

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

**Crowne Plaza Hotel - Old Town
Alexandria, Virginia
May 3, 2012**

Approved August 2012

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1. **Approval of agenda by consent** (Page 1).
2. **Approval of proceedings of February 9, 2012 by consent** (Page 1).
3. **Move that the board approve Massachusetts' request for de minimis status for Atlantic Coastal Sharks specific to the Commonwealth being exempt from closures to the non-sandbar large coastal shark commercial fishery** (Page 3). Motion by David Pierce; second by Steve Heins. Motion carried (Page 3).
4. **Move that the board reconsider the 30 million pound quota and adopt the federal proposed 35.694 million pound quota** (Page 4). Motion by David Pierce; second by Louis Daniel. Motion carried (Page 7).
5. **Move to include an option under Issue 2 that the board may change F threshold through board action following updates to the peer-reviewed science determining the overfishing threshold** (Page 12). Motion by Doug Grout; second by Bill Adler. Motion carried (Page 15).
6. **Move to include only Option A and Option B under Issue 3 in the draft addendum** (Page 15). Motion by Doug Grout; second by Steve Heins. Motion carried (Page 15).
7. **Motion to accept the addendum as amended for public comment** (Page 16). Motion by Tom O'Connell; second by Terry Stockwell. Motion carried (Page 17).
8. **Motion to adjourn by consent** (Page 17).

ATTENDANCE

Board Members

Terry Stockwell, ME, proxy for P. Keliher (AA)	Stewart Michels, MD, Administrative proxy
Steve Train, ME (GA)	Tom O'Connell, MD (AA)
Doug Grout, NH (AA)	Bill Goldsborough, MD (GA)
Dennis Abbott, NH, proxy for Rep. Watters (LA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
David Pierce, MA, proxy for P. Diodati (AA)	Jack Travelstead, VA (AA)
Rep. Sarah Peake, MA (LA)	Kyle Schick, VA, proxy for Sen. Stuart (LA)
William Adler, MA (GA)	Louis Daniel, NC (AA)
Rick Bellavance, RI, proxy for Rep. Martin (LA)	Mel Bell, SC, proxy for R. Boyles (LA)
Steve Heins, NY, proxy for J. Gilmore (AA)	Malcolm Rhodes, SC (GA)
Tom Fote, NJ (GA)	Spud Woodward, GA (AA)
Peter Himchak, NJ, proxy for D. Chanda (AA)	John Duren, GA (GA)
Adam Nowalsky, NJ, proxy for Asm. Albano (LA)	Aaron Podey, FL (AA)
Roy Miller, DE (GA)	Wilson Laney, USFWS
David Saveikis, MD (AA)	Bob Ross, NMFS

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

Ex-Officio Members

Staff

Vince O'Shea
Bob Beal

Mike Waine
Christopher Vonderweidt

Guests

Cheri Patterson, NH F & G

Rob O'Reilly, VMRC

The Spiny Dogfish and Coastal Shark Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel, Alexandria, Virginia, May 3, 2012, and was called to order at 8:40 o'clock a.m. by Chairman David Simpson.

CALL TO ORDER

CHAIRMAN DAVID SIMPSON: We'll get started with the Spiny Dogfish and Coastal Sharks Management Board. Welcome, everyone. My name is Dave Simpson. Chris Vonderweidt is my trusty right-man in this job.

APPROVAL OF AGENDA

CHAIRMAN SIMPSON: The first item on the agenda is to approve the agenda. Are there any additions or changes? Brian.

MR. BRIAN CULHANE: Tom Fote isn't here but he brought this up yesterday at the Policy Board yesterday. Do you want to take this, Tom?

MR. THOMAS FOTE: I think the other Tom on the other side could also talk about that because he sent me a nice report after I basically talked about this yesterday. What is going is the Humane Society and the Shark Institute are basically going up and down the coast trying to basically prevent the sale of shark fins whether they are legally caught or not.

I think if a fish is legally harvested, that all parts of that fish should be used. Just as we could use for reduction, just as we could use for anything else, there is no sense – it would be like telling me that if I had a cow that was slaughtered, that if somebody didn't think it was good to use the tongue or if I'm Greek and I have goat that is slaughtered and I want to eat the eyeballs, that should be up to me as long as you're using all the parts of the body.

If a shark is legally harvested, then the fins should be allowed to be sold. Plus, it is so important ethically for certain populations, it is part of their tradition of basically eating shark fin soup, which I've had occasionally, but I can't afford it because it gets so expensive. We should basically look at a white paper to help when this comes into our states to ban a legal fishery in that state.

Now, maybe what they use are the films from Malaysia where those guys are basically finning sharks and throwing them out. You know, it's like we did with dolphin-free tuna and things like that. Maybe we should basically say that only legally caught shark fins that are processed in the way that we say in the United States, according to our regulations, should be sold.

I don't want to go there because I don't know what will happen. We need to be in front of the curve on this. Of course, they go to one state and say, well, Maryland is doing it and they go to the next state, well, New Jersey is doing it. I'm meeting with the two legislators that sponsored this bill, and it would be helpful if I had the law enforcement or the federal regulations about how they are affected and how they're basically marked, how they have to approve the sale and everything else in my hands when I go to the legislators. That what I was asking the committee to do. I don't know if Tom wants to add to that.

MR. THOMAS O'CONNELL: We just dealt with the same issue and I've spoken to a few of the board members who are dealing with it as well. I just think that it would be best for this commission to clearly understand the problem and I think working together with law enforcement and the National Marine Fisheries Service and if there is a clear problem, I think this body would be best suited to develop the best solution to not have such a negative impact to our legal harvesters which these bills would have. Maybe a small workgroup of this board could work on that between now and the August meeting.

CHAIRMAN SIMPSON: Okay, that makes sense. I think we've covered it pretty well already rather than adding it to the agenda. If you want to tap a few people and anyone who is interested, talk to Tom or Tom and we'll put it on the August agenda to discuss. That will give you a few months to develop some details and give us something to really think about doing. Pete.

MR. PETER HIMCHAK: Different issue; under other business I'd like to bring up a request specific to removing the first dorsal fin on smooth dogfish. I have a course of action that I'd recommend to the board, so we can save that until later.

CHAIRMAN SIMPSON: All right, thanks, Pete, we'll do that. Anything else for the agenda? Okay, we need to approve the proceedings from the February meeting. Are there any issues or objection to approving those? Seeing none, we go to public comment. Was there anyone who signed up for public comment? Is there any public comment on items not on the agenda? Seeing none, we election of the vice-chair. Do we have any nominations for vice-chair? Doug.

ELECTION OF VICE-CHAIRMAN

MR. DOUGLAS GROUT: **I would like to nominate Mark Gibson for vice-chair.**

CHAIRMAN SIMPSON: Do we have a second? Pat is not here so somebody is going to have to step up. Bill Adler seconds. **Without objection**, thank you, Mark.

DISCUSSION OF MASSACHUSETTS COASTAL SHARKS DE MINIMIS REQUEST

CHAIRMAN SIMPSON: The next agenda item is consider Massachusetts de minimis request. Chris.

MR. CHRISTOPHER VONDERWEIDT: Greg Skomal, the Coastal Shark Technical Committee Chair, couldn't be here today because he is at the ICCAT Advisory Panel Meeting. Actually in the past, because he is from the state of Massachusetts, he usually defers on giving these reports. I'm going to give the report, but I think it's pretty straightforward and not very contentious, so hopefully that suffices.

For the Massachusetts proposal, simply put it just requests an exemption from the non-sandbar large coastal shark closure provision. Essentially Massachusetts would never have to close their state waters for large coastal sharks, and I'll get into it a little bit more detail in a minute. For the history of de minimis in the state of Massachusetts, the board has previously approved a de minimis proposal which exempted them from the large coastal shark possession limit.

Each year the board will specify a possession limit for each species group. They're not required to and they've only specified it for large

coastal sharks. Following kind of the same logic as this proposal, which I'll get into, the technical committee and the plan review team recommended the board approve it and the board approved it unanimously. The de minimis requirements of the FMP are that there is no specific exemptions given from, let's say, monitoring requirements. There are no monitoring requirements or regulations because sharks are very massive and the quotas are small so potentially even taking one shark could undermine the plan.

Basically, the process is that they're evaluated – a state brings forth a de minimis proposal and they're evaluated whether or not implementation of a regulation is necessary for obtainment of the FMP's objectives and conservation of the resource. The established process is that the plan review team and the technical committee must both review the proposals and then present their recommendations to the management board and the management board has final say.

The goal of the Interstate FMP and actually the objectives – there is a report on the CD – the objectives are listed out in the report and I won't read through all those, but essentially to achieve the goals the following objectives are listed. The main goal is to promote stock rebuilding and management of the coastal shark fishery in a manner that is biologically, economically, socially and ecologically sound.

Specifically, the large coastal shark closure regulation is contained in Section 4.3.4, quota specification of the Interstate FMP. It reads the Spiny Dogfish and Coastal Shark Board will not actively set quotas for any species contained in the SCS, non-sandbar LCS or pelagic species groups but will set a closure for any species in these groups when NOAA Fisheries closes the fishery in federal waters.

Essentially that allows us to not have to specify quotas every year. However, the TC does review the federal quotas and reports back to the board each year. Getting into more detail of the Massachusetts request, the request hinges on the fact that non-sandbar large coastal sharks are rarely found in Massachusetts state waters.

The large coastal shark species group consists of silky, tiger, blacktip, spinner, bull, lemon, nurse, scalloped hammerhead, great hammerhead and smooth hammerhead shark. There is no active

fishery in Massachusetts state waters from 1950-2009, so essentially the last 60 years. There was only 4 pounds of nurse shark, 14 pounds of tiger shark and 414 pounds of blacktip shark that have been reported landed in Massachusetts.

The proposal says that this is an unnecessary regulatory burden to have to open and close their fishery each year. They've also implemented all the other measures in the FMP with the exception of the LCS possession limit. Following the technical committee and plan review team conference call, the groups unanimously recommend the approval of this de minimis request for Massachusetts.

They agree that the closure is unnecessary in Massachusetts state waters for attainment of the FMP's objectives and conservation of the resource. There are no LCS in Massachusetts state waters. Members of the TC felt that the landings that were reported, the 4 pounds, the 14 pounds, are likely misidentified other species which are prohibited at this point, anyway.

They just made one clarification to the Massachusetts proposal that said that because dealers are required to have a federal permit, as a result they wouldn't need to close the fishery because dealers wouldn't be able to buy those sharks. However, dealers can buy sharks as long as they're caught following the regulations of each state's in-state waters, but it didn't cause them to not recommend the proposal. It was just one point of clarification that they made. That concludes the report. Thank you.

CHAIRMAN SIMPSON: Any comments or questions for Chris? David.

DR. DAVID PIERCE: Chris covered it very well. The Commonwealth's request is detailed in the letter that all board members have, the February 3rd letter from Paul to Chris describing the nature of the request and the reasons for the exemptions. Of course, it has been reviewed now and we have the recommendation.

By the way, Paul Diodati is not here and he won't be here this afternoon either because he had a death in family, so he had to leave yesterday which is why he wasn't at the Policy Board. I just wanted to let you know that's his situation. That's the request. **I would make a motion that the board approve Massachusetts' request for de minimis status**

for Atlantic Coastal Sharks specific to the Commonwealth being exempt from closures to the non-sandbar large coastal shark commercial fishery.

CHAIRMAN SIMPSON: Okay, thanks. I have Steve Heins for a second. Any discussion while they get that motion up on the board? Any questions for Dr. Pierce? Seeing none, is there any objection to this motion? **Seeing none, it's approved.**

PRELIMINARY 2012/2013 SPINY DOGFISH QUOTAS

CHAIRMAN SIMPSON: Okay, the next item is the preliminary 2012/2013 spiny dogfish quotas. Chris.

MR. VONDERWEIDT: Right now staff is handing out a memo with preliminary quotas based on a 30 million pound annual quota, and it's also on the board. A similar memo was sent out last week. However, the memo did not take into account a quota transfer between Delaware and Maryland. I just want to clarify that Maryland has landings left over.

When I pulled the numbers for this memo, it was I think the 27th of April, and I pulled the numbers yesterday – this memo was printed out earlier, but at this point I think Maryland is closer to an underage of around 13,000 pounds. The landings are constantly updated and we'll get final quotas out there. I just wanted to highlight that. Thank you.

UPDATE OF 2012/2013 FEDERAL QUOTA AND POSSESSION LIMITS

CHAIRMAN SIMPSON: Any questions on that? Running into that is the 2013 proposed for the federal quota and possession limits. I think they published 35.6 million pounds, which the two councils had recommended and a 3,000 pound trip limit. That's a little bit different than we had done. I believe we had approved 3,000 pounds but it was a 30 million pound quota that we have and that we already approved. Was that two meets ago, the last meeting?

MR. VONDERWEIDT: Yes, November.

CHAIRMAN SIMPSON: Yes, back in November. Any discussion on this? David.

DR. PIERCE: At our last board meeting we did talk about the ASMFC quota and what the federal government might implement. At the time we did not know. The Service had not yet proposed anything and now there has been a chance. The National Marine Fisheries Service has proposed the 35.694 million pound quota and that 3,000 pound trip limit. Obviously, it is not a final rule.

It's a proposed rule, but they're following up on both councils' decision to go with the 35.694 million pounds. You all have a letter before you now that was sent to Vince from the Chair of the New England Council. At our last meeting the decision was made by the council to send a letter to this commission asking for the commission to increase the 30 million pound quota that we adopted last year; to increase it up to the 35.694 million pounds.

The logic for that specific request is shown in the second paragraph in that letter to Vince. I'll just note what he says. They're asking us, the New England Council – and by the way I didn't make this motion, I don't think. Anyway, it said that the New England Council voted to submit a request to the commission to reconsider the spiny dogfish quota to avoid a misalignment between the federal and state quotas.

Having a commission quota that is consistent with the federal quota will enable fishermen operating in federal waters to land the full quantity of the quota. Then he goes on to say – and actually Paul Howard, the executive director, was quite insistent on this – “As you know, Section 306B of the Magnuson-Stevens Act addresses potential secretarial action in regard to inconsistent state and federal management plans. As such, the council asked the commission to reconsider its spiny dogfish quota at its May 1 meeting and to approve a new quota that is consistent with the proposed federal quota.”

So with that said and with this correspondence – and there is also additional correspondence on the disk. I believe there is a letter from the fixed gear sector in Chatham requesting that the commission also reconsider. **I would make a motion that this board reconsider the 30 million pound quota and adopt the federal proposed 35.694 million pound quota.**

CHAIRMAN SIMPSON: I have a second from Dr. Daniel for the record. Discussion? Pete.

MR. HIMCHAK: Mr. Chairman, I fully support the motion, but I have a question regarding – well, I guess we need a parliamentarian to answer this one. In November we voted for a 30 million pound quota. In February we voted to change the quota. We got a majority but not a two-thirds majority to go to the higher quota and now can we vote again on a quota?

CHAIRMAN SIMPSON: Dennis, you're our official parliamentarian; do you see a problem with that? Well, I'll answer it, taking the Chair's prerogative; yes, I think it can be brought up again. It just simply needs a two-thirds majority to override previous board action. Given the importance of the issue, we have an inconsistency between management plans here. I think that's taken care of. I had Mark next.

MR. MARK GIBSON: Mr. Chairman, I support the motion. As you see later in the agenda, I wanted to have a brief discussion about some of the difficulties we're having in extending the fishery throughout the federal fishing year and thereby missing some opportunities particularly in Rhode Island – I don't know about other states – in the late calendar year, early in the new year to access dogfish. We support pushing the number up to the proposed federal rule number because it may alleviate the problem that we're dealing with and render that issue moot.

MR. DENNIS ABBOTT: Mr. Chairman, I'm going to have trouble supporting this motion. I've been here a while and Bill Adler has told me we shouldn't always be rolling over and doing what the feds want us to do. I don't know if this is going to be okay with Bill Adler.

MR. GROUT: Mr. Chairman, when we made our decision in November, I was one that was strongly supporting the 30 million pound quota. My reasons were twofold; one, we had some information or some comment from some of our dealers that having the size of the increase that the councils were proposing may affect markets, and they were concerned about that.

Bur more importantly to me, the 30 million pound quota represented already a 50 percent increase. If we stayed at a 30 million quota, based on Paul Rago's projections, in the out years, two or three years down the road we would end up with a potentially higher quota than if we went to the 35.6 million.

I felt it was better since we were already getting a 50 percent increase in the quota to have more available in the out years, and I still feel that even more strongly now that that would be a prudent way to go because we have a groundfish fishery that potentially could be collapsed and in an emergency situation within the next two years.

They're clearly going to be looking for some alternative resources to harvest. However, saying that, clearly, with both councils recommending the higher quota and now the National Marine Fisheries Service is proposing the higher quota, it is more than likely prudent that we should be consistent at this particular point in time, although I think it's being pennywise and pound foolish here. Thank you.

MR. TERRY STOCKWELL: I fully support the motion on the board and syncing up the commission's quota with that of the councils and the Fisheries Service. With all respect to Doug's approach to saving more dogfish for later, there is an overabundance of dogfish and I think industry deserves the opportunities now.

MR. JACK TRAVELSTEAD: Mr. Chairman, I too earlier supported the 30 million pound quota mostly because of what we heard from some industry members that there might be trouble marketing the fish or processing the larger quantity, but I am now persuaded that we can safely go to 35.6 million pounds. I don't think it will have any damaging impact on the stock. I am persuaded that the consistency between us and the feds is more important than the other issues that were raised earlier, so I will support the motion. Thank you.

DR. LOUIS DANIEL: I'll support the motion as well, but I guess the point I would bring up, just not to be repetitive from what Jack just said, would be the difficulty not approving this motion is going to have on the states because we're going to have six million pounds out there that we can harvest.

Some of us are going to be encouraged to go out of compliance with the ASMFC plan to harvest those six million pounds of fish. You're going to be able to find us out of compliance because NMFS has already said 35.6 million pounds as an appropriate harvest cap, so they're not going to find us out of compliance for catching those fish. It's going to create a real problem for us if

we're unable to match the quotas to 35.6. Thank you.

DR. WILSON LANEY: Mr. Chairman, I think Doug made the point that I was going to make. I'll vote against the motion for biological reasons because despite the fact that, as Terry noted, there are a lot of dogfish out there, there is still a gap in the age structure due to the seven years of essentially non-reproductive success that we got and we're going to have to pay for that at some point in the future. I think we had that discussion before, so I'll vote against the motion for biological reasons. I certainly understand all the management implications and problems that it creates to have differing quotas, and I understand that point, but I'm going to vote for the fish.

MR. HIMCHAK: Just a different spin on the topic; if we left 5.6 million pounds of dogfish in the ocean and 1.4 million from the – there is an overharvest in the northern region, I think the recreational community would be somewhat outraged to know that there are 7 million pounds of dogfish out there that could have been harvested.

CHAIRMAN SIMPSON: Thanks for that perspective. Bill Adler.

MR. WILLIAM A. ADLER: There are plenty of fish out there, plenty of fish and I support the opportunity for the fishermen to be able to harvest them. I do agree with the controversy between – if you have a federal and a state and they're different, as far as the feds, rolling over to the feds, maybe this is the first time they did something right.

I'm going to remind them if it comes up again that we did this and we want them to reciprocate on another issue at another time, so remember us. I do support this because it's good for our fishermen. It also shows the fishermen that we don't always take things away, which we hear a lot of complaints that they take, they take, they take.

Well, being able to give back shows that we will give back when things get better. This is another opportunity to show that I am concerned somewhat – although there is plenty of fish, I am a little bit concerned that if something turns bad and then we have to go backwards, that's not going to look good, but right now they're

overrunning the ocean and I think it's a good thing. It also takes a predator – brings down the predator thing which will help other fish. Thank you.

MR. RICHARD BELLAVANCE, JR.: Mr. Chairman, my comments are going to Pete Himchak's in regards to the support of the recreational community in harvesting as many dogfish as possible. I know there is tremendous support from that community.

MR. BOB ROSS: Initially NMFS also had supported the 30 million pound quota. Since then, as David Pierce indicated, both councils had provided their recommendations. Since then NMFS in mid-March came out with their proposed rule on this issue and also supported the higher quota and the 3,000 pound trip limit.

Those public comments closed on April 18th. At this point we are still in rulemaking. There is no final rule. As a result of that, I'll have to abstain on this vote, but NMFS will not oppose any efforts to align the proposed federal quota – align the commission with the federal quota. On this issue, I believe it is also important to note that given the timing of our final rule – we expect it to come out late this month – it will become effective most likely some time in mid to late June.

Obviously, the fishing year begins May 1, which means that we are at this time without a federal quota and will not have an overall federal cap until our final rule becomes effective. However, on the same note our daily trip limits are codified and they will roll over May 1st, so even though there is no maximum quota, there is a cap to federal license holders of the 3,000 pounds. Thank you.

DR. DANIEL: I just wanted to ask for a roll call vote.

CHAIRMAN SIMPSON: Okay. I think we've had quite a bit of comment. There were a couple of people in the audience who wanted to speak to this. Yes.

MR. RAYMOND KANE: Mr. Chairman, Raymond Kane, commercial fisherman my entire life, Massachusetts. I have a short statement I'd like to read to the commission. While many of the New England fishermen would have enjoyed being here to speak strongly in support of the

increase, May 1st is the start of the new fishing year.

This increase is sustainable and necessary to help the small boat fleet that depends on this fishery in the face of cuts to other commercial stocks. The truth be told the fishery needs these additional opportunities this year. The ecosystem needs increased sustainable dogfish harvest to allow for the necessary installed rebuilding of depleted groundfish stocks.

I'd like to thank the commission and I urge that you vote this up, the number that Dr. Pierce has proposed. Also going back to the fishermen from Massachusetts, we are science-based management and we'd like to see consistency between this commission, the councils and the National Marine Fisheries. Thank you very much.

MR. JOHN WHITESIDE: My name is John Whiteside. I'm an attorney from New Bedford, Massachusetts, and I represent the Sustainable Fisheries Association, a collection of processors of spiny dogfish. A number of months ago I was before you and at that time I did argue for the 30 million pound limit.

Since then, the National Marine Fisheries Service has published the rule that is currently out there at the 35.694 million pounds based on the best available science. I'm also aware of ongoing studies which have yet to be peer reviewed but the preliminary data from that suggests that there is a significant population that has not been counted in this.

We believe at this point that going to the higher rate of the 35.694 million pounds is the best course of action. As far as the comments that were made regarding not being able to find markets for the fish, I think that would be in a good position to be in where we would have additional quota that would last throughout the year. That's where we stand on this. Thank you very much.

CHAIRMAN SIMPSON: Why don't we take a moment to caucus? It is going to be a roll call vote as Louis requested. Since it requires a two-thirds majority, that's 11 affirmative votes that we would need to reconsider this quota.

(Whereupon, a caucus was held.)

CHAIRMAN SIMPSON: Is everyone ready for the vote? I'm going to ask Chris to go through the roll call.

MR. VONDERWEIDT: Maine.

MAINE: Yes.

MR. VONDERWEIDT: New Hampshire.

NEW HAMPSHIRE: Yes.

MR. VONDERWEIDT: Massachusetts.

MASSACHUSETTS: Yes.

MR. VONDERWEIDT: Rhode Island.

RHODE ISLAND: Yes.

MR. VONDERWEIDT: Connecticut.

CONNECTICUT: Yes.

MR. VONDERWEIDT: New York.

NEW YORK: Yes.

MR. VONDERWEIDT: New Jersey.

NEW JERSEY: Yes.

MR. VONDERWEIDT: Delaware.

DELAWARE: Yes.

MR. VONDERWEIDT: Maryland.

MARYLAND: Yes.

MR. VONDERWEIDT: Virginia.

VIRGINIA: Yes.

MR. VONDERWEIDT: North Carolina.

NORTH CAROLINA: Yes.

MR. VONDERWEIDT: South Carolina.

SOUTH CAROLINA: Yes.

MR. VONDERWEIDT: Georgia.

GEORGIA: Yes.

MR. VONDERWEIDT: Florida.

FLORIDA: Yes.

MR. VONDERWEIDT: Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: No.

MR. VONDERWEIDT: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: Abstain.

CHAIRMAN SIMPSON: I had 14 in favor, 1 opposed, and 1 abstention, **so the motion to reconsider passes**. Then we need to vote on that quota, right? This is a motion to reconsider to change the quota, so does anyone want to make a

—

MR. VONDERWEIDT: No, it passes; it's 35.694 million pounds.

DISCUSSION OF NORTHERN REGION STATE SHARES

CHAIRMAN SIMPSON: And adopt; all right, thanks, so we're done. The next item on the agenda is to discuss the northern region state shares. Mark, you alluded to this earlier; this is your agenda item.

MR. GIBSON: Yes, I spoke briefly earlier. I don't think we need to initiate an action today. What we're looking to do, as I said earlier, is simply extend the fishery further into the year. It has been closing I think in September, and perhaps the action we have just taken will render that issue moot.

We've had some discussions with the northern region states and on some ideas about how we might — if the increase in quota itself doesn't take care of the problem, how we might carve out some fish for later in the year; perhaps a set-aside I think is what Terry has talked about. In speaking with Dr. Pierce this morning, it seems there is an opportunity for the northern states to get together and have a discussion about this and see, first of all, if we think we still need to address the issue given the action we have just taken; if so, try to work out a way internally within the region to do it. If we don't see that is feasible, then come forward with a potential initiation of an addendum action at the summer meeting. It needs some more discussion at this

point, but I just wanted to let the board know that is what we were talking about.

DISCUSSION OF ADDENDUM IV TO THE SPINY DOGFISH FMP FOR PUBLIC COMMENT

CHAIRMAN SIMPSON: Okay, thanks, Mark. Any follow-on to that? Chris, back to considering approval of Addendum IV for public comment.

MR. VONDERWEIDT: The document before you today, which was on the CD, is Draft Addendum IV to the Spiny Dogfish FMP. At the last board meeting in February you initiated an addendum to allow rollover greater than 5 percent of a commercial allocation and also update the overfishing definition consistent with recommendations of the Spiny Dogfish Technical Committee.

If you want to go through the document, this just follows it from Page 1 to the end. The statement of the problem; the 5 percent rollover provision was initially included because the FMP allows up to 5 percent of a state or region's allocation to be rolled over from one year to the next when the stock is above the target biomass, which is the situation we're in right now and have been for the last four years.

However, a state could potentially lose access to the quota if federal waters were to close before a state has landed greater than 5 percent; or, let's say a state has only landed 50 percent of their quota, they would only be able to roll 5 percent of their quota over into the next fishing year if federal waters close early and then also dogfish are not available in that state's waters, so it's kind of a potential problem, kind of a stopgap measure potentially until the Mid-Atlantic Council moves forward with their Amendment 3, which align the federal quota, which is currently seasonal, with the ASMFC quota, which is currently regional.

For Part 2 of the statement of the problem, the overfishing definition, spiny dogfish quotas are calculated based on the overfishing definition or they're supposed to be. However, they never have been and I'll go into the reasons why in a couple of minutes. Then in 2009 the Mid-Atlantic Council, one of our complementary partners for spiny dogfish, updated their

overfishing definition, so we're currently inconsistent.

Updating the ASMFC definition may necessary so we can be consistent with both the best available science and our partners. For background of the 5 percent rollover provision, the annual quota is allocated with 58 percent to Maine through Connecticut and then 2 percent is divided into state shares for New York through North Carolina.

Overages are to be paid back by region or state. In addition, there is a 5 percent rollover that was included as a buffer, which without such a rollover states would have incentive to err on the side of harvesting 101 percent dogfish because if not they would lose out on part on their quota; but with that 5 percent a state can potentially close at 98 or 99 percent and then they'll still get that back the following year.

It sort of allows states to not have to err on the side of overharvesting their quota without losing out. For the overfishing definition, like I said before this was included based on recommendations of the technical committee. They provided a report to you at the last meeting. They got together in December and reviewed the overfishing definition, which was something that sort of had been on the back burner for a while, but they just hadn't had a chance to review.

They pointed out that for a complementarily managed species where the Mid-Atlantic Fishery Management Council and the New England Council manage in federal waters, and we have the ASMFC Technical Committee and the Mid-Atlantic Monitoring Committee get together each fall to review the New England Fishery Science Center's spring survey and make quota recommendation, the starting point for that is an appropriate F rate.

Essentially if the ASMFC has a different overfishing definition, we have a different starting point to calculate the quota and so that could be an obstacle to complementary management to establishing consistent quotas between the two groups. The ASMFC definition for overfishing is F threshold – they're all based on the production of pups per female that recruit to the spawning stock biomass. For the F threshold is that it allows for production of one pup per female that recruit to the spawning stock

biomass. The F target is the same thing except it's 1.5.

The history of why that was included is because the Mid-Atlantic Council drafted their FMP before we did and so we copied their definition and included it in our FMP for consistency. However, in 2009 Framework 2 for the Mid-Atlantic Council replaced the previous overfishing definition with, number one, an F threshold only, so there is no longer an F target specified in federal waters.

The definition is much looser; it's F_{msy} or reasonable proxy thereof as a function of productive capacity and based upon the best scientific information consistent with National Standards 1 and 2. It's a little bit longer than that; it's in the document, but that's kind of the meat of it. Currently under the ASMFC overfishing definition based on pups per female that recruit to the spawning stock biomass, we have the F threshold equals 0.325 and F target equals 0.207, while the Mid-Atlantic Fishery Management Council has an F threshold equal to 0.2439.

I've underlined F target and F threshold because those are really the metrics that are the starting points when you're calculating the amount of harvest based on the fishing mortality target; so actually if you look at the Mid-Atlantic definition it's less restrictive than the ASMFC one that is based on pups per female, but at the same time it's based on the best available science.

The history of quota recommendations, why hasn't the ASMFC Technical Committee recommended quotas based on the current overfishing definition is because from about 2002 until 2007 the stock was below the spawning stock biomass target; and as a result quotas were calculated based on F rebuild, which was 0.11.

There was no consideration given to quotas based on the target or threshold until the stock exceeded the spawning stock biomass. Then in 2008 the stock was declared rebuilt. It exceeded the spawning stock biomass for the first time, which allowed the technical committee to make recommendations based on the target or threshold.

However, at the time there were concerns about the selectivity patterns of the fishery changing where initially the fishery was catching larger individual fish and now it's catching smaller individual fish. As a result the model was not accurately capturing – the fishing mortality reference point was not based on the appropriate selectivity pattern.

As a result the technical committee and also the monitoring committee recommended that you continue using the F rebuild. Then in 2010 was the first time – in the 2009 TRAC Assessment the selectivity pattern was updated and it allowed the technical committee and monitoring committee to consider F target as the best available science.

However, they decided to go with 75 percent of the target rather than the full target. And then in 2011 the technical committee and the monitoring committee used F_{msy} as a starting point; the technical committee realizing that consistency between the two groups is more important than sticking by the definition based on pups per female that recruit to the stock. That's the history. The main point is that we've never used the F target or F threshold.

Moving forward into the management measures, Issue 1 is quota rollover. These were all included exactly as you put in the board motion at the last meeting, so it was very specific what was to be included. Those options are status quo; you would keep the 5 percent maximum. Option B would be a 5 percent maximum quota rollover with an exemption through board action so a state would be limited to 5 percent but could come and make the case and say they weren't able to harvest their dogfish, but they'd like you to consider allowing a little bit more. Then Option C would be more restrictive than any of these options, and that would be quota rollover is prohibited without board action.

For Issue 2, the fishing mortality rate, just to talk about the history for a second, like I said before the technical committee brought forward a report and asked for these specific options. You approved it at the last meeting. I went back and I drafted the addendum based on the white paper report from the technical committee.

Then I convened a technical committee conference call, which included members of the Mid-Atlantic – Jim in the back – and members of

NMFS HMS. The technical committee went through the language and tweaked it into what they thought was the best option so that is what you see in the draft. It's all based on technical input and thorough review from the technical committee.

What came out of that as far as the actual options, Option A for the fishing mortality threshold – now this is the overfishing definition that the Mid-Atlantic Council specifies – Option A would be status quo, one pup per female – allow for the production of one pup per female that recruit to the spawning stock biomass.

Option B would be F_{msy} or a reasonable proxy thereof. I'll let you read it from the actual addendum, but essentially it would be F_{msy} or reasonable proxy based on the best available science, and then there is a list of things that could be included. And then it specifies at the very end that overfishing is defined as an F rate that exceeds the F threshold.

For Issue 3, fishing mortality target, there are four options presented in the draft. There are two options that the technical committee felt should stay in the document, and I'll start with those. Option A would be status quo; pups per female that recruit to the spawning stock biomass. Option B would be set annually based on recommendations of the technical committee.

Essentially how this would work is that the technical committee, the way they start is there is a harvest level based on the threshold fishing mortality rate, so they get a harvest number. Then they reduce that amount based on scientific uncertainty, and you usually end up with a quota amount at that point, which could be converted into a fishing mortality rate or it could stay in a quota.

That would essentially be what the technical committee would recommend is the level of fishing after taking into account the scientific uncertainty. It sort of gives another metric there. This is the language that the technical committee came up with to do that. It would be catch target is defined as the fishing mortality rate or a catch level that corresponds to an acceptable likelihood of preventing F from exceeding the threshold by accounting for scientific and management uncertainty.

The board is not required to specify an F target; and if specified, an F target would apply to one fishing season only, so this wouldn't require you to accept the technical committee's recommendation or implement what they say. Moving forward, there was Option C and Option D, which were included in the original draft.

They were included in the technical committee's initial report. However, the technical committee clarified during their conference call that these were included not because they're appropriate ways to determine the fishing mortality target for spiny dogfish but because they were just trying to provide the board with examples of how the targets are calculated for other fisheries.

Those are actually presented in the document with a strike-through. It would be the recommendation of the technical committee to remove those before taking it out to public comment because they wouldn't be realistic options for this fishery. They would be inconsistent with federal specifications as well.

And then there is an additional option that sort of jumped out at me as I was making the presentation that was not included in the addendum but I would recommend including in the addendum. That would be an additional option to not specify an F target, and it would just be something like removal of the F target specification from overfishing definition if the board didn't want to go with the technical committee's recommendations or status quo. It's sort of in between the range of those two, but just sort of a third option. That concludes my report.

CHAIRMAN SIMPSON: Thanks, Chris. Questions for Chris? David.

DR. PIERCE: Yes, clear as mud; very confusing; good job, though, Chris. I'm not being critical. The history of how the thresholds have been defined and the target has been defined, the interaction between the technical committee and the councils and the Northeast Fisheries Science Center, well, there is a lot of fog there.

You have helped us cut through the fog so I appreciate that, but I'm trying to get to the bottom line here relative to what exactly we have as options, so let me ask. I think what you're saying and what is in the addendum – and I

know I haven't got this quite right – that we're proposing as an option an F threshold of 0.2439, which is the fishing mortality rate at the MSY; and we proposing an F target of 0.207 or are we silent on the F target? I'm still not clear what the F target options are for us to consider. I think I've got the threshold right, but the F target I'm not sure.

CHAIRMAN SIMPSON: Chris, I was a little fuzzy on that as well.

MR. VONDERWEIDT: David, to answer your question, the threshold, yes, you have it right. It would be Fmsy, which right now is the 0.2439. As far as the F target, to be perfectly honest I wasn't a hundred percent certain what might come out – and can you put Issue 3 up there – what might come out of the target. I can sort of walk you through what happened in 2011 and 2012 and see if that makes sense.

DR. PIERCE: If I could, Chris, sorry to interrupt, is the Option 1 giving us or the technical committee the flexibility to actually provide us with an F target value as scientific issues unfold and –

MR. VONDERWEIDT: They could potentially come back and they would say the Fmsy is equal to X is equal to a certain fishing mortality rate which corresponds with X metric tons of harvest, which is the acceptable harvest level from the get-go; not incorporating scientific uncertainty and not incorporating management uncertainty; and then that amount would be reduced by an acceptable amount to account for the scientific and management uncertainty.

At that point you would get a number, so that number last year was around 20,352 metric tons before taking into account Canadian, recreational and discard landings, so the technical committee could potentially say we recommend an F target equal to 20,352 metric tons or they could say we recommend the following F rate which corresponds with that amount, and so that's why it says defined as the fishing mortality rate or catch level.

Then you would say, okay, that makes sense or I think that's not what we're going for, and you wouldn't be required to specify it. The details would be worked out probably in the first year doing it, but I wasn't a hundred percent sure myself or a hundred percent on board.

CHAIRMAN SIMPSON: Yes, I think what I see in it because we all think in terms of Magnuson and SSCs and the inclusion of scientific and management uncertainty I think brings it back to this board, which is the important point that the technical committee isn't going to tell us what the fishing target is, that that will ultimately be a board decision, and it would vary annually. It would be specified as explicitly as an MSY.

DR. PIERCE: So what is the Mid-Atlantic Council offering up as an F target? In other words, does this approach that we would bring out to public hearing differ in any way from what the Mid-Atlantic Council and the New England Council, for that matter, would have as an F target value?

MR. VONDERWEIDT: Yes, it would provide an F target where the Mid-Atlantic does not provide an F target, so in addition it would be a lower number than the actual F threshold. The Mid-Atlantic just has the threshold, so we would have something additionally. I think one of the things the technical committee wanted to accomplish with this is just sort of hold the board more accountable for the final quota decision; you know, making it very clear that after accounting for the uncertainty, this is the amount that comes out of that equation.

If the board moves forward with this option thinking that you don't understand it, members of the public certainly won't. Maybe I can get the technical committee together and have them come up with an example based on the 2011/2012 numbers so the public could see exactly how this would work.

CHAIRMAN SIMPSON: But what you're saying is the federal process, the Mid-Atlantic Council process, they're not defining a target –

MR. VONDERWEIDT: Right.

CHAIRMAN SIMPSON: – so this would be over and above that. Okay, any other questions for Chris on that presentation? Do you have any motions relative to the addendum, any modifications to it? Doug.

MR. GROUT: One modification that I'd like to suggest so that we don't have to go through an addendum to change the fishing mortality threshold, **I would like to move that the board**

may change – an option under Issue 2 that the board may change the fishing mortality threshold via board action following recommendations of the Spiny Dogfish Technical Committee.

CHAIRMAN SIMPSON: Is there a second to that motion? I'm not seeing a second.

MR. ADLER: I'll second it.

CHAIRMAN SIMPSON: Okay, Bill, thanks. This would be another option under Issue 2 that would allow the board to establish the F threshold rather than using the MSY; is that right?

MR. GROUT: Or if there was some reason that the monitoring committee and the technical committee decided to do something different than MSY either because of an action that is taken by the Mid-Atlantic Council or a new peer-reviewed stock assessment, it would give the board the option to change it via board action rather than going through the addendum process.

I'm not talking about the specific value of MSY because that will change. I'm saying if they decide to use something other than MSY in the future as a threshold, we wouldn't have to go through a management action. We could make that adjustment based on a scientific recommendation that this would be a better threshold.

CHAIRMAN SIMPSON: Okay, I understand it better now. We would change the management reference point just – okay, Bob.

MR. ROBERT E. BEAL: Mr. Chairman, just a point of reference, we do have something similar to this in the Lobster Plan and the Summer Flounder, Scup and Black Sea Bass Plan. In those two plans it's specifically linked to peer-reviewed science. In other words, this motion links it to a technical committee recommendation; but the other plans say if there is a peer-reviewed recommendation to change the reference point, then the board can do that through board action. I don't know if this should or should not be changed to reflect similar language, but I just remind folks how it's written in a couple of other plans.

MR. GROUT: I could go either way. I realize that the technical committee – what I saw in the

document was the technical committee and the monitoring committee had been making recommendations, but that is based on the actual values. If people are more comfortable with saying based on following the recommendation of a peer-reviewed stock assessment that changes what they use for a threshold, I'm fine with that, too, and whatever the board would be more comfortable with. I'm just trying to get us out of the addendum process for setting essentially what is a threshold, which is a line in the sand that we don't want to go over and is based on biology of the species and not a target, which to me is a policy decision.

MR. ROY MILLER: Mr. Chairman, I appreciate what Doug is trying to do to streamline the process. However, in consideration of changing the target by board action, that makes me a bit uneasy because it doesn't necessarily have the same public process involved. I have a greater level of comfort if there is a peer-reviewed action preceding any action to change the target or a threshold. Otherwise, I'd be more comfortable with the addendum process. Thank you.

MR. VONDERWEIDT: There is just one difference that jumps out as far as the spiny dogfish science is that a lot of these reports aren't peer reviewed. What happens is that the Northeast Fisheries Science Center's spring survey is run through the peer-reviewed assessment and then those numbers are updated. For example, the 0.2439 actually comes from a Northeast Fisheries Science Center document that's not peer reviewed called "Evaluation of Fishing Mortality Reference Points for Spiny Dogfish." That updated some parameters and the 0.2439 came out of that; but under a definition where it would have to be peer reviewed, that would require an extra step, so we would be behind eight ball potentially.

MR. JIM ARMSTRONG: Jim Armstrong, Mid-Atlantic Council staff. At first I thought maybe this was just trying – that Option B was actually the same thing here and maybe there is some misunderstanding. What Framework 2 did for the federal plan was to avoid exactly what Doug is trying to do, which is to not hardwire any numbers in there but allow the stock status determination criteria to roll with whatever the latest best scientific information is.

But like you're doing, it also specified in the framework adjustment what the appropriate review bodies would be for determining what best scientific information is. One of those is the council's SSC and the memo that was – the document that was produced by the Northeast Fisheries Science Center that re-estimated Fmsy was indeed reviewed by our SSC so that qualified as an adequate peer review under our guidelines.

I almost feel like I should try to help explain some of the other stuff about what the logic is behind the words that the technical committee – and I participated in the perfection of the technical committee's advice on this, so I don't want to self-start on that and start going off, but if you have any direct questions on that, I can help.

I would just go ahead and add a single stock assessment update is generated by the Northeast Science Center and that's reviewed on the federal side by our SSC and then handed off to the monitoring committee. The stock assessment update includes as part of the projections a fishing mortality level that corresponds to overfishing so that we know where that threshold is.

Right now that's based on that reviewed technical document from the Center, 2.2439, so that's one of the projections that is run. And then there is a risk policy that's applied that was developed by our SSC to – and this is the spirit of the Option B F target that you have or catch target, which is not an F; and that is what use is a catch target.

The application of that risk policy identifies an adequate certainty of avoiding overfishing, so it identifies the catch level that corresponds to that. That on a rolling basis, based on the latest update, becomes our target. That risk policy, though, only considers scientific uncertainty. So, when the SSC hands the identification of the overfishing limit and the catch level that adequately will avoid the overfishing level being exceeded based on scientific uncertainty, those are the two pieces of information that it hands off to our monitoring committee.

The monitoring committee then has the latitude to evaluate management uncertainty and further reduce the catch target that's going to end up being used as the basis for the quota. Well, the

monitoring committee and the technical committee are, except for like maybe one or two people, the same people.

They meet in the same room the same day and they're operating off the same page of music. We wanted to make sure that the technically based advice that they were giving both the councils and the Spiny Dogfish Board was the same. Under the target, what that is trying to do is basically allow the technical committee to accept or reject the reduction based on scientific uncertainty that is handed to it by the SSC, to put its stamp on that and say that they agree with that or they could disagree.

There is nothing that says they have to, but the piece of information that they are working with. Then they can make further adjustments and that's the management uncertainty part if they see fit. The monitoring committee and technical committee last year did not make any adjustments based on management uncertainty.

Then what they present as some sort of a technically based catch target corresponds to Option B here that would be communicated to the board. It doesn't mean that they're just following what the SSC says or what the federal process says, but it has been accepted that the – you know, the same technical information that is being provided first from the Center and then they can review the SSC's recommendations and consider it however they want, but, you know, it's trying to integrate both those – that technical process and the groups that are reviewing it, you know, for two plans that are not a joint plan.

CHAIRMAN SIMPSON: Okay, thanks, Jim. So Option B under Issue 3 is a pretty good map to the council process now is what you're saying. This is basically what would come out of the monitoring committee which is pretty heavily overlapped body to our technical committee, so what you're is this maps pretty well with the Mid-Atlantic Council approach at this point?

MR. ARMSTRONG: Yes, I think so and in our discussion we were trying to also not make it compulsory that they just follow whatever the federal process is, but that it retain that – you know, that it's indeed the technical committee that is giving you this information and not the SSC, for example.

CHAIRMAN SIMPSON: Okay, and so, Doug, really your issue is different from this one and it's saying if the science tells us that the F threshold – the definition of MSY changes to a whole new approach to science in determining those things, we'll just do that a board action and we won't even have an addendum on it.

MR. GROUT: That's my intent because right now our threshold is based on one pup per female, and now we're proposing to change it to say under Option B that it will be Fmsy, which is fine with me, and we're doing this through an addendum, but I want to provide the option here for us to – and I'm glad to change this. Was Fmsy peer reviewed; is that the reason we are using Fmsy; did it come out of a peer-reviewed stock assessment, Jim?

MR. ARMSTRONG: Well, what happened was in setting the 2011 commercial quota the SSC reviewed the former Fmsy definition that was the product of the 2006 assessment. It was 0.325 Fmsy, but it was observed that the long-term projections at Fmsy failed to return the stock or maintain the stock at MSY, so there was a lack of correspondence between Fmsy and MSY.

The SSC said we can't use this as Fmsy; it's not a valid proxy of Fmsy; so they rejected that. Then they requested that this be revisited. They ended up using the F target that was in place for that year as the proxy for Fmsy just as something to use. Between the 2011 specification setting and 2012, the Center readdressed that and they produced a technical document that was reviewed by our SSC to address directly re-estimating Fmsy. Basically Paul Rago did a very long projection, 150-year or something projections at a range of F levels and then was able to finally get it to flatten out at MSY – I'm sorry, at Bmsy at the 0.2439.

That satisfied the problems that the SSC had with the former Fmsy definition and was acceptable. Because the SSC reviewed the technical document, that satisfied the federal process for a peer review, but it wasn't part of a – like SAW/SARC or something like that.

CHAIRMAN SIMPSON: Okay, Jim, we got that right. As I look at the Issue 2, Option B, the definition of the threshold is Fmsy or a reasonable proxy thereof; so what your motion does is just make sure that if that calculation of MSY or its proxy is changed through the

scientific process and peer reviewed, that we could incorporate that into management directly through a simple board vote to do so?

MR. GROUT: Yes, that's what I'm trying to get at; and if we need to modify this to put in the words "peer review", I'm fine, but I don't feel that I got a real clear answer as to whether this could change without a peer review or not.

CHAIRMAN SIMPSON: I think then the safest thing to do is just to maybe change "recommendation of the technical committee" to "through updates to the peer-reviewed science establishing MSY" or something like that. I think we all understand what you're trying to get at and the question is whether we're going to make sure that it's peer-reviewed science that now says our MSY proxy is – you know, is calculated this way.

MR. GROUT: So if I modify this with concurrence of the seconder, then after "following" "updates to the peer-reviewed science" – well, I'm determining what the overfishing threshold is. Well, I'm not trying to give us the ability to change the actual value because I think that's already in there.

If there is a peer-reviewed science that says we're not going to use Fmsy as the threshold anymore, we're going to use something else and the federal process is going to use something else, but to me the way – as long as we continue to use Fmsy there is going to be a different value that comes out with each run by Paul Rago and we don't need to make any changes; do you see what I'm coming at?

CHAIRMAN SIMPSON: I think it's clear now what you're trying to do with the motion and I think people understand it. If they don't, are there questions about the motion right now? Are there any comments on it? Bill.

MR. ADLER: Yes, I was getting that Doug basically wanted to be able to adjust something without having to go out to a whole addendum. However, the word "may" does allow that if this discussion comes up in the future and board members feel this is too big a deal, we need to go out to an addendum, you can do so because of the word "may".

CHAIRMAN SIMPSON: That's a good point, Bill, thanks. Any other comments on this

motion? Do you want to take a moment to caucus on it then?

(Whereupon, a caucus was held.)

CHAIRMAN SIMPSON: Okay, I'll read it for the record; move to include an option under Issue 2 that the board may change F threshold through board action following updates to the peer-reviewed science determining the overfishing threshold. Motion by Mr. Grout; second by Mr. Adler. You ready for the question? All those in favor raise your hand, I see 12 in favor; opposed, I don't see any; any abstentions, 1 abstention; any null votes, none. **The motion passes.**

DR. PIERCE: Okay, I guess we're getting close to the end here, I think, but before I can decide on this addendum I better get a clarification. There seems to be an inconsistency between the report given to us from the technical committee and what is in the addendum. Specifically, I see in the report from the technical committee their recommendation that we pick as an F target status quo or an F target of 75 percent F threshold.

That's Option A and B, but then in the addendum itself I see something different in that the 75 percent threshold is scratched off and D is in the addendum. Now I'm confused as to what the technical committee is actually recommending because their recommendation is not the same as what is in the addendum.

CHAIRMAN SIMPSON: Right, thanks, David, so this is the slide that you're talking about and the question is the technical committee is suggesting that we not include C and D; that they were just examples.

DR. PIERCE: No.

CHAIRMAN SIMPSON: That's not the one?

DR. PIERCE: Well, that is what is on the screen, but in the report from the committee it says we should be considering the F target at 75 percent of the F threshold. That's what they say in the report, but it's not on the screen.

MR. VONDERWEIDT: The process here was that in December the technical committee put this report together, presented it to the board in February and the board initiated the addendum. I

drafted the addendum based on the language which includes from the December report and then got together with Jim and the rest of the technical committee on a conference call and asked if these encompassed what they were trying to accomplish with their initial recommendations.

What they said was they don't recommend including these as reasonable options. They were just including them as an example to show how it is calculated in other fisheries or has been in the past, but they recommended removing them from the actual document. That is why they're presented that way.

CHAIRMAN SIMPSON: The way I see it for clarity, I think it would be good to have a motion to say include or don't include C and D. Did you want to make a motion? I think right now where it stands they are included. The technical committee is recommending taking them out because they provided them only for examples. If we don't take any action on this now, there will be four options in here. If people are comfortable with leaving the four options in, then we don't need to take any action here. Doug.

MR. GROUT: **I'll make a motion under Issue 3 that we only include Option A and Option B in this draft addendum.**

CHAIRMAN SIMPSON: Is there a second to that; Steve Heins. Any discussion on the motion? Take a second to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN SIMPSON: You guys all set. All those in favor raise your hand, 12 in favor; opposed, none opposed; any abstentions, 2; any null votes, none. **The motion passes.** Adam.

MR. ADAM NOWALSKY: Chris had put the option up on the screen about an alternative Option C for removing the F target definition the way that the Mid-Atlantic had done. I was wondering if Jim wanted to provide any input on that or if there was any discussion from the TC. I'm guessing that hadn't come up, but I was wondering if there was any input that could be provided to provide guidance as to whether we should consider including this in the draft document.

CHAIRMAN SIMPSON: So do you want Jim to comment on that?

MR. NOWALSKY: I would like to hear some comment before making a decision whether to offer a motion to include it or not.

MR. ARMSTRONG: Well, when Chris was talking, it sounded like he decided to add this sort of fairly recently. I thought that the language of the board not being obligated to specify an F target was part of Option B, anyway. Honestly, I don't think the technical committee directly addressed removing that.

MR. VONDERWEIDT: Right, and I tried to make that clear during the presentation that this came up when I was writing the presentation for this addendum to sort of include the whole gamut of options; you know, maybe include one in here that's very simple that you would not specify an F target, because it's not explicitly in there right now. I'm just throwing that out there as another potential option.

CHAIRMAN SIMPSON: Are you all set, Adam; do you want to make a motion?

MR. NOWALSKY: I'm going to pass at this time. I think there is enough information here. If another member of the board feels so inclined, I will. I think we've had sufficient discussion on this.

CHAIRMAN SIMPSON: Anything else on the draft addendum? Bob.

MR. ROSS: On Issue 1, the rollover option, under the council federal plan there is no rollover currently. I'd just like to have the board consider the impacts of significant rollovers resulting in impacts to the next year's quota allocations. Clearly, under the federal plan we have the ACLs and now we have the AMs, the followup. The potential would be that federal regulations would require overages in excess of the TAL be taken off the next year's quota allocations off the top, which would impact the overall final quota under the federal plan.

I noticed that there are conditions here that no rollovers could be done without board approval. Again, looking forward we are aware that there is the scientific information that says the overall spawning stock biomass will decline going forward. What we may end up with is this

potential of having a rollover in a year where the science has determined that the biomass has declined and the quota may have to come down, and we're caught in a commission situation where they're potentially rolling over product quota and at the same the federal process for that next year may be dropping quota. I don't know if Jim wants to comment anymore on that, but it's a concern.

CHAIRMAN SIMPSON: I think it's an important issue to keep in mind if it comes to considering a rollover in any year under this addendum. The question here is do we want to take this option out to public comment? Tom.

MR. O'CONNELL: I appreciate Bob's comments. I will also note that while not in the slide, in the addendum it does say that quota rollovers would only be allowed if the biomass is above the target, so there is that provision. Hopefully, the National Marine Fisheries Service – and I know they began a process – will establish a quota management system that is more compatible with our managing the quota amongst the states with the commission process so we can avoid the problem that we had earlier this year when the federal quota was closed and the states like Maryland had the potential of losing a lot of quota.

Fortunately, the fish remained in our waters, which is unusual, and we didn't have the impact that we thought we'd experience. I think this is an important provision. It has some of the caveats for the board to take into consideration and hopefully before too long both the states and the federal government will have more compatible management of these quotas.

CHAIRMAN SIMPSON: Thanks, Tom; that was a good addition. Any other discussion on the draft addendum; any further modifications? **Then is there a motion to accept the addendum as amended for public comment? Tom; seconded by Terry; so a motion by Tom O'Connell and second by Terry Stockwell.** Take a moment to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN SIMPSON: Are there any comments from the public before we vote? It looks like people are ready. All those in favor raise your hand please, 13 in favor; opposed same sign, none; any abstentions, none; any null

votes, none. **The motion passes 13/0.** Public hearings; who would like to hold a public hearing on this addendum? New Hampshire, Massachusetts and Rhode Island will hold hearings. Are there any other states? We've got at least; do we need three or four?

MR. BEAL: Actually for an addendum we don't have to have any. We have a 30-day public comment period and hearings in any states that would like to have them, so I think we're covered.

SPINY DOGFISH QUOTA TRANSFER UPDATE

CHAIRMAN SIMPSON: Okay, so that's three; and if you change your mind and want to hold a hearing let Chris know as soon as you can. The last item on the regular agenda before the other business is the transfer update.

MR. VONDERWEIDT: There are six letters with Vince's response letter; just an update that Delaware has transferred 100,000 pounds of spiny dogfish to Maryland. Thank you.

OTHER BUSINESS

CHAIRMAN SIMPSON: I think that brings us to other business, which is Pete's issue of the smooth dogfish first dorsal fin.

MR. HIMCHAK: Evidently the smooth dogfish fishery is doing quite well the last couple of years. You recall when we put in Amendment 1 to the Shark Plan it dealt with processing at sea, and it allowed for complete removal of fins during a certain portion of the year. And then after July 1st, if I remember correctly, you had to retain the first dorsal fin on the smooth dogfish. This was an identification problem that was to distinguish it from younger sandbar sharks.

What I have is a request from commercial fishermen in New Jersey to revisit the issue and allow for the removal of that first dorsal fin, which has some significant economic value to them, as well as the fact that the fins per pound are more valuable than the carcass is. What I would suggest the board do is to – I'll forward all this correspondence to the technical committee chair or the FMP coordinator and have the technical committee comment on this.

I think the Law Enforcement Committee may have to provide some comment, too, before the board could come up with a recommendation that says, yes, you can remove the first dorsal as well after a certain date. We had a rather lengthy discussion on this a couple of years ago. It has nothing to do with the quality of the meat. It's more of an economic gain with that additional fin. If it pleases the Chair, I'll forward all the correspondence; I'll explain it to the FMP coordinator and then the TC can come back to us with a recommendation. Is that okay?

ADJOURNMENT

CHAIRMAN SIMPSON: That sounds good. Any comments on that or objection to doing that? I think that's good, Pete. Is there anything else for the board? We need a motion to adjourn to stop talking about spiny dogfish. Motion by Tom; all right, thanks.

(Whereupon, the meeting was adjourned at 10:10 o'clock a.m., May 3, 2012.)