercial fishermen in Massachusetts, and that includes sharks.

CHAIRMAN MUNDEN: Mr. Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman, I don't want to beat a dead horse. All I would suggest is that the State of Massachusetts go ahead and implement the necessary regulation to prohibit finning of all kinds.

I guess they do catch skates, and I guess you can call that finning because they sure don't keep the bodies of them. It would seem to me that if the state of Massachusetts agrees to do that, I probably would be the one to make the motion to accept their plan. Thank you.

CHAIRMAN MUNDEN: Dr. Pierce, would you like --

DR. PIERCE: We will agree to put in place a regulation that will prohibit finning. And, by the way, with regard to skates, we don't prohibit the finning of skates because they're called "skate wings."

CHAIRMAN MUNDEN: Dr. Pierce, what would be the timeframe for implementation of those regs?

DR. PIERCE: May 1, the beginning of the fishing year.

CHAIRMAN MUNDEN: Thank you. Is there any opposition to accepting the Massachusetts implementation plan? Dr. Pierce.

DR. PIERCE: Unless there is some fishery allowed for dogfish, then obviously finning would be allowed, but May 1 would be the date when we would implement the prohibition if indeed there was not.

CHAIRMAN MUNDEN: Thank you. Any opposition to accepting the Massachusetts proposal? Seeing none, the Massachusetts proposal is approved by the board.

MS. GAMBLE: The plan review team noted that we have not received proposals from three different states and those states were Connecticut, New Jersey and Florida, and therefore could not provide a recommendation to the management board.

We just wanted to point out that the fishing year does start May 1<sup>st</sup> and that is also the date which the states are supposed to have their program implemented. And, also, the next commission meeting is June, which is after this May 1<sup>st</sup> implementation date, which means that we will not all be together to take another look at those proposals.

CHAIRMAN MUNDEN: Ernie.

MR. ERNEST E. BECKWITH, JR.: Thank you, Mr. Chairman. Let me give you an update of where the State of Connecticut is and I'll follow up that by saying that I'll have that report in early next week.

But, let me just tell you where we are with the measures that are required. We currently have regs on the books that allow us to close the fishery when the quota is taken. I can't recall exactly how it's worded. I'll go back and check that.

And if it's necessary to include the commission in there, we will certainly do that. We currently also have regs on the books which require weekly reporting from dealers for any quota-managed species and, obviously, that does qualify, so all we need to do is just inform the dealers that they have to report weekly. We have a phone-fax system in place for that now.

We have already drafted regulations for the trip limits and also for the finning and we started that reg process, and we'll certainly have those in place before May 1<sup>st</sup>. We don't intend to issue any permits for biomedical uses.

CHAIRMAN MUNDEN: Thank you, Ernie. Questions of Ernie concerning their intentions? Let me consult with staff. Mr. Beckwith, staff has advised that if you would submit that proposal to the staff, then it will be submitted to the plan review team. They will review it and then a recommendation will be sent back to the board, and we can at that point in time take action on it. Bruce Freeman.

MR. FREEMAN: Thank you, Mr. Chairman. We neglected to send in our report to the plan review team. We're preparing for other board meetings so we didn't get around to it. But just from our standpoint, we don't have the capability of monitoring the catch on a weekly basis.

Our regulations indicate that no spiny dogfish can be landed in the State of New Jersey except for those

people holding a federal spiny dogfish permit. All the regulations that apply to the federal plan apply to anyone fishing for spiny dogfish in New Jersey.

We do have a provision that prohibits the finning except if the shark carcass is landed in proportion to the fins. We do also have what is called a "scientific collecting" permit, apparently similar, Red, to what you have.

We have not had any request to harvest spiny dogfish for biomedical purposes; however, this permit would allow us to allow them to do so. We would prohibit taking more than 1,000 sharks in total if in fact we ever received a request.

But that would be a determination we can do without any additional regulations. So, so far as the closure is concerned, if the federal waters are closed, the fishermen are prohibited from taking spiny dogfish.

They are required to report in their federal permit on a weekly basis. They are required to sell only to federal dealers and the dealers are required to report.

And so far as trip limits, we have no state trip limits. They would be controlled by the federal trip limit. That's it. What we'll do is submit to Megan a copy of our regulations and a letter confirming what I have indicated.

CHAIRMAN MUNDEN: And that will be in the form of a proposal, I assume.

MR. FREEMAN: Oh, okay, whatever you want.

CHAIRMAN MUNDEN: We need a proposal.

MR. FREEMAN: Okay, we'll give her a proposal.

CHAIRMAN MUNDEN: Is there any opposition to New Jersey following the same procedure as Connecticut? Seeing none, Bruce, we'll look forward to a report from you.

MR. FREEMAN: Thank you.

CHAIRMAN MUNDEN: Representative from Florida.

DR. LUIZ BARBIERI: Mr. Chairman, thank you. I'm here serving as a proxy for Ken Haddad, who is the Florida state director. He has

already sent an e-mail to Megan informing her that Florida will be submitting a proposal soon.

CHAIRMAN MUNDEN: Very good. Is there any opposition to allowing Florida to follow the same procedure we've outlined for Connecticut and New Jersey? Bruce.

MR. FREEMAN: I'm just curious how many spiny dogfish you catch in Florida?

DR. BARBEIRI: I don't really know but I imagine none.

CHAIRMAN MUNDEN: Gil.

MR. POPE: They're de minimis along with that?

MS. GAMBLE: If they request it.

CHAIRMAN MUNDEN: Is there any opposition to Florida following the same procedures as Connecticut and New Jersey will for getting the reports in to Megan in a very prompt manner? Seeing no opposition, then we will allow those states to follow those procedures.

MS. GAMBLE: Mr. Chairman, that concludes the PRT's report.

#### **TECHNICAL COMMITTEE REPORT: 2003-2004 FISHING YEAR SPECIFICATIONS**

CHAIRMAN MUNDEN: The next thing we have on the agenda is a report from the technical committee. Some of you may recall that I was serving as the vice-chairman of the Spiny Dogfish Committee, and the chairman was not reappointed and I moved up by default.

Well, apparently there's something about these guys from North Carolina because Steve Correia was serving as the chairman of the technical committee, and he was pulled off the committee several months ago.

We have a very fine biologist from North Carolina by the name of Chris Batsavage who by default became the chairman of the technical committee; is that correct?

MR. CHRIS BATSAVAGE: That's correct.

CHAIRMAN MUNDEN: So now we have a report from the technical committee by Mr. Chris

Batsavage. Yes, Gordon.

MR. COLVIN: Just very briefly, I want to commend the plan review team for the very thorough job that they did in reviewing the state implementation plans.

One of the things that I have said in some similar circumstances among our fishery management programs is that the states need to submit their regulations to the commission as a matter of record because the devil's in the details.

I think I've heard that quote around this table a few times this week. It's evident from the e-mails that we got from Megan that they actually read those regulations, went through them in detail and provided a very comprehensive report.

And on the one hand, I want to thank them for that effort and on the other hand express my condolences to them to have to wade through all that stuff. I really do appreciate the thoroughness of the work.

CHAIRMAN MUNDEN: Thank you for your comment. Mr. Batsavage.

MR. BATSAVAGE: Thank you. Okay, the technical committee held a conference call on January 27<sup>th</sup> to make recommendations on the methodology for determining the annual quota; quotas for the 2003-2004 fishing year, trip limits for the 2003-2004 fishing year and terms of reference for the upcoming stock assessment.

I'm just going to give a general overview of the process and discussions used to develop our recommendations. Okay, the technical committee reviewed two quota determination methods; one developed by Dr. Paul Rago and one developed by Dr. David Pierce.

Included with your meeting materials should be the memos from Dr. Rago and Dr. Pierce giving detailed descriptions of their methodologies. I'm going to go over the main points of each to help explain our recommendations.

Okay, for Dr. Rago's method, he used a fishing mortality level of 0.03. That's based on the Beverton-Holt model. The total predicted catch, which is both the landings and the discards, is equal to that fishing mortality level at rate and the total exploitable biomass.

The exploitable biomass is estimated from the

Northeast Fisheries Science Center Trawl Survey. He comes up with a ratio of observed landings to total predicted catch.

That ratio is a rescaling factor and for the females it's 0.5467 and for the males it's 0.1381. These rescaling factors are used to adjust for discards. Putting in the adjustments for discards, he comes up with about a 4 million pound quota estimated for the fishing year.

CHAIRMAN MUNDEN: Yes, Vince.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Mr. Chairman, maybe while we're waiting for the computer to catch up, Chris, I'm trying to put in my mind the ratio of landings to predicted catch. Could you put that in maybe more -- what is the 0.54?

MR. BATSAVAGE: Basically, I think the way Dr. Rago did it is your observed landings is what is actually recorded being landed, and the Beverton-Holt model is going to come up with the predicted landings based on your fishing mortality and some other parameters.

I think what they then do is look at the male-to-female ratio in the landings observed, and that's where the different rescaling factors are coming from. That's why you have a 0.54 for the females and 0.138 for the males. Is that cleared up?

CHAIRMAN MUNDEN: Gil Pope.

MR. POPE: Thank you, real quick question. At the last meeting they stated that the biomass was around a billion pounds. Is it pretty close to that still?

MR. BATSAVAGE: Yes, there is no new data. The assessment presented last time is the same.

MR. POPE: And off the top of your head, do you know what the target is?

MR. BATSAVAGE: The target overall biomass or --

MR. POPE: Yes, you don't have to look that up, but it's nowhere near it?

MR. BATSAVAGE: We're kind of using the spawning stock biomass as our proxy and --

MR. POPE: One hundred and eighty million?

MR. BATSAVAGE: It's about 164,000 metric tons and I think we're at 88,000. I'm not real sure on those number, but we are real close.

MR. POPE: Okay, thank you.

MR. BATSAVAGE: We're 44 percent of the target biomass right now.

CHAIRMAN MUNDEN: David Borden.

MR. BORDEN: Yes, thank you, Mr. Chairman. While we're still searching for the compute program, what was the estimate of discards they used in the calculation, Chris? That's okay, if somebody wants to look it up and tell me later, I'd just be interested.

MR. BATSAVAGE: I need to look that up.

CHAIRMAN MUNDEN: Gil, did you want to ask another question?

MR. POPE: The only reason I'm asking these things, I'm trying to relate why it's at 4 million pounds versus and why it's at F equals 0.03. These are all things that I'm trying to get straight in my own mind. Thank you.

CHAIRMAN MUNDEN: Dr. Pierce.

DR. PIERCE: Yes, regarding the amount of discards that are factored into this equation, Dr. Rago has assumed that the amount of discards are approximately 60 percent of whatever is caught.

He has used a very high number, which is the number that was judged to have existed back in 1997 when there was a full-scale directed fishery on dogfish by gillnetters fishing overnight sets, by trawlers.

That's the assumption he had to make. There is no knowledge of the amount of discards that are occurring right now in any fishery. Some limited sea sampling information, of course, but no one knows how many dogfish are being discarded.

We have nothing but anecdotal information and limited sea sampling information. But right now this analysis assumes that approximately 60 percent are being discarded of all the dogfish that are caught, and it's assumed that they all die.

MR. BATSAVAGE: Okay, Dr. Pierce used a fishing mortality rate of 0.03 and applied it to the

total exploitable biomass, and this came up with a potential catch of 10.37 million pounds, but he reduced it to 8.8 million pounds.

The technical committee, during the conference call, assumed that this would kind of serve as a rescaling factor to account for discards, and this came up with a 0.8483 rescaling factor.

All right, to compare both methods, they both rely on biomass estimates from the Northeast Fisheries Science Center's Spring Survey. They both apply the same fishing mortality rate of 0.03. The level of discards are largely unknown so assumptions had to be made.

Where they differ is in the landed and discarded components of the total catch. Dr. Rago, his method estimates close to half of the spiny dogfish caught are discarded. Dr. Pierce's method estimates approximately 16 percent of dogfish caught are discarded.

Okay, some concerns of the technical committee were there is anecdotal evidence that shows significant discarding of spiny dogfish in other fisheries. The size range of spiny dogfish landings has expanded during the past several years.

For example, 40 percent of the spiny dogfish landed in the Massachusetts-directed fishery were between 70 and 79 centimeters, and a fairly large proportion of this size range are immature fish.

The technical committee felt that harvesting wider size ranges of fish is risky with low pup recruitment during the past six years, so the technical committee's recommendation was to go with Dr. Rago's method for determining the quota because it accounts for a higher discard component and a significant portion of spiny dogfish harvested in the directed fishery are immature fish.

Okay, for the 2003-2004 quotas, the technical committee had two options to consider; 8.8 million pounds proposed by Dr. Pierce and 4 million pounds proposed by Dr. Rago.

There was concern by the committee that the trawl survey may overestimate the population size of spiny dogfish due to their behavioral characteristics when encountering a trawl.

There was also concern that the higher quota will prolong the rebuilding schedule of the spawning stock biomass and result in more discards.

The technical committee's recommendation was for the 4 million pound quota. We wanted to go with a risk-averse approach due to the low pup recruitment for the past six years.

Okay, for trip limits, the technical committee spent some time discussing this issue before making a recommendation. With high trip limits, you could have some economic feasibility but it could also result in higher discards.

With the high trip limits and a 4 million pound quota, it was observed that it would be a very short season under that scenario. Low trip limits could result in no spiny dogfish landed based on a demand of high volumes by the processors.

And, low trip limits are likely to result in lower discards with the discards from the directed fishery eliminated. The recommendation by the technical committee was for a 600-pound trip limit in Period I and a 300-pound trip limit in Period II to prevent a directed fishery on the rebuilding stock and to minimize discards.

Now, although the consensus by the committee was for low trip limits, the technical committee wants more information on the effects of different trip limits and on the biological ramifications of directed and bycatch fisheries. That concludes my report.

CHAIRMAN MUNDEN: Are there questions of the board members of Mr. Batsavage? Yes, Bill Adler.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. Could you say that again. If you have lower trip limits, then there is less discard. I'm picturing 10,000 dogfish a day, but you can only bring in 600, so you dump the rest and then more the next day, but you can only bring in 600 so you dump the rest.

I don't follow why there would be less discard with a 600 trip limit because you're catching so many and most of them you can't bring in so you discard. How did you come up with that?

MR. BATSAVAGE: What we've observed and also heard from fishermen in other states is there probably wouldn't be a lot of effort directed toward spiny dogfish with low trip limits. In fact, a lot of things we've heard is they just wouldn't try fishing for them at all and maybe in some cases avoid them.

MR. ADLER: Yes, but if there were people out there trying to get 600, they're immediately going to wipe out everything else they catch by discarding them, and so I disagree with the part about less discards with the 600 pounds.

I just disagree because I can picture that there's dogfish everywhere; and if you can only bring in 600, you've got to kill the rest. So, I just don't think that quite makes it. Thank you.

CHAIRMAN MUNDEN: Other questions of board members of Mr. Batsavage. Bruce Freeman.

MR. FREEMAN: Thank you, Mr. Chairman. Was there consideration given by the technical committee if in fact there is no bycatch relative to the statement that many states are not able to pursue a fishery directed or otherwise because of the low trip limits, that there would be no catch? Was there a difference in the analysis whether the bycatch would be taken as opposed to the bycatch would not be taken?

MR. BATSAVAGE: We didn't look at whether the bycatch fisheries would occur based on those trip limits or not. Is that what you're saying?

MR. FREEMAN: Yes, I'm just curious if there was analysis run to determine hypothetically if there was no catch, just the opposite from what is being assumed, is there a difference in the recovery period? Is there a difference in the biomass?

MR. BATSAVAGE: I don't know if --no, we haven't looked at those numbers yet under a scenario where there would be no landings on them basically.

MR. FREEMAN: I didn't recall any and I've looked at most of the stock assessment reports. I'm just curious. It may be an interesting exercise just to see if there would be a difference or if in fact that amount of fish will be taken in a bycatch in other fisheries and simply discarded.

I mean, the assumption is that these fish will be brought in at these low trip limits, and the reality is that in the middle Atlantic area at least that's not so. There is no profitable fishery that could be pursued. I'm just curious of what advantage would occur biologically if in fact no such trip limits occurred. If one makes the assumptions for hypothetical purposes that none of this harvest will occur, what benefit would accrue to the resource so far as rebuilding. It may be something the technical committee could

consider.

MS. GAMBLE: Bruce, I think you're talking about the projections that Paul did for us a while back now. Those have not been updated, but we've only seen one year of additional data since then, since those projections have been run.

Spiny dogfish is scheduled to go through the peer review process, the SAW/SARC, in June. One of the terms of reference which the board will be reviewing later is to take another look at projections. We can expect something later this year.

MR. FREEMAN: Well, I would suggest that that be looked at. I don't want to create a lot of extra work, but it would be interesting to see if there is indeed any impact.

MS. GAMBLE: Yes, well, and we plan to do that so that's great.

CHAIRMAN MUNDEN: Other questions of Chris Batsavage or Megan? If there are no other questions, we will go to Dr. Dave Pierce for his presentation.

DR. PIERCE: Okay, thank you, Mr. Chairman and Board. I appreciate your willingness to hear the Commonwealth of Massachusetts out on this issue since it is a significant one for us.

The decisions of this board today will dramatically impact this fishery that exists in Massachusetts waters, New Hampshire waters to some extent, and in no other waters. This is a decision that will affect Massachusetts primarily, if not solely.

I'm going to present some arguments for the 8.8 million pounds and the 7,000 pounds trip limit, and, importantly, I'm going to point out a couple of problems that I found with the technical committee report largely because they have misunderstood my analyses, which I thought was relatively simplistic, but as it turns out, maybe it was too simple; therefore, it was not understood.

This small scale fishery in Massachusetts waters is prosecuted primarily by very small boats, by gillnetters who fish nets during the day; not at night. They're strike nets. They're also caught primarily by longliners.

Here is a small boat longlining for dogfish. Those dogfish are landed in Scituate or the ports perimeter of Cape Cod Bay, Mass Bay. Cape Shark Fisheries is

an outfit in Scituate. They transport their sharks, their dogfish, down to New Bedford for processing.

In the upper left-hand corner, that is the Chatham fish pier where a considerable number of dogfish are landed and then shipped out for processing.

This is AML International, the company in New Bedford. Louis Julliard, the owner of AML International, has been a frequent participant at the board meetings, in attendance at public hearings. He is not here today, however.

The technical committee report, what are my points? Well, first of all, the report is largely based on Dr. Paul Rago's analyses. Dr. Rago incorrectly assumed that I used some rescaling factor to calculate discards at 16 percent of total catch with 84 percent being available for landings.

Therefore, he and the technical committee incorrectly concluded that my calculated 10.4 million pounds at - - and this is important -- at fishing mortality equals 0.03 or about 3 percent, decreased to 8.8 million pounds of landings.

I didn't deal with discards in that manner. I had a number of analyses that showed a number of different quotas that would result with a different size composition of dogs in the catch.

Importantly, Dr. Rago, even though he used 1997 scaling factors, when he went through all his methodology, he actually ended up with an overall total catch of 8.2 million pounds, and I had 8.8 million for one of my calculations.

We were very close in terms of the amount of catch allowable at F is equal to 0.03. So what is the real issue? You know, what should we focus on? It's discards.

How many discards will occur in a directed fishery? How many discards occur in fisheries for other species? What is the mortality of those discards? To what extent should catch at F is equal to the 0.3 target be reduced to account for that discard mortality?

And this is Dr. Rago's approach, as already noted by Dr. Batsavage. He assumed high discarding and mortality of discards in 2003 and 2004 based on 1997 data, the percent discard being about 60 percent with 100 percent mortality.

And, again, that's just a ratio of landings to total catch and he then figured out discards in the balance.

The result, 2003 allowable catch of 9.65 million pounds -- that was one of my figures -- F is equal to 0.03 reduced to just 3.99 million pounds of landings, or approximately 4 million pounds.

So I'm concluding, as a consequence, that 1997 is old history when the large-scale directed fishery occurred and when landings were very high. Using 1997 data is illogical and misleading. Well, why is that so?

Well, the board is considering a small-scale fishery only and based on fishing mortality is equal to 0.03. Large amounts of discards should not be subtracted from catch at F is equal to 0.03 with a balance being allowable landings because the amount of discarding in small-scale fisheries is expected to be minimal.

I based this conclusion on marine fisheries sea sampling data --that's the Division of Marine Fisheries' sea sampling data for longliners and for strike gillnets. For example, percent discard on these boats in year 2000 was 15 percent. In 2002 it was 9 percent; certainly, nowhere near 60 percent.

The other issue is discard mortality. Of the amount that is discarded or, as I like to put it, "released" in this particular fishery, what might it be? Well, we expect it to be low, especially in Massachusetts waters. And why is that?

In our particular case the Division of Marine Fisheries has specific regulations to deal with this issue. We have no gillnet overnight sets, and we have the modest trip limit of 7,000 pounds. In addition, we have shallow water fishing with hooks and nets.

Fish are culled immediately as they come over the side. And, finally, we have first-hand observations; my observations and other members of my staff. We witness the gillnet and longline operations at sea and the condition of released dogfish.

So my conclusions up to this point in this presentation are that ASMFC should use a much lower percent discard assumption, for example, 9 to 15 percent, not the 60 percent; and, also, assume a high survival of released dogfish, especially those caught in state waters where regulations mimic the Division of Marine Fisheries' dogfish management approach; that is, no overnight sets of gillnets.

The implications of all of this -- well, my calculations of allowable landings -- again catch at fishing mortality rate of F is equal to 0.03 minus assumed discards -- they're not dramatically affected by

percent discard and mortality of that discard or releases. Again, the effect should be minimal.

My maximum amount of landings of 12.3 million pounds at F is equal to 0.03 should be reduced by no more than 15 percent but probably much less. Now, 12.3 was one of my calculations that I arrived at.

It's a memo that you all received at our last board meeting. Obviously, I haven't got time to go through that. I assume you might recall some of that detail; and if not, then I'll touch upon it very briefly in a few slides that I'll come up to in a second.

9.7 million pounds of male and female exploitable biomass, if reduced by 15 percent, in other words, of the 12.3 million pounds, reduce it by the 15 percent, you end up with 8.25 million pounds of male and female exploitable biomass. If you reduce it by 9 percent, you come up with 8.83 million pounds, not 4 million pounds.

Here's one example of my quota calculation just so you will get a better feel for what I did. This is the data from the Northeast Fisheries Science Center, the last set of information or numbers provided by the technical committee, Paul Rago providing the specific information.

72,600 metric tons of females 80 centimeters and over -- that's what we focused on, 80 centimeters and over -- three-year moving average; year 2000 through 2002; add to that 58,900 metric tons of fish between 70 and 79 centimeters. That's about 60 percent of 36 to the 79 centimeter female biomass estimate provided by the Center.

Note that very abundant 132,500 metric tons. That's the estimated abundance of those sizes of dogfish, female dogfish, and they substantially contribute to mass landings due to the availability and their market availability, marketability.

That's the 70 to 79 centimeter fish. Add to that 15,800 metric tons of males -- again, 80 centimeters and older; three-year moving average; add to that 9,600 metric tons of males -- and this is a very conservative estimate of the fish between 36 and 79 centimeters, about 5 percent.

When you add to that total you, when you add it all together, you get 156,900 metric tons or 345,808 pounds. Multiply that by the 3 percent, the F is equal to 0.03, and you come up with 10,374,000 pounds.

So that's an example of one of my quota calculations.

That's how I came up with the 374,000 metric tons – pounds, that is.

My quota calculations. Let me give you a quick summary of all the numbers that were in that last memo that I gave you, and these are the numbers that were reviewed by the technical committee.

If we look at just females 70 centimeters and older, 8.7 million pounds. 9.7 is the result if we include females 70 centimeters and larger, with the males 80 centimeters and larger. 10.4 million pounds is the number that results if we consider males and females 70 centimeters and larger.

And then, the high number that I mentioned before, the 12.3 million pounds, that would be males and females 70 centimeters and larger all together, but this is for 2002 data only. This is not the three-year moving average. The three-year moving average would reflect the other numbers above that.

And, again, just to remind you, Dr. Rago concluded that the differences between the computed catch levels for his versus my approach were relatively minor. The real difference occurs with how discards and discard mortality are treated.

All right, what to do about discards. The council's monitoring committee back in September of 2002 recommended that additional constraints on fisheries which land and discard dogfish should be considered in Amendment Number 1 because that mortality may be overwhelming the FMP objective of rebuilding female spawning stock biomass; a very important conclusion.

All right, so what do we do with that conclusion? What sorts of options do we have available to us? For ASMFC, what options are there? Well, I suggest that the ASMFC can do nothing about this discard situation unless it chooses to require states to close their fisheries to other fisheries that catch dogfish as bycatch, and that's very unlikely.

The councils will have very few, if any, viable options to pursue. For those of you who get Commercial Fisheries News, in the latest issue there was an article -- one issue ago, I believe, January 2003 -- "Dogfish are thick as a plague of locusts."

Well, will the councils find impacting other fisheries acceptable and consistent with the plan objective of minimizing the impact of regulations in the prosecution of other fisheries? That's the big question. That's the question that both councils have

to address, and that's a tough one.

This is the National Fisherman just off the press to give you an idea of the extent of discarding in other fisheries that are going to have to be considered by the New England Council, specifically, and the Mid-Atlantic will have its own set of discard problems.

This is "Gone to the dogs", and it reads at the bottom: "Restrictions make cod fishing tough enough; having to discard thousands of pounds of dogfish makes it worse". This is a very real and significant problem due to the abundance and availability of dogfish.

So, consider, not allowing any directed fishery, regardless of its scale, might seem to some like an appropriate response to discards in other fisheries. The federal response has been and continues to be "no directed fishery." That's also the Mid-Atlantic Council position, but it's not the New England position.

By not allowing any directed fishery in state waters with special restrictions, such as Massachusetts, keeps discard mortality very low should not be acceptable to ASMFC. States should not be expected to resolve the federal problem at expense of small-scale fishing in state waters and the socio-economic benefits it provides.

Now here are a few other technical committee concerns that definitely should be addressed because they're legitimate. First, the size range of landings has expanded during the last few years so acceptable size is now 75 centimeters and not 95 centimeters.

Harvesting these immature fish would reduce recruitment into the spawning stock biomass. Harvesting a wider range of sizes is risky when there has been very low recruitment of pups for the last six years. Legitimate concerns.

My responses. Well, yes, fishermen no longer land many 95 centimeter dogfish. Too many have been caught, that's obvious. Those are the sizes of dogfish in the stock before it was hit hard by the intensive directed fishery back in the early '90s. It's really an unfair comparison to look at 95 centimeters versus 70 or 75 centimeters.

Smaller dogfish always have been acceptable for the market. Dogfish 70 centimeters and larger are acceptable, but obviously a bigger dogfish around the fishermen would prefer that.

With abundance of 70 to 79 centimeters smaller

dogfish being huge, and I mean huge, and availability being so great, fishermen have targeted them, too. I mean, why not, they're there in tremendous abundance.

They can't avoid them. Set a gillnet, you catch them. Set a hook, you catch them. Consider the 2002 biomass was over 300,000 metric tons of this particular size range; 300,000 metric tons or 661 million pounds.

Now these fish are growing, slowly, obviously, but they're growing. This was in spring of 2002. We're now approaching spring of 2003 so this peak of abundance is moving to a larger size.

My question that I asked, and I think is very germane, who believes that landings of about 4 million pounds from 661 million pounds or about one half of one percent truly will be risky and impact recruitment?

And if you think it's risky, well, what's the risk? And how much less recruitment? I ask for those answers. The technical committee's precautionary, risk-averse advice is inordinately cautious and causes lost opportunities.

Yes, recruitment is a concern. We've discussed this at previous meetings. No doubt about it, we'd have to have our head in the sand if we didn't consider it to be a concern. But it's lower than in years when the stock was dominated by the large females 95 centimeters and larger.

And those are 20-year and older females producing upwards of 10 or more young per female. Now the females that are out there are producing about 4 to 5 young per individual. That's about an 80 centimeter female.

Pups less than 60 centimeters, yes, they're being produced. Pups exist, and likely in large numbers, but not as large as when the stock was dominated by those very large and those very old females.

Catching pups is hit or miss. I think anyone can appreciate that. I draw your attention to the large numbers of pups in the 2001 shrimp survey in the Gulf of Maine and the raised foot rope trawl experimental fishery in the Gulf of Maine, as well.

Now, obviously you can't quantify this. I show these slides just to make a point that they can be caught. They do exist. There's not a vast wasteland of young dogfish. The pups are on the grounds. It's just a

question of finding them.

But even when you find them, you're likely not going to catch the numbers that existed, again, back in the early '90s when the stock structure was such that we had all these old females with relatively large numbers of pups per female.

All right, here's another technical committee concern. Higher quota, more than 4 million pounds, will prolong the rebuilding schedule of spawning stock biomass and result in more discards. That's a concern they've expressed. Again, interesting to hear, but my response is quite simple.

The technical committee has ignored it's own May 2002 analysis revealing the probability of exceeding biomass rebuilding target being the same for 4 million pounds or 5.5 million pounds. The probability is over 50 percent for both of those numbers for the next 15 years.

Target fishing mortality is 0.03. My calculations are in keeping with that target. That's a technical committee admission. Discards in the small-scale fisheries are not 60 percent of the total catch.

Once again our sea sampling revealed 9 to 15 percent and low release mortality being very likely. And then, finally, the incorrect technical committee assumption that discard mortality is proportional to directed fishing so discards increase as landings increase.

DMF, the Division of Marine Fisheries, sampling refutes that assumption. It wasn't mentioned here today but it bears mentioning. The Canadian fishery -- we talked about this at the last board meeting -- the Canadian so-called "management program" is 3,200 metric tons or 7 million pounds of a directed fishery.

What's the U.S. response, what should we do? Protest? Well, yes, we've done that. The National Marine Fisheries Service has protested to Canada's DFO. What else can we do? Keep the U.S. fishery closed until Canada closes. I suppose that's a viable option. Is that a good one for us? What's the ASMFC response? Close state waters until Canada closes?

The Commonwealth suggests that ASMFC can do nothing about the Canadian catch and discards; therefore, do not instruct the states, and specifically this is Massachusetts and New Hampshire, to stop all small-scale directed fishing when directed fishing on the same stock will occur by the Canadians and many

of those fish will be exported to the U.S., specifically Massachusetts and New Hampshire, for processing.

And, our other suggestion is follow the New England Council management lead, 8.8 million pounds and 7,000 pounds as a limit. Why defer to the New England Council judgment? I make these suggestions.

The remaining dogfish processors with overseas markets are in New England. Canada is at New England's doorstep. New England is where a small-scale directed fishery, with very low discard mortality, in state waters is desired and justified.

Dogfish recruitment appears to be occurring and may not reach levels of the 1980s until we achieve the age structure of the '80s, very large and very old females. This inferred objective may be unachievable and undesirable.

And then we have the concerns about bycatch and interference with other fisheries, for example, groundfish, those are greatest in New England. Why are they greatest in New England? Here's an example of why it's so.

This is a shot provided by a fisherman. Actually it was a sea sampling trip with a gillnet, a gillnet loaded with cod fish and the cod fish were picked apart by the dogfish that were in the gillnet. It stands to reason, cod fish is in the gillnet showing a distress response.

What happens when there is a distressed animal in the ocean, a distressed fish? It attracts predators. Dogfish come on in and that's what they do. Fishermen lose a tremendous amount of value of their catch due to this.

Also I've had some information provided to me recently by monkfish gillnetters landing monkfish in the fall, and from the Gulf of Maine recently they've had a tremendous problem with the predation of dogfish on monkfish.

They land whole monkfish for the market, and in November of last year many fishermen lost almost half their landings because all the monkfish were chewed, large bites taken out of them.

All right, so now I end. The Marine Fisheries position, just as you look at your watch, Mr. Chairman, the board should not subscribe to the false reasoning of the federal plan. That is bycatch landings only. That's a fallacy.

It's not going to happen. Four million pounds will not be landed as bycatch. I've been there before; I won't go there again. I don't want to get Pat all upset. The board should not share the excessive concern of the technical committee expressed during a brief conference call.

That's what this was, a brief conference call. It wasn't a day-long meeting with extensive discussion. It was a conference call. I may be misrepresenting that; I wasn't part of that conference call.

If I am misrepresenting it, I apologize to the chair and other members. We also feel that the board should consider the socio-economic benefits of a small-scale fishery. We also maintain that the New England Council position is not risk-prone.

It's responsible, pragmatic fisheries management. And we're hoping that ASMFC will allow a dogfish small-scale commercial fishery in state waters up to the 12.3 million pounds, but certainly 8.8 million pounds, because with those particular levels of landings, we don't jeopardize the target that we're obliged to achieve.

That's the fishing mortality rate target of 0.03. That's the requirement for 2003. So that's my presentation, Mr. Chairman. I'll field any questions, if you like, although I appreciate the time is short.

CHAIRMAN MUNDEN: Thank you, Dr. Pierce. Without debating the pros and cons of Dr. Pierce's presentation, I will allow the board members to ask Dr. Pierce questions relative to clarifications of the presentation. Dave Borden.

MR. BORDEN: Yes, thank you, Mr. Chairman. David, a very interesting presentation. I'm just curious, given the assumption that you repeatedly stated that the technical committee basically has concluded that there is a direct correlation between directed fishing and discards; right?

That's one of the key assumptions. Why is it in your analysis you didn't include the fact that in 2002, due to the groundfish settlement, it appears that the number of days at sea will be 40 percent less used?

And this is an actual number that has been reported to the Groundfish Committee by the National Marine Fisheries Service. It seems to me that if the number of days fished, actively fished, has declined by 40 percent, that would map immediately into a very

significant reduction in discards. Why didn't you include that in the analysis?

DR. PIERCE: I wasn't in the position to analyze that. I responded specifically to the technical committee conclusion that a directed fishery on dogfish would increase the discards of dogfish overall.

The point I made was that's unlikely because the directed fishery will now be small-scale, nothing like it was before. But your point is extremely valid, and that is with the New England Council likely -- well, not likely -- with the New England Council intending to dramatically reduce days at sea in the groundfish fishery, we will, in all probability, see a dramatic decrease in dogfish in fisheries that don't target dogfish.

MR. BORDEN: A quick follow up so that the rest of the board members understand what I said. In 2002 the active days fished in the groundfish fleet as a result of the settlement agreement have declined 40 percent.

That's a projection through the end of the year, so there will be 40 percent fewer days actually fished. This is performance. It's past performance. So it seems to me that at some point, someone in the technical committee should look at that from the perspective of how that will map into a potential reduction in discards.

Regardless of whether you agree with David's strategy here, there may be significant savings in terms of discards just from that that would allow the Massachusetts proposal to go forward. Thank you.

CHAIRMAN MUNDEN: Chris Batsavage would like to respond for the technical committee.

MR. BATSAVAGE: Yes, just a point of clarification. The technical committee hasn't reached the conclusion that discards are proportional to a directed fishery. It's an assumption that we're making based on the data that is available to us.

Dr. Pierce, after reading your letter and listening to your presentation, is it possible in the future that the technical committee can review any data or any kind of reports regarding the small-scale directed fishery that you have in Massachusetts?

DR. PIERCE: Yes, all the data that we have collected from sea sampling, our small-scale fishery and from our port sampling, has been provided to Dr.

Rago so he has already used some of it, as a matter of fact.

But anything else that we might have that would be of use to the technical committee, of course, we'll forward it to you because we appreciate the difficulty of the task you have relative to what to advise on dogfish management.

CHAIRMAN MUNDEN: Vito.

MR. VITO CALOMO: Thank you, Mr. Chairman. Also, you need to note, along the same lines as David Borden suggested, that we also went up from 6 inch to 6.5 inch in our trawls, therefore, reducing discards. Thank you.

CHAIRMAN MUNDEN: Other questions of the board members concerning Dr. Pierce's presentation? Dave Borden.

MR. BORDEN: Yes, this will be the last one, Mr. Chairman. Would it be possible to refer those issues to the technical committee at their next meeting and simply ask them to evaluate those impacts?

In other words, we do this all the time in fisheries management. This is not a static situation. It's a very dynamic situation where there are a considerable number of regulations that are changing governing some of the assumptions in these plans.

I would just quickly say not only those, but we have all of the changes that were implemented in terms of the GRAs in the Mid-Atlantic. That had a fairly profound impact on discards, and it seems to me that the technical committee should be charged with evaluating those.

CHAIRMAN MUNDEN: I think it would be entirely appropriate to refer those issues to the technical committee. We'll ask the staff to work with this in summarizing those issues and getting them to the technical committee.

Other questions of Dr. Pierce? We have two things that we need to take action on now. We need to establish the quota for the 2003-2004 fishing year for spiny dogfish. We took no action on that at our last meeting.

And the other item would be to establish trip limits for the two harvest periods for spiny dogfish. As you recall from Chris Batsavage's presentation, the technical committee has recommended a 4 million

pound quota for the upcoming fishing year and trip limits of 600 pounds for the first harvest period which is May through October and 300 pounds for the second harvest period.

So what I would like to do is to ask for a motion -- in order to get things moving, a motion from a board member concerning quota for the 2002-2003 harvest period. Dr. Pierce.

**DR. PIERCE: Yes, I would move that the quota for the May 1, 2003, through April 30, 2004, fishing year be 10,374,000 pounds.**

CHAIRMAN MUNDEN: Is there a second to Dr. Pierce's motion? Second by Jerry. The motion by Dr. Pierce is a quota for the upcoming fishing year of 10,374,000 pounds. Discussion on the motion?

Discussion on the motion by Dr. Pierce? Board members, are you ready to vote on Dr. Pierce's motion? Do you need time to caucus? Time for caucus.

(Whereupon, a caucus was held.)

CHAIRMAN MUNDEN: Board members, are you ready to vote? Mr. Borden.

MR. BORDEN: A comment, Mr. Chairman. I understand why David has put this motion on the board, but I would just offer the friendly suggestion that if the number were 8.8, it might be a lot more receptive to some of the people around the table if you use the same number he had used before.

CHAIRMAN MUNDEN: Dr. Pierce.

**DR. PIERCE: I appreciate David's concerns. This was one of my options. It's justified. However, if it would make it more palatable to board members, I would be willing to move it down to 8.8 million pound, which is a number that certainly has been used quite often in previous documents and discussions. And it's also a number that, you know, equates to the 0.03.**

CHAIRMAN MUNDEN: Jerry, would you agree to that?

MR. CARVAHLO: Yes, Mr. Chairman.

CHAIRMAN MUNDEN: Board members, do you wish to caucus on this revised quota of 8.8

million pounds for the upcoming fishing season? Seeing no desire to caucus, board members, are you ready to vote?

All board members who are in favor of the motion, raise your right hand, and keep it high until we have a chance to count the votes; board members opposed to the motion, raise your hand again; null votes; abstentions. The motion passes six in favor, three opposed, one null and five abstentions. So the quota for the upcoming fishing year is 8.8 million pounds. Dr. Pierce.

DR. PIERCE: Thank you, Mr. Chairman. As a matter of clarification, I believe that the current plan has specific seasonal splits so we don't have to act on that?

CHAIRMAN MUNDEN: That's correct.

DR. PIERCE: So it's already taken care of in the existing plan. The next issue, Mr. Chairman, if I can anticipate, would be the trip limit. I'd like to make a motion to that effect, that the trip limit for the May 1, 2003 through April 30, 2004, fishing year be 7,000 pounds.

CHAIRMAN MUNDEN: Again, repeat that motion.

**DR. PIERCE: I will move that the trip limit for the upcoming fishing year -- I'll be specific -- the May 1, 2003, through April 30, 2004, fishing year be 7,000 pounds.**

CHAIRMAN MUNDEN: Is there a second? Second by Jerry. We have a motion and a second. Discussion on the motion? Mr. Pate.

MR. PRESTON PATE, JR.: Thank you, Red. I guess even with the higher quota and especially with the higher trip limit, I'm still concerned about the disadvantageous aspects of the fishing year dates.

I'd like some discussion and maybe some comments from Dr. Pierce as to his analysis of how the higher quota at a 7,000 pound trip limit is going to avoid North Carolina not having the opportunity to catch any fish in the winter time.

It is certainly conceivable that a 7,000 pound trip limit, the New England fisheries could take the entire 8.8 million pounds as they have in the past, and it is a point of great contention and grave concern with my fishermen.

In fact, I've been on the phone with several of them this afternoon about this very issue. We were not successful in getting a solution to the issue in terms of regional splits and allocation of the quotas by season. I'm very concerned that we're going to be faced with the same problem even after the quota increase, and that is unacceptable.

CHAIRMAN MUNDEN: Dr. Pierce, would you like to respond to Mr. Pate?

DR. PIERCE: Yes. Pres has a very legitimate concern, especially in light of the fact that dogfish distribution apparently has changed in recent years, that the dogfish are also abundant off of Massachusetts shores in the winter time.

So cognizant of that fact, I would have to make some sort of a commitment to other states, notably to North Carolina that has this interest in dogfish to the south, that Massachusetts would do whatever is necessary to make sure that we do not take the dogfish that obviously have been set aside through a seasonal allocation to deal with the needs of fishermen in the Mid-Atlantic during the wintertime.

The plan doesn't have anything in it that would mandate that, but certainly in the interest of good faith and working with the states and the Mid, demonstrating Massachusetts' compliance and our not wanting to cause great discomfort for you and others who would want to harvest this particular seasonal allocation, as I said, we would have to work with you and all others who would want to have a fishery in their waters at that time of the year to make sure that we preserve that percent share for your fishermen.

MR. PATE: In other words, you're asking me to go back home and tell my fishermen that they're going to have fish based on trust in the Massachusetts management program? That ain't going to --all due respects, David, that's not going to work.

And that's not disparaging remarks against your genuine commitment that I sense, but it is certainly not going to be acceptable to my fishermen. I don't know how to get around that with the current management plan.

CHAIRMAN MUNDEN: Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. I want to give David Pierce a lot of credit

for that very articulate presentation. I was very enthused when I saw those baskets of spiny dogfish on the dock and all the rest of that, but I wish you would send our guys a check, also, because you've just put us out of the business in New York.

Our spiny dogfish fishermen will get zero like North Carolina, so, I mean, as long as you're giving out goodies, would you send us a check for whatever it's going to cost to put our fishermen back in business? We couldn't support this.

CHAIRMAN MUNDEN: Dave Borden.

MR. BORDEN: Two suggestions, Mr. Chairman. One would be for the state of Massachusetts to go on the record and simply state that it will not catch more than some "X" percent of the quota. In other words, they will unilaterally limit their removals to some percentage.

And one way to facilitate that would be to take a five-minute break and let the concerned states talk to the state of Massachusetts and maybe they could come up with that number.

CHAIRMAN MUNDEN: Before we take a break, I'm going to recognize Chris Ludford.

MR. CHRIS LUDFORD: Real quick, a starting point might be the 57.9 percent Period I versus 42.1 percent Period II. That might be a starting point.

I also want to reiterate Preston Pate's concerns that Virginia, being seventh in the period from '90 to '97, also would like to see some reasonable amount left over. I also want to quote from the Seatrade International, Mr. Barndollar, talking about he would like to have the fishery open between September and February, thus evidencing the fact that there were other states that contributed to the resource as far as the packing and the process and the amounts that were processed.

You know, true, maybe most of them were processed in New England, but they were trucked out of the Virginia-North Carolina area. It's definitely one of the most important reasons for me being here.

Probably the most important was the fact that the dogfish was going to be coming up. I was sent by a coalition that included, packers in the Virginia Beach and Lynnhaven area, you know, fishermen and the like, you know, concerning just this situation.

I continually hear the same thing, you know, why is the quota being caught before we have a chance to catch any of it, and that's a concern we have as well.

I think that Dr. Pierce's report was excellent. I would have gone with the 10.7 million pounds, to be quite honest. I would just like to see this fishery keep going and spread evenly amongst the user groups.

I think that it was something that was wide open and then just sent to a screeching halt. And if we could keep this going, it would help a lot of people. I won't waste any more of your time. Thank you.

CHAIRMAN MUNDEN: Dr. Pierce, you raised your hand before I recognized Chris. Did you want to speak or did you want to take a break?

DR. PIERCE: Well, I only wanted to agree with David Borden that it might help if we just paused for a second to see if we could come up with some options.

CHAIRMAN MUNDEN: A five-minute break to discussion allocation of quota.

(Whereupon, a recess was taken.)

CHAIRMAN MUNDEN: If all the board members will please take your seats, I'll recognize Dr. Pierce.

DR. PIERCE: All right, thank you, Mr. Chairman. We've obviously been caucusing here to figure out a way to ensure some equity and make sure the best we can that the states of the Mid-Atlantic get their fair share. We have agreed to the following and I'll make it in the form of a motion.

**I would move that the states of Maine, New Hampshire and Massachusetts limit dogfish landings in those states to 57.9 percent, or 5.1 million pounds of the annual quota, for the fishing year May 1, 2003, through April 30, 2004.**

And that's my motion, Mr. Chairman, and that particular percent is the percent that is in the current plan. It's 57.9 percent for the first period and it's 42.1 percent for the second period, so these percentages reflect that breakdown.

CHAIRMAN MUNDEN: Second by Dave Borden. I recognize Megan.

MS. GAMBLE: I just want to ask a couple of questions to determine how the logistics of this

will jive with what's in the plan. The proposal is to have 57.9 percent between those three states over the entire fishing year, that is the percentage that will be taken by those states?

DR. PIERCE: That's correct.

MS. GAMBLE: So, then, that percentage will then be further subdivided between those two periods.

DR. PIERCE: No, we need not have reference to the periods. It would just be the 57.9 percent.

MS. GAMBLE: Okay, then my next question is if those three states exceed that allocation, what will happen in the subsequent fishing year, or what will happen to compensate for that overage?

DR. PIERCE: Well, I would assume that we would keep to the intent of the plan, which is any overage would be subtracted from the next year's quota, whatever that may happen to be, so we wouldn't end up having overages that are not accounted for.

MS. GAMBLE: Well, let me just remind you the way the interstate fishery management plan for spiny dogfish works is that any quota overage from Period I is going to be deducted from the entire quota period and Period I of the subsequent fishing year. I just want to remind you that's the way it works.

DR. PIERCE: Okay, I appreciate that but I'm reflecting only on what we thought was the best approach to make this work, and this seems to be the best approach. And that is principle, that is primary dealing with the interests of North Carolina and other states that do indeed want to make sure they have access to dogfish.

CHAIRMAN MUNDEN: Point of clarification, Dr. Pierce. By default, this would make 42.1 percent of the annual quota available to the states lying south of Massachusetts, I believe?

DR. PIERCE: That's correct, and that comes to 3,704,800 pounds. Actually the breakdown is -- according to someone who had a calculator -- 5,095,200 pounds and 3,704,800 pounds.

CHAIRMAN MUNDEN: Dave Borden.

MR. BORDEN: Thank you, Mr. Chairman.

I think you raise a good point, and it might be beneficial to modify the motion. Just add "and the states from Rhode Island south agree to limit landings in those states to", whatever the percentage was and the amount.

DR. PIERCE: It's 42.1 percent or 3,704,800 pounds.

CHAIRMAN MUNDEN: Harry.

MR. MEARS: Mr. Chairman, for clarification, how does this motion relate to the one that was left on the table before the break, just so we can be very clear.

CHAIRMAN MUNDEN: Dr. Pierce, do you wish this to be a substitute motion?

DR. PIERCE: Yes, I do. There is no reference in this motion to a trip limit. A trip limit would be established by the individual states caucusing and determining themselves what is best for their individual interests.

MS. GAMBLE: I guess I have to say that I'm not sure that's allowed through the plan, because we have an annual specification process that requires the board to approve all of those trip limits.

CHAIRMAN MUNDEN: Bob Beal.

MR. ROBERT E. BEAL: Actually, I think the plan requires that the management board set a coast-wide trip limit for each quota period. So this motion, if 7,000 pounds is the desired number, you can establish that but it has to be -- the way the plan is written right now I think it has to be applied coastwide.

There is not a provision for state-by-state breakdowns of trip limits. Vince just whispered in my ear, a state could be more restrictive than the coast-wide trip limit if they choose to be.

In other words, if 7,000 pounds is the number that this board selects, any state could voluntarily put in a 5,000 or 3,000 pound trip limit if they opted to do that voluntarily, to be more conservative.

CHAIRMAN MUNDEN: Pres, to that point.

MR. PATE: That was the point that I was going to make, Red. If the motion needs to include a 7,000 pound trip limit, I think in the spirit of the

negotiations that we just held, we could still get together in the southern region and decide on a more conservative trip limit that would meet our needs.

CHAIRMAN MUNDEN: Chris, did you have a comment?

MR. LUDFORD: No, Preston covered it there.

CHAIRMAN MUNDEN: Other comments from the board members on the motion? Dr. Pierce.

DR. PIERCE: Yes, to the point made by Pres, perhaps we could add to the motion "the trip limit shall be up to 7,000 pounds", and that would, therefore, give the other states flexibility to reduce it they feel it makes more sense.

Okay, I guess I was going to put it at the end of the motion. So, at the end of the motion, there would be another sentence saying that the trip limit would be up to 7,000 pounds.

CHAIRMAN MUNDEN: Bruce Freeman.

MR. FREEMAN: It seems to me this would be a lot cleaner if you took the percentages out and just put the poundage in. And the reason I say that is relative to the way the plan is constructed, that any overage in those periods would be subtracted -- as I understand it, would be automatically subtracted from the following year.

But it seems like we're confusing the issue when we're putting this percent in there. You'd simply do the multiplication and just come up with a poundage and just indicate that the three states would have "X" quota on an annual basis, and the other states would have "Y" poundage and then put in your trip limit.

If there are overages, it will come off the following year. It won't be -- you know, the fear is that the north is going to take over the quota and it's going to come off the south.

CHAIRMAN MUNDEN: Harry.

MR. MEARS: Thank you, Mr. Chairman. I'd like to express my extreme opposition to this motion. I have a great degree of apprehension that essentially we're embarking on -- in fact what we just decided, is so contrary to what we've all heard for the last two years about the jeopardy of a resource we are managing.

We're ignoring our technical committee, what the best science is telling us. I think what concerns me most is just in discussion of this motion, we've now replaced all language about precautionary management, low pup recruitment, danger of a disappearing resource with three words; "my fair share."

By allowing a 7,000 pound trip limit, this in one fell swoop will be counter to everything that has tried to have been achieved during the last three years to save a resource. Very clearly, this will now be a directed fishery.

I can't think of another move that would be so counter to whatever we've heard to date from our own policy discussions, from our own scientists in terms of what we should avoid at all costs. Thank you.

CHAIRMAN MUNDEN: Other comments on the motion? Mr. Pate.

MR. PATE: I'm still confused on what the consequences of over-harvest of the 57 percent would be. The only compliance penalties that are in the plan are relative to the two fishing periods. I don't know if that is sufficient to keep the states in the northern area or the southern area, for that matter, loyal to what the intent of this and the actual wording of this motion is.

So I'm wondering if there is some way that we could specify -- and maybe this is what Bruce was getting at and I didn't understand it -- if there is some way that we could specify that any overages that take place of the area allocations be taken off those area allocations in the following year. That's just to keep any overages from permanently disadvantaging any particular area.

CHAIRMAN MUNDEN: Dr. Pierce.

DR. PIERCE: I don't want to mix apples and oranges too much here. I would rather just be specific to the motion in terms of making sure that there is some compliance criteria that holds the states to the level of landings that is shown in the motion.

The compliance criteria will be something along the lines of that if there is an overage of the annual quota for those three states to the north and the rest of the state to the south, then in the following year the overage comes off the top of that number.

So that way there should be no fear that a group of

states would not be adhering to that number. It's our intent to make sure we adhere to it, so I would think some compliance criteria could be worked out by the staff that would reflect the intent that I just stated, Pres.

MR. PATE: I'm comfortable with that.

CHAIRMAN MUNDEN: Megan would like to make a point.

MS. GAMBLE: In crafting this plan, we were relying on eliminating duplication of effort in terms of monitoring this quota, which means we are relying on the Northeast Regional Office which currently monitors the spiny dogfish landings.

The reports that we do get out of the Northeast Regional Office, we get them by month and they are not broken down by state. This motion is proposing to allocate a portion of the quota between three states and then the remaining states, yet we don't have a mechanism in place to monitor those landings.

CHAIRMAN MUNDEN: Other comments from board members on the motion? Are there other board members who would like to speak? Jaime Geiger, would you like to come forward?

DR. JAIME GEIGER: Thank you, Mr. Chairman. I just want to say that I highly support the comments by Harry Mears to this board, and I strongly urge all the board members to give severe and very serious consideration to his remarks.

Secondly, I must state that I'm very disappointed that the board did not vet the previous decision through the technical committee. I'm very disappointed that we did not have an opportunity to have Dr. Rago here as well. It seemed to me that that is a certain amount of professional courtesy that should have been afforded.

And, finally, Mr. Chairman, I am very concerned that we continue to do fisheries management business, very serious fisheries management business in an endurance race. Many of these people have been here since eight o'clock.

We continue to do business and make very serious management decisions with, I think, very little regard to understanding the issues, discussing the issues, and having them appropriately vetted out. I apologize, Mr. Chairman, in advance for my comments, but I feel very strongly about this. Thank you very much.

CHAIRMAN MUNDEN: Thank you, Dr. Geiger. Other comments from board members? Chris.

MR. LUDFORD: I'm prepared to stay here as long as it takes. I think we've got a good -- I can appreciate staff's problem with this. I understand Megan's point. I'd like to say this is a fishery that we were encouraged to get into by the government 15 years ago.

And in the course of two years, they've shut us out of and now we've got numbers showing that it's coming back. Comments that we have taken reckless disregard, I don't feel that's appropriate here and I don't feel that's evident.

CHAIRMAN MUNDEN: Mr. Augustine.

MR. AUGUSTINE: Not much more to be said. I'm going to vote no if I have the vote for the state of New York. I think we are heading down a road based on, again, the presentation that was made, which is an excellent presentation, by the way. Whether people believe that I believe that or not, it is true. That was an excellent presentation by Dr. Pierce. Thank you.

CHAIRMAN MUNDEN: I recognized you to call the question.

MR. AUGUSTINE: Oh, I would. I'll call the question.

CHAIRMAN MUNDEN: Board members, would you like to caucus?

(Whereupon, a caucus was held.)

CHAIRMAN MUNDEN: Board members are you ready to vote? Dr. Pierce, before we vote, would you please read your motion for the record.

**DR. PIERCE: I move that states of Maine, New Hampshire and Massachusetts limit dogfish landings in those states to 57.9 percent of the annual quota, 5,095,200 pounds, for the fishing year May 1, 2003, to April 30, 2004; and the states from Rhode Island south agree to limit landings in those states to 42.1 percent of the annual quota, 3,704,800 pounds. The trip limit for this fishing year shall be up to 7,000 pounds.**

CHAIRMAN MUNDEN: Thank you. Board members, all in favor of the motion, please indicate by raising your hand; all opposed to the

motion, indicate by raising your hand; null votes; abstentions. **The motion passes six in favor, three opposed, seven abstentions, no nulls.**

#### **TECHNICAL COMMITTEE: 2003 STOCK ASSESSMENT**

CHAIRMAN MUNDEN: Working through the agenda, the next thing we have under Item 5, report from the technical committee on the stock assessment. I'll turn it back over to Chris Batsavage.

MR. BATSAVAGE: As part of the conference call the technical committee held, we developed a list of terms of references for spiny dogfish to be used in the upcoming stock assessment workshop. This list is included with your meeting materials.

What the technical committee did was we adopted the Mid-Atlantic Council's list of terms of references, but we also added two more of our own. The reason we did this was the council's list of terms were very similar to the technical committee's, and we wanted to avoid duplicity and to coordinate as much as possible with the councils.

Just real briefly, the list of terms are to characterize the commercial and recreational catch for the entire stock, and that's including Canadian landings; and identify methods for improving the accuracy of discard and discard mortality estimates; estimate the current and historic fishing mortality spawning stock biomass and total stock biomass and characterize the uncertainties of these estimates; update or re-estimate the biological reference points and rebuilding targets; estimate the yield based on stock status on a fishing mortality rate of F of 0.08 for the 2004-2005 fishing year; provide short-term projections of stock status under a variety of total allowable catch and fishing mortality strategies; evaluate existing and alternative building schedules based on current and projected stock status; provide estimates of juvenile recruitment and pupping rates; characterize the level of discards, bycatch rates, discard mortality rates, and length and sex data for spiny dogfish in directed and bycatch fisheries and how changes in regulations and fishing practices may have affected these rates.

Okay, the final order of business for the committee during that call was to discuss the stock assessment subcommittee. This subcommittee will work with the southern Demersal working group in updating the stock assessment.

Currently Paul Rago from the Northeast Fisheries

Science Center, Alexei Sharov from Maryland Department of Natural Resources, and Roger Rollerson from East Carolina University are on this subcommittee.

The technical committee made no further nominations to the subcommittee. If there is any board members who have anyone they would like to have serve on this subcommittee, please notify Megan. That concludes the technical committee report.

CHAIRMAN MUNDEN: The next item of business is to approve the terms of reference which we were just presented and are now shown on the screen, the first four. There are a total of eight of them.

**Okay, do we have a motion to approve the terms of reference for the stock assessment? David Borden moves; seconded by Lewis Flagg. David.**

MR. BORDEN: Just very quickly, Mr. Chairman. I know we are way late in the meeting, but I'd just like to emphasize the importance of working with the Canadians to try to get them to work up their data.

I attended the U.S.–Canada meeting with various representatives of the New England Council a couple weeks ago, and Pat Kurkul did a fine job of representing the conservation concerns as far as resource, but I have to tell you that the Canadians are not organized in terms of their data or what is going on with the fisheries and what the level of removals are.

I think there is tentative planning for a workshop in April, which I hope that this commission actively participates in. And part of these terms of reference should definitely focus on what is happening in Canadian waters.

CHAIRMAN MUNDEN: Thank you, David. Other discussion on the motion? Board members, are you ready to vote? Board members do you need to caucus? Seeing no desire to caucus, all in favor of the motion, please indicate by raising your hand; all opposed; null votes; abstentions. **The motion passes, 16 in favor, no opposition.**

#### **UPDATE ON THE FEDERAL AMENDMENT TO THE SPINY DOGFISH FMP**

CHAIRMAN MUNDEN: Many hours ago we talked about a couple of changes to the agenda.

The next item we have is a very brief presentation by Mr. Rich Seagraves, staff member from the Mid-Atlantic Council. Rich is going to just very briefly tell us what we have in the way of timelines for Amendment 1 to the Federal Spiny Dogfish Fisheries Management Plan.

MR. RICH SEAGRAVES: Thanks, Red. Megan, did you distribute the timeline? Okay, there's something coming around but I'll be brief. I'm filling in for Jim Armstrong.

He was supposed to be here today, and they weren't sure who to send so we Indian leg-wrestled for it and as you can see by my presence, he whooped me.

The scoping hearings that we've held so far have been in January at the Mid-Atlantic and New England Council meetings. There will be one more hearing March 18<sup>th</sup> in Virginia Beach.

Following that, the council staff will prepare an options paper and begin to work with the committee in March 2003 to begin to develop the options that we're going to include in Amendment 1.

Most of what governs this timeline has to do with complying with the National Environmental Policy Act and the fact that this amendment will require development of an environmental impact statement, so the timeline pretty much follows those requirements.

We would anticipate going to public hearing in the fall of this year. Then we would finalize the draft of the plan after public hearings by January, probably go back to the councils again and then have final approval March 2004, and then submit something around April 2004.

So the final final on the FEIS would occur in June of 2004. That's the current timeline. That's about the time it takes to develop a federal plan under the NEPA, National Environmental Policy Act. Any questions?

CHAIRMAN MUNDEN: And, Rich, I believe my conversations with Jim Armstrong last week indicated that Amendment 1 to the federal plan would not be available until we set the specs for the 2005 fishery?

MR. SEAGRAVES: Yes, that's right.

CHAIRMAN MUNDEN: That is an affirmative, correct?

MR. SEAGRAVES: Right, so keep in mind that the current plan has hardwired in an F of 0.08 beginning in 2004, so that will probably be the operational fishing mortality rate for next year.

CHAIRMAN MUNDEN: Any questions of Rich Seagraves? Thank you very much, Rich.

## **NOAA FISHERIES HMS UPDATE: SHARK AMENDMENT #2**

CHAIRMAN MUNDEN: Next on the agenda we have Heather Stirratt who is going to talk to us about Amendment 1 to the Shark Plan, the big shark plan.

MS. HEATHER STIRRATT: Yes, we're hopefully going to shift gears. I understand that the meetings have gone very long today, so I will try to be as concise as possible and run through this fairly quickly.

There's just a few housekeeping issues I'd like to make the board aware of. The HMS Division at NOAA Fisheries is actually in the process of making sure that we have accurate information relative to state regulations concerning HMS species.

The document which was just distributed to the board is actually an outline for all HMS species. Again, since this is a Shark Board hearing, I want to focus everybody on the shark elements for all of the states which are represented on this board.

However, if there are other inconsistencies or things that need to be corrected or things that need to be added relative to all of the HMS species, we would certainly appreciate your input. My contact information is in the bottom right-hand corner, so please do feel free to review that and get back to me at your earlier convenience.

Shifting gears now on to the amendment, the presentation that you're seeing here today is the same presentation that we are currently holding scoping meetings for, so, again, I'm going to try to be brief and concise and go through this very quickly.

It was originally designed for a 15-minute presentation with time for questions and answers. If you have questions, if you could, please just hold those until I get through the presentation itself.

I think most of you all know me, but for those of you who don't, my name is Heather Stirratt. I work for

HMS Division of NOAA Fisheries. I'm primarily here to talk to you about the scoping document which we just recently announced and made public.

It is our issues and options paper. Most of you should have received that in your briefing materials, and I want to thank Megan for getting that out to everybody. It's a fairly substantial document.

Really, the intent behind the document is to revise our shark management measures, and this will be an all-encompassing revision. We are looking at revising these measures based upon the 2002 stock assessment for large coastal and small coastal shark, primarily to rebuild and prevent overfishing of Atlantic sharks, but also because we have some concerns relative to the current procedures we have in place for issuing exempted fishing permits.

I know that sharks that are harvested for public display has been an issue that the commission has been interested in in previous days. And, certainly, we have our own set of concerns relative to this process, so we are looking to revisit it.

Also, again, we are in the process of scoping meetings right now. We have outlined the issues and options that we think are available to the public. That does not mean that it is the "end all, be all." There may be additional options as we go through this.

And, certainly, I would love to get feedback from state directors and members of this board as to what other options may be available to us. Public comments are obviously going to be used to develop these alternatives as we move forward to the development of a proposed rule.

Again, you know, I just want to highlight here -- I think most of you are at least somewhat familiar with the federal process. This is the first round of public hearings, if you will, that we will be holding. We are starting very early in this groundwork to try to get public input.

We do not, as an agency, have any preferred alternatives at this point, so hopefully I will be able to just run through the issues and options that we have outlined. If you all have any further comments or input on that, I would either leave it to Megan to either coordinate the entire board; or, if individuals wanted to send comments to NMFS directly, then we can go that route.

Just a little bit of background as to what has happened in the past year. We went through a series

of emergency rules back in 2001 and 2002. In December 2001 we established an emergency rule which maintained the 1997 large coastal and small coastal shark commercial quotas.

We also suspended the large coastal shark ridgeback, which is a grouping that we have minimum size which was 4.5 feet. We also suspended the counting of dead discards against the quotas, and state landings after a federal quota closure as well.

We replaced the season-specific quota accounting methods with subsequent season accounting methods, and this emergency rule was extended in May of 2002 but, as you all well know, it expired December 30, 2002.

In order to have some measure in place, as I reported the last time I was here, we did establish another emergency rule because we knew that we would not have time to finish the amendment before the last emergency rule would expire.

We also knew that there was information in our fishery management plan which had been questioned and was the topic of litigation at one point in time.

That was resolved in a court; and because of that, because we knew that some of the science was flawed back in those days, we actually needed to get the best available information into this latest series of management measures, and that's why we went with the emergency rule.

You will see that the December 27, 2002, emergency rule established a large coastal shark quota of 783 metric tons dressed weight. This was specifically an increase in quota. You will also note that -- and that was for ridgebacks.

You will also note that we had a 931 metric tons dressed weight quota for non-ridgebacks. We established a small coastal quota of 326 metric tons dressed weight and suspended the minimum size for large coastal ridgebacks. And we also, at that point in time, implemented an accounting system for the dead discards and the state landings after our federal closure.

We recently also announced the availability of the 2002 stock assessment results. For large coastal sharks, we saw that the complex as a whole was overfished and that overfishing is occurring.

It was notable, though, that sandbar sharks, which are the primary species caught for that complex, were not

overfished although overfishing is occurring.

We also noticed that blacktip sharks apparently appear to be rebuilt, which is very good news, somewhat of a substantial difference from the last stock assessment where we thought they were in severe trouble. Overfishing is apparently not occurring on blacktip sharks.

Now I should note that the last stock assessment was 1998 and, again, we did have some scientific issues about the methodologies that were used in that stock assessment so the fact that blacktip sharks showed to be, well, let's just say "less abundant" both in terms of population numbers and biomass, we can't necessarily say that was true at that point in time.

Small coastal sharks, the complex as a whole is not overfished and overfishing is not occurring. This is very good news. However, finetooth sharks are not overfished although overfishing is occurring on that one particular species within the complex.

Atlantic sharpnosed bonnetheads and blacknosed are not overfished and overfishing is not occurring. In general, we have a pretty good outlook for small coastal sharks.

This slide is basically just to show you where we've been going over time. Recreational landings have pretty much leveled off within the past two years. We're seeing a continued decrease in commercial catch.

A lot of these decreases you'll note occurred after the 1998 period of time, and that should be associated to a large degree with management measures that were implemented in 1999 through the HMS Division and the HMS FMP.

You will also notice that our discards, according to the information that we have available to us, seem to be either leveling off, or in some cases a very slight decrease, especially within the last two years.

So, what are we talking about in terms of Amendment 1? We have a number of different things, and, again, I'm going to try to go through this quickly. Accounting for mortality, the primary issue that we have here is we do not have all sources of mortality currently going into the setting of our quota levels every year.

Just to give you an example, 15,000 pounds were discarded in the pelagic fishery last year. This really amounts to about 6 percent of the total catch is

unaccounted for when we went to set our quotas.

What we're looking at here is a means by which to better account for overharvest and underharvest every year. There has been substantial discussion about that this afternoon for spiny.

We're also looking at dead discards on state landings after a federal closure. Now some of these things, again, were addressed in the most recent emergency rule, and we're simply just trying to evaluate whether we're doing a good job with those measures that were just put in place or whether we need to do something additional to that.

In terms of quotas, we have a number of considerations which we need to be looking at in terms of fishery dynamics, enforcement and the status of the stocks. Based upon the latest information that we have available to us, which is the best available information, we're trying to reassess how we're going to group these quotas, whether they would be aggregate for all shark groups where we would have ridgebacks, non-ridgebacks, species-specific.

We have some groupings where we know that the complex as a whole may be overfished, but individual species within that complex may be doing very well, so this kind of brings to light the possibility for a species-specific quota.

We're also questioning whether we should have spatial-specific, temporal-specific, gear-specific, combination and/or individual transferable quotas. The quota basis is also up for discussion.

There has been substantial discussion to date about going with the landings-based approach similar to what has been employed with spiny dogfish. We'll also consider constant fishing mortality as well as individual-based quotas.

In terms of quota administration, we're looking at how we want to adjust these quotas, whether we want to do it annually or concurrent with the stock assessment. We're also looking at whether the adjustments would occur within the next season or within the same season.

For fishery closure, we're looking at issues where historically we've given a five-day notice for a closure. What we've noticed in the fishery itself is that there has been a difficulty for the fishermen to establish their markets and ultimately there has been a race to fish.

So what we're looking at are some alternatives to that, perhaps a 30-day notice, perhaps a 14-day notice, or perhaps we'll just stick with what we've been doing historically.

In terms of minimum sizes or other limits in the commercial fishery, we have stock assessment information which would support additional protection for juveniles and reproductive females.

So we're looking at whether we want to group these minimum sizes according to ridgebacks, non-ridgebacks, or species-specific or perhaps even sex-specific, and perhaps we will also be looking at time and area closures as well.

In terms of the size limits, as you all may know, we did establish in 1999 an FMP minimum size, which was 4.5 feet for the ridgebacks, but that has since been suspended due to litigation.

The question is do we want to reinstate that or do we want to go with some other size, perhaps a maximum size, a slot size, some other alternative, or have none.

For trip limits, as most of you all know, there is an established 4,000 pound dressed weight trip limit in the commercial-directed permit holder section of our fishery. We do also have current upgrade restrictions, and we're wondering and certain members of the industry are wondering as to whether or not the 4,000 pound trip limit is necessary given upgrade restrictions.

So, some of the alternatives to that would be looking at all species groups in terms of a trip limit, looking at some species groups for trip limits, none, or limit the catch based upon the average catch per trip, or providing some allowance for incidental harvest as well. Obviously, we could do something else or we could have none.

We also have an issue relative to incidental permit holders, whether or not they can catch sharks as bycatch or -- they will catch sharks as bycatch regardless of whether the fishery is open or closed, and the question is should we be creating a separate trip limit for them or have some type of a limit established for that grouping? Again, the options for this one are somewhat similar to the previously listed issue.

For the recreational fishing measures, we've been in discussion with a number of folks about current bag limits. There is evidence based upon MRFSS data

that the harvest currently exceeds the bag limit that we've established; and as such, we are questioning whether there is an enforcement issue or whether the bag limits are simply ineffective.

Classification, we're looking at how the species are grouped in terms of bag limits. Perhaps we need to go to something a little bit more specific relative to sex or perhaps we need to combine things to get to an all-species bag limit.

We're also looking at options relative to dividing up the recreational fishing sector by sector, including like a charter-headboat specific, a tournament-specific and so on.

In terms of the limit itself, we're currently operating at one shark per vessel per trip plus one Atlantic sharpnose per vessel per trip. This could be changed to be some other number of either of those.

We're not really sure which way to go, but we're certainly open to options. We could also be talking about the addition of bonnetheads, also, here.

In terms of minimum sizes or other limits for the recreational fishery, again, we're seeing MRFSS data which is showing the majority of fish sampled are below the minimum size, and the minimum size may, thus, be ineffective.

We're trying to take a look at the minimum size, which, again, is 4.5 feet for all sharks with the exception of Atlantic sharpnose, to see whether or not that is the best minimum size to have or to use some other number. We are looking at the best available science in this regard as well.

In terms of landing form, current regulations require recreational landings to have head, tail and fins attached when they come to land their catch. We're currently trying to get more input on whether or not this is the most efficient way to land recreationally caught fish in terms of enforcement and otherwise.

We are trying to look at other options. Perhaps we could classify a landing form by charter/headboat specific or tournament-specific. In terms of form, we are also looking at options relative to the whole form required at landing, which is current, but also no landing form requirements or some other fashion.

In terms of authorized gear, regulations do not or did not historically distinguish between commercial and recreational gear type, so technically someone could go out and use longline gear and say they were

recreational fishing.

This has been resolved in our most recent emergency rule, however, which states that you can only harvest recreational fish by hand gear.

However, there are a number of new gear types that I'm hearing about; for instance, bow hunting was one that threw me for a loop. There's a lot of new gear types which are coming up and the question is should they be allowed.

In terms of reducing bycatch of protected resources, we're looking at National Standard 9 and a biological opinion which require us to reduce bycatch to the extent practicable.

Specifically we're looking at those gear types which are most commonly interacting with protected resources, for instance, gillnet gear and bottom longline gear. Specifically, we're looking at marine mammal bycatch and also sea turtles, which is in some instances substantial.

Some of the things which have been outlined here include continuous net checks of gillnet gear -- and some of these things, I would add, have already been required -- looking at strike netting year-around with spotter planes, 100 percent observer coverage, VMS during right whale season and so on.

We're also looking in the bottom longline gear to have guidelines for safe handling -- we do have those currently -- de-hooking devices and many other options. For the reduction of bycatch of sharks, this is where we are looking at some new technology relative to gear modifications.

Again, reducing the catch of prohibited shark species is certainly something that we are trying to strive to do. We're looking at the closure of possible nursery and pupping grounds to help aid us in this regard; looking at closing the over-wintering grounds as well as non-transferable permits allowing access to only selected areas. We also are looking at closures of essential fish habitat where we have areas of particular concern and migration corridors.

We have a group of sharks that is listed as prohibited species, and there is a growing public concern that protection of this group is unwarranted given that these animals are rarely encountered and/or caught.

So the options that we have outlined are to maintain the 19 species, which are on this list. We could possibly add another species such as finetooth. We

could possibly remove species such as dusky sharks.

There is always the option to return to the five species which were originally listed on this list in 1997. We could allow limited numbers of displaced species for collection, or we could implement time and area closures to protect species, those species that would be listed in this group. Obviously, we could do something else or we could have no management measure at all.

In terms of the deep water other species group, again, this is another species group. The concern here is really that this was created to protect sharks other than large coastal, small coastal and pelagic prior to the Shark Finning Act.

This was basically a stop-gap measure to make sure there were no loopholes. Now that we have the Finning Prohibition Act, the concern is do we really need this group. There seems to be some sentiment out there about combining the deep water other species groups with the prohibited species groups. However, we could go with a number of other options, including finning prohibitions or remove it completely.

I promise we're almost done. In terms of EFH designations, NOAA Fisheries is required to update its EFH every five years. We're quickly approaching that based upon the 1999 FMP.

We're looking for input on new information relative to habitat. We're also looking for additional information relative to other areas of particular concern and/or experiments that have been related to sharks and EFH.

Restructuring the EFP process. As I mentioned before, I know that many of you at the state level have expressed some concerns about adequate accounting and tracking processes for exempted fishing permits, especially in the aquarium trade or where we may have folks going out and harvesting sharks for public display.

And the issue here is, again, for live capture of HMS, including sharks, and actually having some type of accounting system for this and also allowing access to the closed areas for folks that are trying to do research.

We have some options where we would allow EFPs for all species groups within the management unit. We would allow EFPs for some species. We could create a new permit for the collection of sharks for

display with a new set of regulations and/or reporting requirements. We could do something else or we could have none.

And, finally, I just want to let the members of the board know that this comment period, while we don't have any preferred alternatives at this time, it's really, really important for all of you to kind of give us your input at this early stage; because after this, we're going to go back to the table, sit down and perform a number of analyses to try and outline what our preferred alternatives are.

And so the more options that we have to look at, the stronger we feel that the management program will be in the end. The comment period on this particular segment of issues and options comments is open until March 17, 2003.

Again, we're looking for comments on your issues and options and other regulations that may affect this action. You can send your comments directly to Chris Rogers, who is chief of the Highly Migratory Species Division, 1315 East/West Highway, Silver Spring, Maryland 20910.

You can also send your comments in by fax; and if you have any questions at all, you can either contact Carol Brewster-Geist or myself, and our phone number is 301-713-2347.

You can also contact Greg Faircloth, for those of you that are in the southern region and would like to speak with someone more familiar with the fisheries in that area. His number is 727-570-5447. I want to thank this board for your time. I know that you are all very tired, so I appreciate it greatly.

CHAIRMAN MUNDEN: Thank you very much, Heather. Questions of Heather from board members? Thank you, again, Heather.

#### **IMPLEMENTATION DELAYS/PENALTIES**

CHAIRMAN MUNDEN: The next to the last thing on the agenda is some guidance from Bob Beal concerning implementation delays/penalties.

MR. BEAL: Thank you, Mr. Chairman. Again, this is the same issue we've talked about in a number of other board meetings this week. It's the policy board's request to determine if the Spiny Dogfish/Coastal Shark Board would like to initiate an addendum or an amendment to deal with delays in implementation.

We've talked about it again at the staff level, and it seems that since this species is managed through coast-wide quotas, this probably is one that the policy board should consider development of some sort of document to deal with delays in implementation.

I think one of the options that's available to this group is that in the relatively near future, more than likely this board is going to need to react to some of the changes that the federal government makes in Amendment 1 to their Spiny Dogfish FMP.

So, in the document that this board develops to react to that may be an opportunity to develop some of the delays in implementation penalties or other things that the board wants to consider.

So, unless anyone objects, this will appear on the list to the policy board as one that we will want to have them prioritize as something to deal with delays in implementation.

CHAIRMAN MUNDEN: Thank you, Bob. The final thing on the agenda is other business or adjourn. Do we have any other business? Bruce Freeman.

#### **OTHER BUSINESS**

MR. FREEMAN: Red, we had a joint committee between this group and the fisheries service to deal with the exempted fishery permits, primarily for display and research and so forth. Megan, you can bring us up to date. Where do we stand on that?

One of the issues that the service asked for were comments relative to their system, and it seems like we need to get our subcommittee, if we haven't done it, together and make recommendations for the board to make to the service.

MS. GAMBLE: Actually, we do have a subcommittee that is already to go. They have a charge to develop a proposal to come back to the board on how to proceed with exempted permits. The board did decide that they don't want the commission to take action.

They wanted to use the commission as a forum to develop recommendations on how the states can deal with it on their own. So there's not going to be a

commission policy on exempted permits, but they're going to use the commission as a vehicle to develop a mechanism for dealing with them on a state-by-state basis.

They have not met yet, and the reason is because of staff time and also funding in terms of getting that group together. The intent is to have them together, it just has been lower on the list of priorities.

MR. FREEMAN: If I recall, Megan, one of the major issues that we were struggling with was to try to get an accounting of the permits that were issued to take various shark species for display and scientific purposes, and that was to be coordinated to the service. I think that's a very worthwhile and necessary consideration in order to have some reasonable system in place.

MS. GAMBLE: Right, that is one of the issues that has been discussed relative to exempted permits. No decisions have been made on that, although some of the discussions have been to use ACCSP. They have a monitoring program that may be applicable to this issue. But, again, nothing has been decided, and that was something that the subcommittee was going to review and come back to the board with as a recommendation.

CHAIRMAN MUNDEN: Other business to come before the board? Yes, Dave Cupka.

MR. CUPKA: Thank you, Mr. Chairman. Just very briefly, I want to mention the fact that I brought up the same issue that Bruce did at our recent HMS AP meeting the week before last, which I attended on behalf of the commission, and was told that given everything else they've been working on, that that was a lower priority and they hadn't gotten to it, but they hadn't forgotten about it. So, they are aware of it and were still very much interested in it.

CHAIRMAN MUNDEN: Other business for the board? I will entertain a motion to adjourn. Thank you, Vito. The Spiny Dogfish and Coastal Shark Board is now adjourned.

(Whereupon, the meeting was adjourned at 7:50 o'clock p.m., February 25, 2003.)

- - -