

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

May 21, 2002  
Swissotel at the Watergate  
Washington, DC

Approved August 29, 2002

## ATTENDANCE

### Board Members

Lewis Flagg, Maine DMR  
John Nelson, New Hampshire DF&G  
Ritchie White, New Hampshire Gov. Apte.  
David Pierce, MA DMF  
Bill Alder, Massachusetts Gov. Apte.  
David Borden, Rhode Island DEM  
Jerry Carvalho, proxy for Representative  
Naughton (RI)  
Ernie Beckwith, Connecticut DMR  
Gordon Colvin, New York DEC  
Pat Augustine, New York Gov. Apte.  
Brian Culhane, proxy for Senator Johnson (NY)  
Bruce Freeman, New Jersey DFG&W  
John Connell, **Chair**, New Jersey Gov. Apte.  
Charles A. Lesser, Delaware DFW

Jill Stevenson, Maryland DNR  
Pete Jensen, proxy for Delegate Guns (MD)  
Jack Travelstead, Virginia MRC  
Cathy Davenport, Virginia Gov. Apte.  
Fentress Munden, North Carolina, DMF  
C. Wayne Lee, proxy for D. Tatem, Gov. Apte. (NC)  
Melvin Shepard, proxy for Rep. Redwine (NC)  
John Miglarese, South Carolina DNR  
David Cupka, South Carolina Gov. Apte.  
Susan Shipman, Georgia DNR  
Ken Haddad, Florida MRC  
Kathy Barco, Florida Gov. Apte  
Harold Mears, NMFS  
Bill Cole, USFWS

### Ex-Officio Members

Steven Correia, MADMF, TC Chair

William McKeon, MA Env. Police, LEC Rep

### ASMFC Staff

Megan Gamble  
Bob Beal  
Tina Berger  
Vince O'Shea

Carrie Selberg  
Joe Desfosse  
Heather Stirratt

### Guests

Doug Grout, NH DF&G  
Rich Seagraves, MAFMC  
John Merginer, NMFS-SEFSC  
Peter Burns, NMFS  
Bob Ross, NMFS  
Anne Lange, NMFS  
John Pappalardo, CCCHFA, Dogfish AP

Steve Barndollar, Seatrade Int'l, Dogfish AP  
Wilson Laney, USFWS  
Preston Pate, North Carolina DMF  
Bill Outten, Maryland DNR  
Bruce Halgren, NJ DFG&W  
Stewart Michels, Delaware DFW  
Shana Beemer, National Audubon Society

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

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## MOTIONS

1. **Move to include the state-by-state quota allocation scheme in the Public Hearing Draft of the Spiny Dogfish FMP.**  
Motion made by Mr. Munden, and seconded by Mr. Nelson; Motion fails.
2. **Move to remove the size limit options from the Public Hearing Draft, except retain size limits as part of the adaptive management.**  
Motion made by Dr. Pierce, and seconded by Mr. R. White; Motion carries.
3. **Move to remove size-specific quotas from the Public Hearing Draft.**  
Motion made by Mr. Adler, and seconded by Mr. Flagg; Motion carries.
4. **Move to remove the complete closure option from the Public Hearing Document.**  
Motion made by Dr. Pierce, and seconded by Mr. Flagg; Motion fails.
5. **Move to approve the Public Hearing Draft of the Spiny Dogfish FMP as modified today for public comment.**  
Motion made by Mr. Augustine, and seconded by Mr. Nelson; Motion carries.
6. **Move to nominate Red Munden as the Vice-chair of the Spiny Dogfish and Coastal Shark Management Board.**  
Motion by Mr. Freeman, and seconded by Mr. Borden; Motion carries.

**ATLANTIC STATES MARINE FISHERIES  
COMMISSION**

**SPINY DOGFISH AND COASTAL SHARK  
MANAGEMENT BOARD**

**Swissotel Washington, The Watergate  
Washington, DC  
May 21, 2002**

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The Spiny Dogfish and Coastal Shark Management Board of the Atlantic States Marine Fisheries Commission convened in the Monticello Room of the Swissotel Washington, The Watergate, Washington, D.C., Tuesday, May 21, 2002, and was called to order at 2:00 o'clock a.m. by Chairman John Connell.

**WELCOME & INTRODUCTIONS**

CHAIRMAN JOHN CONNELL: Good afternoon. I would like to call this meeting of the Spiny Dogfish and Coastal Shark Management Board to order, if you would all have your seats, please. I'm John Connell, the chair of this board. To my right, Megan Gamble, the plan coordinator for this plan; and to her right, Steve Correia, technical committee chairperson.

**BOARD CONSENT**

I think you all have the agenda. Are there any additions to the agenda that anybody would like to make? Seeing none, if there are no objections, we will approve the agenda.

Does anybody have any issues with the proceedings of the October 15, 2001, board meeting? Mr. Augustine.

MR. PAT AUGUSTINE: Mr. Chairman, move to accept.

MR. WILLIAM A. ADLER: Second

CHAIRMAN CONNELL: Without objection, so moved.

**PUBLIC COMMENT**

CHAIRMAN CONNELL: Okay, at this point, we

would like to give the general public the opportunity, if they would like, to make comments. If you would like to make any general comments about the plan, you may do so now.

I would point out, however, during the course of the meeting we will try to provide every opportunity for you to make any specific comments on issues that we are discussing. Anybody? Please provide us with your name and affiliation.

MS. SHANA K. BEEMER: My name is Shana Beemer. I'm with the National Audubon Society, but I'm speaking on behalf of Audubon, the Ocean Conservancy, Environmental Defense, and Wildlife Conservation Society.

I have a letter here signed by the four organizations basically expressing our continued concern for the deteriorating stock status in the Northwest Atlantic, and that we just really urge the board to develop a stringent and federally compatible Dogfish FMP for state waters.

Right now the fishing mortality was estimated by NMFS to be 0.27, the F, which is significantly higher than the target level of F equals 0.03, and at that level of fishing mortality, they project complete stock collapse by 2009 to 13 percent of spawning stock biomass.

So something needs to be done as soon as possible. Much of the reason for this exceeding the target fishing mortality is insufficient controls of dogfish fishing in state waters, and this warrants urgent attention.

The Dogfish Monitoring Committee has issued a consensus statement to actually strengthen dogfish management rather than weaken the overall dogfish rebuilding strategy.

Any increases in dogfish quota or trip limits at this point would be premature and inappropriate given the state of the stock. We urge you to develop a comprehensive plan that is consistent with the federal plan and will not undermine the cooperative state/federal management process. Thank you.

CHAIRMAN CONNELL: Thank you very much. Anyone else?

## TECHNICAL COMMITTEE REPORT

CHAIRMAN CONNELL: Okay, seeing none, we do have a rather extensive agenda and one of our main goals here is to take action this afternoon on the draft plan. As you know, our emergency action expires in January.

We would like to move things along so that we have as little or as short a lapse in duration of time when we have issues about regulations. With that, I'll turn the meeting over to Steve for the technical committee report.

MR. STEVE CORREIA: Thank you, Mr. Chairman. Actually, the technical committee report is going to be split into two parts. I am planning to give a history of the reference points, an update of stock status, which many people here may have seen from last fall, and then the risk analysis for the various strategies.

The PDT has made a series of recommendations. That's going to be folded into Megan's presentation as she goes over the plan. There should be a document that you received called "Report of the ASMFC Dogfish Technical Committee Overheads Presented", and it will have most of the overheads that I intend to present at this meeting once we get the computer booted up.

The Dogfish Technical Committee met on May 21, 2002. Paul Rago presented to the committee the stock assessment that was done last fall. Many of you folks here have seen that before. He also presented a risk analysis for the constant harvest strategy, as well as the constant F strategy.

I'm going to present a summary of that work today. First I would like to start to give a short history of the reference point. The reason why I'm doing this is because there have been some changes in terms of the value, and it will help clarify in terms of what caused those types of changes.

The first thing you will notice is that the overfishing panel report came out in 1998. They recommended that a proxy for BMSY be used for dogfish, and they called that proxy SSBmax. There was the peak of the spawning stock recruit curve.

That turned out at that times in terms of an area-swept biomass to be 200,000 metric tons of mature females,

and that would be females greater than 80 centimeters. They also set the minimum threshold at one half SSBmax, which was 100,000 metric tons.

Now, for the federal plans, that minimum threshold defines when the stock will be overfished. There were several positions that were argued during the development of the federal FMP. There was one group of arguments which said that we want to set the target at 100 percent SSBmax, which is 200,000 metric tons, which was the recommendation of the Overfishing Panel.

Another group of arguments that was centered in New England was that you ought to set the target lower at 150,000 metric tons, and there were two reasons for this. The first argument that was made was, well, the top of the Ricker curve is quite flat, and so this 150,000 metric tons is near the top. There's a lot of uncertainty in the curve. That was one set of arguments.

The second set of arguments was that do we really want to build dogfish up to 200,000 metric tons? They were looking at ecosystem interactions with other species, especially groundfish, and they were concerned that if you built dogfish up to 200,000 metric tons, you would have a detrimental impact on the rebuilding of groundfish.

So the federal FMP did a compromise between the 150 and the 200,000. They set it at 180,000 metric tons. That's 90 percent of the target, and that's what went forward in the FMP. Subsequently, NMFS disapproved 180,000 metric tons for the simple reason that it was not SSBmax.

It wasn't a proxy for BMSY that's required under the SFA. So now that you have that 200,000 tons and 180,000 embedded in your mind, what happens? We have a better estimate of the area swept by the NMFS trawl, and so what happened was they re-estimated the footprint of the trawl.

It turns out the area swept was a little bit larger than what was used to estimate the 200,000 metric tons, so the revised area swept estimates were 160,000 metric tons for SSBmax.

That maps into the old 200,000 metric tons and then you get the rescaling at different levels. So 90 percent of SSBmax would be 150,300 tons. A half of SSBmax

would be 83,500 metric tons.

The current SSB for female dogfish greater than 80 centimeters is 56,000 metric tons, and so you're at about 34 percent of SSBmax. That's the history of the reference points. Are there any questions on that?

Okay, most of this work I'm now going to present is for the stock status. Most of it has been done by Paul Rago. He did a bang-up job at the technical committee. This update is through 2001, so we have no updated information from those that have seen this stock status report last fall.

And the first slide we have here is a history of the commercial landings. You can see in the late '60's, mid-'60's through the '70's, you had a lot of dogfish landings through the foreign fleet.

The Magnuson came through, we had the 200-mile limit, foreign landings dropped off, and you can see the domestic landings kicked off after that. You see a big increase in the domestic landings starting about 1989.

That continues through about 1996, and you see a decline in the commercial landings. These declines have to do with declines in the stock size and not regulations until you come to about 2000, and you start getting some regulations kicking in.

In order to do the fishing mortality rates, they estimated using a Beverton and Holt length-based method. The method is sensitive to the size at entry into the fishery.

It's also sensitive to the natural mortality rate, and you can see that you have a period in the early '80's where the fishing mortality rates were very low. Starting about the late '80's, you can see a big increase in the fishing mortality rates and you see a little decline in 2000.

I want to point out a couple of things. One is this dash line on the top is the reference point that relates to FMSY. Notice in the early years, for this M, that you have a couple of negative F's. The reason why that happens is because the method gives you a Z, total mortality.

You subtract off the assumed M. At these low mortality rates, you can get a little bit more noise. So if you're off a little bit in the M, you can end up with a

little bit of negative F's in there.

Notice that as you get in these recent years, despite some of the uncertainties in the size at entry on the M's, that all the F's are well above FMSY, and this is a similar type of graph, but is used with an M of 0.061. You see the same sort of trends.

You tend not to see the negative F's, but F's were very low. Again, it's telling you over a wide range of assumptions in the length at entry, and in the M you have fishing mortality rates that are well above the FMSY threshold.

This diagram is a box and whisker plot. It's of the commercial length samples for female dogfish. The way to read this box and whisker plot is the line in the middle of the box is the 50th percentile.

So 50 percent of the observations are above that line, 50 percent of the observations are below it. The M's defined in the box are the 75th percentile and the 25th percentile, so 50 percent of all the observations will fit within the whole box.

The tails represent one and a half times the distance of this box, and basically what happens is if you're within these lines in the box, you're within what you would expect within this distribution.

If you see these little stars up in this end and that end, those are extreme values. They're outside of the box. So in this case, 50 percent of the observations are right in here. You can follow what happened to the median length in the dogfish fishery and you can see this big decline in the length as the stock was fished.

Not only do you see a big decline in the median length, but you also see a truncation at the larger fish. So, in recent years you don't see the larger fish in the fishery. You can also notice in some of these years that you start to see smaller fish being landed.

This 80 centimeters here, or the dash line going across, that's the length at which 50 percent of the dogfish are mature at that length. So you can see at this point over the last four years that the average size of the dogfish in the landings is less than this size at 50 percent maturity.

This is the change in the average weight of the individual in the fishery and you see the same sort of

trend with a decline in the mean weight in the fishery; And, again, you also see that not also is the mean not going down, but the population -- the larger fish are just not being landed.

Now I'll give you a little update on where the survey trends are. These are going to be in swept-area biomass estimates and they're going to be under the new scaling, so these should relate to the 167,000 metric ton target.

This is an area-swept biomass for all dogfish greater than 80 centimeters. Most of these will be female dogfish and will correlate well with the units that are used for the SSBmax. You can see that there's been an increase, up until the late '80's, of this mature group, and then you see a rapid decline once the fishery started to intensify. You see pretty close to record lows at this point.

This is for this intermediate group of females, 36 to 79. The upper end of this group has been entering the fishery. You see an incline through the late '90's and then you start to see a decrease on the last couple of years of these fish that are mostly going to recruit into the fishery over the next couple of years.

This is the area-swept biomass for the pups, that's those fish less than 35 centimeters, and you see it's been fairly flat through the '90's. Mid-90's they start to decline. 1997 to 1999 you get the lowest values in the time series.

These values are less than what you would expect given the age structure of the population. This is not boding well for the future because the pup production is very low.

This slide indicates some of the growth changes that have occurred in the population. We'll call this the pre-fishery. It's '87 to '89 before the fishery really started to take off. It's the red line.

A couple of things you can notice is the average number per tow go well up into the hundreds of centimeters and you have high numbers of fish less than 60 centimeters. So that's prior to the fishery.

You look at the most recent value, 1999 to '01, and you can see two aspects. The upper end of the distribution is gone so those fish that are greater than 90 have really been lopped off, and you also see these small fish, the

recruits coming in.

That's also been lopped off so you have truncation at both ends of this distribution, and the population is basically now lumped between 60 centimeters and 80 centimeters. That's the stock status. Anyone have any questions?

MR. DAVID V.D. BORDEN: Steve, could you go back to that last slide for a second, the composition? I just wanted to see what the scale was on the left side, average number per tow?

MR. CORREIA: All right, so it's average number per tow, 0 to 1.2. This is length in centimeters. This dash line is the maturity ogive, so the population to this side of the line is not mature. The population on this side of the line is.

CHAIRMAN CONNELL: Any other questions for Steve? Dave Pierce.

DR. DAVID PIERCE: Yes, Steve, it's a good refresher as to the status of the stocks. Would you refresh our memory as to how estimates of discards are determined?

I know the assessments that we've looked at for a good number of years now and the ones that we're using for determining where we are now with stock status and, of course, the projections into the future have relatively high amounts of discards. How were those calculated?

MR. CORREIA: There's two different sets of estimates. Well, one is an estimate. They can take the sea sample data and get an estimate of discards. Unlike a VPA, this approach for the assessment does not use a catch at age.

It's basically looking at changes in the length frequency in the trawl survey. Now, one of the things that you can do is you can take the F that's coming out of that and then look at the ratio of the landings to the area-swept estimates.

The difference in that catch is what he's calling implied discards. So what would happen is if you have an area-swept estimate, if you apply an F to it, you get a catch. That catch is greater than what the landings are, and so the difference that you have in there is what Paul refers to as implied discards. So it's a residual between the

predicted catch and the observed landings.

DR. PIERCE: It's a creative way of coming up with estimates of discards, and the approach led to the conclusion, for example, in Paul's presentation that in year 2000 there were approximately 16,000 metric tons of discards, which is an awful lot of discards of dogfish. I assume that the -- well, I know that it's assumed that most of those dogfish are dead after they're discarded.

And then from 2001 through 2010, we see that the amount of implied discards are around 2,500 metric tons. Those seem to be the numbers that we'll be working with for assumed amount of discards in a number of different fisheries, but, like you said, they're implied discards. There's no calculated estimate of what's going over the side in all these different fisheries?

MR. CORREIA: Right. Well, I guess what I would be careful about is what the applied discards really are, they're a residual between the predicted catch and the reserved catch. So you can say, well, this is the missing catch so they're implied discards.

The other way you can look at it, you can say, well, maybe the M may be off a little bit in the model or the area-swept estimates may be off a little bit in the model, and that also would cause that residual between the predicted catch and the observed catch.

So that's why you use the term implied discard. Now there may be estimates of discards from sea sample observations. I don't have that number off the top of my head.

DR. PIERCE: And one final thing. I hate to go back to this, but this is a repeat of what we saw in the fall, so I'm obliged to at least highlight a couple of important points, important to me and I think they should be important to the board as well.

The stock status information that was presented by Paul and that you have now recapped does have one interesting conclusion regarding how biomass has changed in recent years; notably, in year 2000.

I believe that it was calculated that from year 1999 to 2000, we witnessed -- I'm sorry -- from 2000 to 2001, we witnessed a drop of biomass of mature females, which is the category of dogfish we're most concerned

about.

We witnessed a drop of 39,000 metric tons and that's not landings. Landings are already accounted for, so 39,000 metric tons of dogfish vanished from the face of the earth, and that's an awful large number and it's a number that is awful hard to swallow.

It's just a very unrealistic drop in biomass of the female biomass. I just want everyone to remember that we are dealing with swept- area biomass estimates. They are extremely imprecise, and where we stand right now with regard to assessment information, and we're relying on this rather interesting and very difficult to explain severe drop in biomass of females, and I still await for an explanation.

But it's driving the bus, or it could drive the bus, in terms of what we do with dogfish management in this plan for next year and the year after. We need to reflect more on this particular drop in biomass and try to rationalize it because there needs to be some explanation for it. Steve, did you say you were finishing your discussion of status of the stock?

MR. CORREIA: Correct.

DR. PIERCE: There's one other thing that wasn't covered by you and I need to highlight it for the benefit of the board. The spring bottom trawl survey of the feds was recently completed for the locations North Carolina up to the Great South Channel.

As you know, every year the Center puts out the pie charts just showing the distribution and the abundance of dogfish. The data have not yet been analyzed with regard to the sex composition, size composition, but at least it's extremely encouraging because when I compare it with other years, such as 1999, I see that the number of tows of greater than 1,000 pounds of dogfish has increased dramatically; 27 tows or so greater than 1,000 pounds.

Contrast that with '99 where we had 15 tows greater than 1,000.

As soon as this information is available, you should all take a look at it. I suspect, Steve, that you and Paul, those who are involved in the assessments of dogs will be in a position to advise us sometime this summer, or maybe late summer, as to, where we stand right now as

best as we can calculate it.

MR. CORREIA: Yes, I suspect -- I mean, at this point you're looking at the raw survey data. That data has to be audited and then the stratified means have to be calculated, so it's a ways away from being able to be interpreted. But that data should be available, I imagine, by late summer, september or late August.

CHAIRMAN CONNELL: I would point out Paul was very reluctant to even discuss it at the technical committee meeting until there was an analysis. He didn't even want to go into it. Are there any other questions for Steve?

MR. CORREIA: The next part of the analysis should be relatively new to the people around the table. It's the risk analysis for the various management strategies and it's a stochastic methodology. It takes into account the uncertainty in the starting conditions of the projection, so it's the variance and where you think the biomass is in the length frequency.

The way it works is you take a look at the variation in mean abundance during the most recent three-year period. You can get an estimate of the variance around that. Once you have that, you can go and resample this distribution.

You come up with a number, you run the projections for 20 years or 30 years. You go back, you resample from the distribution, you run it out, you do that 500 times, put the stuff together, look at the frequency of the results, and that gets reported to you in terms of probability statements.

This risk analysis only deals with the uncertainty in the starting conditions. It assumes when you run a constant F of 0.03 that you're going to achieve a constant F of 0.03. If you run the constant harvest strategy of 8.8 million pounds, it assumes that you're going to take that 8.8 million pounds and the discards that are associated with it.

Basically it was run for the F in 2000, which was 0.28. It was run under a zero F from 2000 on, a completely closed fishery. It was run under F equals 0.03, until the stock rebuilds, and then it was run under a constant quota of 8 million pounds, 8.8 million pounds, and 5.5 million pounds.

Now, the source of these constant quotas, the 8.8 million pounds was the quota that was used in the initial presentation on constant quota to the federal plan.

When Paul ran the risk analysis, somehow he lopped off the 0.8 million and he ran it with 8 million, so that's the source of those two differences. When the technical committee was meeting, they said we would like to see a run with a constant quota that has the same rebuilding time frame as constant F, and that's what this 5.5 million pounds is.

The reason why I showed you the 8 million and the 8.8 million is because there's analyses out there based on the 8 million, so that people can be clear, they can go back and do the history on the old reports where these different numbers came from.

So we start off, this is the mean female abundance of 1999, 2000, and 2001. The three-year average is 15.8. This is the variance within the survey within that year, and, again, you get that for each year. You can convert that to standard deviation units.

That's what this reflects. You take an average of this, so now we have a mean for the three years and we have an average for the three years. If you assume that these points are distributed in a normal distribution, then 95 percent of your observations of the mean will lie between 7.87 and 23.83.

So these would be sort of 95 percent confidence intervals. And then he takes this distribution and he breaks it up into this 0.03 size frequency, and then this is what is sampled from. Now this is what this looks like graphically. This is a 1999 distribution.

This purple one is the 2000 and the yellow is the 2001. This red distribution represents combining all these and their variants. So basically here's the mean, and then the 1995 confidence intervals would be between here and here.

This is the distribution that you're going to resample from in the boot strap. Any questions? Standard boot strap methodology.

Now this is the output from one of the boot straps. This is looking at SSB in thousands of metric tons over here and this is the year. This is called a box-and-whisker plot, similar to what you've seen before. The little line

in the middle of the box represents the 50th percentile.

The box represents between the 25th and the 75th percentile. So 50 percent of the observations fall within this box, and, again, this is the 1.5. It's a quartile distance. Basically what happens is you can follow the 50th percentile by following this median.

When it crosses this line, that means that you've had at least a 50 percent probability of rebuilding. So you can see early on that you do get a few cases where the population may rebuild, but for most of the observations, 80 or 90 percent are going to be below this line.

Two things that you can do in comparing the strategies, you can compare this median line among the different strategies -- it takes away a lot of the noise up here -- or you can plot a series of these out.

You can look at the median and you can look at this distance. The wider distance means that you have a wider distribution of results.

This is the only box-and-whisker plot that I'm going to present. You'll see some of these in Paul Rago's report.

I can show you the results from the other strategies, but basically what I'm going to show you now is just looking at this median line for the different strategies.

The first strategy we get to look at is this F 0.28. You have a hard time seeing the line because it doesn't move above zero. So if you maintain this, you have no probability of rebuilding to the SSB target.

This red line is a closed fishery and you can see it rebuilds somewhere around 2012, something like by that. The actual values are in the table in the tech report.

The next line here, this black line, is the constant 5.5 million pound harvest, and you can see -- and this dash line is a constant F. Where they cross this 50th percentile is the year that we consider it to be rebuilt, and you can see they cross at the same time.

Early on, you can see that the 5.5 million pound constant harvest has a slightly higher probability of rebuilding. That's because distribution around the constant harvest is a little bit wider than it is under the

constant F.

You can see the purple line with the squares is the constant harvest at 8.8 million pounds. That rebuilds in 2020, which is four years later than either the constant F or the 5.5 million pounds.

And then we have the constant 8 million pounds, which rebuilds two years later than the constant F or the constant 5.5 million pounds. Any questions on that slide?

CHAIRMAN CONNELL: Dave Borden.

MR. BORDEN: Yes, thank you, Mr. Chairman. Steve, under F equals zero, what's the assumption about discard mortality in that, and what level of discard mortality is calculated to result in that?

MR. CORREIA: Well, this is literally an F of zero. It says there is no discard mortality, there's no landings, there's no encounter mortality, it's zero. There's not a dogfish in the ocean that dies because of fishing.

MR. BORDEN: Okay, then the follow-up question is under zero fishing mortality, but the current discard mortality, did you plot that?

MR. CORREIA: No, because you couldn't even handle it in this case, because if you had a ratio of the discard, it would be a ratio of the discards to the landings; and if you have no landings, you can't apply that ratio. It would assume that the discards would be proportional to the landings.

MR. BORDEN: I'm not arguing the point, but isn't it also true that most of the discards are coming out of fisheries that are unrelated to a directed dogfish fishery?

MR. CORREIA: It may be.

MR. BORDEN: I think it would be interesting if they could do that, just do a plot at some point.

MR. CORREIA: A plot of?

MR. BORDEN: A plot to see under zero fishing mortality, with our current discard mortality, what that plot looks like so you could compare it to these other ones which were 5.5, 8 million, and so forth.

MR. CORREIA: Well, again, the discards that you would have would be the ones from the sea sampling. In these projections here, one of the assumptions that's built in is this ratio of the discards to the landings, those implied discards; and so if those things change, then these things are going to change.

For instance, you know, in the constant F strategy, if all of a sudden you cut down on the landings, but you didn't change the discards, then you may have difficulties maintaining the F equals 0.03 because the assumptions about the discard relative to landings would change. You could actually run into the same problem with the 8.8 million.

CHAIRMAN CONNELL: Dave Pierce.

DR. PIERCE: Yes, Steve, in addition to the discard mortality that does occur, likely in the groundfish fishery and other fisheries, we have another source of fishing mortality that we cannot control, at least to this point in time, another source of landings, and that's Canada.

Canada now is landing approximately, what, about 5.9, almost 6 million pounds of dogfish from the same stock.

MR. CORREIA: It's like 2,000 metric tons.

MR. PIERCE: Right, 2,000 metric tons. So that's another reason why it's impossible for us to keep to an F equals zero and why, at a minimum, we'll be looking at landings, never mind total catch, of around 2,000 metric tons, about 6 million pounds.

CHAIRMAN CONNELL: A question, Ms. Stevenson?

MS. JILL STEVENSON: This is related to Dave's comment, but could you clarify that these are related to total landings stockwide? I mean, if you set this F at F equals 0.03, you're assuming that includes Canadian mortality or --

MR. CORREIA: I'm not certain on that because I'm not sure whether or not the quota that's associated with that, whether the Canadian landings have been subtracted from the total quota. That would be something I would have to check on, but the F itself would be stockwide.

MS. STEVENSON: So in terms of translating any of these things into management alternatives, is there a way to clarify what that really means? You know, a management alternative, if you're only referring to U.S. landings, is not going to be same as if you're looking at U.S. landings as a proportion of the total mortality.

MR. CORREIA: Absolutely, you would have to have management that was consistent between Canada and the U.S. What I'm not sure, and I'd have to look into the models, is whether the yields that come out of these assumptions have the Canadian landings taken out.

So what generally happens is you can apply the F to the total stock, you get a total yield, and you can subtract off assumed Canadian landings and then you get a U.S. yield.

I guess what I'm not certain of at this point is whether that has been done, whether they've already subtracted off the Canadian yield, and what you would see would be the U.S. yield, or whether that's the total yield and you have to subtract off the Canadian yield.

I would have to talk to Paul Rago or take a look at the spreadsheets to see exactly whether that was done or not. But, certainly, if it hasn't been done, it has implications because that means the quota that you see associated with either the 8.8 million pounds or the constant F would have to be adjusted.

CHAIRMAN CONNELL: Dave Borden.

MR. BORDEN: I would like to just follow up on that point. Since I have been involved with the U.S./Canada deliberations on a transboundary management committee -- I chair it for the New England Council -- we originally started out with the intent of discussing a wide range of different species, dogfish being one of the species, and in fact we had some deliberations on dogfish and then ultimately decided to just focus on cod, haddock, and yellowtail.

But during the discussions we had on dogfish -- and Pat Kurkul was instrumental in doing this -- we asked the Canadians to cap their landings I think at 1,000 tons, if my memory serves me correctly, and the fear was that the U.S. industry, which was centered in Massachusetts, was contemplating a move into Canada to allow an increased harvest and that would circumvent the conservation benefit.

**I think it's worth it to send a letter to Pat Kurkul on this particular issue and ask her to go back and review the record on that.** If in fact my recollection is correct, then I think we should send a letter from the regional administrator and a commission and the council basically reminding the Canadians of their obligation on this issue, and in fact they have violated our agreement on it. If they have done that, we should bring it to their attention.

CHAIRMAN CONNELL: Are there any comments from the board or is there a consensus? Hearing no objections, we'll make a move in that area. Rich Seagraves, did you have a comment or a question that you wanted to make?

MR. RICH SEAGRAVES: Just a point of clarification. The model that Paul has constructed here, it's a ratio model. The question about discards, all those projections assume that there's no change in the discard ratios. Whatever ratios that existed prior to the FMP will remain the same.

In terms of the yield projections that you see in some of those plots, it's again a ratio. So it's basically the F that he observed prior to regulation of the fishery of 0.28.

It gave us a yield or landings and then he takes a percentage reduction in F and then this would be the implied yield based on that percentage reduction. The F actually captures the Canadian landings, the Canadian effect, because it's a change in the size ratio.

MR. CORREIA: Right. No, I know that. The question is in terms of the yields coming out of the model, whether those yields have been adjusted for having --

MR. SEAGRAVES: They've not been adjusted, but they basically assume no change, just like discards, if there's no change in that ratio. To the degree that Canadian landings were to go up, then that would suppress rebuilding.

So it's not like he's taken an F and applied it to a stock size. He's taken a ratio. He says I've got to reduce F by 95 percent. He's reducing landings by 95 percent. It assumes the background losses to the Canadians are basically going to remain the same.

CHAIRMAN CONNELL: David Borden.

MR. BORDEN: I just want to follow up quickly on that. If the Center handles this issue the same way they handle the groundfish calculation, what they will do is they will take last year's Canadian catch.

They calculate a yield, basically, from the resource, from combined stock status information. They'll take the Canadian catch from last year, take that off the top, and then the balance of it becomes U.S. yield. That's exactly what they do with groundfish the species and I can't imagine any reason why they would deviate on this one.

CHAIRMAN CONNELL: Thank you, David.

MR. CORREIA: This is my final slide, which we touched on some of these issues. These are not addressed within the risk analysis. The ability to actually control F, this implied bycatch versus the mass balance and the rescaling, these ratios of the females to the males, those are all held constant in the model.

The relationships between landings and catch, and you can see the difference between that would be the implied discards and that would stay constant. The pup survival rate is based on the fecundity at length and the length frequency in the population.

This appears to be declining or fecundity is overestimated because pup production in recent years is less than you would expect. The model also doesn't incorporate things like changes in growth, changes in natural mortality, and the pup production.

So all those things are not in the uncertainty. The implementation; there's no uncertainty in the implementation put into place. It says you put this in time and the implementation is perfect.

So those are all things that are not in there. The only thing in this risk analysis is the uncertainty in the starting conditions. That concludes my presentation, Mr. Chairman.

CHAIRMAN CONNELL: Thank you, Steve. Any final questions for Steve? Okay, moving right along, Megan, you're going to take over now?

## ADVISORY PANEL REPORT

MR. MEGAN GAMBLE: The next agenda item is the advisory panel report. This morning the advisory panel met and we only had three representatives from the AP, but those three representatives have come up with a set of recommendations for the board.

I will be folding those also into my presentation on the draft FMP along with the technical committee's recommendations.

## REVIEW DRAFT SPINY DOGFISH FMP

So with that, we'll move into the next agenda item, which is the review of the Draft Spiny Dogfish FMP.

A draft of the Spiny Dogfish FMP was provided on the CD. Since that time, we've added a few new items to the FMP, just a couple of items that the technical committee provided to the PDT, as well as there's some habitat information that has been added.

We still anticipate adding some more protected species information and all of that new information is included in the supplement to the FMP, which is on the back table and I think is also being passed out.

You are also being passed out right now the recommendations from the advisory panel and the technical committee, and I would encourage you to follow along with that and the executive summary of the draft FMP so you know where I am.

All the recommendations in the draft have come from the public information document. The board approved last October all of the options that are in the FMP. The PDT met in early April and worked really hard over the last couple of months to put the draft together.

The technical committee met about two weeks ago to review the draft and provide recommendations also. Like I said, the AP also met this morning to provide recommendations to the board.

The Committee on Economics and Social Sciences is currently reviewing a draft of the FMP and will also provide comments on the draft.

The Law Enforcement Committee will review the draft FMP tomorrow for enforceability, and then, finally, the

Habitat Committee will be reviewing the sections of the FMP that have to do with habitat over the next couple of weeks.

Today the board's objective is to review this document and to determine if it's ready for public comment and hearings. The board may identify preferred alternatives for public hearings. And like I said, I think the way we'll handle this is I'll go through each of the sections and tell you the technical committee's recommendations as well as the advisory panel's recommendations and then we can have a discussion as I go through each section.

The PID did not provide the Plan Development Team with an FMP goal. So the Plan Development Team drafted this goal, which is to promote stock rebuilding and management of the spiny dogfish fishery in a manner that is biologically, economically, socially, and ecologically sound.

The only comment we had from the advisory panel was that they felt that this goal should be specific to females, the spawning stock biomass, and it would be helpful to people if we simply said that we're focusing on that portion of the stock.

I don't know if anyone has comments on the goals, if they're comfortable with this, if they want to make any revisions.

CHAIRMAN CONNELL: If we don't hear any comment or see any hands, we're just going to move on. So if you have any questions about each of these sections as we go through, please bring them up.

CHAIRMAN CONNELL: Dave Pierce.

DR. PIERCE: Yes, Mr. Chairman, I've got a number of comments that relate to the aspects of this plan that Megan may not cover; and in the interest of time, I need some guidance as to how I should proceed.

For example, in the executive summary and also within the document, I would suggest a little bit more discussion of the history of dogfish management, especially as it relates to the council interaction. But, again, I don't want to bog this board down in that sort of fine detail. But then, again, I need a way in which to convey these suggestions to Megan and the board.

CHAIRMAN CONNELL: Well, we'll go through Megan's presentation, make comments on those issues which may resolve some of your concerns and then we'll certainly provide you and any other board members with opportunities to have their input.

MS. GAMBLE: The objectives of the plan are to reduce fishing mortality and rebuild the spawning stock biomass to prevent recruitment failure and support a more sustainable fishery.

The second objective is to coordinate management between state, federal, and Canadian waters to ensure complementary regulations throughout the species range.

Third is to minimize the regulatory discards and bycatch of spiny dogfish within state waters; and, fourth, allocate the available resource in a biologically sustainable manner that is equitable to all the fishers.

The comment that we had from the advisory panel with regard to the objectives was that there should be emphasis placed on Objective Number 3, minimize bycatch and discards.

And they would urge the board to refer to the example of Massachusetts no overnight fishing for dogfish, which was initiated to reduce the bycatch of striped bass, as well as to protect certain species such as turtles.

CHAIRMAN CONNELL: No comments? David.

DR. PIERCE: I would suggest that we should add another objective that would relate to our getting a better understanding of the status of this resource, and that objective might be along the lines of **to obtain biological and fishery data to improve stock assessments now dependent solely on federal bottom trawl survey data**, something like that.

To our way of thinking, certainly in Massachusetts, this is an important objective, information gathering. We've already begun to do that in Massachusetts with our sea sampling and our port sampling of the spiny dogfish fishery and the limited fishery, small-scale fishery, in our waters. I would like to see that as an objective of the ASMFC plan as well.

CHAIRMAN CONNELL: Board, any other thoughts

on that? Gordon.

MR. GORDON C. COLVIN: I think that's a good idea. We certainly have objectives consistent with that approach in many of our FMP's. However, I would be very concerned if we foresaw that was going to lead us in the direction of compliance-based monitoring requirements for this fishery. I just wanted to lay that down now.

DR. PIERCE: To that point, I agree with Gordon. I think that would be ill advised. It's an important objective, but I would hope that we don't go in that direction. I don't see how we can.

It's a voluntary data collection exercise by all states, at least that's the way I would envision it happening. Massachusetts is doing it. We may not be able to do it in the near future considering our budget situation right now.

We're going to attempt to continue it, and I recognize the budgetary concerns of the other states, and it would be rather unrealistic to assume that other states would devote significant resources to gathering information, especially when the fishery may not really be that significant in those states' waters.

CHAIRMAN CONNELL: Is there any feeling or objection that we should make this an objective within the parameters that have been brought up by Gordon? Any negative comments here? Okay, seeing no objections, we'll work with the team to have them draft that into the plan.

MS. GAMBLE: The management area identified for the spiny dogfish resource is the entire coastwide distribution of the resource from the estuaries to the inshore boundary of the exclusive economic zone.

The options for the target biomass are drawn from the options that were considered during the development of the federal FMP. You have two options for the target.

The first is 100 percent of the spawning stock biomass, and we have it in different units because in different documents it's referred to in different ways. Your second column is survey units, kilograms per tow.

Then it's represented as percentage of the target biomass. Then the area-swept old scaling, which Steve

talked about, the changes that were made to the area swept in the trawl survey and then the area-swept new scaling.

The second option, 90 percent of the target biomass, appears in the federal FMP, but like Steve said, it was not approved, and this is one of the reasons the council is going through the amendment process. Currently they're proposing 100 percent of the spawning stock biomass as their rebuilding target.

The PDT requested from the technical committee a numerical definition of the spawning stock biomass, and the technical committee provided this table which shows the target and survey units, the percentage of the target, and all the new rescaling of the swept-area biomass.

This table is now included in the supplement to the draft FMP, and provided it is acceptable to the board, it will be inserted into the FMP.

We also have in the table the minimum biomass threshold, which is one half the SSBmax, which is the same as the federal FMP, and then the current spawning stock biomass is also represented in the table.

CHAIRMAN CONNELL: Any comments?

MS. GAMBLE: Stock rebuilding schedule; Option 1, to rebuild the biomass in 10 years or less, this was an effort to coordinate with the current federal plan, which originally sought to rebuild the stock within five years.

But the stock has continued to decline since the implementation of the federal plan so the amendment to the federal plan will also address this change with options that are similar to Options 2 and 3.

And according to the risk analysis that was reviewed by the technical committee two weeks ago, the spawning stock biomass has a 50 percent probability of reaching the target under the constant fishing mortality strategy by 2016, so that applies to Option 2.

Option 3, under the constant harvest strategy with a quota of 8.82 million pounds, the spawning stock biomass has a 50 percent probability of reaching the target by 2020.

I apologize, I forgot to mention the technical committee

recommendations and the advisory panel. Moving back to the spawning stock rebuilding, the technical committee recommended that the FMP express the biomass target in survey units rather than swept-area units.

This allows for an easy adjustment if the estimate of the trawl survey's footprint or efficiency is reestimated. To improve clarity, the targets in the current biomass can be represented as a percentage of the target along with a current estimate of any scaling.

The point there was that I don't know if the board wants to include all those different numbers for what the target spawning stock biomass is, or if you want to narrow it down to one of those.

The advisory panel didn't reach a consensus on the rebuilding. Option 2 was supported as it is more in line with the options already explored by the New England Fishery Management Council.

Option 1, 100 percent of the biomass as a target, was supported as a more conservative option, and it supports a sustainable resource. This option also creates consistency with the federal plan.

The technical committee's recommendation for the stock rebuilding schedule is to set the minimum probability to define rebuilt in the projections. A minimum 50 percent probability of the biomass is equal or above the target. They want you to use that 50 percent in order to determine the rebuilding schedule.

CHAIRMAN CONNELL: Going back to the stock rebuilding and the current chart up there about rebuilding schedule, any other comments or anybody that would like to have input, concern, direction?

MS. GAMBLE: There aren't many monitoring programs that could be implemented through this draft FMP. The Plan Development Team added a weekly landings reporting requirement to the interstate FMP, and this provision is necessary in order to monitor the quota and forecast closures in the fishery. This section also reinforces the federal FMP's similar requirements.

Appendix A-4 of the draft summarizes all the current state monitoring programs. Based on those state monitoring programs, the states already collecting biological information for spiny dogfish will continue

to do so, and those that are not currently collecting biological information for spiny dogfish are encouraged to start doing so.

CHAIRMAN CONNELL: Hearing no comments, we are moving along. I guess you're getting the impression by now that they've done a great job. The planning team has done a lot of work in preparing this, so hopefully we can breeze right through here. David.

DR. PIERCE: I'm trying to keep up as to where we are here. We're on page, let's see, 3.0, Monitoring Program Specifications' is that where we are right now?

MS. GAMBLE: Are you following along in the executive summary?

DR. PIERCE: I'm following on the executive summary, right. Is that the wrong document?

MS. GAMBLE: Actually, I apologize, David. I did the monitoring programs out of order, but this next slide will bring us back to Roman numeral III of the executive summary.

DR. PIERCE: Okay, I'll hold off then on Monitoring Program Specifications.

MS. GAMBLE: I'm sorry, Roman numeral V.

DR. PIERCE: Well, let me comment then on the Monitoring Program Specifications. It says in the document on page 4, Executive Summary IV, that the stock assessment subcommittee will perform a spiny dogfish stock assessment every five years after implementation of this amendment.

Five years is an awful long time. Granted, there are not a lot of resources available, federal or statewise, to do a stock assessment and, nevertheless, every five years seems to be a rather significant interval in terms of when this is going to happen.

I would much prefer to see a spiny dogfish assessment every three years, unless, of course, there will be stock status update information similar to what Paul Rago has been giving us so that we can have that information every year or every other year for us to judge where we are relative to our achieving our fishing mortality rate targets and our rebuilding female biomass. So what exactly then does this reference?

MS. GAMBLE: That refers to the stock assessment going through the SAW/SARC process.

DR. PIERCE: In light of the interaction between dogfish and so many other fisheries, groundfish, in particular, I would like to see a full-blown assessment, if it can be scheduled, every three years, and we would rely on continued assessment updates that are always so well given by Paul Rago or Steve or whoever else who takes on that responsibility for the Center.

MS. GAMBLE: Currently dogfish goes through a stock assessment every five years and is reviewed through the SAW/SARC process. Also, currently, the federal plan has an annual specification process, which is where Paul is currently giving his update to the status of the stock.

That's going to the council's monitoring committee and we've been trying to coordinate our process so that our technical committee members are also attending those meetings and receiving and reviewing that information.

One of the options that this board will discuss is reviewing the quota specification process, which I just said is an annual process right now, but the amendment is proposing to move that to a three- year process.

So the quota is going to be set for three years and the stock will be reviewed three years at a time. So the current process right now is five years for a full-blown stock assessment.

DR. PIERCE: Okay, I won't press this because I don't want to run short on time here, but in light of the fact that there's such heavy emphasis put on pup production, fecundity of female dogfish, and the like, data is being collected almost as we speak regarding fecundity information for dogfish.

I would like to see the assessment done more frequently than every five years, full-blown assessment, but obviously that's not within my purview, but that's still my preference. And perhaps Jack -- Not Jack.

We have a new executive director, and perhaps we can burden him with the responsibility working as the SARC executive committee -- I forget the exact title of the group that he is involved in now. They can visit this issue in light of what eventually we put forward as an

ASMFC plan and the assessment demands that this plan would have.

CHAIRMAN CONNELL: Thank you, David. I think we all agree we would like more frequent stock assessments, but we can only respond to your questions in terms of the budgetary limitations that we have at the current time. Thank you.

MS. GAMBLE: There are four different management strategies that are proposed in the draft FMP. The first is status quo and that means that the state waters would remain open with no interstate regulations until there's a federal closure due to the federal quota being attained.

And then at that time the state waters would close to the commercial harvest, landing, and possession of spiny dogfish.

Under Option 2, which is a complete closure, the commercial harvest, landing, and possession of spiny dogfish is prohibited at all times in state waters.

Option 3 controls the rate of the fishing mortality in the spiny dogfish fishery. So there are low landings initially; and then as the spawning stock rebuilds, the landings increase.

And then Option 4, under the constant harvest strategy, the quota doesn't change from year to year, nor does it depend on the size of the spawning stock biomass. It will allow for more landings initially when comparing it to the constant fishing mortality strategy.

The technical committee wanted to note that under Option 2, no landings and possession of spiny dogfish at all times in state waters will result in a complete closure of the fishery in both state and federal waters since the vessels will be unable to land the dogfish taken from the EEZ.

And then the technical committee also wanted to recommend including a 5.5 million pound constant quota approach as an additional option in the FMP.

Currently the proposed quota is 8.82 million pounds. The addition of this option provides a constant quota that's similar to the one proposed in Amendment 1 of the federal FMP.

I just wanted to also state that the reason the technical

committee provided that 5.5 million pounds is because it attains the target in the same number of years as the constant fishing mortality rate.

The advisory panel could not reach consensus on this topic. Part of the AP supported Option 4, the constant harvest strategy of 8.82 million pounds. It was supported in order to maintain the fishery and allow the fishermen to continue fishing for this species.

The other portion of the AP supported the constant fishing mortality with an F of 0.03, and that was supported to be consistent with the current federal management plan.

CHAIRMAN CONNELL: Questions on management strategy? Have we included your option? Red Munden.

MR. RED MUNDEN: Thank you, Mr. Chairman. If you would go ahead and take the other questions, I would like to go back to the issue that Dave Pierce raised concerning the five-year schedule for the stock assessment. And I apologize, but I have one suggested change I think may address that issue.

CHAIRMAN CONNELL: I thought you had a lot of money in your pocket. Dave Borden.

MR. BORDEN: Thank you, Mr. Chairman. I guess I would ask a question of Red or somebody on the Mid-Atlantic Council. Has anyone on the council process examined Option 2 in terms of the national standard that requires us to reduce discards?

In other words, that may be appropriate for the commission to approve, but I guess that I would just offer the opinion that I don't think it's consistent with the national standard to reduce discards, and, therefore, we may just want to strike it from the option list.

CHAIRMAN CONNELL: Red, do you want to comment?

MR. MUNDEN: Did Rich Seagraves leave? I believe Rich left. Rich had to be out of here before 4:00 o'clock. Dave, I'm not aware of the council discussing this, but I think what the Plan Development Team intended to do was to go forward with a wide range of options.

And, certainly, a complete closure has been suggested by some fishermen to the Mid-Atlantic Council. They said, you know, trip limits and quotas are so small we just might as well shut it down for ten years and see what will happen. But I don't recall that specific issue being discussed relative to discards.

CHAIRMAN CONNELL: Yes, I think Red put it that the team did say they should include it just to get comment on it. Rich just came in. Red, Rich just came in if you want to have him --

MR. SEAGRAVES: The question is have we discussed the complete closure as an F of zero in the model, but it's not an F of zero in reality. Obviously, there's discard mortality. The council has it as an option to be included in Amendment 1.

We really haven't done a lot of work on it. It was raised at kind of the last minute. We were going through a list of options to be included in Amendment 1. They wanted something to say -- and there actually have been some council members saying, "Well, look, the quota is so small, the trip limits are so small, why not just close the fishery completely".

But I did just get off the phone with Paul, and the answer that I gave you is correct. There are no discard calculations and it assumes that whatever discards occurred in the past would be the same, the same thing with the Canadian catch.

The F captures everything and it's a ratio reduction. So all the scenarios assume that the Canadian harvest wouldn't change and that discards wouldn't change, so that if discards go up, then the rebuilding schedule is compromised. If they go down, then it would actually rebuild a little bit faster.

CHAIRMAN CONNELL: Okay, thanks, Rich. So we will keep Option 2 in. Dave Pierce.

DR. PIERCE: Well, I don't mind keeping Option 2 in, but I think we know what's going to happen when we go to public hearing with this. Clearly, certainly in the Gulf of Maine and any place else fishermen will always have dogfish in possession because they can't get away from them.

They'll be fishing, they'll be having dogfish on board, so they would run the risk of being in violation because

they would have them in possession.

In addition, it's likely that they'll end up with at least opportunities for bycatch of spiny dogfish, limited amounts of bycatch in other fisheries. So this would prohibit them from having any bycatch either to bring ashore if indeed we end up with a bycatch quota as opposed to a quota for directed fishery.

So I know where it's going, but if we need to get public comment on it, I suppose fine; fine, leave it in. It seems like it might be a bit of a waste of time, however.

MS. GAMBLE: The PDT has included three different options for fishing years. Option 1, a fishing year of May 1 to April 30, coordinates the state water fishery with the federal fishery. Option 2 is a fishing year from December 1 to November 30.

This allows for a more equitable harvest of the dogfish throughout the entire management area. And then Option 3, January 1 through December 31, also allows for the equitable harvest of the dogfish resource and follows the calendar year in making it easier to track landings.

The advisory panel recommended Option 1, May 1 to April 30; keep things simple and this year it will be consistent with the groundfishing year.

CHAIRMAN CONNELL: Red.

MR. MUNDEN: Thank you, Mr. Chairman. I feel like we should go forward with all four of these options. North Carolina and the southern states certainly have a problem with the May 1 fishing year, and I don't know if this point in time that the advisory should be identifying specific items as a recommendation. I mean, that would almost be like setting out a preferred option.

CHAIRMAN CONNELL: It's certainly going to be the board's choice. The issue here is do we include all of these options in the draft?

MR. MUNDEN: That's what I would recommend, Mr. Chairman.

CHAIRMAN CONNELL: Anybody else?

MS. GAMBLE: This discussion on reference periods

corresponds to the state-by-state quota allocation, but the PDT suggested using the same reference periods when determining the seasonal or the semi-annual quota allocation.

The first reference period is from 1981 to 1999 and this captures all the landings for the unregulated commercial fishery. From 1988 to 1997, this period has the most accurate available landings for the unregulated commercial fishery.

In 1988, the data for dogfish landings improved and dogfish landings were separated into spiny dogfish and smooth dogfish landings. And 1997 is used as the end year because it is also the end year used in the reference periods for the federal FMP.

1988 to 1999 -- 1988 is the start year, again, for this reference period for the same reason as before, the data improved; and after 1999, the implementation of the federal regulations took place and significant reductions in landings also took place.

1994 to 1999 are also the most accurate available landings, but this is at the peak of the unregulated fishery. The 1990's is when the large-scale directed fishery for spiny dogfish took place.

And then, finally, we have the 1994 to 2000. These are the most recent landings data and it covers both the unregulated and the regulated commercial fishery.

CHAIRMAN CONNELL: Anybody have any questions about the reference periods?

MS. GAMBLE: The technical committee had some comments. They commented that there's no technical basis for developing the preferred reference period, and, therefore, provides no recommendation for determining the reference periods.

The technical committee also recommended that determining reference periods and allocations, North Carolina's reported landings should be used for the North Carolina landings. All other states should use NMFS's landings.

This came up when we were reviewing all the landings data and for some the reason the National Marine Fisheries Service weigh-out data was not accurately capturing the North Carolina landings. They were

about half of what they were supposed to be. So we decided to use North Carolina's trip ticket program to incorporate their landings.

The advisory panel recommends using the 1988 to 1999 reference period as this period reflects when the unregulated commercial fishery started and ended. Any comments?

Semi-annual quota allocation is broken out into greater detail in Appendix A-2 of the FMP. This table shows the actual amount of quota allocated to each semi-annual period, depending on which fishing year and reference period is selected by the board.

The federal FMP's semi-annual allocation is based on landings from 1990 to 1997. So if the board chooses to go with the seasonal allocation scheme, the amount of quota designated to each period is going to depend on which reference period the board chooses as well as the fishing year that the board chooses. As you can see, the percentage allocation shifts a little with the different fishing years.

CHAIRMAN CONNELL: David Borden.

MR. BORDEN: Thank you, Mr. Chairman. On the regional quota allocations, is my assumption correct that if we wanted to reconfigure those regions, we would have the flexibility after the public hearing to do that?

And I'll just give you an example. If the fishermen in New York, Connecticut, and Rhode Island and north basically said that they all wanted to be part of a northern region, would we have the flexibility of configuring it that way? And if not, then I would suggest that we put in language that gives us that flexibility.

MS. GAMBLE: Yes, the opportunity is there to develop that quota allocation scheme. It hasn't been done because it's very difficult with Massachusetts straddling two different regions in terms of figuring out the historical landings for the southern portion of Massachusetts, and that's why it hasn't been developed to date.

MR. CORREIA: The other issue that would come up was if you have Massachusetts straddling two different areas, you can run into this problem of, okay, the

northern area, say, is closed. The southern area opens up. What happens in Massachusetts?

Do you now have to know where the people are fishing? If it's Cape Cod south, you know, someone running to P-town, which side of the Bay is he fishing in, all those sorts of problems. So the technical committee said this would be a very difficult thing to do.

MR. BORDEN: Can I just follow it up, Mr. Chairman, by saying it's the only humorous part of the meeting. You can see everyone enjoying the thought of having Massachusetts be on the border of two great dogfish ecosystems.

So that I'm clear here, as long as we've got the flexibility to re-craft this; for instance, New York north being one entire region and New Jersey south being another one; otherwise, I would like to have that be an option in here.

MS. GAMBLE: Are you saying you want to switch the regions, David? As they're identified currently, you want to change them so that it is feasible?

MR. BORDEN: You could totally satisfy me by having a **fourth option under the regional split, which would be New York north and New Jersey south**. New Jersey south is already there, so all you have to do is add New York north.

CHAIRMAN CONNELL: Okay, so if there's a consensus on the part of the board and hearing no objection to add another option, which would provide Dave's favorite region there. Okay, with no objection, we will do that.

MS. GAMBLE: We jumped ahead a little bit. I just want to make sure that nobody has any questions on the seasonal quota allocation.

The other part to the seasonal quota allocation is having fixed percentages for both periods 1 and 2. Another alternative is rotating those percentages between the two periods every other year. This option is included in the draft because it was also a proposed option for the amendment to the federal FMP.

The second quota allocation scheme included in our

draft interstate FMP is the state-by-state quota allocation. These are the percent quota allocations for each state and each proposed reference period.

The amount allocated to each state will depend on which reference period chosen by the board and Appendix A-1, Tables 1 through 4, show how the percent quota allocation was derived and the amount that each state will receive for both the 4 million pound quota, which is the current quota associated with an F of 0.03, versus a quota of 8.82, the constant harvest strategy.

CHAIRMAN CONNELL: Harry Mears.

MR. HARRY MEARS: Thank you, Mr. Chairman. Megan, you mentioned earlier there were some discussions amongst the members of the PDT on a constant harvest strategy of 5.5 million to achieve stock rebuilding in the same projected time frame.

Now in the context we're using at this point for constant harvest strategy right here and also previously under options for management program implementation, it seems to be specific to the 8.8 versus an alternative consideration of a 5.5. Is that correct or where is the 5.5 in the context of these options?

MS. GAMBLE: That was a technical committee recommendation that came up two weeks ago. The only proposed quota that is before the board that has been included in the draft FMP is a quota of 8.82 million pounds. So if the board would like to see an alternative of 5.5, staff can draft that, but I need that direction.

CHAIRMAN CONNELL: Did I see another hand over here? Gordon.

MR. COLVIN: There's no chance we can just make this whole option go away today, is there?

CHAIRMAN CONNELL: The board has its prerogatives.

MR. COLVIN: I mean, it's either that or we'll all agree that there are two states that get allocations, and the rest of us are *de minimis*. We can share the rest, whatever the crumbs are.

I mean, just the notion of having to manage a quota

based on this is just -- wow, forget it and it's not happening. I'm not going to invest any money in it and most of us aren't. It's unrealistic.

CHAIRMAN CONNELL: Well, do you want to make a recommendation, Gordon?

MR. COLVIN: Well, you know, first of all, most of you know how I feel about this subject generally. I don't think we should ever do it again for any fishery, end of speech, until between 6 and 7:00 o'clock, maybe. That depends. But other than that, yes.

I mean, I don't think we should be doing this. I don't think it's justified in fisheries that we have a substantial interest in expending money to manage at the state level, and most of us don't for this one.

CHAIRMAN CONNELL: Anybody else want to comment? Red.

MR. MUNDEN: Thank you, Mr. Chairman. Should the board decide to go forward with this as an option, then it would be logical they would also have a provision for transfer of quotas between states so other states could transfer any quota they didn't want to North Carolina. We would be glad to accept that quota.

CHAIRMAN CONNELL: Okay, we've heard from two states on this issue, three states now. Should we keep this option in? Should we take it out? It's up to the board. Red.

MR. MUNDEN: Mr. Chairman, I would like for this option to be included in the public hearing document, or the draft FMP, rather.

CHAIRMAN CONNELL: Okay, let's do this in the form of a motion then, Red.

MR. MUNDEN: **Mr. Chairman, I move that this option be included in the draft FMP.**

CHAIRMAN CONNELL: Do we have a second? Second by John Nelson. Any discussion? Okay, we'll give you 40 seconds for a meeting prior to voting.

(Whereupon, a caucus was held.)

CHAIRMAN CONNELL: **For the record, the**

**motion is to include the state-by-state quota allocation scheme in the public hearing draft of the Spiny Dogfish FMP.** All in favor, signify by raising your right hand, six in favor; opposed, seven opposed; null votes; anyone else not want to vote at all; abstain, two abstention. **We've moved to take it out of the FMP, the draft FMP. The motion failed.**

MS. GAMBLE: Just for the record, the advisory panel recommended a state-by-state quota allocation to be fair to all states and allowing each to take its historical portion of the harvest.

We already touched on this one, but the last quota allocation is the regional quota allocation scheme, and currently it's split such that the Gulf of Maine region would include the Maine to Cape Cod.

The southern New England region would include Cape Cod to New York, including Long Island, and then the Mid-Atlantic region is New Jersey to North Carolina. And now staff will add an additional option that splits it so that one region is New York north and then the second region is New Jersey south.

Quota specification; currently the federal FMP requires a review of the status of the stock when setting the quota on an annual basis. The amendment is proposing a review of the stock and setting the quota for every three years at a time.

We have both options included in here as we would very much like to work with the Council's Monitoring Committee because we're using the same resource.

The third option, the quota would be fixed according to the provisions of the constant harvest strategy, which means that if the board were to chose 8.82 million pounds, it would remain 8.82 million pounds each year.

CHAIRMAN CONNELL: Everybody happy with that information?

MS. GAMBLE: The advisory panel did not reach consensus on this topic. The panel's members who supported a constant harvest strategy preferred Option 3, the fixed quota, and then those who were not in support of the constant harvest management strategy supported Options 1 or 2.

The next section is the payback of quota overages. Currently there is no payback provision included in the federal FMP when the quota is exceeded, but the payback provisions are being discussed for the amendment to the FMP.

Option 1 is no payback provision. Option 2 deducts from the specified portion of the allocation scheme in the subsequent fishing year. That means if you choose the semi-annual or the seasonal quota allocation, when you go over in Period 1, that amount will be deducted in the following fishing year from Period 1.

Well, I guess we're no longer using the state-by-state allocation system. So, if a region goes over, that responsible region will lose that portion of the quota in the following fishing year.

Option 3 deducts the overage from the annual coastwide quota in the subsequent fishing year. The advisory panel recommended going with Option 2. The payback of overages would be deducted from the party that exceeds the quota.

CHAIRMAN CONNELL: Comments on overages?

MS. GAMBLE: Next we have quota transfers. Well, the way the draft is currently written, the quota transfers only applies to the state-by-state quota allocation scheme. I guess it's appropriate for this to be removed from the FMP, too.

CHAIRMAN CONNELL: Bruce, do you have a comment?

MR. BRUCE FREEMAN: The issue I had was rollovers. Because this option was taken out, do we mention rollovers? **There's paybacks, but I don't recall any situation where if a quota is not taken, it would roll over into the next year or some other time.**

MS. GAMBLE: Well, the way it's written right now, it does apply to the state-by-state allocation scheme. It can be rewritten to apply to the other ones.

MR. FREEMAN: Yes, there just should be a provision in there.

MS. GAMBLE: Okay, so it can be reworded to apply

to the other ones.

MR. FREEMAN: And the rollovers, I suspect, would occur the same as for those seasons or periods or locations.

MS. GAMBLE: Yes. To this point, I would say that the technical committee reviewed the issue of rollovers and they recommended limiting a rollover to 5 percent of the annual quota.

Now, when they talked about this, they were talking about a state's annual quota and they also -- their actual recommendation was that no rollover should occur until the stock is rebuilt to the target spawning stock biomass, and at that point still it should be restricted to 5 percent.

MR. FREEMAN: Well, I would just think it would be suitable to put some provision in this a for public hearing process.

CHAIRMAN CONNELL: Dave Pierce.

DR. PIERCE: I certainly don't mind having a rollover in the plan, although I would say the odds are 100 percent there won't be any rollovers; because let's face it, 8.8 million pounds, it's a pittance for the region, for the Atlantic coast.

8.8 is not much at all and therein lies some of the problems with which we have with the management of the dogfish fishery. It's extremely important to a large number of fishermen in terms of their economic survival, their livelihoods, but as a group of states having to administer 8.8 on an annual basis, it's going to be gone relatively quickly regardless of how it's split up, seasonal or by area, not by state.

CHAIRMAN CONNELL: Any other comments about rollover? Gerry.

MR. GERALD CARVALHO: Thank you, Mr. Chairman. I think that a rollover provision should be included. We had similar problems with the other quotaed species, and we haven't addressed them and we should attempt to address them and correct the problem and correct it in this fishery before it starts.

We haven't corrected the problems in the other species that are similar to this, and this is an opportunity to

catch it before it starts.

CHAIRMAN CONNELL: Okay, well, we'll follow up on Bruce's recommendation as long as there's no objection.

MS. GAMBLE: The next section deals with trip or possession limits. Option 1 is no interstate possession limit. The states could individually determine the appropriate trip limits for their own state waters.

Option 2 is a 7,000 pound trip limit for the entire fishing year and this allows for a small directed fishery. Option 3 is that Period 1 would have a 600-pound trip limit and Period 2 would have the 300-pound trip limit.

Option 3 prevents a directed fishery. The quota would last for a longer period of time, and it was also developed to impact the same number of trips in each semi-annual period. But when this was analyzed, it was using the May 1 to April 30 fishing year, so the impact to the different trips may change. So this analysis may need to be reviewed if you choose a different fishing year.

CHAIRMAN CONNELL: Okay, have we included all of the options you feel appropriate? Okay, no comment. David.

MR. BORDEN: A quick one, Mr. Chairman. I have no objection to any of these options, but in terms of the options, if we want to change the trip limits, is that something that would require an addendum to change those once we adopted it?

**And if that's the case, then we may want to try to write in some language that would framework it, that would give us the ability to change it on an annual basis as opposed to having to go through a formal amendment or addendum.**

CHAIRMAN CONNELL: I think you bring up a good point. Red.

MR. MUNDEN: Mr. Chairman, the Mid-Atlantic Council and New England Council set the trip limits annually when they establish the harvest specifications for the upcoming year.

So the 300 pound and the 600 pound trip limits that currently exist could change the next time we set the

specs, but I think the fourth option you have here allows you to establish other trip limits. So, I feel like it would cover the four options that Megan has presented here.

CHAIRMAN CONNELL: Susan, you wanted to make --

MS. SHIPMAN: Yes. It would appear on 4.5.2, which are the adaptive management measures, I don't see trip limits in there. Item Number 3 talks about annual specifications for total allowable landings, but it says "any other management measures" and maybe that could be interpreted, but I think it probably ought to be more explicit if you all do want a framework, to have that flexibility to adjust them. It just doesn't seem to me to be explicitly stated there.

CHAIRMAN CONNELL: Bob Beal.

MR. ROBERT BEAL: Thanks, Mr. Chairman. Yes, I think it's probably appropriate in this section of the FMP to include an option that simply states we're going to establish the trip limits every year or every three years, depending on which planning horizon that we select.

Just go ahead and make that option that the board will go ahead and set those each time they set a quota or the overall management program.

CHAIRMAN CONNELL: Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. Under 4.1.5, Option 3, you have a last sentence that says: "If an alternative fishing year is selected, the trip limits may need to be adjusted for the period." Could that sentence be expanded to cover what Susan said and what Bob said, or would you have to create a new option? Maybe a new option would be cleaner, I don't know.

CHAIRMAN CONNELL: Well, I think we're picking up a sense from the board that we want to include that and we'll work on including that into the draft. Bruce.

MR. FREEMAN: Thank you, Mr. Chairman. Just under Option 1, we have "states can individually." Since we eliminated the state-by-state, that needs to be adjusted to regions or whatever we have, but not states.

CHAIRMAN CONNELL: David.

DR. PIERCE: Yes, it makes sense to include as an option in this plan the changing of trip limits for whatever reason. I think that's important because it will provide the board with an opportunity to get comment from the fishermen as to what makes for an economically viable possession limit.

There's been a tremendous amount of discussion, of course, regarding the 600 and the 300 and how no one goes out for that. No one brings in bycatch of those amounts because they can't sell those amounts.

Therefore, whether it's 5,000 or 7,000, we should get some good comment up and down the coast as to what indeed constitutes a viable or profitable trip.

MS. GAMBLE: I just wanted to mention that the technical committee felt as though they couldn't comment on the impact of trip limits without knowing the preferred management scenario.

And then the advisory panel couldn't reach consensus on this point. Part of the advisory panel felt that Option 2, a 7,000 pound trip limit -- this Option 2 was supported in order to be consistent with the current fishing and processing practices. Option 3 was supported in order to limit a directed fishery on spiny dogfish.

CHAIRMAN CONNELL: Okay, I think we resolved this issue. As soon as we get organized here, we'll move along to the next one.

MS. GAMBLE: The next slide deals with size limits. Option 1 is no size limit. Option 2A is a minimum size limit where 50 percent of the females reach sexual maturity, which is 80 centimeters.

Option 2B is a minimum size limit where 100 percent of the females are sexually mature and that would be a size of 91 centimeters. Option 2C is a minimum size of 70 centimeters, and this option was chosen because this is the minimum size targeted for market.

Option 3 is a maximum size of 91 centimeters in order to protect the mature females; and then we have Option 4, which is the slot size of 70 centimeters to 80 centimeters to protect the immature and the mature females.

The comments from the technical committee was that

they recommend the management board does not implement a minimum size. The advisory panel recommends Option 1 due to the complications -- sorry, no size limit -- due to the complications in enforcing the minimum size regulations, and they also agree with the technical committee's recommendation.

CHAIRMAN CONNELL: So we've got a recommendation from both the technical committee and the advisory committee to do basically the same thing, to have no minimum size. Dave.

DR. PIERCE: Because of those recommendations and because of the experience Massachusetts has had with minimum size limits on dogfish and how we've been raked over the coals because we had a minimum size at one point in time, a minimum size that allegedly promoted a fishery on larger fish, the mature females, **I would move that we delete size limits as an option from the plan.**

CHAIRMAN CONNELL: Okay, we've got a second to the motion to delete the size limit section. Ritchie White seconded. Discussion? Gordon.

MR. COLVIN: Understanding the point and the recommendations with respect to the inadvisability of size limits at this time, is it conceivable that advice, particularly the scientific advice, could change in the foreseeable future as the stock condition changes in response to management; and if so, is this a tool we want to have somewhere in the tool kit here for framework application in the future?

MR. CORREIA: I'm not sure how long the foreseeable future is. The problem that the technical committee had with it is that when you start to put the size in position, the benefits of it are predicated on not only what the fishermen see when they come up with a tow, but how they behave with it and whether they move on, and we can't handle those kind of assumptions within the model.

I think what you would need to have there is some way to have a gear that was size selective in order to have that work, and at this point we don't have that gear available. Now whether someone can come up with a gear in the future for that, I don't know.

CHAIRMAN CONNELL: Okay, any other

comments? Basically, Gordon, in order to work it into a framework thing, we would have to include it now.

MR. COLVIN: Yes. I suppose it could be done in a way that none of these options are there, and the only option that's there is to adopt the size limits in the future as a framework measure consistent with scientific and industry advice, and just nothing more than that.

At least if that option were still on paper, then that option would exist without having to do a full-blown amendment to the FMP, if five years from now or longer we decided we wanted it. That's the only reason I brought this up.

CHAIRMAN CONNELL: So you're recommending that we include terminology such that would indicate that at some later date we would have the right to put in a size limit?

MR. COLVIN: I guess what I would be suggesting is deleting Options 2 through 4 and substituting an option consistent with what I just said.

CHAIRMAN CONNELL: It sounds like a way to deal with that issue. Is there anybody that would discourage us going in that direction? Okay. Seeing no objection, we will try to frame -- for Megan's purposes, would you repeat the direction you would like to go?

MS. GAMBLE: No, no, wait. Gordon, I just wanted to ask you, are you trying to avoid an addendum process? Would you be okay with including this in the future through an addendum?

MR. COLVIN: What I'm trying to avoid is needing to do it by amendment if we wanted to. We could use an addendum at the commission -- a framework if we had a compatible federal measure.

MS. GAMBLE: **Okay, what I would like to suggest is that I include size limits under the adaptive management process so that we can change it through an addendum.**

MR. COLVIN: Right.

CHAIRMAN CONNELL: We do have a motion on the floor. We have had discussion. David, based upon what we discussed, do you --

DR. PIERCE: Well, **perhaps I could say move to remove the size limit options from the public hearing draft, except retain minimum size limits as one of the adaptive management measures, so that way we don't go to public hearing and spend all of our time discussing all the size limit options that there are, slot limit and what have you, but at least we indicate, as Gordon said, that possibly in the future we might find some circumstance that would dictate we go in that direction.**

CHAIRMAN CONNELL: Okay, that sounds good. We've had significant discussion. Anybody like to make a comment? Any board members like to make a comment? Public? Can you come to the microphone?

MS. BEEMER: Shana Beemer. **Could I just ask that the minimum be removed to allow for the maximum or slot limit should that be chosen in the future, so it's just retain size limits?** Thank you.

CHAIRMAN CONNELL: Is that agreeable to the maker and the seconder? Okay. 15 seconds for a caucus. While I'm reading the motion you can caucus. The motion is to remove the size limit options from the public hearing draft, except retain size limits as part of the adaptive management.

Are we ready to go? All those in favor, please raise your right hand, sixteen in favor; opposed, none; null votes, none; abstentions, none. The motion passes.

MS. GAMBLE: The next option is size-specific quotas and this hasn't been developed any further from what was included in the public information document. If the board were to select this option, the technical committee would have to develop the quota allocations for specific lengths of spiny dogfish. The technical committee recommends against implementing size-specific quotas.

CHAIRMAN CONNELL: Okay, is it the board's choice to leave it in or do you have a -- Steve, do you want to make a comment?

MR. CORREIA: Yes. Actually, the technical committee's wording was a lot stronger than that. We can't calculate those kind of quotas with any sort of reliability, so it's not just a matter of we recommend

against it. We don't have the technical basis to come up with a number.

CHAIRMAN CONNELL: Bill Adler.

MR. ADLER: **Can I make a motion to remove that from the document?**

CHAIRMAN CONNELL: You can make any motion. Second from Lewis Flagg. Any comment? Discussion? Okay, we'll take a 15-second caucus for those that would like to discuss this. The motion is to remove the size-specific quotas from the draft.

(Whereupon, a short caucus was held.)

CHAIRMAN CONNELL: **All in favor, please raise your right hand, 16; opposed; null votes; abstentions. The motion passes 16 to zero.**

MS. GAMBLE: The next option is gender-specific quotas. If this were to be selected, the technical committee would develop a quota allocation based on the landings or the mortality of adult females with a separate quota for the male portion of the stock.

Again, the technical committee recommended against implementing gender-specific quotas. The advisory panel requested that if data were to be available to support a technical committee evaluation of this option, that perhaps it should be considered at that time.

CHAIRMAN CONNELL: Do we have a recommendation from the board? We don't need a motion, just a recommendation and a consensus would be enough to deal with this. Do we have a recommendation, David?

DR. PIERCE: **Yes, I would recommend that we don't include gender-specific quotas in the plan and for a number of reasons. First of all, they school by size. If we had gender-specific quotas, there would be tremendous amounts of discarding, and there are a number of other reasons why this is just no go.**

CHAIRMAN CONNELL: Okay, unless we hear any objections from other board members, we'll put that into affect.

MS. GAMBLE: The next option is a biomedical

scientific research supply. Option 1 sets aside a percentage of the coastwide annual quota to be available for the biomedical or scientific research demand.

Option 2 sets an additional quota to the annual coastwide quota. Both Options 1 and 2 would require a special permit for biomedical collection purposes, and then Option 3 is no quota would be designated specifically for this biomedical scientific research supply.

The technical committee recommends rejecting setting a separate quota for biomedical scientific supply. The advisory panel recommends choosing Option 3, no quota designated for this demand. The advisors noted that there is an opportunity to obtain these specimens from the fishing industry even if there isn't a separate quota set aside for this purpose.

CHAIRMAN CONNELL: The board's feeling on this? Any comment? Harry Mears.

MR. MEARS: Thank you, Mr. Chairman. The experience under federally managed species, especially under I believe it was Framework 1, allowed a process, if management so desired it, to set aside -- for those species managed by quota, a certain percentage from zero to 3 percent in the event there was a desire to conduct research needed for management of that species, and that's commonly referred to as a research set-aside program.

So I just wanted to draw the analogy, at least amongst Mid-Atlantic Council managed species, as well as the sea scallop fishery in New England. The second point I would like to make is I believe we should be consistent with the wording in Options 1 and 3.

Option 1 uses the term "scientific research" and Option 3 uses "scientific supply," which are different. I don't think there was an intent to make them different between the two options.

CHAIRMAN CONNELL: Thank you, Harry, we'll make that correction. Red.

MR. MUNDEN: Thank you, Mr. Chairman, two points. Harry is correct in that a number of the Mid-Atlantic and New England plans do allow for a scientific set-aside of quotas, but unfortunately spiny

dogfish is not one of those species in which we have an allowance for quota set aside.

I think the reason the council has decided not to do that is because the quotas were going to be so low that even a 3 percent set aside wouldn't be very much.

But the other point I would like to make is I very much support including these options within the draft FMP. We have an individual in North Carolina who has in essence been shut out of the business of providing spiny dogfish for biomedical and scientific research for the past two years because there has been no quota available when those fish were available in North Carolina.

CHAIRMAN CONNELL: I agree with you, Red. Dave Pierce.

DR. PIERCE: I don't mind keeping it in. However, I would like a clarification on page 9 in italics under Option 1, Biomedical Scientific Research Supply. Board's natural science 2002, it says 400,000 to 500,000 pounds per year.

I assume that that's their record of the amount of dogfish they actually have been providing to biomedical facilities or lab school biology classes or -- and do they get all of those dogfish from the east coast?

MS. GAMBLE: No.

DR. PIERCE: There are supplies of dogfish from many other locations. So, we need to be careful with that since that's a rather significant amount of pounds from an 8.8 million pounds if that's the way it goes eventually.

So, again, I don't mind bringing it out, but we need to clarify that particular part of the plan as to how the dogfish are actually used and where are they coming from now.

CHAIRMAN CONNELL: Lew.

MR. LEWIS FLAGG: Thank you, Mr. Chairman. I too would recommend that we leave these in because there are folks out there that are in this business, and I think they should have an opportunity to comment on this.

I think also that there may be occasions where if the fishery is closed and some of these research groups need fresh specimens, it may be a bit problematic to collect them from commercial operations when they're closed down.

CHAIRMAN CONNELL: Okay, if there's no objection, we'll -- Gordon.

MR. COLVIN: I just wanted to ask based on this discussion, is there a distinction in terms of the demand for biomedical purposes, research purposes, and educational supply purposes?

MS. GAMBLE: Yes. In the state of Maine, they're currently doing some cancer research with the renal gland in the dogfish; is that correct -- rectal gland in the dogfish, and then in North Carolina the demand is for dissection purposes and studying the circulatory system within the dogfish. There is a difference.

MR. COLVIN: I have no problem going forward with all these options, but I think it's important that the text of the plan make a distinction between the various kinds of usages and the expected levels of demand so that when we get comments and we get to the decision point, we understand what it is we're doing.

MS. GAMBLE: Okay, it isn't in the executive summary, but if you refer to the description of the commercial fishery, there is a description for both the state of Maine and for the state of North Carolina.

MR. COLVIN: You know, and not for nothing, but, frankly, still having painful recollections and nightmares of dogfish dissection, anything we can do to make them impossibly expensive for that purpose would spare undergraduate and graduate students.

MR. CORREIA: I just wanted to clarify the technical committee's recommendation. It's a bit of sloppy writing by the author. You probably should give him some help to do it.

It was really referring to the additional quota so it's a separate quota in addition to what's being given to the fishery. The technical committee had no problem with either Option 1 or Option 2.

They just didn't want to see 8.8 million pounds and then a quota on top of that, or a quota of F equals 0.03 and

then add another quota on top of that.

CHAIRMAN CONNELL: Okay, so we're leaving them in with the adjustment that Harry recommended. Susan.

MS. SHIPMAN: To Steve's remarks, so you're saying this would potentially be a backed-out quota up front of the entire quota?

MR. CORREIA: Right. In the three options, what the technical committee was concerned about was setting an additional quota on top of the quota. So if you set the quota and you said, all right, we're going to take the quota and then take a piece of that and give it to a group, there's no problem with that. You just don't want to exceed the total quota.

MS. SHIPMAN: Right and I think Option 1 says that and Option -- Yes, I think 1 says that.

MR. CORREIA: Right, it's just the technical committee recommendation isn't very clear the way it's written. It sounds like it applies to all three of these and it really only applies to Option 2.

MS. GAMBLE: The next section deals with a no-finning provision, and this uses the same wording as the federal FMP and is included just so that we are coordinated in this aspect. The no-finning provision says that the weights of fins landed or found may not exceed 5 percent of the total weight of the dressed carcasses landed or on board the vessel.

The fins may be removed at sea, but the corresponding carcass must be retained, and then all fins and carcasses must be landed at the same time, in the same location, and the fins must be proportional to the number of carcasses possessed. I just wanted to say that the advisory panel supports the no-finning provision.

The next section is the *de minimis* status. The way the PDT defined *de minimis* status is the state's commercial landings of spiny dogfish must be less than 1 percent of the coastwide commercial total.

If a state can qualify for *de minimis* under this provision, they will be exempted from the biological monitoring of commercial spiny dogfish, but the PDT wanted to stress that each state would still be responsible for reporting any type of landings within

their state waters.

CHAIRMAN CONNELL: Any questions about *de minimis*?

MS. GAMBLE: Well, I also wanted to add that the technical committee had a discussion on the period of years that should be used to determine if a state's historical landings qualify the state for *de minimis* status.

The plan currently does not specify this period or that number of years. Most commission plans use anywhere from three to ten years to determine *de minimis* status.

The technical committee's recommendation here was to use a time period for *de minimis* status that corresponds to the allocation or the reference period that's chosen, and the basis of this recommendation is just to maintain consistency.

CHAIRMAN CONNELL: Harry, you had a question?

MR. MEARS: Thank you, Mr. Chairman. Just to refresh my memory, Megan, what are the biological monitoring requirements of the plan?

MS. GAMBLE: Well, currently the way the draft is written, it says that states with monitoring programs currently in place shall maintain them. Those that do not have them in place are encouraged to start doing so.

CHAIRMAN CONNELL: Dave Pierce, you had your hand up first.

DR. PIERCE: That was my point, that I don't see there being any mandatory monitoring requirements. I mean, the states who have a vested interest in dogfish likely will continue or begin, and that means North Carolina and Massachusetts, the two states.

Yes, I suspect that we'll make every attempt to continue that data-gathering process, but again how *de minimis* relates to -- I don't see *de minimis* relating to any exemption from biological monitoring because there shouldn't be any.

CHAIRMAN CONNELL: Bruce.

MR. BRUCE FREEMAN: Based on our previous vote, there will be no state landings so *de minimis* won't

be an issue.

MS. GAMBLE: You can still determine the number of landings in a state even if we do a semi-annual quota or a regional quota, and you're basing it on historical landings.

MR. FREEMAN: I'm not sure what the state would be exempt from.

CHAIRMAN CONNELL: We're not either at this point, Bruce, but it may come along at a later date.

MS. GAMBLE: The problem is that when the PDT discussed this, they didn't think that the board was going to approve additional monitoring programs for spiny dogfish so they didn't include them in the FMP.

The next section is the recommendation to the Secretary for complementary actions in the federal jurisdiction. This plan coordinates the management of spiny dogfish across state boundaries. In order to achieve the goals and objectives of this management plan, the management of spiny dogfish in federal waters should complement the interstate management for spiny dogfish.

The technical committee recommends that the dogfish in state and federal waters should be consistent relative to the fishing mortality rates or the quota, biomass targets, and the rebuilding strategies.

CHAIRMAN CONNELL: Board comments? Harry.

MR. MEARS: Thank you again, Mr. Chairman. NMFS also believes there should be an immediate goal to strive that consistency between state and federal regulations.

However, in this particular instance with the plan being developed under the provisions of the Atlantic Coastal Act, a recommendation for complementary action is essentially inappropriate or moot because there already exists a federal plan, and that's the only occasion in which it would be appropriate to make recommendations to the Secretary, in the absence of a federal plan.

CHAIRMAN CONNELL: David.

DR. PIERCE: Gee, I like this wording, management in

federal waters should complement our plan instead of the reverse. I like to think of ASMFC being the dog and the federal government being the tail on this particular species. At least that's the way it might go.

We have no way of knowing what the federal government will do specifically. We have no way of knowing what the councils will do through their Amendment Number 1. I'm not sure of the time table now for Amendment Number 1.

I think we may be ahead of the council with regard to our getting our plan through hearings and then adopted later on this year at our ASMFC fall meeting. So, we need to have the federal government come in line with whatever we adopt.

CHAIRMAN CONNELL: You may be right and Amendment 1 may come as long as a year after we take action, and we can certainly ask the federal government. We certainly can't mandate. Red.

MR. MUNDEN: Thank you, Mr. Chairman. Speaking for the Mid-Atlantic Council, we have the Amendment 1 spiny dogfish, scheduled to begin next fall, fall of 2002. And you're probably right, it will take a year or so to get that amendment through.

So I feel quite confident that the ASMFC plan will be in place before the council amendment is anywhere close to being finalized. But we can also use whatever the commission adopts as guidance for Amendment 1.

And, Mr. Chairman, while I have the mike, Megan, I would like to address a question to you. Did you skip over the adaptive management issues? Did you intentionally skip over those?

MS. GAMBLE: No, it wasn't intentional. It's not in my presentation. I would open that up to the board if you want to change and make recommendations for that.

The last slide I have for you on this draft FMP discusses implementation and compliance schedule. There's two alternatives for the deadline to submit state programs for implementing the Interstate FMP for Spiny Dogfish.

Those different dates are January 1, 2003, and April 1, 2003. There are also two deadlines for implementing the board-approved state spiny dogfish plans. That's June 1, 2003, and September 1, 2003.

I just wanted to stress at this point that these deadlines, these dates are very important because our emergency action will expire January 31, 2003. There is a potential for there to be a lapse in interstate regulations for spiny dogfish.

CHAIRMAN CONNELL: Any questions about the implementation schedule? Any issues?

MS. GAMBLE: The technical committee recommends that the management board should consider mechanisms to prevent the unregulated fishery due to the gap between the expiration of the emergency action and the implementation of the FMP.

CHAIRMAN CONNELL: Okay, obviously, this is an issue we can take up at a later date, but this points out how important it is to get this plan into action and hopefully get it into place by the end of the year, so we can implement it sometime during the next year and we will have as short a gap as possible between the time the emergency action expires and when it actually is implemented. We can take some action at a later date in terms of what we're going to do in the interim.

MS. GAMBLE: The last little portion of this slide talks about the annual state compliance report due date and that's going to depend on the fishing year that's selected by the board.

I just wanted to bring up some additional comments from the advisory panel before I wrap up my section. The AP noted that a small-scale directed fishery will provide for additional data to characterize the populations.

The AP also noted that the dogfish are pelagic species and some reference to this should exist in the FMP. To that point, I just wanted to note that there was a habitat section recently added, which I believe includes some of that information.

The AP noted that incentives should be included in the FMP to reduce bycatch and discards, and then the AP noted that the discard mortality study and additional bycatch information should be sought after and evaluated.

The AP noted that a risk analysis of each option considered should be provided for public comment.

The risk analysis currently is not included in the draft FMP. The AP noted that the rationale for each option also should be provided for public comment.

CHAIRMAN CONNELL: Okay, that completes the easy part of the review of the draft. Before I ask Pat to make a motion, I did indicate that we were going to have board members ask any other questions or bring up any other issues. Pete.

MR. W. PETE JENSEN: I want to revisit the state-by-state issue --and I won't mention that I think it violates our standards and procedures to not include an option that is of interest to states.

However, **I think it can be solved by reaching agreement that in the region-by-region allocation option, that if states within that region wish to pool their collective allocation and decide on state-by-state quotas, that that be an acceptable practice.** I would ask the board's concurrence that under the region-by-region, that be an option for the states within the two regions.

CHAIRMAN CONNELL: Board, any comment on that issue? Bruce.

MR. FREEMAN: If Pete offered that as a motion, I'll second it.

MR. JENSEN: Well, I'll offer it however it has to be done to make it work. Would you prefer a motion?

CHAIRMAN CONNELL: It does not have to be a motion if we have a consensus that -- David.

MR. JENSEN: Okay, I declare a consensus. (Laughter)

CHAIRMAN CONNELL: It always works better that way.

MR. COLVIN: He's tried that before.

DR. PIERCE: I don't understand what Pete is getting at. We're not going to go with state-by-state quotas. That was a formal vote of the board, and I understand why. So now we're thinking of, through some consensus, dividing a quota up regionally and then telling a set of states in one region if you want state-by-

state quotas, you can have them? Is that what you're saying, Pete?

CHAIRMAN CONNELL: That's basically what Pete is saying, and I guess it could be accomplished, if you want to hold the line on this, through quota transfer between one state and another.

DR. PIERCE: I just don't understand this. To me, we've already acted on the state-by-state quotas by voting it down, as opposed to now taking a part of the pie, giving it to a region, and then saying to another region, okay, now you've got the other part of the pie, divide it up if you so choose. I just don't see the sense of that.

CHAIRMAN CONNELL: Okay, well, it's up to the board. Any other comment? Gordon.

MR. COLVIN: Well, you know, I just thought that what was appealing in the proposal that Pete put forward is that it enabled states to come together voluntarily and make an agreement about -- you know, a group of states about the management and allocation of the resource that would be not etched in stone, not embedded in the plan, not a compliance measure, but subject to their agreement and voluntary revision over time. To me that makes all the difference and I think that's the fundamental issue.

CHAIRMAN CONNELL: Okay, do we include it? Okay, I think we have a general agreement that this concept should be included in the plan. Red.

MR. MUNDEN: Thank you, Mr. Chairman. I would like to revisit the frequency in which stock assessments are conducted. Megan, if you would go to page 4 of the executive summary and under Item 3.0, Monitoring Program Specifications, I believe if we inserted "at least every five years," then we would not be locked into doing a stock assessment once every five years. Can we do that?

MR. BEAL: Yes, the five-year number came from the fact that we have a trigger in all of our stock assessments to go through some sort of peer review every five years. If the board elects to do, or requests a peer review more frequently than every five years, the board has that ability to do that. It's not a problem.

CHAIRMAN CONNELL: So Red is recommending

we include language to indicate that the stock assessment would be done at least every five years rather than the current language in the draft. Any objections? Steve.

MR. CORREIA: Yes, it's just a comment in terms of the words "peer-reviewed assessment" versus "assessment." This is whether this five year refers to a peer-reviewed assessment where you can in the interim update the assessments, but not necessarily have them peer reviewed. So there's a difference?

MR. BEAL: Yes, the five-year trigger right now is for a benchmark assessment or an assessment with a peer review. Most of our assessments are updated to some degree every year just to evaluate how the fishery is doing, and that just gets reviewed by the technical committee.

CHAIRMAN CONNELL: Okay, without objection, we'll have Megan rewrite it to get the flavor of what Red is indicating. Bill Adler.

MR. ADLER: Thank you, Mr. Chairman. With regard to the advisory panel comments, there were a couple of things down at the bottom there. The AP noted the risk analysis and also the AP noted that a rationale for each option should also be provided in the public comment.

Are we going to take any action on any of those or are they too complicated to do? I know you already put one of them in, but how about -- can we do any of that stuff for this document?

MS. GAMBLE: Yes, if the board would like me to do that, I can include a summary of the risk analysis for the public hearing document. If the board wants me to include some more rationale for the options that are in the FMP, I can also do that.

MR. ADLER: All right, I would like to see if you could do it, to do it in this public document, if you can.

CHAIRMAN CONNELL: David.

DR. PIERCE: Yes, I would like to revisit on page 5 the complete closure --

CHAIRMAN CONNELL: Just before we get to that, is there anybody on the board who has an objection to what Bill Adler is recommending? No. Okay, go

ahead.

DR. PIERCE: Okay, the complete closure option, "The commercial harvest, landing, and possession of spiny dogfish will be prohibited at all times in state waters".

Unless we have some sort of strategy that would prohibit the entry of dogfish into state waters at all times, this is just nonsense. This would be very embarrassing for me personally at a public hearing in Massachusetts to offer up and then to defend. So I would move that complete closure option be deleted from the document.

CHAIRMAN CONNELL: Do we have a second? Lew Flagg seconds. Discussion on the motion? Harry.

MR. MEARS: Just a question for the motioner. I'm trying to understand the specific basis for the suggestion; and I guess to get my answer, would changing of the words "retention and landing of spiny dogfish will be prohibited" resolve your concern or it would not?

DR. PIERCE: I guess I just don't see the sense of this particular option because with the other options, my impression is when there's a closure, that would be it. There would be no more landing of spiny dogfish.

Of course, they could not retain them, but they can catch them and then throw them back, and they can't land them because there's a closure. A state's waters closure that would complement the federal waters action and when the quota is taken -- if this was the option selected by the board after public hearing, what would it do?

I mean, what's its purpose? We would be telling the industry that federal waters will be open at times, but under no circumstances may you possess spiny dogfish in our waters. I just don't see the sense of that.

You can keep them in federal waters, but you can't keep them in state waters. And, oh, by the way, when you're steaming through state waters to land them, if you're boarded, you're in violation because you're possessing them in state waters.

MR. ADLER: You can never go home.

CHAIRMAN CONNELL: Any other board members

want to discuss this motion? Any other comments? Okay, we'll take a couple of minutes to have a discussion on this before we vote.

(Whereupon, a caucus was held.)

CHAIRMAN CONNELL: Okay, you've had an opportunity, I think. Bob, do you want to make a comment on this?

MR. BEAL: Just a general comment. This issue was included in the document because it was brought forward by some folks at the Mid-Atlantic Council, knowing that we were going to try to explore all the options that they were eventually going to explore in Amendment 1.

We are taking it out to public hearing. We're probably going to hear a number of comments against this option, but leaving it in there probably won't cause any difficulties. It will make the public hearing record a little bit more complete and explore a fuller suite of options. But, you know, it's up to the management board.

CHAIRMAN CONNELL: Okay, for the record, I'll read the motion: Move to remove the complete closure option from the public hearing document. All in favor, raise your right hand; opposed; null votes; abstentions. The motion fails. Dave Pierce.

DR. PIERCE: Plain enough, but I expect Bob Beal or Megan to be at the public hearing in Massachusetts to explain this, to defend it, because I'm not. You know how I can behave at public hearings representing ASMFC, so you had better be there.

CHAIRMAN CONNELL: Okay, are there any other comments on the public hearing document? Dave Borden.

MR. BORDEN: Just one other comment, Mr. Chairman, and it's not necessarily on the document, but it's on issues that pertain to the document.

With the groundfish litigation, under some scenarios there may be a cut in the days at sea by as much as 50 to 60 percent, conceivably, and since discards are a major component of the mortality on dogfish -- and I just asked Steve, the numbers may be 12 million pounds a year.

I guess I ask the question if in fact the court rules and we end up with a significant reduction in the available days that the groundfish industry can fish, it seems to me that's going to have a profound impact on the discard rate.

**I think that as soon as that determination is made by the court, what I would ask is the technical committee to evaluate what the consequences of it are because it in fact will position us to, I think, try to minimize some of the negative economic impacts on the industry and accelerate the rebuilding program at the same time.**

So I would ask that -- I'm not sure how we factor that into this public hearing document, but it could have fairly profound impacts on the plan.

CHAIRMAN CONNELL: Yes, it's a very good point and something we're going to have to take into consideration. Are there any other comments?

DR. PIERCE: Regarding Option 3, page 4, the Rebuilding Schedule, a rebuilding schedule consistent with the time necessary to rebuild at the constant quota of 8.82 million pounds is maintained.

At the advisory panel this morning, there was some discussion about the concept of rebuilding in ten years plus one mean generation time. If you can't rebuild within ten years, you can take advantage of this opportunity.

It's an opportunity that's been taken advantage of by the federal government with other species of sharks because you can't rebuild the target within ten years, and that is the case with spiny dogfish.

The answer that I was given by Megan at the meeting this morning was that Option 3, for all practical purposes, embraces that concept, and I want that to be understood, that we can't get there in ten years.

And this option would be part and parcel, I would think, to Option 3, and maybe even some of the other options, and I would ask the technical committee to spend some time calculating what exactly that means.

I don't think that anyone has yet calculated the rebuilding time that would be provided with ten years

plus one mean generation time.

MR. CORREIA: I think Paul Rago has provided some information regarding the length of the generation. I think that has been done. The issue relative to rebuilding in that time frame is whether or not you're going to constrain the fishing mortality rate to be less than the target, less than FMSY. I think when you do that, that's going to put a constraint in terms of what that length would be, regardless of the generation length.

DR. PIERCE: Still, I would like to see that information brought forward by the technical committee during the public hearing process, the next board meeting, so we can get a feel for it of what exactly does it mean?

MR. CORREIA: So you want to find out what the generation plus ten years --

DR. PIERCE: Right, how many years.

MR. CORREIA: Okay, and do you also want to see whether that maximum length is constrained by an F? So, for instance, if you put a constant -- say, you constrained it to be at least no higher than the F target, you could plug that F target in and see what the rebuilding is, and that would be the longest period that you could rebuild in without exceeding your F target, and that might be --

DR. PIERCE: I stand to be guided by the wisdom of the technical committee and the creativity that I know you have. So we stand to be guided by any scientific technical advice that will help us, you know, work through spiny dogfish management.

CHAIRMAN CONNELL: Okay, anything else about the draft before we ask for a motion? David Pierce.

DR. PIERCE: All right, there are some parts of this document of this document that are not yet finished. We know that. I think the plan development team has done a great job with the time it has had available to it, but if we approve this document, we would be approving just that which we have in front of us now; correct?

There would be opportunity later on to review the additional pieces to this puzzle such as ecological considerations and the other parts that are not yet completed?

CHAIRMAN CONNELL: I'll let staff respond to that.

MR. BEAL: David, the usual course we take is approve the amendment as modified today, with the assumption that all the direction and changes that the board has discussed today will be included and the changes will be made to the document.

So we usually -- you know, I guess we could send that out to a board review. The difficulty there is if some board members have difficulty and disagree on different sections, then we get into a real sticky situation.

So, the question for the board is you've given a lot of directions to the Plan Development Team, and I think they're all relatively clear. Are you confident in what the Plan Development Team is going to put together based on your guidance here today?

CHAIRMAN CONNELL: Hearing no objections, I assume an air of confidence in the room. Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. I could hardly wait for you to tell me to do this. Bob, do you have the language written up for the motion to move this on to the ISMFP?

MR. BEAL: We will in a minute.

MR. AUGUSTINE: Well, I move.

CHAIRMAN CONNELL: The unpublished motion has been moved by Pat Augustine and seconded by John Nelson.

MR. AUGUSTINE: Not quite complete yet.

CHAIRMAN CONNELL: Do you want to read it, Mr. Augustine?

MR. AUGUSTINE: **Thank you, Mr. Chairman. I move to approve the public hearing draft to the Spiny Dogfish FMP as modified today for public comment.**

Did you want to expand that to include those words you said about the directions to the Plan Development Team or do you want to keep it this simple, Bob?

MR. BEAL: I think as modified today captures the intent of -- all the discussions today here will be captured by the Plan Development Team.

MR. AUGUSTINE: Thank you, then that's it.

CHAIRMAN CONNELL: Okay, for this one we'll have about a 15 to 20 second caucus.

(Whereupon, a caucus was held.)

CHAIRMAN CONNELL: **Okay, all in favor, please raise your right hand; opposed; abstentions; null votes. The motion carries 14 to zero.**

Before we move along, I just want to say I did attend three meetings with the planning team and the technical committee, and their work was shown in the rapidity we were able to go with today and they did an excellent job. Our staff has done a fantastic job and my congratulations to Megan, great work.

#### **BOTTLENOSE DOLPHIN TRT UPDATE**

CHAIRMAN CONNELL: Moving right along, our Bottlenose Dolphin Take Reduction Team, Tina Berger is involved with that, and she's going to give a report on what's happening in that regard.

MS. TINA BERGER: Thank you, Mr. Chairman. I will be as brief as possible. The Bottlenose Dolphin Team, or the National Marine Fisheries Service convened five meetings of the Bottlenose Dolphin Team between November 2001 and April 2002.

That team submitted a consensus report to the National Marine Fisheries Service on May 7, 2002. This report included regulatory and non-regulatory recommendations for measures to protect bottlenose dolphin takes in primarily coastal gillnet fisheries.

The primary fisheries that were addressed were coastal gillnet fisheries off the coast of North Carolina and Virginia; and to a lesser extent, New Jersey south to the Virginia border.

The recommended regulatory measures generally seek to reduce soak times, reduce the amount of gear in the water, or change practices to limit interactions and take of bottlenose dolphins.

The management unit for the Atlantic coastal bottlenose dolphin populations was divided into eight distinct management units from north to south. The management units that were of greatest concern, when they looked at the bycatch of bottlenose dolphin in those areas, were North Carolina, what they call a mixed winter fishery which occurs from November to April; and to a lesser extent, the northern migratory unit from May to October, which is in the north, New Jersey to south.

There has been a lot of controversy in terms of the data that's available on the population of bottlenose dolphin, the Atlantic coastal population of bottlenose dolphin. The data that was used by the team was 1995 data. It was not a very strong survey.

There were a lot of problems with it. It came up with a very low estimate for bottlenose dolphin, and this drove the team to make conservative recommendations regarding fisheries.

The reason that I wanted to bring this to the board's attention is the fishery that was identified, or the gear and fishery that was identified as having the greatest impact on bottlenose dolphins was the spiny dogfish fishery, primarily off the coast of North Carolina.

From April 6, 1998, to February 22, 2000, there were four observed takes of bottlenose dolphin in spiny dogfish gear. This is primarily medium mesh five to seven inches. This take basically was ratcheted up to a bycatch estimate of 180 animals, and the estimated PBR for that same region was 23.

All the actions that were taken by the TRT were predicated upon the current federal spiny dogfish plan with its 4 million pound quota annually and the seasonal and regional allocations that are specified in the plan.

A specific statement was made by the Bottlenose Dolphin Team regarding the spiny dogfish fishery, and basically it said that any modification to season or quota allocations within the spiny dogfish fishery would basically be an area of great concern for the team, and they requested that they reconvene and address any changes that may occur to those allocation schemes.

So when we looked at the data and looked at the virtual

elimination of a directed fishery of spiny dogfish, particularly in North Carolina, it was estimated that they were able to reduce bycatch by nearly 70 percent by looking at the reduction in spiny dogfish landings.

So any change to that will change the recommendations that come out of the TRT. The deadline for plan submission was May 7th. The National Marine Fisheries Service has provided a schedule that basically said by August 7th NMFS would publish the proposed rule in the Federal Register.

By October 7th would be the deadline for public comment on the proposed rule. NMFS intends to publish the final rule by December 7, 2002, and was looking at the earliest effective date for plan implementation is January 2003.

Many of the regulations that were proposed as consensus recommendations for gear similar to spiny dogfish gear, again, the medium mesh five to seven inches, looked at either eliminating overnight soaks or creating something called a proximity rule which require in essence tending of the gear overnight.

The big concern is, again, long soaks and the increased level of interaction that occur with bottlenose dolphin. Megan has copies of the consensus recommendations here for anyone who would like a copy.

I would also be happy to e-mail you that, as well as the summary that I will complete writing up by the end of the week. I would be happy to answer any questions.

CHAIRMAN CONNELL: John Nelson.

MR. JOHN I. NELSON: It's probably a little late if they're already publishing the rules, but I'm just wondering did the team look at anything such as some type of acoustical devices on the nets like pingers.

We've used that up in the northern area fairly successfully for harbor porpoise, and I was just curious if there have been any studies on bottlenose porpoise?

MS. BERGER: As far as I know, the research that's available on bottlenose dolphin doesn't support any benefit gain from pingers. It's a little different than the harbor porpoise situation. They basically looked at gear mods to get at the issues of interactions.

CHAIRMAN CONNELL: David Pierce.

DR. PIERCE: Tina, I think you said that the team has indicated that perhaps one viable option to deal with this problem would be to have no overnight sets, just daytime gillnetting.

My understanding is that off of North Carolina they have fishermen that do that, and certainly in Massachusetts we require that. No night fishing is allowed with gillnets for dogfish. They catch their dogfish will gillnets with strike sets or, of course, by using another gear type.

It's quite good regarding not catching incidentally any dolphins and that's hooks, tub trawls. I don't know where this is leading us, but perhaps it will eventually lead North Carolina to have to respond to what seems to be an eventuality regarding how the federal government will fall out on this.

It will lead you to the requirement that North Carolina prohibits nighttime fishing with gillnets or with the intent to also send a signal to those individuals that they can also go with hooks, which is a very effective way of catching dogfish, and in Massachusetts that's the primary way that the dogfish are now landed.

Obviously, for us in Massachusetts, we were quite concerned about nighttime gillnetting for dogfish. That's why we prohibited bycatch of striped bass, bycatch of other species that might occur.

So it's certainly of interest to us to see that opinion, and now obviously we're going to have to respond as a group of states to what the federal government will likely do as a consequence of this opinion.

MS. BERGER: I would like to clarify that. I think there was significant at the TRT process regarding no overnight sets versus soak times, and the issue really looks at soak time and limiting soak time to under 24 hours.

The way that they chose to do it, at least for north of Cape Lookout to the Virginia border, was to recommend this proximity rule, which basically says that -- I mean, I can read it, but the intent is that fishermen are close enough to the gear that they are to haul it on a frequent, constant basis, particularly if they're out at night.

There was a recommendation for no overnight sets, for medium mesh gear south of Cape Lookout. I just wanted to clarify the focus is not so much nighttime as it soak time limits.

CHAIRMAN CONNELL: Any other questions about Take Reduction Team measures? David.

DR. PIERCE: I have a related question, but not to that specific issue; so if you would like to take additional questions, feel free.

CHAIRMAN CONNELL: Tina, thank you very much for your report. We appreciate it. Go ahead.

MS. BERGER: Does the board have any ideas on how they would want staff to proceed in terms of providing comment on the proposed rule, if that is the intention of the board, or whether the states would like to comment on it individually?

CHAIRMAN CONNELL: Board, you heard the question. Red.

MR. MUNDEN: Mr. Chairman, as Tina has pointed out, we were advised by the NMFS staff that they expected to put out a proposed rule in July, and they indicated there would be a 90-day public comment period on that proposed rule.

Dr. Bill Hogarth has assured the team that NMFS will hold public meetings during the 90-day comment period. Although the Marine Mammal Protection Act does not require public hearings or an opportunity for the public to come forward and make comments in a public forum, they expect you to provide comments on the proposed rule.

Dr. Hogarth has committed to a series of public hearings up and down the coast and we certainly want to hold him to that promise. So I encourage all the board members to keep your eyes open when the proposed rule does come out, read it closely.

We've made a very, very large number of far-reaching recommendations, but the team worked together very, very well. And, it appears to me that although a lot of fisheries will be impacted by the recommendations, we will not really focus on individual fisheries so much as the broad spectrum. I think what we've recommended will do a great deal to protect bottlenose dolphins.

CHAIRMAN CONNELL: Thank you. Dave.

DR. PIERCE: I understand that the Service recently implemented some closures, gillnet closures, off of North Carolina and Virginia with the intent to deal with its concerns about turtles and even harbor porpoises.

I don't recall the specifics of that action. Do you recall what those specifics are and are there any implications for the dogfish fishery off of Virginia and North Carolina?

MR. MUNDEN: Are you referring to the closure that's in place now?

DR. PIERCE: Yes.

MR. MUNDEN: NMFS closed the EEZ to gillnets 8 inches and larger, and that's the type of gillnet that's normally used for monkfish off North Carolina and north. They closed the waters from Oregon Inlet, North Carolina, all the way up to Chincoteague, Virginia, from the 16th of March until, I want to say, around the 15th of December through an interim emergency rule.

And that's out as a proposed rule now and I think public comments are accepted on that until the 16th of June, the 15th or 16th of June.

But this closure, it was a proactive measure actually suggested by fishermen from North Carolina to close areas in which the water temperatures were warm enough for sea turtles to be migrating through.

They felt like that by closing the areas, the fishermen could fish ahead of the warm bodies of water and the sea turtles. As things usually happen when you deal with agencies that you don't have a lot of control over, the closures were a lot broader and a lot more comprehensive than those that were recommended by the fishermen.

CHAIRMAN CONNELL: Thank you, Red. Tina, a comment?

MS. BERGER: I want to follow up to that. The TRT did spend a little time looking at the implications on gear modifications on sea turtles. And for large-mesh gear, they defined greater than 7 inches for north of Cape Lookout to Virginia border, that all gillnets with a mesh size of 7 inches or greater are prohibited from

fishing at night without tiedowns within state waters.

Once water temperatures are at or above the 52 Fahrenheit degree mark, as Red had stated earlier, gillnets with tiedowns would be prohibited from fishing within state waters. So they did try to address the sea turtle issue, particularly with gillnets and tiedowns.

CHAIRMAN CONNELL: Basically what Tina just asked us is do you want to deal with this within your individual state and/or would you like the board to be involved in providing any comment. Okay, hearing no discussion, we'll take it that you'll deal with it within your state.

### **2003 Spiny Dogfish Stock Assessment**

CHAIRMAN CONNELL: Okay, moving on the agenda, the next item is an action item. It's the 2003 spiny dogfish stock assessment. Megan, will you push us through that one?

MS. GAMBLE: Spiny dogfish is due to go through the SAW/SARC process in 2003. I think it's scheduled for the June SARC of next year. This board has never discussed which peer review process it would like to use for spiny dogfish.

It has two options. It could also use the SAW/SARC process or it could use an external ASMFC peer review process. So we need the board to decide which process it would like to use.

CHAIRMAN CONNELL: Bruce Freeman.

MR. FREEMAN: Thank you, Mr. Chairman. Red, when is the Mid-Atlantic Council scheduled to do the stock assessment? It just seems to me, Mr. Chairman, that this should be done together rather than have two separate stock assessments which may come up with different conclusions, but hopefully not.

But in order to save time and money and staff, if the federal stock assessment is scheduled for the same time, that it be done as a single entity and everybody be involved.

MS. GAMBLE: Bruce, just to answer your question, it is scheduled to go through the SAW/SARC process. The council will be doing a stock assessment for spiny dogfish, and it will be peer reviewed in June of 2003.

MR. FREEMAN: The peer review would be the federal peer review?

MS. GAMBLE: Yes.

MR. FREEMAN: Then it seems to me, from our standpoint, Mr. Chairman, that would be satisfactory. It's going to be done as a cooperative effort and there will be a peer review of that.

CHAIRMAN CONNELL: Do you want to frame that in the form of a motion, Bruce?

MR. FREEMAN: Well, I can. It would seem to me if there's no objection --

CHAIRMAN CONNELL: If you don't need to say anything, it will be put up there.

MR. FREEMAN: I know. There doesn't seem to be the need for a motion if there's no objection.

**CHAIRMAN CONNELL: Okay, then if there's no objection, we'll go in the direction that Bruce recommended through the SAW/SARC process.**

MS. GAMBLE: Just one other item on this topic. ASMFC has never gone through the stock assessment process for spiny dogfish, so we don't have a stock assessment subcommittee. The technical committee discussed this at their meeting and was only able to come up with three nominations, one being Steve Correia; another being Paul Rago, who has worked extensively on the stock assessment for spiny dogfish in the past, and the third being Alexei Sharov from the state of Maryland, who, just to be fair, was not there to defend himself.

But the technical committee really thought it would be appropriate to have another representative from a more southern state on that stock assessment subcommittee.

CHAIRMAN CONNELL: David.

DR. PIERCE: Since so much research has been done by North Carolina on dogfish in your waters and nearby, is there anyone from North Carolina who might be able to lend some southern expertise, some Mid-Atlantic expertise, to the stock assessment process?

You have a lot of data, I'm sure, from sea sampling and the like.

MR. MUNDEN: The individual that we would have recommended left our agency the first of May and has joined the Mid-Atlantic Council, Jim Armstrong, and so I'll talk with Dan Furlong and Rich Seagraves and see if we can come up with someone that would be willing to serve on the stock assessment committee.

CHAIRMAN CONNELL: Okay, thank you, Red. Certainly, we would encourage anyone who has a person that could fill this position for us to bring them forth as quickly as possible.

### **SCIENTIFIC RESEARCH/PUBLIC DISPLAY PERMITS FOR SHARKS**

CHAIRMAN CONNELL: The next item on the agenda, for those of you who recall, we did a fax survey a few months ago on scientific research/public display permits for sharks, and the results of the fax certainly made it clear to us that we needed to discuss this further. So I'll turn it over to Megan and we will discuss these scientific permits.

MS. GAMBLE: Display permits are back on the agenda today because we wanted to offer the board the opportunity to discuss the commission's involvement with this issue due to the number of states that did not respond to the fax poll.

Just to review where we've been with this issue, back in July of last year, the National Marine Fisheries Service hosted a workshop to address the issuance of permits for the capture of live sharks for display purposes.

That workshop developed a set of recommendations for the federal- exempted fishing permits, but they also discussed the development of a common quota for the east coast for each species and a centralized permit tracking system that would coordinate the number of permits issued for each species of coastal sharks.

In July of last year, after that meeting, the board received a short summary on this workshop, and the board deferred action until they received the report on the workshop and the LEC and the MSC had an opportunity to review the report and provide comments.

During the October meeting, the management board

again asked the LEC and the MSC to review this issue. The LEC and the MSC nominated three individuals from each of those two committees to discuss the issue and provide the board with a set of recommendations.

That was followed by a conference call that took place in December, and that conference call had members of the LEC, MSC, ASMFC staff, and the National Marine Fisheries Service participating on that conference call, and they developed a set of recommendations for the Spiny Dogfish and Coastal Shark Management Board.

That was followed by a fax poll that had a deadline of February 28<sup>th</sup>, earlier this year, and that fax poll did pass. There were nine states that voted in favor, there was one that was vehemently opposed to it, and there were six states that submitted no response at all.

Included in your briefing materials are some comments regarding the fax poll. Some of those comments are in favor, some were opposed. That suggested to staff that it would be worth the board's time to address this issue at this meeting.

So at this point, I just want to recap the recommendations from the conference call subcommittee and then I'll turn it over to the board to discuss the recommendations and the commission's involvement.

The first recommendation is that the commission should act as a facilitator. They would facilitate coastwide state participation. As a facilitator, the commission would create a work group that is charged with studying the problems and issues related to the shark permitting in each state, as well as coordinating the issuance of shark permits between state and federal waters.

The work group will provide the Spiny Dogfish and Coastal Shark Management Board with a proposal that may require further action. Until that time, the board has only approved the creation of this work group and its charge.

First of all, that work group would consist of about 11 members. We're hoping that it would be some of those members from the New England region, the Mid-Atlantic region, and the South Atlantic region.

We're hoping for three state representatives involved

with permitting in those states, three representatives from the Law Enforcement Committee, three members of the MSC, one National Marine Fisheries Service Highly Migratory Species representative, as well as one federal law enforcement representative.

And the charge for that work group is to provide the board with a proposal that includes a course of action for coordinating state and federal permits for the scientific research and public display of coastal sharks.

The proposal would also provide consensus on the data requirements for a central tracking permit system, and this would require a review of federal and all state permitting regulations, reviewing sample permits from the states, as well as the permit application from each state in order to create consistency across the state jurisdictions.

The work group was also charged with recommending the use of National Marine Fisheries Service issued pit tags for all sharks caught in state and federal waters to facilitate the tracking of sharks caught under a state or a federal permit.

The last recommendation was to task the Law Enforcement Committee with the collection of federal and state regulations for permitting, harvesting, possession, transportation, and gear specifications for the collection of coastal sharks for scientific research and public display.

We also want the LEC to collect an example of each state's permit application as well as the federal-exempted fishing permit application, a sample permit from each state, and a federal EFP, and then finally the ACCSP permit guidelines.

I would just like to remind the board that this is being brought before you at the request of the National Marine Fisheries Service, who wanted to know if the commission would like to be involved with the centralized permit tracking system.

NMFS will be moving forward with the proposed rulemaking at some time in the near future, and it's our understanding that NMFS will be taking the lead on this issue with developing and maintaining a centralized permit tracking database.

CHAIRMAN CONNELL: Okay, any questions?

Anybody like to comment on what we've done so far? I know we did receive a letter from one state that expressed some concerns. Did you want to discuss that, Bruce, at this point?

MR. FREEMAN: Just let me make a few comments. One, we were one of the states involved originally working with the Service to try to overcome some problems.

I think the issue, for those who are not aware of it, is that a number of collectors are essentially making requests for fairly substantial numbers of sharks, which are being caught with the expectation that they could sell these on the world market.

Some of these sharks are worth up to \$10,000 apiece simply for display. In the past, some of these people have had orders from various aquariums and display locations.

But it's gotten to the point now where some of these people essentially go out and collect sharks and then see if they can pawn them off at a relatively large profit. In the process of catching the sharks, there's often other sharks which are killed accidentally.

In some instances, sharks are caught and kept, and then they can't find a buyer for these and are released back into the environment, sometimes considerably long after the sharks normally would migrate away from the area, and there's some question what the mortality is.

But this issue is becoming quite complicated. I know the state of Florida has many more problems because of this issue of collecting not just sharks, but other animals. So we saw the need to do two things.

One is to come up with a centralized system in order to avoid the problem of states issuing permits for 20 or 30 sharks, and then some of these collectors going to the federal agency and get another 20 or 30 permits to collect in federal waters, and so no one was really certain of how many sharks were being taken either in state or federal waters.

So there needs to be some centralized repository of who is doing what and where. There have been some very responsible people using these sharks and have come up with some very good suggestions on how they're handled, how they're cared for, reporting requirements,

and then there's others who essentially don't want any requirements. There's a great variety of what people want or desire.

We certainly see the need for such a system and that was really the basis of the fax poll. The issue of the letter I wrote to John was one aspect we saw was notification with enforcement. One is to notify both state and federal enforcement agents in the area where collections may occur, that they be notified prior to capture.

Often times you'll get calls, your enforcement people, that someone has an illegal type of net collecting something. We respond to it or your enforcement people respond to it only to find that they have a collecting permit, but no one made them aware that the collection would go on.

So in order to avoid unnecessary waste of time by enforcement, that they be notified prior to capture. And also the issue of transportation, some states now are becoming major repositories for a number of sharks, and they're being moved to airline terminals and flown to other parts of the world or trucked to different states.

The enforcement people need to be made aware of when those actions take place. And in the poll, although we had agreement with the Service and the states that attended this meeting, I didn't see any mention of that in the protocol, and I think that's important.

The other issue that concerned us was actually the number of sharks that are taken, so called, under the scientific permits. It's our understanding that the federal agency has about 60 metric tons that they can allow to be taken on an annual basis for public display and scientific purposes.

But, quite frankly, what disturbs us, a number of sharks which are prohibited, that cannot be taken by recreational and commercial fishermen, permits are being given to take relatively substantial numbers of these; and the question is, well, if they can't be taken by the commercial or recreational fishermen, how come they can be taken by others for a profit?

And so our request was to try to come up with some determination by the agency to determine how many sharks of various species that are protected can be taken

on an annual basis without affecting the population; and then whatever that number is, let's make sure that is not exceeded. At the present time, that doesn't exist.

The other point is that the numbers of applications, particularly to the Service, is substantial. Anybody who thinks they have an opportunity to take a shark will file a request, and I believe sometimes they may number in thousands of sharks, of which maybe only several hundred are taken in the course of a year, and people simply do it as a placeholder.

In our opinion, this whole issue of collection of sharks, particularly sand tiger sharks, needs to be controlled more so than what we had in the past. That was really the reason for my letter, John, to you, just to clarify some issues that we noticed were missing from the protocol.

CHAIRMAN CONNELL: Thank you, Bruce. Wayne Lee.

MR. WAYNE LEE: Thank you, Mr. Chairman. I would just like to support what Bruce said. I represented the South Atlantic Council at HMS and Billfish AP meeting about a month ago, and this issue was raised as an issue of concern there, with apparently some abuse going on in certain regions of the country.

I'm not precisely sure where that was, but there was also another aspect to it, and that is that the species being collected come out of the commercial quota, and there's some problems and issues with accountability and how that's done and who handles that.

But it was raised as a fairly serious issue, and a lot of things that Bruce said were some of the issues that were raised at the HMS and Billfish AP.

CHAIRMAN CONNELL: Thank you, Wayne. Basically what we're interested in knowing today -- we've started moving into this project. Do you want this to continue?

If we have a general understanding that you would prefer this to continue, we would certainly appreciate any additional input such that we've heard from Bruce and Wayne today. Obviously, this is new, it's going through growing pains. It's going to require some coordination and revision as we go along. David.

MR. DAVID CUPKA: Thank you, Mr. Chairman. I was at the same meeting Wayne was at, and indeed it did come up, but I think even prior to that, several of us were concerned about that, and I would like to urge us to move ahead on developing something like this.

I think there are some real opportunities there for people to take advantage of the system with some of these species that we don't have a lot of information on or we're trying to protect, and it's going to take a little while to get up and running.

But I think it's just a matter of the states that are already issuing permits now, they would continue to issue their own permits, but somewhere we've got to compile all that information and get a better handle on just what is actually being taken out of the system.

I would urge us to move ahead and continue to look into this and try and establish a coordinated permitting tracking system.

CHAIRMAN CONNELL: Megan.

MS. GAMBLE: As long as the board is comfortable with moving forward and creating this work group and charging them with the charge that is laid out in those recommendations, staff would just like some nominations for state reps, preferably from the three different regions that are involved with permitting in those states and that can provide that input to this work group.

CHAIRMAN CONNELL: Bruce.

MR. FREEMAN: One other aspect that may be helpful, we've just recently, New Jersey, met with our state aquarium people, who are very much interested in acquiring one or two sharks for the display tank.

In meeting with them, they belong to what is called the American Zoological Association, which has very stringent regulations on how these are taken, how they're cared for, how they're accounted for.

They actually, as many other animals in the zoos and the aquariums, are tracked throughout their life so they can tell where any shark happens to be or any other animal.

One other thing we're finding is now because of the

increased competitions between aquariums become so popular, that we'll probably start to see aquariums and zoos become blended to have a mix of both land animals and aquatic animals.

And as this occurs, you're going to see more requests to take more of these animals, but it may be worthwhile to bring in that organization. They indicated they would be happy to work with us, to share with us their standards, and perhaps that would be something that we could ask the states to adopt. It may be very useful.

CHAIRMAN CONNELL: Thank you, Bruce. Charlie.

MR. CHARLES A. LESSER: We strongly endorse it too because I think we were one of the first states to realize that not only were we issuing scientific collecting permits, but New Jersey was issuing to the same branch, and we finally had two collectors fighting over who could collect the most sharks in Florida, in Delaware Bay, and it got to be unreal.

But I would also like to see them delve into a definition of what constitutes scientific. With the proliferation of aquariums nowadays, everybody thinks they're educating the public.

The bottom line is the dollar for an admission fee and education is just the excuse to collect more sharks. So I think that should be strictly defined, what constitutes a scientific specimen and the terms of the aquarium's use of it versus just an exhibit.

CHAIRMAN CONNELL: Thank you, Charlie. So basically what we're looking for is some recommendations from you, not today, but hopefully we can get one person out of each region to be part of the panel and then we can move ahead. When you get an opportunity, I would appreciate you submitting that information to Megan.

Okay, we've got two other items. We did pass to move ahead with the draft amendment today, and we will be going out to public hearings. I will reiterate the staff worked very hard on this and they worked hard on it for one major reason.

We want to maintain the time line. The time line, I will alert you now. The time line is to have public hearings in June and July. We will be trying to get as much information about the draft and the modifications we

made.

I would like you to begin considering your planning if you're interested in having a meeting. Again, communicate that with Megan so that we can coordinate with scheduling.

### **ELECTION OF VICE CHAIR**

Okay, last, but not least, elect a vice chairman. Do we have any nominations? Bruce Freeman.

MR. FREEMAN: Thank you, Mr. Chairman. I have a motion here. I move to nominate Red Munden as the vice chair to the Spiny Dogfish Management Board.

CHAIRMAN CONNELL: Thank you, Mr. Freeman. I also have a second from David Borden, and I know that Pat also wants to make a comment.

MR. AUGUSTINE: Thank you, Mr. Chairman, we did it again. Move to close the nominations and thank you, Red, you've been elected. Cast one vote, please.

CHAIRMAN CONNELL: Very good. Mr. Munden, congratulations, glad to have you on board. Just for your information, we would also like to find a technical committee vice chair. If you have within your state anybody you could recommend, again, bring that information forward to Megan.

### **OTHER BUSINESS/ADJOURN**

CHAIRMAN CONNELL: Is there any other business to be brought forth to this board at this time? Okay, since I'm not going to take any objections to adjourning, I'm declaring the meeting adjourned.

(Whereupon, the meeting adjourned at 5:30 o'clock p.m., May 21, 2002.)

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